

By Senator Brandes

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1                                   A bill to be entitled  
2       An act relating to the Department of Transportation;  
3       amending s. 311.07, F.S.; increasing the minimum  
4       amount that must be made available annually from the  
5       State Transportation Trust Fund to fund the Florida  
6       Seaport Transportation and Economic Development  
7       Program; amending s. 311.09, F.S.; increasing the  
8       amount per year the department must include in its  
9       annual legislative budget request for the Florida  
10      Seaport Transportation and Economic Development  
11      Program; amending s. 316.003, F.S.; defining the term  
12      "port of entry"; amending s. 316.545, F.S.; providing  
13      a specified penalty for drivers of commercial motor  
14      vehicles who obtain temporary registration permits  
15      entering the state at, or operating on designated  
16      routes to, a port-of-entry location; amending s.  
17      334.044, F.S.; authorizing the department to assume  
18      certain responsibilities under the National  
19      Environmental Policy Act with respect to highway  
20      projects within the state and certain related  
21      responsibilities relating to review or approval of a  
22      highway project; authorizing the department to enter  
23      into certain agreements related to the federal surface  
24      transportation project delivery program under certain  
25      federal law; authorizing the department to adopt  
26      implementing rules; authorizing the department to  
27      adopt certain relevant federal environmental  
28      standards; providing a limited waiver of sovereign  
29      immunity to civil suit in federal court consistent

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30 with certain federal law; creating s. 337.027, F.S.;

31 authorizing the department to establish a program for

32 highway projects that assist small businesses;

33 providing a program purpose; defining the term "small

34 business"; authorizing the department to adopt rules;

35 amending s. 338.165, F.S.; removing an option to issue

36 certain bonds secured by toll revenues collected on

37 the Beeline-East Expressway and the Navarre Bridge;

38 amending s. 338.231, F.S.; increasing the number of

39 years before an inactive prepaid toll account is

40 presumed unclaimed; creating s. 339.0809, F.S.;

41 creating a nonprofit corporation to be known as the

42 "Florida Department of Transportation Financing

43 Corporation"; defining the term "corporation";

44 providing for membership of a governing board of

45 directors; providing certain powers and duties;

46 authorizing the corporation to enter into service

47 contracts with the Department of Transportation

48 subject to certain requirements; authorizing the

49 corporation to issue and incur notes, bonds,

50 certificates of indebtedness, or other obligations or

51 evidences of indebtedness under certain circumstances;

52 providing that the fulfillment of the purposes of the

53 corporation promotes the health, safety, and general

54 welfare of the people of the state and serves

55 essential governmental functions and a paramount

56 public purpose; providing certain exemptions from

57 taxation and assessments; authorizing the corporation

58 to validate certain obligations subject to certain

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59 requirements; providing applicability; prohibiting the  
60 benefits and earnings of the corporation from inuring  
61 to any private person; requiring title to all property  
62 owned by the corporation to revert to the state upon  
63 dissolution of the corporation; authorizing the  
64 corporation to contract with the State Board of  
65 Administration to perform certain services;  
66 authorizing the board to contract with others to  
67 provide such services and to recover certain costs;  
68 authorizing the department to enter into a service  
69 contract in conjunction with the issuance of debt  
70 obligations which provides for certain periodic  
71 payments; providing an effective date.

72

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

74

75 Section 1. Subsection (2) of section 311.07, Florida  
76 Statutes, is amended to read:

77 311.07 Florida seaport transportation and economic  
78 development funding.—

79 (2) A minimum of \$25 ~~\$15~~ million per year shall be made  
80 available from the State Transportation Trust Fund to fund the  
81 Florida Seaport Transportation and Economic Development Program.  
82 The Florida Seaport Transportation and Economic Development  
83 Council created in s. 311.09 shall develop guidelines for  
84 project funding. Council staff, the Department of  
85 Transportation, and the Department of Economic Opportunity shall  
86 work in cooperation to review projects and allocate funds in  
87 accordance with the schedule required for the Department of

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88 Transportation to include these projects in the tentative work  
89 program developed pursuant to s. 339.135(4).

