

HB 7005

2014

1 A bill to be entitled

2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; revising provisions relating
4 to functions of the Florida Transportation Commission
5 to add certain monitoring of the Mid-Bay Bridge
6 Authority; repealing provisions for the Florida
7 Statewide Passenger Rail Commission; amending s.
8 316.0076, F.S.; prohibiting the use of cameras at
9 certain locations to enforce the Florida Uniform
10 Traffic Control Law; amending s. 316.0083, F.S.;
11 revising provisions for enforcement by a traffic
12 infraction enforcement officer of specified provisions
13 requiring vehicular traffic facing a steady red signal
14 to stop; reducing the penalty for notices of
15 violations; restricting issuance by such officer of
16 notices and citations to violations at certain
17 locations; revising penalties and distribution of
18 penalties collected; authorizing counties and
19 municipalities to impose a surcharge for certain
20 purposes; providing procedures and requirements for
21 imposing the local surcharge; providing for the
22 distribution and use of funds collected from the local
23 surcharge; requiring counties and municipalities to
24 make certain reports; revising limits on amounts that
25 may be assessed for certain costs; amending s.
26 316.0776, F.S.; revising provisions authorizing the

Page 1 of 53

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7005-00

27 use of traffic infraction detectors; revising
28 provisions for implementation of a traffic infraction
29 detector program; amending s. 318.18, F.S.; conforming
30 penalty provisions; conforming provisions for
31 assessment of county and municipal costs; amending s.
32 335.10, F.S.; prohibiting charges for public parking
33 in certain parking spaces; amending s. 337.25, F.S.;
34 revising provisions for disposition of property by the
35 department; authorizing the department to contract for
36 auction services for conveyance of property; revising
37 requirements for an inventory of property; amending s.
38 337.251, F.S.; revising provisions for lease of
39 property; requiring the department to publish a notice
40 of receipt of a proposal for lease of particular
41 department property and accept other proposals;
42 revising notice procedures; requiring the department
43 to establish by rule an application fee for lease
44 proposals; authorizing the department to engage the
45 services of private consultants to assist in
46 evaluating proposals; requiring the department to make
47 specified determinations before approving a proposed
48 lease; amending s. 338.161, F.S.; revising provisions
49 for the department to enter into agreements for
50 certain purposes with public or private transportation
51 facility owners whose systems become interoperable
52 with the department's systems; amending s. 373.4137,

53 F.S.; providing legislative intent that environmental
54 mitigation be implemented in a manner that promotes
55 efficiency, timeliness, and cost-effectiveness in
56 project delivery; revising the criteria of the
57 environmental impact inventory; revising the criteria
58 for mitigation of projected impacts identified in the
59 environmental impact inventory; requiring the
60 Department of Transportation to include funding for
61 environmental mitigation for its projects in its work
62 program; revising the process and criteria for the
63 payment by the department or participating
64 transportation authorities of mitigation implemented
65 by water management districts or the Department of
66 Environmental Protection; revising the requirements
67 for the payment to a water management district or the
68 Department of Environmental Protection of the costs of
69 mitigation planning and implementation of the
70 mitigation required by a permit; revising the payment
71 criteria for preparing and implementing mitigation
72 plans adopted by water management districts for
73 transportation impacts based on the environmental
74 impact inventory; adding federal requirements for the
75 development of a mitigation plan; providing for
76 transportation projects in the environmental
77 mitigation plan for which mitigation has not been
78 specified; revising a water management district's

79 responsibilities relating to a mitigation plan;
 80 amending s. 2 of ch. 85-364, Laws of Florida, as
 81 amended by ch. 95-382, Laws of Florida, relating to
 82 the Department of Transportation; authorizing tolls
 83 from the Pinellas Bayway to be used for maintenance
 84 costs; removing certain projects from the flow of
 85 funds; amending s. 110.205, F.S.; conforming cross-
 86 references; providing an effective date.

87
 88 Be It Enacted by the Legislature of the State of Florida:

89
 90 Section 1. Subsections (2) and (3) of section 20.23,
 91 Florida Statutes, are amended to read:

92 20.23 Department of Transportation.—There is created a
 93 Department of Transportation which shall be a decentralized
 94 agency.

95 (2)

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

97 1. Recommend major transportation policies for the
 98 Governor's approval, and assure that approved policies and any
 99 revisions thereto are properly executed.

100 2. Periodically review the status of the state
 101 transportation system including highway, transit, rail, seaport,
 102 intermodal development, and aviation components of the system
 103 and recommend improvements therein to the Governor and the
 104 Legislature.

105 3. Perform an in-depth evaluation of the annual department
106 budget request, the Florida Transportation Plan, and the
107 tentative work program for compliance with all applicable laws
108 and established departmental policies. Except as specifically
109 provided in s. 339.135(4)(c)2., (d), and (f), the commission may
110 not consider individual construction projects, but shall
111 consider methods of accomplishing the goals of the department in
112 the most effective, efficient, and businesslike manner.

113 4. Monitor the financial status of the department on a
114 regular basis to assure that the department is managing revenue
115 and bond proceeds responsibly and in accordance with law and
116 established policy.

117 5. Monitor on at least a quarterly basis, the efficiency,
118 productivity, and management of the department, using
119 performance and production standards developed by the commission
120 pursuant to s. 334.045.

121 6. Perform an in-depth evaluation of the factors causing
122 disruption of project schedules in the adopted work program and
123 recommend to the Legislature and the Governor methods to
124 eliminate or reduce the disruptive effects of these factors.

125 7. Recommend to the Governor and the Legislature
126 improvements to the department's organization in order to
127 streamline and optimize the efficiency of the department. In
128 reviewing the department's organization, the commission shall
129 determine if the current district organizational structure is
130 responsive to Florida's changing economic and demographic

131 development patterns. The initial report by the commission must
132 be delivered to the Governor and Legislature by December 15,
133 2000, and each year thereafter, as appropriate. The commission
134 may retain such experts as are reasonably necessary to
135 effectuate this subparagraph, and the department shall pay the
136 expenses of such experts.

137 8. Monitor the efficiency, productivity, and management of
138 the authorities created under chapters 348 and 349, including
139 any authority formed using the provisions of part I of chapter
140 348; the Mid-Bay Bridge Authority created pursuant to chapter
141 2000-411, Laws of Florida; and any authority formed under
142 chapter 343 ~~which is not monitored under subsection (3)~~. The
143 commission shall also conduct periodic reviews of each
144 authority's operations and budget, acquisition of property,
145 management of revenue and bond proceeds, and compliance with
146 applicable laws and generally accepted accounting principles.

147 ~~(3) There is created the Florida Statewide Passenger Rail~~
148 ~~Commission.~~

149 ~~(a)1. The commission shall consist of nine voting members~~
150 ~~appointed as follows:~~

151 ~~a. Three members shall be appointed by the Governor, one~~
152 ~~of whom must have a background in the area of environmental~~
153 ~~concerns, one of whom must have a legislative background, and~~
154 ~~one of whom must have a general business background.~~

155 ~~b. Three members shall be appointed by the President of~~
156 ~~the Senate, one of whom must have a background in civil~~

157 ~~engineering, one of whom must have a background in~~
158 ~~transportation construction, and one of whom must have a general~~
159 ~~business background.~~

160 ~~e. Three members shall be appointed by the Speaker of the~~
161 ~~House of Representatives, one of whom must have a legal~~
162 ~~background, one of whom must have a background in financial~~
163 ~~matters, and one of whom must have a general business~~
164 ~~background.~~

165 ~~2. The initial term of each member appointed by the~~
166 ~~Governor shall be for 4 years. The initial term of each member~~
167 ~~appointed by the President of the Senate shall be for 3 years.~~
168 ~~The initial term of each member appointed by the Speaker of the~~
169 ~~House of Representatives shall be for 2 years. Succeeding terms~~
170 ~~for all members shall be for 4 years.~~

171 ~~3. A vacancy occurring during a term shall be filled by~~
172 ~~the respective appointing authority in the same manner as the~~
173 ~~original appointment and only for the balance of the unexpired~~
174 ~~term. An appointment to fill a vacancy shall be made within 60~~
175 ~~days after the occurrence of the vacancy.~~

176 ~~4. The commission shall elect one of its members as chair~~
177 ~~of the commission. The chair shall hold office at the will of~~
178 ~~the commission. Five members of the commission shall constitute~~
179 ~~a quorum, and the vote of five members shall be necessary for~~
180 ~~any action taken by the commission. The commission may meet upon~~
181 ~~the constitution of a quorum. A vacancy in the commission does~~
182 ~~not impair the right of a quorum to exercise all rights and~~

183 ~~perform all duties of the commission.~~

184 ~~5. The members of the commission are not entitled to~~
185 ~~compensation but are entitled to reimbursement for travel and~~
186 ~~other necessary expenses as provided in s. 112.061.~~

