

SB 1012 by Hays; (Similar to CS/H 0663) Economic Gardening Technical Assistance Program

382418	A	S	RCS	ATD, Evers	Delete L.184 - 188.	04/15 08:03 AM

CS/CS/SB 442 by GO, CM, Thompson; (Identical to CS/H 1199) Black Cultural Tourism Enhancement Commission

CS/SB 572 by CM, Sobel (CO-INTRODUCERS) Gibson; (Similar to CS/H 0563) Reporting Requirements for Economic Development Programs

CS/SB 1132 by CA, Brandes; (Compare to CS/CS/H 0579) Department of Transportation

955216	D	S	RCS	ATD, Brandes	Delete everything after	04/15 04:29 PM
243366	AA	S	WD	ATD, Brandes	btw L.236 - 237:	04/15 04:29 PM
935546	AA	S	RCS	ATD, Brandes	Delete L.1776 - 2212:	04/15 04:29 PM
628144	AA	S	RCS	ATD, Brandes	Delete L.2356:	04/15 04:29 PM
252748	AA	S	RCS	ATD, Gardiner	Delete L.2461 - 2471:	04/15 04:29 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON
TRANSPORTATION, TOURISM, AND ECONOMIC
DEVELOPMENT**

Senator Gardiner, Chair
Senator Margolis, Vice Chair

MEETING DATE: Thursday, April 11, 2013

TIME: 8:00 —10:00 a.m.

PLACE: Toni Jennings Committee Room, 110 Senate Office Building

MEMBERS: Senator Gardiner, Chair; Senator Margolis, Vice Chair; Senators Brandes, Evers, Gibson, Latvala, Lee, Ring, Simpson, Sobel, Stargel, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1012 Hays (Similar CS/H 663)	Economic Gardening Technical Assistance Program; Expanding the Economic Gardening Technical Assistance Pilot Program into a statewide program; requiring the Department of Economic Opportunity to contract with the Florida Economic Gardening Institute at the University of Central Florida to administer the program, etc. CM 04/01/2013 Favorable ATD 04/11/2013 Fav/CS AP	Fav/CS Yeas 10 Nays 0
2	CS/CS/SB 442 Governmental Oversight and Accountability / Commerce and Tourism / Thompson (Similar H 1199)	Black Cultural Tourism Enhancement Commission; Creating the Black Cultural Tourism Enhancement Commission within the Department of State; directing the commission to independently exercise its powers and duties; requiring the department to provide administrative and staff support services to the commission; authorizing the commission to establish or designate a direct-support organization for specified purposes, etc. CM 03/11/2013 Fav/CS GO 04/02/2013 Fav/CS ATD 04/11/2013 Favorable AP	Favorable Yeas 10 Nays 0
3	CS/SB 572 Commerce and Tourism / Sobel (Similar CS/H 563, Compare H 641, CS/S 406)	Reporting Requirements for Economic Development Programs; Requiring the Department of Economic Opportunity to publish on a website specified information concerning state investment in economic development programs; requiring the Office of Economic and Demographic Research to provide a description of specified methodology and formulas to the department and the department to publish the description on its website within a specified period; requiring the department to annually publish information relating to the progress of Quick Action Closing Fund projects, etc. CM 03/04/2013 Fav/CS ATD 04/11/2013 Favorable AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Thursday, April 11, 2013, 8:00 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1132 Community Affairs / Brandes (Compare CS/H 579, H 7127, CS/S 560)	Department of Transportation; Requiring the Transportation Commission to also monitor ch. 345, F.S., relating to the Florida Regional Tollway Authority; deleting provisions relating to the Florida Statewide Passenger Rail Commission; providing that persons who install a transit shelter or bus bench on certain right-of-ways are responsible for ensuring that the bench or transit shelter complies with applicable laws and rules; creating specified provisions relating to the Florida Regional Tollway Authority, etc. TR 03/07/2013 Fav/7 Amendments CA 03/20/2013 Fav/CS ATD 04/11/2013 Fav/CS AP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents



382418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
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Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete lines 184 - 188.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 14

and insert:

effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 1012

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development and Senator Hays

SUBJECT: Economic Gardening Technical Assistance Program

DATE: April 11, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Malcolm	Hrdlicka	CM	Favorable
2.	Pingree	Martin	ATD	Fav/CS
3.			AP	
4.				
5.				
6.				

I. Summary:

CS/SB 1012 makes the Economic Gardening Technical Assistance Pilot Program a permanent program. The bill specifically directs the Department of Economic Opportunity (DEO) to contract with the Florida Economic Gardening Institute (known as GrowFL) at the University of Central Florida to implement the program. The bill expands eligibility for the program to serve more small businesses by modifying the eligibility requirements, as follows:

- The business must have employed at least 10 persons but no more than 99 (increased from 50) persons at the end of the preceding fiscal year. The bill removes the requirement that the business must have maintained its principal place of business in the state for at least the previous 2 years.
- The business must have generated at least \$1 million but not more than \$50 million (increased from \$25 million) in annual revenue during the preceding fiscal year. The bill removes the requirement that the business must qualify for the qualified target industry business program under s. 288.106, F.S.
- During 2 of the previous 6 years (rather than 3 of the previous 5 years) the business must have increased *either* its number of full-time equivalent employees in Florida *or* its gross revenue (rather than *both*).
- The business must generate a minimum of 51 percent of its revenue outside Florida, be located in a rural community, or be classified within a qualifying NAICS code.

The DEO will be able to execute and manage the contract with GrowFL within existing resources. GrowFL may need additional state funds to fully implement the program in Fiscal

Year 2013-2014. The bill does not provide an appropriation to fund the Economic Gardening Technical Assistance Program. See Section V.

This bill substantially amends sections 288.1081 and 288.1082, Florida Statutes.