90 Section 2. Subsection (9) of section 311.09, Florida  
91 Statutes, is amended to read:

92 311.09 Florida Seaport Transportation and Economic  
93 Development Council.—

94 (9) The Department of Transportation shall include at least  
95 \$25 ~~no less than \$15~~ million per year in its annual legislative  
96 budget request for the Florida Seaport Transportation and  
97 Economic Development Program funded under s. 311.07. Such budget  
98 must ~~shall~~ include funding for projects approved by the council  
99 which have been determined by each agency to be consistent. The  
100 department shall include the specific approved Florida Seaport  
101 Transportation and Economic Development Program projects to be  
102 funded under s. 311.07 during the ensuing fiscal year in the  
103 tentative work program developed pursuant to s. 339.135(4). The  
104 total amount of funding to be allocated to Florida Seaport  
105 Transportation and Economic Development Program projects under  
106 s. 311.07 during the successive 4 fiscal years shall also be  
107 included in the tentative work program developed pursuant to s.  
108 339.135(4). The council may submit to the department a list of  
109 approved projects that could be made production-ready within the  
110 next 2 years. The list shall be submitted by the department as  
111 part of the needs and project list prepared pursuant to s.  
112 339.135(2)(b). However, the department shall, upon written  
113 request of the Florida Seaport Transportation and Economic  
114 Development Council, submit work program amendments pursuant to  
115 s. 339.135(7) to the Governor within 10 days after the later of  
116 the date the request is received by the department or the

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117 effective date of the amendment, termination, or closure of the  
118 applicable funding agreement between the department and the  
119 affected seaport, as required to release the funds from the  
120 existing commitment. Notwithstanding s. 339.135(7)(c), any work  
121 program amendment to transfer prior year funds from one approved  
122 seaport project to another seaport project is subject to the  
123 procedures in s. 339.135(7)(d). Notwithstanding any provision of  
124 law to the contrary, the department may transfer unexpended  
125 budget between the seaport projects as identified in the  
126 approved work program amendments.

127 Section 3. Subsection (94) is added to section 316.003,  
128 Florida Statutes, to read:

129 316.003 Definitions.—The following words and phrases, when  
130 used in this chapter, shall have the meanings respectively  
131 ascribed to them in this section, except where the context  
132 otherwise requires:

133 (94) PORT OF ENTRY.—A designated location that allows  
134 drivers of commercial motor vehicles to purchase temporary  
135 registration permits necessary to operate legally within the  
136 state. The locations and the designated routes to such locations  
137 shall be determined by the Department of Transportation.

138 Section 4. Paragraph (b) of subsection (2) of section  
139 316.545, Florida Statutes, is amended to read:

140 316.545 Weight and load unlawful; special fuel and motor  
141 fuel tax enforcement; inspection; penalty; review.—

142 (2)

143 (b) The officer or inspector shall inspect the license  
144 plate or registration certificate of the commercial vehicle, as  
145 defined in s. 316.003(66), to determine if its gross weight is

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146 in compliance with the declared gross vehicle weight. If its  
147 gross weight exceeds the declared weight, the penalty shall be 5  
148 cents per pound on the difference between such weights. In those  
149 cases when the commercial vehicle, as defined in s. 316.003(66),  
150 is being operated over the highways of the state with an expired  
151 registration or with no registration from this or any other  
152 jurisdiction or is not registered under the applicable  
153 provisions of chapter 320, the penalty herein shall apply on the  
154 basis of 5 cents per pound on that scaled weight which exceeds  
155 35,000 pounds on laden truck tractor-semitrailer combinations or  
156 tandem trailer truck combinations, 10,000 pounds on laden  
157 straight trucks or straight truck-trailer combinations, or  
158 10,000 pounds on any unladen commercial motor vehicle. A driver  
159 of a commercial motor vehicle entering the state at a designated  
160 port-of-entry location, as defined in s. 316.003(94), or  
161 operating on designated routes to a port-of-entry location, who  
162 obtains a temporary registration permit shall be assessed a  
163 penalty limited to the difference between its gross weight and  
164 the declared gross vehicle weight at 5 cents per pound. If the  
165 license plate or registration has not been expired for more than  
166 90 days, the penalty imposed under this paragraph may not exceed  
167 \$1,000. In the case of special mobile equipment as defined in s.  
168 316.003(48), which qualifies for the license tax provided for in  
169 s. 320.08(5)(b), being operated on the highways of the state  
170 with an expired registration or otherwise not properly  
171 registered under the applicable provisions of chapter 320, a  
172 penalty of \$75 shall apply in addition to any other penalty  
173 which may apply in accordance with this chapter. A vehicle found  
174 in violation of this section may be detained until the owner or