187 ~~(b) The commission shall have the primary functions of:~~

188 ~~1. Monitoring the efficiency, productivity, and management~~
189 ~~of all publicly funded passenger rail systems in the state,~~
190 ~~including, but not limited to, any authority created under~~
191 ~~chapter 343, chapter 349, or chapter 163 if the authority~~
192 ~~receives public funds for the provision of passenger rail~~
193 ~~service. The commission shall advise each monitored authority of~~
194 ~~its findings and recommendations. The commission shall also~~
195 ~~conduct periodic reviews of each monitored authority's passenger~~
196 ~~rail and associated transit operations and budget, acquisition~~
197 ~~of property, management of revenue and bond proceeds, and~~
198 ~~compliance with applicable laws and generally accepted~~
199 ~~accounting principles. The commission may seek the assistance of~~
200 ~~the Auditor General in conducting such reviews and shall report~~
201 ~~the findings of such reviews to the Legislature. This paragraph~~
202 ~~does not preclude the Florida Transportation Commission from~~
203 ~~conducting its performance and work program monitoring~~
204 ~~responsibilities.~~

205 ~~2. Advising the department on policies and strategies used~~
206 ~~in planning, designing, building, operating, financing, and~~
207 ~~maintaining a coordinated statewide system of passenger rail~~
208 ~~services.~~

209 ~~3. Evaluating passenger rail policies and providing advice~~
 210 ~~and recommendations to the Legislature on passenger rail~~
 211 ~~operations in the state.~~

212 ~~(c) The commission or a member of the commission may not~~
 213 ~~enter into the day-to-day operation of the department or a~~
 214 ~~monitored authority and is specifically prohibited from taking~~
 215 ~~part in:~~

216 ~~1. The awarding of contracts.~~

217 ~~2. The selection of a consultant or contractor or the~~
 218 ~~prequalification of any individual consultant or contractor.~~
 219 ~~However, the commission may recommend to the secretary standards~~
 220 ~~and policies governing the procedure for selection and~~
 221 ~~prequalification of consultants and contractors.~~

222 ~~3. The selection of a route for a specific project.~~

223 ~~4. The specific location of a transportation facility.~~

224 ~~5. The acquisition of rights-of-way.~~

225 ~~6. The employment, promotion, demotion, suspension,~~
 226 ~~transfer, or discharge of any department personnel.~~

227 ~~7. The granting, denial, suspension, or revocation of any~~
 228 ~~license or permit issued by the department.~~

229 ~~(d) The commission is assigned to the Office of the~~
 230 ~~Secretary of the Department of Transportation for administrative~~
 231 ~~and fiscal accountability purposes, but it shall otherwise~~
 232 ~~function independently of the control and direction of the~~
 233 ~~department except that reasonable expenses of the commission~~
 234 ~~shall be subject to approval by the Secretary of Transportation.~~

HB 7005

2014

235 ~~The department shall provide administrative support and service~~
236 ~~to the commission.~~

237 Section 2. Section 316.0076, Florida Statutes, is amended
238 to read:

239 316.0076 Regulation and use of cameras.—Regulation of the
240 use of cameras for enforcing the provisions of this chapter is
241 expressly preempted to the state. Notwithstanding any other
242 provision of law, a county or municipality may not use cameras
243 for enforcing this chapter at any traffic control signal device
244 location that did not have an active traffic infraction detector
245 installed before July 1, 2014. The regulation of the use of
246 cameras for enforcing the provisions of this chapter is not
247 required to comply with provisions of chapter 493.

248 Section 3. Paragraphs (a) and (b) of subsection (1) and
249 paragraph (e) of subsection (5) of section 316.0083, Florida
250 Statutes, are amended to read:

251 316.0083 Mark Wandall Traffic Safety Program;
252 administration; report.—

253 (1) (a) For purposes of administering this section, the
254 department, a county, or a municipality may authorize a traffic
255 infraction enforcement officer under s. 316.640 to issue a
256 traffic citation for a violation of s. 316.074(1) or s.
257 316.075(1)(c)1. A notice of violation and a traffic citation may
258 not be issued for failure to stop at a red light if the driver
259 is making a right-hand turn in a careful and prudent manner at
260 an intersection where right-hand turns are permissible. A notice

261 of violation and a traffic citation may not be issued under this
262 section if the driver of the vehicle came to a complete stop
263 after crossing the stop line and before turning right if
264 permissible at a red light, but failed to stop before crossing
265 over the stop line or other point at which a stop is required. A
266 notice of violation and a traffic citation may only be issued by
267 a county or municipality under this section for violations at
268 intersections that had an active traffic infraction detector
269 installed before July 1, 2014. This paragraph does not prohibit
270 a review of information from a traffic infraction detector by an
271 authorized employee or agent of the department, a county, or a
272 municipality before issuance of the traffic citation by the
273 traffic infraction enforcement officer. This paragraph does not
274 prohibit the department, a county, or a municipality from
275 issuing notification as provided in paragraph (b) to the
276 registered owner of the motor vehicle involved in the violation
277 of s. 316.074(1) or s. 316.075(1)(c)1.

278 (b)1.a. Within 30 days after a violation, notification
279 must be sent to the registered owner of the motor vehicle
280 involved in the violation specifying the remedies available
281 under s. 318.14 and that the violator must pay the penalty of
282 \$83 ~~\$158~~ to the department, county, or municipality, or furnish
283 an affidavit in accordance with paragraph (d), or request a
284 hearing within 60 days following the date of the notification in
285 order to avoid the issuance of a traffic citation. The
286 notification must be sent by first-class mail. The mailing of

287 the notice of violation constitutes notification.

288 b. Included with the notification to the registered owner
289 of the motor vehicle involved in the infraction must be a notice
290 that the owner has the right to review the photographic or
291 electronic images or the streaming video evidence that
292 constitutes a rebuttable presumption against the owner of the
293 vehicle. The notice must state the time and place or Internet
294 location where the evidence may be examined and observed.

295 c. Notwithstanding any other provision of law, a person
296 who receives a notice of violation under this section may
297 request a hearing within 60 days following the notification of
298 violation or pay the penalty pursuant to the notice of
299 violation, but a payment or fee may not be required before the
300 hearing requested by the person. The notice of violation must be
301 accompanied by, or direct the person to a website that provides,
302 information on the person's right to request a hearing and on
303 all court costs related thereto and a form to request a hearing.
304 As used in this sub-subparagraph, the term "person" includes a
305 natural person, registered owner or coowner of a motor vehicle,
306 or person identified on an affidavit as having care, custody, or
307 control of the motor vehicle at the time of the violation.

308 d. If the registered owner or coowner of the motor
309 vehicle, or the person designated as having care, custody, or
310 control of the motor vehicle at the time of the violation, or an
311 authorized representative of the owner, coowner, or designated
312 person, initiates a proceeding to challenge the violation

313 pursuant to this paragraph, such person waives any challenge or
 314 dispute as to the delivery of the notice of violation.

315 2. Penalties assessed and collected by the department,
 316 county, or municipality authorized to collect the funds provided
 317 for in this paragraph, ~~less the amount retained by the county or~~
 318 ~~municipality pursuant to subparagraph 3.,~~ shall be paid to the
 319 Department of Revenue weekly. Payment by the department, county,
 320 or municipality to the state shall be made by means of
 321 electronic funds transfers. In addition to the payment, summary
 322 detail of the penalties remitted shall be reported to the
 323 Department of Revenue.

324 3. Penalties to be assessed and collected by the
 325 department, county, or municipality are as follows:

326 a. Eighty-three ~~One hundred fifty-eight~~ dollars for a
 327 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
 328 failed to stop at a traffic signal if enforcement is by the
 329 department's traffic infraction enforcement officer. Seventy ~~One~~
 330 ~~hundred~~ dollars shall be remitted to the Department of Revenue
 331 for deposit into the General Revenue Fund, \$10 shall be remitted
 332 to the Department of Revenue for deposit into the Department of
 333 Health Emergency Medical Services Trust Fund, and \$3 shall be
 334 remitted to the Department of Revenue for deposit into the Brain
 335 and Spinal Cord Injury Trust Fund, ~~and \$45 shall be distributed~~
 336 ~~to the municipality in which the violation occurred, or, if the~~
 337 ~~violation occurred in an unincorporated area, to the county in~~
 338 ~~which the violation occurred.~~ Funds deposited into the

339 Department of Health Emergency Medical Services Trust Fund under
 340 this sub-subparagraph shall be distributed as provided in s.
 341 395.4036(1). Proceeds of the infractions in the Brain and Spinal
 342 Cord Injury Trust Fund shall be distributed quarterly to the
 343 Miami Project to Cure Paralysis and used for brain and spinal
 344 cord research.