II. Present Situation:

Economic Gardening

“Economic gardening” is a long-term economic development strategy designed to grow jobs by encouraging entrepreneurial activity in a community, region, or state. In contrast to traditional “economic hunting” strategies aimed at recruiting businesses from outside the community, economic gardening focuses on the job creation potential of small local businesses that already exist in the community.

The concept of economic gardening was pioneered in 1987 by the City of Littleton, Colorado, during a statewide recession.¹ It is based on research by the Massachusetts Institute of Technology (MIT) and the Federal Reserve Bank of Kansas City economists, which shows that the vast majority of new jobs in a local economy are produced by the community’s small local businesses, specifically a small group of high-growth businesses called “gazelles.”² These second-stage companies have grown past the start-up phase, but have not reached maturity.³ They usually generate between \$1 million and \$50 million in annual revenue and employ between 10 and 100 employees depending on the industry. Second-stage companies are significant job creators and often have global or national markets, meaning these businesses bring outside dollars into the community. At this stage of the business cycle, businesses are focused on developing new markets, refining business models, and accessing competitive intelligence.⁴

Economic gardening focuses on three main elements:⁵

- *Information:* The survival and growth of small businesses depends on access to critical information. Access to free or affordable information and consulting services is extremely valuable. Economic gardening programs can provide access to information on markets, customers, and competitors, such as business databases, GIS (geographic information system), and search engine marketing.
- *Infrastructure:* This element focuses on building and supporting the development of community assets essential to commerce and overall quality of life. In addition to basic

¹ See Steve Quello and Graham Toft, *Economic Gardening: Next Generation Applications for a Balanced Portfolio Approach to Economic Growth* (Dec. 2006), available at http://www.sba.gov/advo/research/sbe_06_ch06.pdf (last visited March 27, 2013).

² Kelly Edmiston, Federal Reserve Bank of Atlanta, *Economic Gardening Helps Communities Grow Their Own Jobs*, Vol. 18, No. 1, 2008, at 2, available at http://www.frbatlanta.org/pubs/partners/partners-no_1_2008-economic_gardening_helps_communities_grow_their_own_jobs.cfm (last visited March 27, 2013).

³ Edward Lowe Foundation, *Economic Gardening – An entrepreneur-oriented approach to economic prosperity* (2012), available at <http://edwardlowe.org/edlowenetwp/wp-content/themes/implementprogram/downloads/infosheets/EconomicGardening.pdf> (last visited March 27, 2013).

⁴ See *supra* note 3.

⁵ See Christian Gibbons, The IEDC Economic Development Journal, *Economic Gardening*, Vol. 9, No. 3, Summer 2010 (on file with the Senate Committee on Commerce and Tourism).

physical infrastructure, this element includes quality of life infrastructure (e.g., parks, open spaces, and historical preservation) and intellectual infrastructure that provide educational opportunities to help keep companies competitive.

- **Connections:** Entrepreneurs benefit significantly from interaction and exchange among business owners and resource providers, such as trade associations, think tanks, and academic institutions. Examples of strategies that improve connectivity include business roundtables, peer-to-peer learning sessions, and mentoring programs that partner new business owners with accomplished businesses in their industry.

Florida's Economic Gardening Initiatives

In 2009, the Legislature created a two-pronged economic gardening initiative.⁶ The first component is the Economic Gardening Business Loan Pilot Program⁷ which provides low-interest, short-term loans to eligible businesses to assist them with their infrastructure, networking, and mentoring needs. The second component of the economic gardening initiative is the Economic Gardening Technical Assistance Pilot Program,⁸ the purpose of which is to stimulate investment in the state's economy by providing technical assistance for eligible businesses.

The eligibility requirements for a business seeking technical assistance are the same as those under the Economic Gardening Business Loan Pilot Program:⁹

- It must be a for-profit, privately held, investment-grade business that employs between 10 and 50 persons.
- The business has been in existence in Florida for a period of at least 2 years.
- The business generates between \$1 million and \$25 million in annual revenue.
- The business is eligible for the Qualified Targeted Industry (QTI) tax refund program pursuant to s. 288.106, F.S.¹⁰
- During 3 of the last 5 years, the company has increased both its number of full-time equivalent employees and its gross revenues.

The Department of Economic Opportunity (DEO) was directed to select, by competitive bid, a third-party contractor to implement the technical assistance pilot program.¹¹ Selection criteria for the contractor included the ability to implement the program on a statewide basis; the capability to provide counseling services, access to technology and information, marketing services and advice, business management support, and similar services; and whether the contractor qualifies for matching funds to provide the technical assistance.¹² The law also authorized the third-party contractor to promote the general business or industrial interests of the state.¹³

⁶ Chapter 2009-13, L.O.F., *codified at* ss. 288.1081 and 288.1082, F.S.

⁷ Section 288.1081, F.S.

⁸ Section 288.1082, F.S.

⁹ *See* ss. 288.1081(3)(a), F.S., and 288.1082(4)(a), F.S.

¹⁰ A key requirement of the QTI program is that businesses must pay an annual average wage of at least 115 percent of the average private sector wage in the area where the business is located or the statewide private sector average wage. *See* s. 288.106(4)(b), F.S.

¹¹ Section 288.1082(2), F.S.

¹² Section 288.1082(2), F.S.

¹³ Section 288.1082(6), F.S.

