

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.