345 b. Eighty-three ~~One hundred fifty-eight~~ dollars for a
 346 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
 347 failed to stop at a traffic signal if enforcement is by a county
 348 or municipal traffic infraction enforcement officer. Seventy
 349 dollars shall be remitted by the county or municipality to the
 350 Department of Revenue for deposit into the General Revenue Fund,
 351 \$10 shall be remitted to the Department of Revenue for deposit
 352 into the Department of Health Emergency Medical Services Trust
 353 Fund, and \$3 shall be remitted to the Department of Revenue for
 354 deposit into the Brain and Spinal Cord Injury Trust Fund, ~~and~~
 355 ~~\$75 shall be retained by the county or municipality enforcing~~
 356 ~~the ordinance enacted pursuant to this section.~~ Funds deposited
 357 into the Department of Health Emergency Medical Services Trust
 358 Fund under this sub-subparagraph shall be distributed as
 359 provided in s. 395.4036(1). Proceeds of the infractions in the
 360 Brain and Spinal Cord Injury Trust Fund shall be distributed
 361 quarterly to the Miami Project to Cure Paralysis and used for
 362 brain and spinal cord research.

363 4. A county or municipality, by majority vote of the
 364 governing board of the respective county or municipality, may

365 impose a surcharge for violations of s. 316.074(1) or s.
366 316.075(1)(c)1. which occur at any intersection that had an
367 active traffic infraction detector installed before July 1,
368 2014, for the sole purpose of funding administrative costs and
369 contractual agreements with manufacturers and vendors of traffic
370 infraction detectors. The surcharge must be authorized by an
371 ordinance requiring public hearings.

372 a. Revenue collected from the surcharge under this
373 subparagraph must be distributed quarterly to the manufacturer
374 or vendor in accordance with each respective contractual
375 agreement.

376 b. Surplus revenue from the surcharge under this
377 subparagraph shall be remitted to the Department of Revenue for
378 deposit into the General Revenue Fund.

379 c. Each county or municipality shall, no later than 30
380 days after the end of each quarter, report in an electronic
381 format to the Department of Revenue the amount of funds
382 collected under this subparagraph during each quarter of the
383 fiscal year. The Department of Revenue shall submit the report
384 annually in an electronic format to the Governor, the President
385 of the Senate, and the Speaker of the House of Representatives.

386 5.4. An individual may not receive a commission from any
387 revenue collected from violations detected through the use of a
388 traffic infraction detector. A manufacturer or vendor may not
389 receive a fee or remuneration based upon the number of
390 violations detected through the use of a traffic infraction

391 detector.

392 (5) Procedures for a hearing under this section are as
393 follows:

394 (e) At the conclusion of the hearing, the local hearing
395 officer shall determine whether a violation under this section
396 has occurred, in which case the hearing officer shall uphold or
397 dismiss the violation. The local hearing officer shall issue a
398 final administrative order including the determination and, if
399 the notice of violation is upheld, require the petitioner to pay
400 the penalty previously assessed under paragraph (1)(b), and may
401 also require the petitioner to pay county or municipal costs,
402 not to exceed the amount of the penalty assessed and collected
403 by the county or municipality ~~\$250~~. The final administrative
404 order shall be mailed to the petitioner by first-class mail.

405 Section 4. Section 316.0776, Florida Statutes, is amended
406 to read:

407 316.0776 Traffic infraction detectors; placement and
408 installation.—

409 (1) Traffic infraction detectors are allowed on state
410 roads when permitted by the Department of Transportation and
411 under placement and installation specifications developed by the
412 Department of Transportation. Traffic infraction detectors are
413 allowed on streets and highways under the jurisdiction of
414 counties or municipalities in accordance with placement and
415 installation specifications developed by the Department of
416 Transportation, only if such traffic infraction detectors were

417 installed and active before July 1, 2014.

418 (2) (a) If the department, county, or municipality installs
419 a traffic infraction detector at an intersection, the
420 department, county, or municipality shall notify the public that
421 a traffic infraction device may be in use at that intersection
422 and must specifically include notification of camera enforcement
423 of violations concerning right turns. Such signage used to
424 notify the public must meet the specifications for uniform
425 signals and devices adopted by the Department of Transportation
426 pursuant to s. 316.0745.

427 (b) If the department, ~~county, or municipality~~ begins a
428 traffic infraction detector program in a county or municipality
429 that has never conducted such a program, the ~~respective~~
430 ~~department, county, or municipality~~ shall also make a public
431 announcement and conduct a public awareness campaign of the
432 proposed use of traffic infraction detectors at least 30 days
433 before starting ~~commencing~~ the enforcement program.

434 Section 5. Subsections (15) and (22) of section 318.18,
435 Florida Statutes, are amended to read:

436 318.18 Amount of penalties.—The penalties required for a
437 noncriminal disposition pursuant to s. 318.14 or a criminal
438 offense listed in s. 318.17 are as follows:

439 (15) (a)1. One hundred and fifty-eight dollars for a
440 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
441 has failed to stop at a traffic signal and when enforced by a
442 law enforcement officer. Sixty dollars shall be distributed as

443 provided in s. 318.21, \$30 shall be distributed to the General
 444 Revenue Fund, \$3 shall be remitted to the Department of Revenue
 445 for deposit into the Brain and Spinal Cord Injury Trust Fund,
 446 and the remaining \$65 shall be remitted to the Department of
 447 Revenue for deposit into the Emergency Medical Services Trust
 448 Fund of the Department of Health.

449 2. Eighty-three ~~One hundred and fifty-eight~~ dollars for a
 450 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
 451 has failed to stop at a traffic signal and when enforced by the
 452 department's traffic infraction enforcement officer. Seventy One
 453 ~~hundred~~ dollars shall be remitted to the Department of Revenue
 454 for deposit into the General Revenue Fund, ~~\$45 shall be~~
 455 ~~distributed to the county for any violations occurring in any~~
 456 ~~unincorporated areas of the county or to the municipality for~~
 457 ~~any violations occurring in the incorporated boundaries of the~~
 458 ~~municipality in which the infraction occurred,~~ \$10 shall be
 459 remitted to the Department of Revenue for deposit into the
 460 Department of Health Emergency Medical Services Trust Fund for
 461 distribution as provided in s. 395.4036(1), and \$3 shall be
 462 remitted to the Department of Revenue for deposit into the Brain
 463 and Spinal Cord Injury Trust Fund.

464 3. Eighty-three ~~One hundred and fifty-eight~~ dollars for a
 465 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
 466 has failed to stop at a traffic signal and when enforced by a
 467 county's or municipality's traffic infraction enforcement
 468 officer. Seventy dollars ~~Seventy-five dollars shall be~~

469 ~~distributed to the county or municipality issuing the traffic~~
470 ~~citation, \$70~~ shall be remitted to the Department of Revenue for
471 deposit into the General Revenue Fund, \$10 shall be remitted to
472 the Department of Revenue for deposit into the Department of
473 Health Emergency Medical Services Trust Fund for distribution as
474 provided in s. 395.4036(1), and \$3 shall be remitted to the
475 Department of Revenue for deposit into the Brain and Spinal Cord
476 Injury Trust Fund.

477 (b) Amounts deposited into the Brain and Spinal Cord
478 Injury Trust Fund pursuant to this subsection shall be
479 distributed quarterly to the Miami Project to Cure Paralysis and
480 shall be used for brain and spinal cord research.

481 (c) If a person who is mailed a notice of violation or
482 cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as
483 enforced by a traffic infraction enforcement officer under s.
484 316.0083, presents documentation from the appropriate
485 governmental entity that the notice of violation or traffic
486 citation was in error, the clerk of court or clerk to the local
487 hearing officer may dismiss the case. The clerk of court or
488 clerk to the local hearing officer may not charge for this
489 service.

490 (d) An individual may not receive a commission or per-
491 ticket fee from any revenue collected from violations detected
492 through the use of a traffic infraction detector. A manufacturer
493 or vendor may not receive a fee or remuneration based upon the
494 number of violations detected through the use of a traffic

495 | infraction detector.

496 | (e) Funds deposited into the Department of Health
497 | Emergency Medical Services Trust Fund under this subsection
498 | shall be distributed as provided in s. 395.4036(1).

499 | (22) In addition to the penalty prescribed under s.
500 | 316.0083 for violations enforced under s. 316.0083 which are
501 | upheld, the local hearing officer may also order the payment of
502 | county or municipal costs, not to exceed the amount of the
503 | penalty assessed and collected by the county or municipality
504 | ~~\$250~~.

505 | Section 6. Subsection (4) is added to section 335.10,
506 | Florida Statutes, to read:

507 | 335.10 State Highway System; vehicle regulation;
508 | prohibited use and traffic; liability for damage; parking.-

509 | (4) No charge may be imposed for public parking within
510 | designated parking spaces located within the right-of-way limits
511 | of a road on the State Highway System.

512 | Section 7. Section 337.25, Florida Statutes, is amended to
513 | read:

514 | 337.25 Acquisition, lease, and disposal of real and
515 | personal property.-

516 | (1) (a) The department may purchase, lease, exchange, or
517 | otherwise acquire any land, property interests, or buildings or
518 | other improvements, including personal property within such
519 | buildings or on such lands, necessary to secure or utilize
520 | transportation rights-of-way for existing, proposed, or

521 anticipated transportation facilities on the State Highway
 522 System, on the State Park Road System, in a rail corridor, or in
 523 a transportation corridor designated by the department. Such
 524 property shall be held in the name of the state.