Twice a year, the DEO must review the third-party contractor's progress and determine if it is meeting its contractual requirements. If not, the DEO may terminate the contract and re-bid.¹⁴

The technical assistance provided by the pilot program, includes, but is not limited to:

- Access to free or affordable information and consulting services, including information on markets, customers, and competitors, such as databases, geographic information systems, and search engine marketing.
- Development of business connections, including interaction and exchange between business owners and resource providers, which may include trade associations, academic institutions, business roundtables, peer-to-peer learning sessions, and mentoring programs.¹⁵

The third-party contractor is directed to select eligible businesses in more than one industry cluster and, where possible, in different regions of the state.¹⁶ Any business receiving the technical assistance must sign an agreement with the third-party contractor committing to the following minimum conditions, on a basis determined by the contractor:

- Attending a minimum number of meetings with the third-party contractor.
- Reporting job-creation data.
- Providing financial data.¹⁷

By December 31st of each year, the DEO is required to submit an annual report detailing the progress of the technical assistance pilot program. This annual report must, at a minimum, include the number of businesses receiving assistance, the type and location of businesses assisted, and the number and wages of jobs created as a result of the business assistance provided, if any.¹⁸

University of Central Florida – Economic Gardening Institute (GrowFL)

The DEO currently contracts with the University of Central Florida (UCF) to implement the Economic Gardening Technical Assistance Pilot Program. When the contract was initially awarded in 2009, the UCF established the Florida Economic Gardening Institute (GrowFL).

GrowFL provides services for second-stage companies, including economic gardening technical assistance, CEO Roundtables, CEO Forums, human resource webinars, workshops, and the “Florida Companies to Watch” recognition event. These activities are targeted to support the second-stage CEOs with operational and revenue-increasing strategies to improve business performance. Technical assistance is delivered through a centrally managed technical assistance team with access to various market research databases and tools to facilitate strategy, market research, web strategy, and search engine optimization. A typical technical assistance

¹⁴ Section 288.1082(7), F.S.

¹⁵ Section 288.1082(3), F.S.

¹⁶ Section 288.1082(4)(b), F.S.

¹⁷ Section 288.1082(5)(a), F.S.

¹⁸ Section 288.1082(8), F.S.

consultation is 40 hours and provided at no charge to the client. Work is also handled virtually with clients via conference calls and the use of an on-line collaboration system.¹⁹

Department of Economic Opportunity - Mid-Year Program Report

In December 2012, the DEO submitted a Mid-Year Program Report to the Legislature and the Governor, which covers July 1, 2012, through October 31, 2012. The report provided the following information:²⁰

Since July 1, 2012, 99 second-stage companies submitted applications to receive technical assistance. A total of 90 companies within 19 counties were accepted, and applications from nine companies were being processed. The industries represented are classified by North American Industry Classification System as follows:

NAICS Description	NAICS Code	Number of Companies
Administrative and Support Services	56	3
Finance and Insurance Services	52	5
Information Industries	51	8
Management of Companies	55	4
Manufacturing	31	29
Professional, Scientific and Technical Services	54	36
Wholesale Trade	42	5
Total Number of Companies		90

Office of Program Policy Analysis and Government Accountability - Evaluation of the Florida Economic Gardening Technical Assistance Pilot Program

In 2009, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the technical assistance pilot program and its effectiveness in expanding targeted businesses, and provide a report to the Legislature and the Governor by December 31, 2012.²¹ In December 2012, OPPAGA published its report, which in summary stated:

- GrowFL experienced several implementation obstacles, including difficulty attracting participants and assessing a company's eligibility. Consequently, the program served a significant number of ineligible companies and was unable to determine eligibility for many others.

¹⁹ Florida Economic Gardening Institute at the University of Central Florida, *GrowFL Program Summary, November 2009 through September 1, 2011*, at 4, available at <http://www.growfl.com/downloads/GrowFL-Final-Report-Summary-09-11.pdf> (last visited March 27, 2013).

²⁰ Florida Department of Economic Opportunity, *Economic Gardening Technical Assistance Pilot Program (Mid-Year) Report*, December 18, 2012, at 3 (on file with the Senate Committee on Commerce and Tourism).

²¹ Section 4, ch. 2009-13, L.O.F.

- Companies that received multiple services were more likely to grow after participating in the pilot program. Most survey respondents found that the services provided by GrowFL were helpful. The OPPAGA also found eligible companies were more likely to increase employees and wages than those that did not meet the program's statutory eligibility requirements. In addition, statistical modeling showed eligible program participants had greater than predicted employment growth in one of three quarters in 2011, with no statistically significant difference in the other two quarters.
- During the OPPAGA's review, GrowFL took several steps to address concerns about program implementation and eligibility determination. However, OPPAGA recommended future contracts with the Economic Gardening Institute include additional provisions to improve program reporting and assessment.²²

Economic Gardening Funding History

During the 2009 Special Session A, the Legislature passed a special appropriations act (Senate Bill 2-A, chapter 2009-1, Laws of Florida) that included \$10 million to implement the provisions of SB 38-A, contingent upon that bill or similar legislation becoming law. Senate Bill 38-A (chapter 2009-13, Laws of Florida) created the Economic Gardening Business Loan Pilot Project and the Economic Gardening Technical Assistance Pilot Program, effective January 27, 2009. Of the \$10 million of General Revenue funds provided in SB 2-A, section 4 of Chapter 2009-13, Laws of Florida provided that up to \$1.5 million may be used to implement the Economic Gardening Technical Assistance Pilot Program. The University of Central Florida received \$458,000 during Fiscal Year 2009-2010 and \$965,000 in Fiscal Year 2010-2011, a total of \$1,423,000, of this initial appropriation to implement the pilot program.

In Fiscal Year 2010-2011, notwithstanding the \$1.5 million "cap" provided in Chapter 2009-13, Laws of Florida, an additional \$2 million of nonrecurring General Revenue funds were provided for the Economic Gardening Technical Assistance Pilot Program in sections 53 and 55 of Chapter 2010-147, Laws of Florida. In Fiscal Year 2011-2012, while the Legislature provided \$2 million of nonrecurring General Revenue funds to continue the pilot program, the Governor vetoed the appropriation. In Fiscal Year 2012-2013, the Legislature appropriated \$2 million from the State Economic Enhancement and Development Trust Fund for the Economic Gardening Technical Assistance Program for FY 2012-2013.²³ The Governor did not veto the appropriation for Fiscal Year 2012-13.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 288.1081 and 288.1082, F.S., to make the Economic Gardening Technical Assistance Program (Technical Assistance Program) permanent, rather than temporary. The DEO is specifically directed to contract with the University of Central Florida's Economic Gardening Institute (known as GrowFL) to implement the Technical Assistance Program.²⁴ The DEO must review the GrowFL's progress at least once each 6 months and

²² The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *GrowFL Participants that Received Multiple Services and Met Eligibility Requirements Experienced Higher Growth*, Report No. 12-14, December 2012, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1214rpt.pdf> (last visited March 27, 2013).