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175 operator produces evidence that the vehicle has been properly  
176 registered. Any costs incurred by the retention of the vehicle  
177 shall be the sole responsibility of the owner. A person who has  
178 been assessed a penalty pursuant to this paragraph for failure  
179 to have a valid vehicle registration certificate pursuant to the  
180 provisions of chapter 320 is not subject to the delinquent fee  
181 authorized in s. 320.07 if such person obtains a valid  
182 registration certificate within 10 working days after such  
183 penalty was assessed.

184 Section 5. Subsection (34) is added to section 334.044,  
185 Florida Statutes, to read:

186 334.044 Department; powers and duties.—The department shall  
187 have the following general powers and duties:

188 (34) To assume responsibilities of the United States  
189 Department of Transportation with respect to highway projects  
190 within the state under the National Environmental Policy Act of  
191 1969, 42 U.S.C. s. 4321 et seq., and with respect to related  
192 responsibilities for environmental review, consultation, or  
193 other action required under any federal environmental law  
194 pertaining to review or approval of a highway project within the  
195 state. The department may assume responsibilities under 23  
196 U.S.C. s. 327 and enter into one or more agreements, including  
197 memoranda of understanding, with the United States Secretary of  
198 Transportation related to the federal surface transportation  
199 project delivery program for the delivery of highway projects,  
200 as provided by 23 U.S.C. s. 327. The department may adopt rules  
201 to implement this subsection and may adopt relevant federal  
202 environmental standards as the standards for this state for a  
203 program described in this subsection. Sovereign immunity from

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204 civil suit in federal court is waived consistent with 23 U.S.C.  
205 s. 327 and limited to the compliance, discharge, or enforcement  
206 of a responsibility assumed by the department under this  
207 subsection.

208 Section 6. Section 337.027, Florida Statutes, is created to  
209 read:

210 337.027 Authority to implement a business development  
211 program.-

212 (1) The Department of Transportation may establish a  
213 program for highway projects that would assist small businesses.  
214 The purpose of this program is to increase competition, lower  
215 prices, and provide increased support to meet the department's  
216 future work program. The program may include, but is not limited  
217 to, setting aside contracts, providing preference points for the  
218 use of small businesses, providing special assistance in bidding  
219 and contract completion, waiving bond requirements, and  
220 implementing other strategies that would increase competition.

221 (2) For purposes of this section, the term "small business"  
222 means a business with average gross receipts of less than \$15  
223 million for road and bridge contracts and less than \$6.5 million  
224 for professional and nonprofessional services contracts. A  
225 business determines its size by averaging its annual gross  
226 receipts over the last 3 years, including the receipts of an  
227 affiliate as defined in s. 337.165.

228 (3) The department may adopt rules to implement this  
229 section.

230 Section 7. Subsection (4) of section 338.165, Florida  
231 Statutes, is amended to read:

232 338.165 Continuation of tolls.-



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233 (4) Notwithstanding any other law to the contrary, pursuant  
234 to s. 11, Art. VII of the State Constitution, and subject to the  
235 requirements of subsection (2), the Department of Transportation  
236 may request the Division of Bond Finance to issue bonds secured  
237 by toll revenues collected on the Alligator Alley, the Sunshine  
238 Skyway Bridge, ~~the Beeline East Expressway, the Navarre Bridge,~~  
239 and the Pinellas Bayway to fund transportation projects located  
240 within the county or counties in which the project is located  
241 and contained in the adopted work program of the department.