525 (b) The department may accept donations of any land or
 526 buildings or other improvements, including personal property
 527 within such buildings or on such lands with or without such
 528 conditions, reservations, or reverter provisions as are
 529 acceptable to the department. Such donations may be used as
 530 transportation rights-of-way or to secure or utilize
 531 transportation rights-of-way for existing, proposed, or
 532 anticipated transportation facilities on the State Highway
 533 System, on the State Park Road System, or in a transportation
 534 corridor designated by the department.

535 (c) When lands, buildings, or other improvements are
 536 needed for transportation purposes, but are held by a federal,
 537 state, or local governmental entity and utilized for public
 538 purposes other than transportation, the department may
 539 compensate the entity for such properties by providing
 540 functionally equivalent replacement facilities. The providing of
 541 replacement facilities under this subsection may only be
 542 undertaken with the agreement of the governmental entity
 543 affected.

544 (d) The department may contract pursuant to s. 287.055 for
 545 auction services used in the conveyance of real or personal
 546 property or the conveyance of leasehold interests under the

547 provisions of subsections (4) and (5). The contract may allow
548 for the contractor to retain a portion of the proceeds as
549 compensation for its services.

550 (2) A complete inventory shall be made of all real or
551 personal property immediately upon possession or acquisition.
552 Such inventory shall include ~~an itemized listing of all~~
553 ~~appliances, fixtures, and other severable items;~~ a statement of
554 the location or site of each piece of realty, structure, or
555 severable item; ~~and the serial number assigned to each.~~ Copies
556 of each inventory shall be filed in the district office in which
557 the property is located. Such inventory shall be carried forward
558 to show the final disposition of each item of property, both
559 real and personal.

560 (3) The inventory of real property which was acquired by
561 the state after December 31, 1988, which has been owned by the
562 state for 10 or more years, and which is not within a
563 transportation corridor or within the right-of-way of a
564 transportation facility shall be evaluated to determine the
565 necessity for retaining the property. If the property is not
566 needed for the construction, operation, and maintenance of a
567 transportation facility, or is not located within a
568 transportation corridor, the department may dispose of the
569 property pursuant to subsection (4).

570 (4) The department may convey ~~sell~~, in the name of the
571 state, any land, building, or other property, real or personal,
572 which was acquired under the provisions of subsection (1) and

HB 7005

2014

573 which the department has determined is not needed for the
574 construction, operation, and maintenance of a transportation
575 facility. ~~With the exception of any parcel governed by paragraph~~
576 ~~(c), paragraph (d), paragraph (f), paragraph (g), or paragraph~~
577 ~~(i), the department shall afford first right of refusal to the~~
578 ~~local government in the jurisdiction of which the parcel is~~
579 ~~situated.~~ When such a determination has been made, property may
580 be disposed of through negotiation, sealed competitive bid,
581 auction, or any other means that the department deems to be in
582 its best interest, with due advertisement for property valued by
583 the department at more than \$10,000. A sale may not occur at a
584 price less than the department's current estimate of value
585 except as provided in paragraphs (a)-(d). The department may
586 afford the right of first refusal to the local government or
587 other political subdivision in the jurisdiction in which the
588 parcel is situated, except in conveyances transacted under
589 paragraph (a), paragraph (c), or paragraph (e). ~~in the following~~
590 ~~manner:~~

591 (a) If a the value of the property has been donated to the
592 state for transportation purposes, the facility has not been
593 constructed for a period of at least 5 years, no plans have been
594 prepared for the construction of such facility, and the property
595 is not located in a transportation corridor, the governmental
596 entity may authorize reconveyance of the donated property
597 without consideration to the original donor or the donor's
598 heirs, successors, assigns, or representatives ~~is \$10,000 or~~

599 ~~less as determined by department estimate, the department may~~
600 ~~negotiate the sale.~~

601 (b) ~~If the value of the property is to be used for a~~
602 ~~public purpose, the property may be conveyed to a governmental~~
603 ~~entity without consideration exceeds \$10,000 as determined by~~
604 ~~department estimate, such property may be sold to the highest~~
605 ~~bidder through receipt of sealed competitive bids, after due~~
606 ~~advertisement, or by public auction held at the site of the~~
607 ~~improvement which is being sold.~~

608 (c) ~~If the property was originally acquired specifically~~
609 ~~to provide replacement housing for persons displaced by~~
610 ~~transportation projects, the department may negotiate for the~~
611 ~~sale of such property as replacement housing. As compensation,~~
612 ~~the state shall receive no less than its investment in such~~
613 ~~properties or the department's current estimate of value,~~
614 ~~whichever is lower. It is expressly intended that this benefit~~
615 ~~be extended only to those persons actually displaced by such~~
616 ~~project. Disposition to any other person must be for no less~~
617 ~~than the department's current estimate of value, in the~~
618 ~~discretion of the department, public sale would be inequitable,~~
619 ~~properties may be sold by negotiation to the owner holding title~~
620 ~~to the property abutting the property to be sold, provided such~~
621 ~~sale is at a negotiated price not less than fair market value as~~
622 ~~determined by an independent appraisal, the cost of which shall~~
623 ~~be paid by the owner of the abutting land. If negotiations do~~
624 ~~not result in the sale of the property to the owner of the~~

625 ~~abutting land and the property is sold to someone else, the cost~~
626 ~~of the independent appraisal shall be borne by the purchaser;~~
627 ~~and the owner of the abutting land shall have the cost of the~~
628 ~~appraisal refunded to him or her. If, however, no purchase takes~~
629 ~~place, the owner of the abutting land shall forfeit the sum paid~~
630 ~~by him or her for the independent appraisal. If, due to action~~
631 ~~of the department, the property is removed from eligibility for~~
632 ~~sale, the cost of any appraisal prepared shall be refunded to~~
633 ~~the owner of the abutting land.~~

634 (d) If the department determines that the property will
635 require significant costs to be incurred or that continued
636 ownership of the property exposes the department to significant
637 liability risks, the department may use the projected
638 maintenance costs over the next 10 years to offset the
639 property's value in establishing a value for disposal of the
640 property, even if that value is zero ~~property acquired for use~~
641 ~~as a borrow pit is no longer needed, the department may sell~~
642 ~~such property to the owner of the parcel of abutting land from~~
643 ~~which the borrow pit was originally acquired, provided the sale~~
644 ~~is at a negotiated price not less than fair market value as~~
645 ~~determined by an independent appraisal, the cost of which shall~~
646 ~~be paid by the owner of such abutting land.~~

647 (e) If, in the discretion of the department, a sale to
648 anyone other than an abutting property owner would be
649 inequitable, the property may be sold to the abutting owner for
650 the department's current estimate of value ~~the department begins~~

651 ~~the process for disposing of the property on its own initiative,~~
652 ~~either by negotiation under the provisions of paragraph (a),~~
653 ~~paragraph (c), paragraph (d), or paragraph (i), or by receipt of~~
654 ~~sealed competitive bids or public auction under the provisions~~
655 ~~of paragraph (b) or paragraph (i), a department staff appraiser~~
656 ~~may determine the fair market value of the property by an~~
657 ~~appraisal.~~

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

666 ~~(g) If a property has been donated to the state for~~
667 ~~transportation purposes and the facility has not been~~
668 ~~constructed for a period of at least 5 years and no plans have~~
669 ~~been prepared for the construction of such facility and the~~
670 ~~property is not located in a transportation corridor, the~~
671 ~~governmental entity may authorize reconveyance of the donated~~
672 ~~property for no consideration to the original donor or the~~
673 ~~donor's heirs, successors, assigns, or representatives.~~

674 ~~(h) If property is to be used for a public purpose, the~~
675 ~~property may be conveyed without consideration to a governmental~~
676 ~~entity.~~

677 ~~(i) If property was originally acquired specifically to~~
678 ~~provide replacement housing for persons displaced by~~
679 ~~transportation projects, the department may negotiate for the~~
680 ~~sale of such property as replacement housing. As compensation,~~
681 ~~the state shall receive no less than its investment in such~~
682 ~~properties or fair market value, whichever is lower. It is~~
683 ~~expressly intended that this benefit be extended only to those~~
684 ~~persons actually displaced by such project. Dispositions to any~~
685 ~~other persons must be for fair market value.~~

686 ~~(j) If the department determines that the property will~~
687 ~~require significant costs to be incurred or that continued~~
688 ~~ownership of the property exposes the department to significant~~
689 ~~liability risks, the department may use the projected~~
690 ~~maintenance costs over the next 5 years to offset the market~~
691 ~~value in establishing a value for disposal of the property, even~~
692 ~~if that value is zero.~~

693 (5) The department may convey a leasehold interest for
694 commercial or other purposes, in the name of the state, to any
695 land, building, or other property, real or personal, which was
696 acquired under the provisions of subsection (1). A lease may not
697 occur at a price less than the department's current estimate of
698 value. The department's estimate of value shall be prepared in
699 accordance with department procedures, guidelines, and rules for
700 valuation of real property, the cost of which shall be paid by
701 the party seeking to lease the property.