²³ Specific Appropriation 2280B, s.6, ch. 2012-118, L.O.F.

²⁴ The Economic Gardening Business Loan Pilot Program remains a temporary program.

determine if the institute is meeting its contractual obligations for administering the program. The department is authorized to terminate and rebid the contract if GrowFL does not meet its contractual obligations.

As required in current law, to be eligible to participate in the Technical Assistance Program a business must be a for-profit, privately held, investment-grade business. The bill modifies other eligibility requirements as follows:

- The business must have employed at least 10 persons but no more than 99 persons at the end of the preceding fiscal year. Current law caps the number of employees at 50 persons.
- The bill removes the requirement that the business has maintained its principal place of business in state for at least the previous 2 years.
- The business must have generated at least \$1 million but not more than \$50 million in annual revenue during the preceding fiscal year. Current law caps the generated amount of revenue at \$25 million.
- The bill removes the requirement that the business must qualify for the qualified target industry program under s. 288.106, F.S.
- During 2 of the previous 6 years the business must have increased *either* its number of full-time equivalent employees in Florida *or* its gross revenue. Current law requires a business to have increased *both* its number of full-time equivalent employees in this state *and* its gross revenue during 3 of the previous 5 years.
- An additional eligibility requirement is added to require that a business generate a minimum of 51 percent of its revenue outside Florida, be located in a rural community as defined in s. 288.0656, F.S., or be classified within a qualifying NAICS code.

The bill identifies the qualifying NAICS codes as any NAICS code within any of the following NAICS sectors:

- 31-33, Manufacturing;
- 42, Wholesale Trade;
- 51, Information;
- 52, Finance and Insurance;
- 54, Professional, Scientific, and Technical Services;
- 55, Management of Companies and Enterprises; or
- 56, Administrative and Support and Waste Management and Remediation Services.²⁵

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁵ According to GrowFL, the industries identified as qualified target industries under s. 288.106, F.S., are captured under the NAICS codes listed above. *See supra* note 20.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

More small businesses will be eligible to receive technical assistance through GrowFL.

C. Government Sector Impact:

The bill requires the Department of Economic Opportunity (DEO) to contract with the Florida Economic Gardening Institute at the University of Central Florida to implement the Economic Gardening Technical Assistance Program. The DEO will be able to execute and manage the contract with the Florida Economic Gardening Institute (GrowFL) within existing resources. GrowFL may need additional state funds to fully implement the Economic Gardening Technical Assistance Program in Fiscal Year 2013-2014.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The OPPAGA report found that the current eligibility requirements were an obstacle to attracting and approving businesses and that GrowFL was serving ineligible businesses.²⁶ The changes made by the bill to expand the eligibility requirements address these issues.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 11, 2013:

- Removes the \$2 million recurring General Revenue fund appropriation provided to the University of Central Florida to fund and implement the Economic Gardening Technical Assistance Program during FY 2013-2014.

²⁶ *Supra* note 22 at 4.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hays

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A bill to be entitled

An act relating to the Economic Gardening Technical Assistance Program; amending s. 288.1082, F.S.; expanding the Economic Gardening Technical Assistance Pilot Program into a statewide program; requiring the Department of Economic Opportunity to contract with the Florida Economic Gardening Institute at the University of Central Florida to administer the program; revising and providing eligibility requirements for the program; providing definitions; amending s. 288.1081, F.S.; conforming a reference to the Economic Gardening Technical Assistance Pilot Program to changes made by the act; providing an appropriation; providing an effective date.

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

Section 1. Section 288.1082, Florida Statutes, is amended to read:

288.1082 Economic Gardening Technical Assistance ~~Pilot~~ Program.—

(1) There is created within the department the Economic Gardening Technical Assistance ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to stimulate investment in Florida's economy by providing technical assistance for expanding businesses in the state.

(2) The department shall contract with the Florida Economic Gardening Institute at the University of Central Florida ~~one or more entities~~ to administer the ~~pilot~~ program under this

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~~section. The department shall award each contract in accordance with the competitive bidding requirements in s. 287.057 to an entity that demonstrates the ability to implement the pilot program on a statewide basis, has an outreach plan, and has the ability to provide counseling services, access to technology and information, marketing services and advice, business management support, and other similar services. In selecting these entities, the department also must consider whether the entities will qualify for matching funds to provide the technical assistance.~~

(3) The Florida Economic Gardening Institute ~~A contracted entity administering the pilot program~~ shall provide technical assistance for eligible businesses which includes, but is not limited to:

(a) Access to free or affordable information services and consulting services, including information on markets, customers, and competitors, such as business databases, geographic information systems, and search engine marketing.

(b) Development of business connections, including interaction and exchange among business owners and resource providers, such as trade associations, think tanks, academic institutions, business roundtables, peer-to-peer learning sessions, and mentoring programs.

(4) (a) To be eligible for assistance under the ~~pilot~~ program, a business must:

1. Be a for-profit, privately held, investment-grade business. ~~that~~

2. Have employed ~~employs~~ at least 10 persons but not more than 99 ~~50~~ persons at the end of the preceding fiscal year. ~~has~~

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maintained its principal place of business in the state for at least the previous 2 years,

3. Have generated ~~generates~~ at least \$1 million but not more than \$50 ~~\$25~~ million in annual revenue during the preceding fiscal year., ~~qualifies for the tax refund program for qualified target industry businesses under s. 288.106, and,~~

4. During 2 ~~3~~ of the previous 6 ~~5~~ years, have ~~has~~ increased either ~~both~~ its number of full-time equivalent employees in this state or ~~and~~ its gross revenues.