242 Section 8. Paragraph (c) of subsection (3) of section  
243 338.231, Florida Statutes, is amended to read:

244 338.231 Turnpike tolls, fixing; pledge of tolls and other  
245 revenues.—The department shall at all times fix, adjust, charge,  
246 and collect such tolls and amounts for the use of the turnpike  
247 system as are required in order to provide a fund sufficient  
248 with other revenues of the turnpike system to pay the cost of  
249 maintaining, improving, repairing, and operating such turnpike  
250 system; to pay the principal of and interest on all bonds issued  
251 to finance or refinance any portion of the turnpike system as  
252 the same become due and payable; and to create reserves for all  
253 such purposes.

254 (3)

255 (c) Notwithstanding any other provision of law to the  
256 contrary, any prepaid toll account of any kind which has  
257 remained inactive for 10 ~~3~~ years shall be presumed unclaimed and  
258 its disposition shall be handled by the Department of Financial  
259 Services in accordance with all applicable provisions of chapter  
260 717 relating to the disposition of unclaimed property, and the  
261 prepaid toll account shall be closed by the department.

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262 Section 9. Section 339.0809, Florida Statutes, is created  
263 to read:

264 339.0809 Florida Department of Transportation Financing  
265 Corporation.-

266 (1) The Florida Department of Transportation Financing  
267 Corporation is created as a nonprofit corporation for the  
268 purpose of financing or refinancing projects for the department  
269 as provided in subsection (5).

270 (2) When used in this section, the term "corporation" means  
271 the Florida Department of Transportation Financing Corporation.

272 (3) The corporation shall be governed by a board of  
273 directors consisting of the director of the Office of Policy and  
274 Budget in the Executive Office of the Governor, the director of  
275 the Division of Bond Finance, and the Secretary of  
276 Transportation. The director of the Division of Bond Finance is  
277 the chief executive officer of the corporation and shall direct  
278 and supervise the administrative affairs of the corporation and  
279 shall control, direct, and supervise the operation of the  
280 corporation. The corporation shall have such other officers as  
281 may be determined by the board of directors.

282 (4) The corporation shall have all of the powers of a  
283 corporate body under the laws of this state to the extent that  
284 they are not inconsistent with or restricted by this section,  
285 including, but not limited to, the power to:

286 (a) Adopt, amend, and repeal bylaws not inconsistent with  
287 this section.

288 (b) Sue and be sued.

289 (c) Adopt and use a common seal.

290 (d) Acquire, purchase, hold, lease, and convey such real

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291 and personal property as may be proper or expedient to carry out  
292 the purposes of the corporation and this section and to sell,  
293 lease, or otherwise dispose of such property.

294 (e) Elect or appoint and employ such other officers,  
295 agents, and employees as the corporation deems advisable to  
296 operate and manage the affairs of the corporation, which  
297 officers, agents, and employees may be officers or employees of  
298 the department and the state agencies represented on the board  
299 of directors of the corporation.

300 (f) Borrow money and issue notes, bonds, certificates of  
301 indebtedness, or other obligations or evidences of indebtedness  
302 necessary to finance or refinance projects as provided in  
303 subsection (5).

304 (g) Make and execute any and all contracts, trust  
305 agreements, and other instruments and agreements necessary or  
306 convenient to accomplish the purposes of the corporation and  
307 this section.

308 (h) Select, retain, and employ professionals, contractors,  
309 or agents, which may include the Division of Bond Finance, as  
310 necessary or convenient to enable or assist the corporation in  
311 carrying out the purposes of the corporation and this section.

312 (i) Take any action necessary or convenient to carry out  
313 the purposes of the corporation and this section and the powers  
314 provided in this section.

315 (5) The corporation may enter into one or more service  
316 contracts with the department to provide services to the  
317 department in connection with projects approved in the  
318 department's work program, which approval specifically provides  
319 that the department may enter into a service contract for the

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320 project pursuant to this section. The department may enter into  
321 one or more such service contracts with the corporation and  
322 provide for payments under such contracts, subject to annual  
323 appropriation by the Legislature. The proceeds from such service  
324 contracts may be used for the corporation's administrative costs  
325 and expenses after the payments specified in subsection (6).  
326 Each service contract may have a term of up to 35 years. In  
327 compliance with s. 287.0641 and other applicable law, the  
328 obligations of the department under such service contracts do  
329 not constitute a general obligation of the state or a pledge of  
330 the full faith and credit or taxing power of the state, and such  
331 obligations are not an obligation of the State Board of  
332 Administration or entities for which it invests funds, other  
333 than the department as provided in this section, but are payable  
334 solely from amounts available in the State Transportation Trust  
335 Fund, subject to annual appropriation. In compliance with this  
336 subsection and s. 287.0582, the service contract must expressly  
337 include the following statement: "The State of Florida's  
338 performance and obligation to pay under this contract is  
339 contingent upon an annual appropriation by the Legislature."