702 (a) All leases shall be entered into by negotiation,
 703 sealed competitive bid, auction, or any other means that the
 704 department deems to be in its best interest. ~~The department may~~
 705 ~~negotiate such a lease at the prevailing market value with the~~
 706 ~~owner from whom the property was acquired; with the holders of~~
 707 ~~leasehold estates existing at the time of the department's~~
 708 ~~acquisition; or, if public bidding would be inequitable, with~~
 709 ~~the owner holding title to privately owned abutting property, if~~
 710 ~~reasonable notice is provided to all other owners of abutting~~
 711 ~~property.~~ The department may allow an outdoor advertising sign
 712 to remain on the property acquired, or be relocated on
 713 department property, and such sign shall not be considered a
 714 nonconforming sign pursuant to chapter 479.

715 (b) If, in the discretion of the department, a lease to
 716 anyone other than an abutting property owner or a tenant with a
 717 leasehold interest in the abutting property would be
 718 inequitable, the property may be leased to the abutting owner or
 719 tenant for no less than the department's current estimate of
 720 value ~~All other leases shall be by competitive bid.~~

721 (c) A ~~No~~ lease signed pursuant to paragraph (a) may not ~~ex~~
 722 ~~paragraph (b)~~ shall be for a period of more than 5 years;
 723 however, the department may renegotiate or extend such a lease
 724 for an additional term of 5 years as the department deems
 725 appropriate ~~without rebidding.~~

726 (d) Each lease shall provide that unless otherwise
 727 directed by the lessor, any improvements made to the property

728 during the term of the lease shall be removed at the lessee's
 729 expense.

730 (e) If property is to be used for a public purpose,
 731 ~~including a fair, art show, or other educational, cultural, or~~
 732 ~~fundraising activity,~~ the property may be leased without
 733 consideration to a governmental entity ~~or school board~~. Any
 734 public-purpose lease is exempt from the term limits provided in
 735 paragraph (c).

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

739 (g) A ~~No~~ lease executed under this subsection may not be
 740 used ~~utilized~~ by the lessee to establish the ~~4 years'~~ standing
 741 required by s. 73.071(3)(b) if the business had not been
 742 established for the specified number of 4 years on the date
 743 title passed to the department.

744 (h) The department may enter into a long-term lease
 745 without compensation with a public port listed in s.
 746 403.021(9)(b) for rail corridors used for the operation of a
 747 short-line railroad to the port.

748 (6) Nothing in this chapter prevents the joint use of
 749 right-of-way for alternative modes of transportation; provided
 750 that the joint use does not impair the integrity and safety of
 751 the transportation facility.

752 (7) The department's estimate of value, as required in
 753 subsection (4), shall be prepared in accordance with department

HB 7005

2014

754 procedures, guidelines, and rules for valuation of real
755 property. If the value of the property exceeds \$50,000 as
756 determined by department estimate, the sale will be at a
757 negotiated price of not less than fair market value as
758 determined by an independent appraisal prepared in accordance
759 with department procedures, guidelines, and rules for valuation
760 of real property, the cost of which shall be paid by the party
761 seeking the purchase of the property. If the estimated value is
762 \$50,000 or less, the department may use a department staff
763 appraiser or obtain an independent appraisal ~~required by~~
764 ~~paragraphs (4) (c) and (d) shall be prepared in accordance with~~
765 ~~department guidelines and rules by an independent appraiser who~~
766 ~~has been certified by the department. If federal funds were used~~
767 ~~in the acquisition of the property, the appraisal shall also be~~
768 ~~subject to the approval of the Federal Highway Administration.~~

769 (8) A "due advertisement" under this section is an
770 advertisement in a newspaper of general circulation in the area
771 of the improvements of not less than 14 calendar days before
772 ~~prior to~~ the date of the receipt of bids or the date on which a
773 public auction is to be held.

774 (9) The department, with the approval of the Chief
775 Financial Officer, may ~~is authorized to~~ disburse state funds for
776 real estate closings in a manner consistent with good business
777 practices and in a manner minimizing costs and risks to the
778 state.

779 (10) The department may ~~is authorized to~~ purchase title

HB 7005

2014

780 insurance in those instances where it is determined that such
781 insurance is necessary to protect the public's investment in
782 property being acquired for transportation purposes. The
783 department shall adopt procedures to be followed in making the
784 determination to purchase title insurance for a particular
785 parcel or group of parcels which, at a minimum, shall set forth
786 criteria which the parcels shall ~~must~~ meet.

787 (11) This section does not modify the requirements of s.
788 73.013.

789 Section 8. Subsection (2) of section 337.251, Florida
790 Statutes, is amended to read:

791 337.251 Lease of property for joint public-private
792 development and areas above or below department property.-

793 (2) The department may request proposals for the lease of
794 such property or, if the department receives a proposal for ~~to~~
795 ~~negotiate~~ a lease of particular department property that the
796 department desires to consider, it shall publish a notice in a
797 newspaper of general circulation at least once a week for 2
798 weeks, stating that it has received the proposal and will
799 accept, for 120 ~~60~~ days after the date of publication, other
800 proposals for lease of the particular property ~~use of the space~~.
801 A copy of the notice must be mailed to each local government in
802 the affected area. The department shall adopt rules establishing
803 an application fee for the submission of proposals under this
804 section. The fee must be limited to the amount needed to pay the
805 anticipated costs of evaluating the proposals. The department

806 may engage the services of private consultants to assist in the
807 evaluation. Before approval, the department must determine that
808 the proposed lease:

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

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

811 (c) Would have adequate safeguards in place to ensure that
812 no additional costs or service disruptions would be realized by
813 the traveling public and residents of the state in the event of
814 default by the private lessee or upon termination or expiration
815 of the lease.

816 Section 9. Subsection (5) of section 338.161, Florida
817 Statutes, is amended to read:

818 338.161 Authority of department or toll agencies to
819 advertise and promote electronic toll collection; expanded uses
820 of electronic toll collection system; authority of department to
821 collect tolls, fares, and fees for private and public entities.-

822 (5) If the department finds that it can increase nontoll
823 revenues or add convenience or other value for its customers,
824 and if a public or private transportation facility owner agrees
825 that its facility will become interoperable with the
826 department's electronic toll collection and video billing
827 systems, the department may ~~is authorized to~~ enter into an
828 agreement with the owner of such facility under which the
829 department uses ~~private or public entities for the department's~~
830 ~~use of~~ its electronic toll collection and video billing systems
831 to collect and enforce for the owner tolls, fares,

HB 7005

2014

832 administrative fees, and other applicable charges due ~~imposed~~ in
833 connection with use of the owner's facility ~~transportation~~
834 ~~facilities of the private or public entities that become~~
835 ~~interoperable with the department's electronic toll collection~~
836 ~~system~~. The department may modify its rules regarding toll
837 collection procedures and the imposition of administrative
838 charges to be applicable to toll facilities that are not part of
839 the turnpike system or otherwise owned by the department. This
840 subsection may not be construed to limit the authority of the
841 department under any other provision of law or under any
842 agreement entered into before ~~prior to~~ July 1, 2012.

843 Section 10. Section 373.4137, Florida Statutes, is amended
844 to read:

845 373.4137 Mitigation requirements for specified
846 transportation projects.—

847 (1) The Legislature finds that environmental mitigation
848 for the impact of transportation projects proposed by the
849 Department of Transportation or a transportation authority
850 established pursuant to chapter 348 or chapter 349 can be more
851 effectively achieved by regional, long-range mitigation planning
852 rather than on a project-by-project basis. It is the intent of
853 the Legislature that mitigation to offset the adverse effects of
854 these transportation projects be funded by the Department of
855 Transportation and be carried out by the use of mitigation banks
856 and any other mitigation options that satisfy state and federal
857 requirements in a manner that promotes efficiency, timeliness in

858 project delivery, and cost-effectiveness.

859 (2) Environmental impact inventories for transportation
860 projects proposed by the Department of Transportation or a
861 transportation authority established pursuant to chapter 348 or
862 chapter 349 shall be developed as follows:

863 (a) By July 1 of each year, the Department of
864 Transportation, or a transportation authority established
865 pursuant to chapter 348 or chapter 349 which chooses to
866 participate in the program, shall submit to the water management
867 districts a list of its projects in the adopted work program and
868 an environmental impact inventory of habitat impacts and the
869 anticipated amount of mitigation needed to offset impacts as
870 described in paragraph (b). The environmental impact inventory
871 must be based on ~~habitats addressed in~~ the rules adopted
872 pursuant to this part, ~~and~~ s. 404 of the Clean Water Act, 33
873 U.S.C. s. 1344, and the Department of Transportation's ~~which may~~
874 ~~be impacted by its~~ plan of construction for transportation
875 projects in the next 3 years of the tentative work program. The
876 Department of Transportation or a transportation authority
877 established pursuant to chapter 348 or chapter 349 may also
878 include in its environmental impact inventory the habitat
879 impacts and the anticipated amount of mitigation needed for ~~of~~
880 any future transportation project. The Department of
881 Transportation and each transportation authority established
882 pursuant to chapter 348 or chapter 349 may fund any mitigation
883 activities for future projects using current year funds.