5. Generate a minimum of 51 percent of its revenue outside the state, be located in a "rural community" as defined in s. 288.0656, or be classified within a qualifying NAICS code.

(b) As used in this section, the term:

1. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2012 by the Office of Management and Budget, Executive Office of the President.

2. "Qualifying NAICS code" means any NAICS code within any of the following NAICS sectors: 31-33, Manufacturing; 42, Wholesale Trade; 51, Information; 52, Finance and Insurance; 54, Professional, Scientific, and Technical Services; 55, Management of Companies and Enterprises; or 56, Administrative and Support and Waste Management and Remediation Services.

(c) ~~(b)~~ The Florida Economic Gardening Institute A contracted entity administering the pilot program, in selecting the eligible businesses to receive assistance, shall choose businesses in more than one industry cluster and, to the maximum extent practicable, shall choose businesses that are geographically distributed throughout Florida or are in

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partnership with businesses that are geographically distributed throughout Florida.

(5) (a) A business receiving assistance under the ~~pilot~~ program must enter into an agreement with the Florida Economic Gardening Institute ~~contracted entity administering the program~~ to establish the business's commitment to participate ~~participation~~ in the ~~pilot~~ program. The agreement must require, at a minimum, that the business:

1. Attend a minimum number of meetings between the business and the Florida Economic Gardening Institute ~~contracted entity administering the pilot program~~.

2. Report job creation data in the manner prescribed by the Florida Economic Gardening Institute ~~contracted entity administering the pilot program~~.

3. Provide financial data in the manner prescribed by the Florida Economic Gardening Institute ~~contracted entity administering the program~~.

(b) The Florida Economic Gardening Institute ~~department or the contracted entity administering the pilot program~~ may prescribe in the agreement additional reporting requirements that are necessary to track the progress of the business and monitor the business's implementation of the assistance. The ~~institute contracted entity~~ shall report the information to the department on a quarterly basis.

(6) ~~The Florida Economic Gardening Institute A contracted entity administering the pilot program~~ is authorized to promote the general business interests or industrial interests of the state.

(7) The department shall review the progress of the Florida

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117 Economic Gardening Institute ~~contracted entity administering the~~
 118 ~~pilot program~~ at least once each 6 months and shall determine
 119 whether the institute ~~contracted entity~~ is meeting its
 120 contractual obligations for administering the ~~pilot~~ program. The
 121 department may terminate and rebid a contract if the institute
 122 ~~contracted entity~~ does not meet its contractual obligations.

123 (8) On December 31 of each year, the department shall
 124 submit a report to the Governor, the President of the Senate,
 125 and the Speaker of the House of Representatives which describes
 126 in detail the progress of the ~~pilot~~ program. The report must
 127 include, at a minimum, the number of businesses receiving
 128 assistance, the number of full-time equivalent jobs created as a
 129 result of the assistance, if any, the amount of wages paid to
 130 employees in the newly created jobs, and the locations and types
 131 of economic activity undertaken by the businesses.

132 (9) The department may adopt rules ~~under ss. 120.536(1) and~~
 133 ~~120.54~~ to administer this section.

134 Section 2. Paragraphs (a) and (b) of subsection (3) of
 135 section 288.1081, Florida Statutes, are amended to read:

136 288.1081 Economic Gardening Business Loan Pilot Program.—

137 (3) (a) To be eligible for a loan under the pilot program,
 138 an applicant must be a business eligible for assistance under
 139 the Economic Gardening Technical Assistance ~~Pilot~~ Program as
 140 provided in s. 288.1082(4) (a).

141 (b) A loan applicant must submit a written application to
 142 the loan administrator in the format prescribed by the loan
 143 administrator. The application must include:

144 1. The applicant's federal employer identification number,
 145 reemployment assistance account number, and sales or other tax

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146 registration number.

147 2. The street address of the applicant's principal place of
 148 business in this state.

149 3. A description of the type of economic activity, product,
 150 or research and development undertaken by the applicant,
 151 including the six-digit North American Industry Classification
 152 System code for each type of economic activity conducted by the
 153 applicant.

154 4. The applicant's annual revenue, number of employees,
 155 number of full-time equivalent employees, and other information
 156 necessary to verify the applicant's eligibility for the ~~pilot~~
 157 program under s. 288.1082(4) (a).

158 5. The projected investment in the business, if any, which
 159 the applicant proposes in conjunction with the loan.

160 6. The total investment in the business from all sources,
 161 if any, which the applicant proposes in conjunction with the
 162 loan.

163 7. The number of net new full-time equivalent jobs that, as
 164 a result of the loan, the applicant proposes to create in this
 165 state as of December 31 of each year and the average annual wage
 166 of the proposed jobs.

167 8. The total number of full-time equivalent employees the
 168 applicant currently employs in this state.

169 9. The date that the applicant anticipates it needs the
 170 loan.

171 10. A detailed explanation of why the loan is needed to
 172 assist the applicant in expanding jobs in the state.

173 11. A statement that all of the applicant's available
 174 corporate assets are pledged as collateral for the amount of the

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175 loan.

176 12. A statement that the applicant, upon receiving the
177 loan, agrees not to seek additional long-term debt without prior
178 approval of the loan administrator.

179 13. A statement that the loan is a joint obligation of the
180 business and of each person who owns at least 20 percent of the
181 business.

182 14. Any additional information requested by the department
183 or the loan administrator.