340 (6) The corporation may issue and incur notes, bonds,  
341 certificates of indebtedness, or other obligations or evidences  
342 of indebtedness payable from and secured by amounts payable to  
343 the corporation by the department under a service contract  
344 entered into pursuant to subsection (5) for the purpose of  
345 financing or refinancing projects approved as provided in that  
346 subsection. The duration of any such note, bond, certificate of  
347 indebtedness, or other obligation or evidence of indebtedness  
348 may not exceed 30 annual maturities. The corporation may select

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349 its financing team and issue its obligations through competitive  
350 bidding or negotiated contracts, whichever is most cost-  
351 effective. Indebtedness of the corporation does not constitute a  
352 debt or obligation of the state or a pledge of the full faith  
353 and credit or taxing power of the state, but is payable from and  
354 secured by payments made by the department under the service  
355 contract.

356 (7) The fulfillment of the purposes of the corporation  
357 promotes the health, safety, and general welfare of the people  
358 of the state and serves essential governmental functions and a  
359 paramount public purpose.

360 (8) The corporation is exempt from taxation and assessments  
361 on its income, property, and assets or revenues acquired,  
362 received, or used in the furtherance of the purposes provided in  
363 this chapter. The obligations of the corporation incurred  
364 pursuant to subsection (6) and the interest and income on such  
365 obligations and all security agreements, letters of credit,  
366 liquidity facilities, or other obligations or instruments  
367 arising out of, entered into in connection with, or given to  
368 secure payment of such obligations are exempt from taxation;  
369 however, such exemption does not apply to any tax imposed under  
370 chapter 220 on the interest, income, or profits on debt  
371 obligations owned by corporations.

372 (9) The corporation may validate obligations to be incurred  
373 pursuant to subsection (6) and the validity and enforceability  
374 of any service contracts providing for payments pledged to the  
375 payment of such obligations by proceedings under chapter 75. The  
376 validation complaint may be filed only in the Circuit Court of  
377 Leon County. The notice required to be published by s. 75.06

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378 must be published in Leon County, and the complaint and order of  
379 the circuit court may be served only on the State Attorney for  
380 the Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do  
381 not apply to a complaint for validation filed under this  
382 subsection.

383 (10) The corporation is not a special district for the  
384 purposes of chapter 189 or a unit of local government for the  
385 purposes of part III of chapter 218. The provisions of chapters  
386 120 and 215, except the limitation on the interest rates  
387 provided by s. 215.84, which applies to obligations of the  
388 corporation issued pursuant to this section, and part I of  
389 chapter 287, except ss. 287.0582 and 287.0641, do not apply to  
390 this section, the corporation, the service contracts entered  
391 into pursuant to this section, or debt obligations issued by the  
392 corporation as contemplated in this section.

393 (11) The benefits and earnings of the corporation may not  
394 inure to the benefit of any private person.

395 (12) Upon dissolution of the corporation, title to all  
396 property owned by the corporation reverts to the state.

397 (13) The corporation may contract with the State Board of  
398 Administration to serve as a trustee with respect to debt  
399 obligations issued by the corporation as contemplated by this  
400 section; to hold, administer, and invest proceeds of such debt  
401 obligations and other funds of the corporation; and to perform  
402 other services required by the corporation. The State Board of  
403 Administration may perform such services and may contract with  
404 others to provide all or a part of such services and to recover  
405 its costs and other expenses thereof.

406 (14) The department may enter into a service contract in

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407 conjunction with the issuance of debt obligations as provided in  
408 this section which provides for periodic payments for debt  
409 service or other amounts payable with respect to debt  
410 obligations, plus any administrative expenses of the  
411 corporation.

412 Section 10. This act shall take effect July 1, 2016.