884 (b) The environmental impact inventory must ~~shall~~ include
885 a description of ~~these~~ habitat impacts, including ~~their~~
886 location, acreage, and type; the anticipated amount of
887 mitigation needed based on the functional loss as determined
888 through the uniform mitigation assessment method (UMAM) adopted
889 by rule of the Department of Environmental Protection pursuant
890 to s. 373.414(18); identification of the proposed mitigation
891 option; state water quality classification of impacted wetlands
892 and other surface waters; any other state or regional
893 designations for these habitats; and a list of threatened
894 species, endangered species, and species of special concern
895 affected by the proposed project.

896 (c) Before projects are identified for inclusion in a
897 water management district mitigation plan as described in
898 subsection (4), the Department of Transportation must consider
899 using credits from a permitted mitigation bank. The Department
900 of Transportation must consider the availability of suitable and
901 sufficient mitigation bank credits within the transportation
902 project's area, the ability to satisfy commitments to regulatory
903 and resource agencies, the availability of suitable and
904 sufficient mitigation purchased or developed through this
905 section, the ability to complete existing water management
906 district or Department of Environmental Protection suitable
907 mitigation sites initiated with Department of Transportation
908 mitigation funds, and the ability to satisfy state and federal
909 requirements including long-term maintenance and liability.

HB 7005

2014

910 (3) (a) To implement the mitigation option ~~fund development~~
911 ~~and implementation of the mitigation plan for the projected~~
912 ~~impacts~~ identified in the environmental impact inventory
913 described in subsection (2), the Department of Transportation
914 may purchase credits for current and future use directly from a
915 mitigation bank, purchase mitigation services through the water
916 management districts or the Department of Environmental
917 Protection, conduct its own mitigation, or use other mitigation
918 options that meet state and federal requirements. Funding for
919 the identified mitigation option as described in the
920 environmental impact inventory must be included in ~~shall~~
921 ~~identify funds quarterly in an escrow account within the State~~
922 ~~Transportation Trust Fund for the environmental mitigation phase~~
923 ~~of projects budgeted by the Department of~~ Transportation's work
924 program developed pursuant to s. 339.135. The amount programmed
925 each year by the Department of Transportation and participating
926 transportation authorities established pursuant to chapter 348
927 or chapter 349 must correspond to an estimated cost per credit
928 of \$150,000 multiplied by the projected number of credits
929 identified in the environmental impact inventory described in
930 subsection (2). This estimated cost per credit will be adjusted
931 every 2 years by the Department of Transportation based on the
932 average cost per UMAM credit paid through this section.
933 ~~Transportation for the current fiscal year. The escrow account~~
934 ~~shall be maintained by the Department of Transportation for the~~
935 ~~benefit of the water management districts. Any interest earnings~~

936 ~~from the escrow account shall remain with the Department of~~
937 ~~Transportation.~~

938 (b) Each transportation authority established pursuant to
939 chapter 348 or chapter 349 that chooses to participate in this
940 program shall create an escrow account within its financial
941 structure and deposit funds in the account to pay for the
942 environmental mitigation phase of projects budgeted for the
943 current fiscal year. The escrow account shall be maintained by
944 the authority for the benefit of the water management districts.
945 Any interest earnings from the escrow account shall remain with
946 the authority.

947 (c) For mitigation implemented by the water management
948 district or the Department of Environmental Protection, as
949 appropriate, the amount paid each year must be based on
950 mitigation services provided by the water management districts
951 or Department of Environmental Protection pursuant to an
952 approved water management district plan, as described in
953 subsection (4). ~~Except for current mitigation projects in the~~
954 ~~monitoring and maintenance phase and except as allowed by~~
955 ~~paragraph (d),~~ The water management districts or the Department
956 of Environmental Protection, as appropriate, may request payment
957 ~~a transfer of funds from an escrow account~~ no sooner than 30
958 days before the date the funds are needed to pay for activities
959 associated with development or implementation of permitted
960 mitigation meeting the requirements pursuant to this part, 33
961 U.S.C. s. 1344, and 33 C.F.R. part 332 in the approved

962 mitigation plan described in subsection (4) for the current
963 fiscal year, ~~including, but not limited to, design, engineering,~~
964 ~~production, and staff support. Actual conceptual plan~~
965 ~~preparation costs incurred before plan approval may be submitted~~
966 ~~to the Department of Transportation or the appropriate~~
967 ~~transportation authority each year with the plan. The conceptual~~
968 ~~plan preparation costs of each water management district will be~~
969 ~~paid from mitigation funds associated with the environmental~~
970 ~~impact inventory for the current year. The amount transferred to~~
971 ~~the eserow accounts each year by the Department of~~
972 ~~Transportation and participating transportation authorities~~
973 ~~established pursuant to chapter 348 or chapter 349 shall~~
974 ~~correspond to a cost per acre of \$75,000 multiplied by the~~
975 ~~projected acres of impact identified in the environmental impact~~
976 ~~inventory described in subsection (2). However, the \$75,000 cost~~
977 ~~per acre does not constitute an admission against interest by~~
978 ~~the state or its subdivisions and is not admissible as evidence~~
979 ~~of full compensation for any property acquired by eminent domain~~
980 ~~or through inverse condemnation. Each July 1, the cost per acre~~
981 ~~shall be adjusted by the percentage change in the average of the~~
982 ~~Consumer Price Index issued by the United States Department of~~
983 ~~Labor for the most recent 12-month period ending September 30,~~
984 ~~compared to the base year average, which is the average for the~~
985 ~~12-month period ending September 30, 1996. Each quarter, the~~
986 ~~projected amount of mitigation must acreage of impact shall be~~
987 ~~reconciled with the actual amount of mitigation needed for~~

HB 7005

2014

988 ~~acreage of impact of~~ projects as permitted, including permit
989 modifications, pursuant to this part and s. 404 of the Clean
990 Water Act, 33 U.S.C. s. 1344. The subject year's programming
991 ~~transfer~~ of funds shall be adjusted ~~accordingly~~ to reflect the
992 mitigation acreage of impacts as permitted. If the water
993 management district excludes a project from an approved water
994 management district mitigation plan, if the water management
995 district cannot timely permit a mitigation site to offset the
996 impacts of a Department of Transportation project identified in
997 the environmental impact inventory, or if the proposed
998 mitigation does not meet state and federal requirements, the
999 Department of Transportation may use the associated funds for
1000 the purchase of mitigation bank credits or any other mitigation
1001 option that satisfies state and federal requirements. The
1002 ~~Department of Transportation and participating transportation~~
1003 ~~authorities established pursuant to chapter 348 or chapter 349~~
1004 ~~are authorized to transfer such funds from the escrow accounts~~
1005 ~~to the water management districts to carry out the mitigation~~
1006 ~~programs. Environmental mitigation funds that are identified for~~
1007 ~~or maintained in an escrow account for the benefit of a water~~
1008 ~~management district may be released if the associated~~
1009 ~~transportation project is excluded in whole or part from the~~
1010 ~~mitigation plan. For a mitigation project that is in the~~
1011 ~~maintenance and monitoring phase, the water management district~~
1012 ~~may request and receive a one-time payment based on the~~
1013 ~~project's expected future maintenance and monitoring costs. Upon~~

HB 7005

2014

1014 ~~final disbursement of the final maintenance and monitoring~~
1015 ~~payment for mitigation of a transportation project as permitted,~~
1016 ~~the obligation of the Department of Transportation or the~~
1017 ~~participating transportation authority is satisfied and the~~
1018 ~~water management district or the Department of Environmental~~
1019 ~~Protection, as appropriate, will have continuing responsibility~~
1020 ~~for the mitigation project, the escrow account for the project~~
1021 ~~established by the Department of Transportation or the~~
1022 ~~participating transportation authority may be closed. Any~~
1023 ~~interest earned on these disbursed funds shall remain with the~~
1024 ~~water management district and must be used as authorized under~~
1025 ~~this section.~~

1026 (d) Beginning with the March 2015 water management
1027 district mitigation plans in the 2005-2006 fiscal year, each
1028 water management district or the Department of Environmental
1029 Protection, as appropriate, shall invoice the Department of
1030 Transportation for mitigation services to offset only the
1031 impacts of a Department of Transportation project identified in
1032 the environmental impact inventory, including planning, design,
1033 construction, maintenance, monitoring, and other costs necessary
1034 to meet requirements under this section, 33 U.S.C. s. 1344, and
1035 33 C.F.R. part 332. If the water management district identifies
1036 the use of mitigation bank credits to offset a Department of
1037 Transportation impact, the water management district shall
1038 exclude that purchase from the mitigation plan, and the
1039 Department of Transportation must purchase the bank credits. be