184 Section 3. The sum of \$2 million in recurring funds is
185 appropriated from the General Revenue Fund to the University of
186 Central Florida to fund the Economic Gardening Technical
187 Assistance Program and to implement this act during the 2013-
188 2014 fiscal year.

189 Section 4. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 442

INTRODUCER: Governmental Oversight and Accountability Committee, Commerce and Tourism Committee, and Senator Thompson

SUBJECT: Black Cultural Tourism Enhancement Commission

DATE: April 4, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	Fav/CS
2.	McKay	McVaney	GO	Fav/CS
3.	Carey	Martin	ATD	Favorable
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

CS/CS/SB 442 creates the Black Cultural Tourism Enhancement Commission to provide assistance and resources to promote black cultural sites in the state.

This bill will have an indeterminate negative fiscal impact on the Department State associated with providing administrative support to the Commission. The Senate General Appropriations Act for Fiscal Year 2013-2014, as introduced (SB 1500), provides \$1 million in nonrecurring general revenue funds for this bill, contingent upon this bill or similar legislation becoming law.

The bill creates general law not contained in a designated section of the Florida Statutes.

I. Present Situation:

Florida has a variety of organizations and programs dedicated to culture, the arts, and tourism in Florida.

State Cultural Programs

Under Florida law, the Secretary of the Department of State (DOS) serves as the state's chief cultural officer.¹ The Division of Cultural Affairs (division) within the DOS is overseen by a director who serves at the secretary's pleasure. The division has several responsibilities, including:

- Sponsoring performances and exhibits;
- Promoting and encouraging the study and appreciation of arts and culture;
- Producing information materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with appropriate state agencies and other organizations.

In addition to the abovementioned responsibilities, the division is responsible for administering and awarding several grant programs relating to arts and culture. The grant programs administered by the division include:

- **Cultural Endowment Program**² - A matching grant program for local cultural endowments to supply day-to-day operating expenses. Applicants and their foundations must be approved by the division. Applicants may request \$240,000 of State Matching Share funding, which must be approved through the legislative appropriations process. No funding has been made available for the program since 2002.³
- **Cultural Facilities Program**⁴ - A grant program to assist counties, municipalities, and nonprofits in the acquisition, renovation, or construction of cultural facilities. Applications are ranked by the Florida Council on Arts and Culture within the DOS and approved by the Secretary of State. High-ranking applications are presented as part of the DOS's legislative budget request.⁵ For FY 2012-2013, \$3,630,822 in Cultural Facilities Program grants have been awarded to date.⁶
- **General Program Support Grants**⁷ - A grant program to assist in the funding of general program support for organizations and local governments that have cultural program activities. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of the DOS's legislative budget request.⁸ For FY 2012-2013, \$5,000,000 in General Program Support grants have been awarded to date.⁹

¹ Section 265.284, F.S.

² Section 265.606, F.S.

³ Division of Cultural Affairs, "2013-2014 Cultural Endowment: Priority List for State Matching Share," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.endowment-ranked-list.cfm>, (last visited on March 6, 2013).

⁴ Section 265.701, F.S.

⁵ Division of Cultural Affairs, "2013-2014 Cultural Facilities: Ranked Application List," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.facilities-ranked-list.cfm>, (last visited on March 6, 2013).

⁶ Division of Cultural Affairs, "Grant Awards and Recommendations" page, available at: <http://www.florida-arts.org/resources/awards/>, (last visited on March 6, 2013).

⁷ Section 265.286(5)(a), F.S.

⁸ Division of Cultural Affairs, "Ranked Application List for 2013-2014 General Program Support," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.gps-ranked-list.cfm>, (last visited on March 6, 2013).

⁹ *Supra* note 6.

- **Specific Cultural Project Grants**¹⁰ - A grant program to assist organizations and local governments in the funding of specific cultural projects. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of the DOS's legislative budget request.¹¹ No funding was made available for Specific Cultural Project Grants for FY 2012-2013.¹²
- **State Touring Presenters Grants**¹³ - A grant program to assist artists and organizations in traveling the state to perform and participate in cultural activities. Awards for FY 2012-2013 are still being determined.¹⁴
- **Individual Artist Grant Program**¹⁵ - A grant program supporting exceptionally talented Florida artists. Awards for FY 2012-2013 are still being determined.¹⁶

*Florida Council on Arts and Culture*¹⁷

The Florida Council on Arts and Culture (council) is a 15-member advisory body created within the DOS to advise the Secretary of State on issues relating to cultural grant funding and other issues regarding culture in Florida. The council advocates for arts and culture by encouraging the study and preservation of arts and cultural activities and by encouraging participation in such activities.

The council is also responsible for handling all nominations for the Florida Artists Hall of Fame, which is located on the Plaza Level in the Capitol rotunda.¹⁸

In 2005, the DOS and the council developed a strategic plan for continuing the development of arts and culture in the state, known as "Culture Builds Florida."¹⁹ The plan focused on linking arts and cultural heritage into four major areas: strengthening the economy, promoting learning and wellness, building leadership, and advancing design and development.

Citizens for Florida Arts, Inc.

Citizens for Florida Arts, Inc., (CFA) is a citizen support organization established by the division for the purpose of providing assistance, funding, and promotional support.²⁰ CFA is intended to enhance current state programs relating to the arts and to create new arts opportunities, and is not intended to replace current state arts funding.

¹⁰ Section 265.286(5)(b), F.S.

¹¹ Division of Cultural Affairs, "Ranked Application List for 2013-2014 Specific Cultural Project," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.scp-ranked-list.cfm>, (last visited on March 6, 2013).

¹² *Supra* note 6.

¹³ Section 265.286(5)(c), F.S.

¹⁴ *Supra* note 6.

¹⁵ Section 265.286(5)(d), F.S.

¹⁶ *Supra* note 6.

¹⁷ Section 265.285, F.S.

¹⁸ Section 265.2865, F.S.