HB 7005

2014

1040 ~~paid a lump-sum amount of \$75,000 per acre, adjusted as provided~~
1041 ~~under paragraph (c), for federally funded transportation~~
1042 ~~projects that are included on the environmental impact inventory~~
1043 ~~and that have an approved mitigation plan. Beginning in the~~
1044 ~~2009-2010 fiscal year, each water management district shall be~~
1045 ~~paid a lump-sum amount of \$75,000 per acre, adjusted as provided~~
1046 ~~under paragraph (c), for federally funded and nonfederally~~
1047 ~~funded transportation projects that have an approved mitigation~~
1048 ~~plan. All mitigation costs, including, but not limited to, the~~
1049 ~~costs of preparing conceptual plans and the costs of design,~~
1050 ~~construction, staff support, future maintenance, and monitoring~~
1051 ~~the mitigated acres shall be funded through these lump-sum~~
1052 ~~amounts.~~

1053 (e) For mitigation activities occurring on existing water
1054 management district or Department of Environmental Protection
1055 mitigation sites initiated with Department of Transportation
1056 mitigation funds before July 1, 2013, the water management
1057 district or the Department of Environmental Protection shall
1058 invoice the Department of Transportation or a participating
1059 transportation authority at a cost per acre of \$75,000
1060 multiplied by the projected acres of impact as identified in the
1061 environmental impact inventory. The cost per acre must be
1062 adjusted by the percentage change in the average of the Consumer
1063 Price Index issued by the United States Department of Labor for
1064 the most recent 12-month period ending September 30, compared to
1065 the base year average, which is the average for the 12-month

1066 period ending September 30, 1996. When implementing the
1067 mitigation activities necessary to offset the permitted impacts
1068 as provided in the approved mitigation plan, the water
1069 management district shall maintain records of the costs incurred
1070 in implementing the mitigation. The records must include, but
1071 are not limited to, costs for planning, land acquisition,
1072 design, construction, staff support, long-term maintenance and
1073 monitoring of the mitigation site, and other costs necessary to
1074 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part
1075 332.

1076 (f) For purposes of preparing and implementing the
1077 mitigation plans to be adopted by the water management districts
1078 on or before March 1, 2014, for impacts based on the July 1,
1079 2013, environmental impact inventory, the funds identified in
1080 the Department of Transportation's work program or participating
1081 transportation authorities' escrow accounts must correspond to a
1082 cost per acre of \$75,000 multiplied by the projected acres of
1083 impact as identified in the environmental impact inventory. The
1084 cost per acre shall be adjusted by the percentage change in the
1085 average of the Consumer Price Index issued by the United States
1086 Department of Labor for the most recent 12-month period ending
1087 September 30, compared to the base year average, which is the
1088 average for the 12-month period ending September 30, 1996.
1089 Payment as provided under this paragraph is limited to those
1090 mitigation activities that are identified in the first year of
1091 the 2013 mitigation plan and for which the transportation

HB 7005

2014

1092 project is permitted and is in the Department of
1093 Transportation's adopted work program, or equivalent for a
1094 transportation authority. When implementing the mitigation
1095 activities necessary to offset the permitted impacts as provided
1096 in the approved mitigation plan, the water management district
1097 shall maintain records of the costs incurred in implementing the
1098 mitigation. The records must include, but are not limited to,
1099 costs for planning, land acquisition, design, construction,
1100 staff support, long-term maintenance and monitoring of the
1101 mitigation site, and other costs necessary to meet the
1102 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the
1103 extent moneys paid to a water management district by the
1104 Department of Transportation or a participating transportation
1105 authority exceed the amount expended by the water management
1106 districts in implementing the mitigation to offset the permitted
1107 impacts, these funds must be refunded to the Department of
1108 Transportation or participating transportation authority. This
1109 paragraph expires June 30, 2015.

1110 (4) Before March 1 of each year, each water management
1111 district shall develop a mitigation plan to offset only the
1112 impacts of transportation projects in the environmental impact
1113 inventory for which a water management district is implementing
1114 mitigation that meets the requirements of this section, 33
1115 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management
1116 district mitigation plan must be developed, in consultation with
1117 the Department of Environmental Protection, the United States

HB 7005

2014

1118 Army Corps of Engineers, the Department of Transportation,
1119 participating transportation authorities established pursuant to
1120 chapter 348 or chapter 349, and other appropriate federal,
1121 state, and local governments, and other interested parties,
1122 including entities operating mitigation banks, ~~shall develop a~~
1123 ~~plan for the primary purpose of complying with the mitigation~~
1124 ~~requirements adopted pursuant to this part and 33 U.S.C. s.~~
1125 ~~1344.~~ In developing such plans, the water management districts
1126 shall use sound ecosystem management practices to address
1127 significant water resource needs and consider ~~shall focus on~~
1128 activities of the Department of Environmental Protection and the
1129 water management districts, such as surface water improvement
1130 and management (SWIM) projects and lands identified for
1131 potential acquisition for preservation, restoration, or
1132 enhancement, and the control of invasive and exotic plants in
1133 wetlands and other surface waters, to the extent that the
1134 activities comply with the mitigation requirements adopted under
1135 this part, and 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The
1136 water management district mitigation plan must identify each
1137 site where the water management district will mitigate for a
1138 transportation project. For each mitigation site, the water
1139 management district shall provide the scope of the mitigation
1140 services, provide the functional gain as determined through the
1141 UMAM adopted by rule of the Department of Environmental
1142 Protection pursuant to s. 373.414(18), describe how the
1143 mitigation offsets the impacts of each transportation project as

HB 7005

2014

1144 permitted, and provide a schedule for the mitigation services.
1145 The water management districts shall maintain records of costs
1146 incurred and payments received for providing these services.
1147 Records must include, but are not limited to, planning, land
1148 acquisition, design, construction, staff support, long-term
1149 maintenance and monitoring of the mitigation site, and other
1150 costs necessary to meet the requirements of 33 U.S.C. s. 1344
1151 and 33 C.F.R. part 332. To the extent moneys paid to a water
1152 management district by the Department of Transportation or a
1153 participating transportation authority exceed the amount
1154 expended by the water management districts in providing the
1155 mitigation services to offset the permitted transportation
1156 project impacts, these moneys must be refunded to the Department
1157 of Transportation or participating transportation authority. ~~In~~
1158 ~~determining the activities to be included in the plans, the~~
1159 ~~districts shall consider the purchase of credits from public or~~
1160 ~~private mitigation banks permitted under s. 373.4136 and~~
1161 ~~associated federal authorization and shall include the purchase~~
1162 ~~as a part of the mitigation plan when the purchase would offset~~
1163 ~~the impact of the transportation project, provide equal benefits~~
1164 ~~to the water resources than other mitigation options being~~
1165 ~~considered, and provide the most cost-effective mitigation~~
1166 ~~option.~~ The mitigation plan shall be submitted to the water
1167 management district governing board, or its designee, for review
1168 and approval. At least 14 days before approval by the governing
1169 board, the water management district shall provide a copy of the

Page 45 of 53

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7005-00

HB 7005

2014

1170 draft mitigation plan to the Department of Environmental
1171 Protection and any person who has requested a copy. The
1172 mitigation plan, after governing board approval, must be
1173 submitted to the Department of Environmental Protection for
1174 approval. The plan may not be implemented until it is submitted
1175 to and approved, in part or in its entirety, by the Department
1176 of Environmental Protection.

1177 ~~(a) For each transportation project with a funding request~~
1178 ~~for the next fiscal year, the mitigation plan must include a~~
1179 ~~brief explanation of why a mitigation bank was or was not chosen~~
1180 ~~as a mitigation option, including an estimation of identifiable~~
1181 ~~costs of the mitigation bank and nonbank options and other~~
1182 ~~factors such as time saved, liability for success of the~~
1183 ~~mitigation, and long-term maintenance.~~

1184 ~~(a)(b)~~ Specific projects may be excluded from the
1185 mitigation plan, in whole or in part, and are not subject to
1186 this section upon the election of the Department of
1187 Transportation, a transportation authority if applicable, or the
1188 appropriate water management district. The Department of
1189 Transportation or a participating transportation authority may
1190 not exclude a transportation project from the mitigation plan
1191 when mitigation is scheduled for implementation by the water
1192 management district in the current fiscal year, except when the
1193 transportation project is removed from the Department of
1194 Transportation's work program or transportation authority
1195 funding plan, the mitigation cannot be timely permitted to

1196 offset the impacts of a Department of Transportation project
 1197 identified in the environmental impact inventory, or the
 1198 proposed mitigation does not meet state and federal
 1199 requirements. If a project is removed from the work program or
 1200 the mitigation plan, costs expended by the water management
 1201 district before removal are eligible for reimbursement by the
 1202 Department of Transportation or participating transportation
 1203 authority.

1204 (b)(e) When determining which projects to include in or
 1205 exclude from the mitigation plan, the Department of
 1206 Transportation shall investigate using credits from a permitted
 1207 mitigation bank before those projects are submitted for
 1208 inclusion in a water management district mitigation ~~the~~ plan.
 1209 The Department of Transportation shall exclude a project from
 1210 the mitigation plan if the investigation undertaken pursuant to
 1211 this paragraph results in the conclusion that the use of credits
 1212 from a permitted mitigation bank promotes efficiency, timeliness
 1213 in project delivery, cost-effectiveness, and transfer of
 1214 liability for success and long-term maintenance. The
 1215 ~~investigation shall consider the cost-effectiveness of~~
 1216 ~~mitigation bank credits, including, but not limited to, factors~~
 1217 ~~such as time saved, transfer of liability for success of the~~
 1218 ~~mitigation, and long-term maintenance.~~

1219 (5) The water management district shall ensure that
 1220 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33
 1221 C.F.R. part 332 are met for the impacts identified in the

HB 7005

2014

1222 environmental impact inventory for which the water management
1223 district will implement mitigation described in subsection (2),
1224 by implementation of the approved mitigation plan described in
1225 subsection (4) to the extent funding is provided by the
1226 Department of Transportation, or a transportation authority
1227 established pursuant to chapter 348 or chapter 349, if
1228 applicable. In developing and implementing the mitigation plan,
1229 the water management district shall comply with federal
1230 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33
1231 C.F.R. part 332. During the federal permitting process, the
1232 water management district may deviate from the approved
1233 mitigation plan in order to comply with federal permitting
1234 requirements upon notice and coordination with the Department of
1235 Transportation or participating transportation authority.

1236 (6) The water management district mitigation plans shall
1237 be updated annually to reflect the most current Department of
1238 Transportation work program and project list of a transportation
1239 authority established pursuant to chapter 348 or chapter 349, if
1240 applicable, and may be amended throughout the year to anticipate
1241 schedule changes or additional projects which may arise. Before
1242 amending the mitigation plan to include new projects, the
1243 Department of Transportation shall consider mitigation banks and
1244 other available mitigation options that meet state and federal
1245 requirements. Each update and amendment of the mitigation plan
1246 shall be submitted to the governing board of the water
1247 management district or its designee for approval. However, such

1248 approval shall not be applicable to a deviation as described in
1249 subsection (5).

1250 (7) Upon approval by the governing board of the water
1251 management district and the Department of Environmental
1252 Protection ~~or its designee~~, the mitigation plan shall be deemed
1253 to satisfy the mitigation requirements under this part for
1254 impacts specifically identified in the environmental impact
1255 inventory described in subsection (2) and any other mitigation
1256 requirements imposed by local, regional, and state agencies for
1257 these same impacts. The approval of the governing board of the
1258 water management district and the Department of Environmental
1259 Protection ~~or its designee~~ shall authorize the activities
1260 proposed in the mitigation plan, and no other state, regional,
1261 or local permit or approval shall be necessary.

1262 (8) This section shall not be construed to eliminate the
1263 need for the Department of Transportation or a transportation
1264 authority established pursuant to chapter 348 or chapter 349 to
1265 comply with the requirement to implement practicable design
1266 modifications, including realignment of transportation projects,
1267 to reduce or eliminate the impacts of its transportation
1268 projects on wetlands and other surface waters as required by
1269 rules adopted pursuant to this part, or to diminish the
1270 authority under this part to regulate other impacts, including
1271 water quantity or water quality impacts, or impacts regulated
1272 under this part that are not identified in the environmental
1273 impact inventory described in subsection (2).

1274 ~~(9) The process for environmental mitigation for the~~
 1275 ~~impact of transportation projects under this section shall be~~
 1276 ~~available to an expressway, bridge, or transportation authority~~
 1277 ~~established under chapter 348 or chapter 349. Use of this~~
 1278 ~~process may be initiated by an authority depositing the~~
 1279 ~~requisite funds into an escrow account set up by the authority~~
 1280 ~~and filing an environmental impact inventory with the~~
 1281 ~~appropriate water management district. An authority that~~
 1282 ~~initiates the environmental mitigation process established by~~
 1283 ~~this section shall comply with subsection (6) by timely~~
 1284 ~~providing the appropriate water management district with the~~
 1285 ~~requisite work program information. A water management district~~
 1286 ~~may draw down funds from the escrow account as provided in this~~
 1287 ~~section.~~

1288 Section 11. Section 2 of chapter 85-364, Laws of Florida,
 1289 as amended by chapter 95-382, Laws of Florida, is amended to
 1290 read:

1291 Section 2. All tolls collected shall first be used for the
 1292 payment of annual operating and maintenance costs and second to
 1293 discharge the current bond indebtedness related to the Pinellas
 1294 Bayway. Thereafter, tolls collected shall be used to establish a
 1295 reserve construction account to be used, together with interest
 1296 earned thereon, by the department ~~for the construction of Blind~~
 1297 ~~Pass Road, State Road 699 improvements, and for Phase II of the~~
 1298 ~~Pinellas Bayway improvements. A portion of the tolls collected~~
 1299 ~~shall first be used specifically for the construction of the~~

1300 ~~Blind Pass Road improvements, which improvements consist of~~
 1301 ~~widening to four lanes the Blind Pass Road, State Road 699, from~~
 1302 ~~75th Avenue north to the approach of the Blind Pass Bridge,~~
 1303 ~~including necessary right-of-way acquisition along said portion~~
 1304 ~~of Blind Pass Road, and intersection improvements at 75th Avenue~~
 1305 ~~and Blind Pass Road in Pinellas County. Said improvements shall~~
 1306 ~~be included in the department's current 5-year work program.~~
 1307 ~~Upon completion of the Blind Pass Road improvements, the tolls~~
 1308 ~~collected shall be used, together with interest earned thereon,~~
 1309 ~~by the department for Phase II of the Pinellas Bayway~~
 1310 ~~improvements, which improvements consists of widening to four~~
 1311 ~~lanes the Pinellas Bayway from State Road 679 west to Gulf~~
 1312 ~~Boulevard, including necessary approaches, bridges, and avenues~~
 1313 ~~of access. Upon completion of the Phase II improvements, the~~
 1314 ~~department shall continue to collect tolls on the Pinellas~~
 1315 ~~Bayway for purposes of reimbursing the department for all~~
 1316 ~~accrued maintenance costs for the Pinellas Bayway.~~

1317 Section 12. Paragraphs (j) and (m) of subsection (2) of
 1318 section 110.205, Florida Statutes, are amended to read:

1319 110.205 Career service; exemptions.—

1320 (2) EXEMPT POSITIONS.—The exempt positions that are not
 1321 covered by this part include the following:

1322 (j) The appointed secretaries and the State Surgeon
 1323 General, assistant secretaries, deputy secretaries, and deputy
 1324 assistant secretaries of all departments; the executive
 1325 directors, assistant executive directors, deputy executive

1326 directors, and deputy assistant executive directors of all
 1327 departments; the directors of all divisions and those positions
 1328 determined by the department to have managerial responsibilities
 1329 comparable to such positions, which positions include, but are
 1330 not limited to, program directors, assistant program directors,
 1331 district administrators, deputy district administrators, the
 1332 Director of Central Operations Services of the Department of
 1333 Children and Family Services, the State Transportation
 1334 Development Administrator, State Public Transportation and Modal
 1335 Administrator, district secretaries, district directors of
 1336 transportation development, transportation operations,
 1337 transportation support, and the managers of the offices
 1338 specified in s. 20.23(3)(b) ~~s. 20.23(4)(b)~~, of the Department of
 1339 Transportation. Unless otherwise fixed by law, the department
 1340 shall set the salary and benefits of these positions in
 1341 accordance with the rules of the Senior Management Service; and
 1342 the county health department directors and county health
 1343 department administrators of the Department of Health.

1344 (m) All assistant division director, deputy division
 1345 director, and bureau chief positions in any department, and
 1346 those positions determined by the department to have managerial
 1347 responsibilities comparable to such positions, which include,
 1348 but are not limited to:

- 1349 1. Positions in the Department of Health and the
- 1350 Department of Children and Family Services that are assigned
- 1351 primary duties of serving as the superintendent or assistant

1352 superintendent of an institution.

1353 2. Positions in the Department of Corrections that are
 1354 assigned primary duties of serving as the warden, assistant
 1355 warden, colonel, or major of an institution or that are assigned
 1356 primary duties of serving as the circuit administrator or deputy
 1357 circuit administrator.

1358 3. Positions in the Department of Transportation that are
 1359 assigned primary duties of serving as regional toll managers and
 1360 managers of offices, as defined in s. 20.23(3)(b) and (4)(c) ~~s.~~
 1361 ~~20.23(4)(b) and (5)(e)~~.

1362 4. Positions in the Department of Environmental Protection
 1363 that are assigned the duty of an Environmental Administrator or
 1364 program administrator.

1365 5. Positions in the Department of Health that are assigned
 1366 the duties of Environmental Administrator, Assistant County
 1367 Health Department Director, and County Health Department
 1368 Financial Administrator.

1369 6. Positions in the Department of Highway Safety and Motor
 1370 Vehicles that are assigned primary duties of serving as captains
 1371 in the Florida Highway Patrol.

1372
 1373 Unless otherwise fixed by law, the department shall set the
 1374 salary and benefits of the positions listed in this paragraph in
 1375 accordance with the rules established for the Selected Exempt
 1376 Service.

1377 Section 13. This act shall take effect July 1, 2014.