¹⁹ Department of State, *Florida Council on Arts and Culture*, (2005), available at: <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf>, (last visited on March 6, 2013).

²⁰ Section 265.703, F.S.

Tourism Promotion

Florida's tourism promotion and marketing services, functions, and programs are carried out by the Florida Tourism Industry Marketing Corporation in conjunction with Enterprise Florida, Inc.'s, Division of Tourism Marketing.²¹ The Florida Tourism Industry Marketing Corporation, doing business as VISIT Florida, is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc.²² VISIT Florida is overseen by a 31-member board of directors, appointed by Enterprise Florida, Inc., and the Department of Economic Opportunity, who are tourism-industry professionals from regions across the state.

VISIT Florida markets the state to domestic and foreign consumers, "works with major travel journalists, represents the state at domestic and international travel trade shows and promotes the state to travel agents, tour operators and consumers all over the world."²³ VISIT Florida also compiles official travel statistics, tracks tourism market trends, and conducts other research on the tourism market to improve effective advertising and marketing of the state's tourism resources. VISIT Florida also operates the state's five Official Florida Welcome Centers.

VISIT Florida and Enterprise Florida, Inc.'s, Division of Tourism Marketing are jointly responsible for developing a 4-year marketing plan for the purposes of marketing the state's tourism assets. The marketing plan must detail strategies for:

- Continuing overall tourism growth;
- Expanding new or under-represented tourist markets;
- Maintaining traditional and loyal tourist markets;
- Coordinating efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and designations, and other private sector partners to create a four-season advertising campaign;
- Developing techniques or promotions to build repeat visitation by targeted segments of the tourist population;
- Considering innovative sources of state funding for tourism marketing;
- Promoting nature-based tourism and heritage tourism; and
- Developing a component to address emergency response to natural and manmade disasters from a marketing standpoint.

In order to implement the marketing plan, VISIT Florida and the Division of Tourism Marketing are directed to construct the plan in an "annual and ongoing nature," and the concepts outlined should be carried forward in an on-going and updated manner. The plan must include specific recommendations and performance metrics for VISIT Florida to use in evaluating its actual performance.

In addition to state-level tourism marketing and promotion activities carried out by VISIT Florida and the Division of Tourism Marketing, counties may establish tourism promotion

²¹ Section 288.923, F.S.

²² Section 288.1226, F.S.

²³ VISIT Florida, *About VISIT Florida website*, available at: http://www.visitflorida.com/about_visit_florida, (last visited on March 6, 2013).

agencies for the purpose of attracting guests to the county. Local tourism promotion agencies may use tourist development tax revenues to fund marketing and promotion activities.²⁴

VIVA Florida 500

VIVA Florida 500 is a statewide initiative lead by the DOS. According to the DOS, VIVA Florida 500 will provide “a unique opportunity to strengthen tourism, spur economic development, and educate the world about the state’s significant history and heritage.”²⁵ VIVA Florida 500 begins in 2013 to celebrate the 500th anniversary of the arrival of Juan Ponce de Leon, who named the region La Florida. VIVA Florida 500 will serve as a “platform for Cultural, Heritage and Nature-based Activities/Tourism/Events.” The DOS’s strategic goals for Viva Florida 500 are:²⁶

- Provide leadership and facilitate collaboration;
- Create and grow productive public and private partnerships;
- Expand outreach and education;
- Host events in all 67 counties; and
- Stimulate Cultural Heritage Tourism.

Over 200 events and activities are planned statewide in partnership with several agencies and statewide resources. This list includes but is not limited to: VISIT Florida, the Florida Lottery, the Florida Department of Transportation, the Florida Department of Business and Professional Regulation, the Florida Department of Agriculture and Consumer Services, The Florida Humanities Council, the España-Florida Foundation 500 Years, Florida State Parks, and the the Florida Association of Museums.

II. Effect of Proposed Changes:

Section 1 creates the Black Cultural Tourism Enhancement Commission (commission) to be administratively housed within the Department of State (DOS), but is to operate as an independent entity to exercise its powers and duties. The DOS is directed to provide administrative and staff support services to the commission.

Duties of the Commission

The bill directs the commission to perform several duties, including:

- Provide financial and technical support services to certain facilities and events;
- Provide training and technical assistance for staff at the state’s black cultural tourism sites in order to develop tour guides and tour operators for the sites;

²⁴ Section 125.0104, F.S.

²⁵ Department of State, *VIVA Florida 500 Press Brief*, available at: <http://www.vivaflorida.org/Media2/Press-Brief>, (last visited on March 6, 2013).

²⁶ Kerri Post, *Viva Florida 500 Presentation to the Senate Commerce and Tourism Committee*, (January 15, 2013), available at: http://flsenate.gov/PublishedContent/Committees/2012-2014/CM/MeetingRecords/MeetingPacket_1966.pdf, (last visited on March 6, 2013).

- Provide resources and technical assistance to educators for teaching black history, promoting the state's black cultural sites as historic venues, and supporting tourism through student tours of black cultural and historical sites; and
- Serve as a resource for VISIT Florida in order to expand cultural tourism in the state.

Commission Membership

The bill specifies the commission is composed of 13 members who each serve 4-year terms. The commission is made up of the following:

- Three members appointed by the Governor (two of whom initially serve 2-year terms):
 - One of whom represents an institution of higher learning;
 - One of whom represents the Florida African-American Heritage Preservation Network; and
 - One of whom represents business and civic interests in the African-American community.
- Two members appointed by the President of the Senate (one of whom initially serves a 2-year term):
 - One of whom is involved in instructional design in a school district or in an institution of higher learning; and
 - One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Speaker of the House of Representatives (one of whom initially serves a 2-year term);
 - One of whom has a substantial history of community service in the performing or visual arts in the African-American community; and
 - One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Secretary of State (one of whom initially serves a 2-year term), who are directors of museums of African-American history or black archives and research centers in this state.
- Two members appointed by the Commissioner of Education (one of whom initially serves a 2-year term), who are members of the Commissioner of Education's African American History Task Force.
- Two members appointed by the Florida Conference of Black State Legislators, one of whom is a representative of a philanthropic foundation and one of whom is a member of the clergy.

Members may be subsequently reappointed to another 4-year term. Members serve without compensation, but are entitled to reimbursement for per diem travel expenses.

Direct Support Organization

The commission is permitted to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the commission.

Section 2 provides for an effective date of July 1, 2013.

III. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DOS, the bill will have an indeterminate negative impact on administrative and other resource demands as it relates to providing administrative and staff support services.²⁷

Government fiscal impacts will likely be negative, depending on the frequency of commission meetings, travel by staff and commission members, and other financial assistance needed to implement the provisions of the bill.

The Senate General Appropriations Act for Fiscal Year 2013-2014, as introduced (SB 1500), provides \$1 million in nonrecurring general revenue funds for this bill, contingent upon this bill or similar legislation becoming law.

V. Technical Deficiencies:

None.

VI. Related Issues:

Section 20.052, F.S., governs the creation of new advisory bodies, commissions, and boards.

²⁷ Department of State, *Agency Bill Analysis: SB 442*, (February 1, 2013), (on file with the Senate Commerce and Tourism Committee).

The bill allows the commission to establish or designate a direct-support organization (DSO), but does not provide specific standards and guidelines for how the DSO should be created or operated. If it is the intent of the Legislature to have a DSO to support the commission created by the bill, the Legislature may wish to consider creating the DSO directly, to specify its powers, duties, and responsibilities.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Governmental Oversight and Accountability Committee on April 2, 2013:

The CS specifies the professional backgrounds of the 13 members to be appointed to the commission.

CS by Commerce and Tourism on March 11, 2013:

The CS specifies that each member of the commission serve a term of 4 years. The CS designates 6 members who each initially serve a term of 2 years to create staggered terms. The CS also clarifies that a member may be appointed to a subsequent term.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability;
and Commerce and Tourism; and Senator Thompson

585-03461-13

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A bill to be entitled

An act relating to the Black Cultural Tourism Enhancement Commission; creating the commission within the Department of State; directing the commission to independently exercise its powers and duties; requiring the department to provide administrative and staff support services to the commission; providing the powers and duties of the commission; providing for the appointment and terms of commission members; providing for the reimbursement of per diem and travel expenses for commission members; authorizing the commission to establish or designate a direct-support organization for specified purposes; providing an effective date.

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

Section 1. Black Cultural Tourism Enhancement Commission.—

(1) There is created the Black Cultural Tourism Enhancement Commission. The commission shall be administratively housed within the Department of State but shall independently exercise the powers and duties specified in this section. The department staff shall provide administrative and staff support services to the commission.

(2) The commission shall:

(a) Provide financial and technical assistance to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development in the state through the marketing of the state's black cultural sites.

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(b) Provide training and technical assistance for staff members of the state's black cultural sites in order to develop tour guides and tour operators for the sites.

(c) Provide resources and technical assistance for educators of the state related to the teaching of black history, promote the state's black cultural sites as historical venues, and support tourism in the state through student tours of the sites.

(d) Serve as a resource for the Florida Tourism Industry Marketing Corporation in order to expand cultural tourism in the state.

(3) (a) The commission is composed of 13 members who are appointed in the following manner:

1. The Governor shall appoint three members, one of whom represents an institution of higher learning, one of whom represents the Florida African-American Heritage Preservation Network, and one of whom represents business and civic interests in the African-American community.

2. The President of the Senate shall appoint two members, one of whom is involved in instructional design in a school district or in an institution of higher learning and one of whom is an employee of a museum of African-American history in this state.

3. The Speaker of the House of Representatives shall appoint two members, one of whom has a substantial history of community service in the performing or visual arts in the African-American community and one of whom is an employee of a museum of African-American history in this state.

4. The Secretary of State shall appoint two members who are

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59 directors of museums of African-American history or black
60 archives and research centers in this state.

61 5. The Commissioner of Education shall appoint two members
62 who are members of the Commissioner of Education's African
63 American History Task Force.

64 6. The Florida Conference of Black State Legislators shall
65 appoint two members, one of whom is a representative of a
66 philanthropic foundation and one of whom is a member of the
67 clergy.

68 (b) A member of the commission shall be appointed for a
69 term of 4 years, except that at the time of the initial
70 appointment, two members appointed by the Governor, one member
71 appointed by the President of the Senate, one member appointed
72 by the Speaker of the House of Representatives, one member
73 appointed by the Secretary of State, and one member appointed by
74 the Commissioner of Education shall be appointed for a term of 2
75 years. A member may be appointed to a subsequent term.

76 (4) Members of the commission shall serve without
77 compensation but are entitled to reimbursement for per diem and
78 travel expenses as provided in s. 112.061, Florida Statutes.

79 (5) The commission may establish or designate a direct-
80 support organization that may receive grants, bequests, and
81 other resources to support the state's black cultural sites and
82 the functions of the commission.

83 Section 2. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 572

INTRODUCER: Commerce and Tourism Committee and Senator Sobel

SUBJECT: Reporting Requirements for Economic Development Programs

DATE: April 5, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	Fav/CS
2.	Pingree	Martin	ATD	Favorable
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

CS/SB 572 creates a project-based reporting system to be developed by the Department of Economic Opportunity (DEO) to allow the public to view information relating to economic development projects receiving state incentives. The DEO is directed to maintain a website that publishes specific information on each state-incentivized project in a format that is easily accessible to the public. Information must be published within 48 hours of the expiration of the period of confidentiality.

The bill creates section 288.076, Florida Statutes.

II. Present Situation:

Economic Development Incentives Application and Review

Under Florida's current economic development framework, Enterprise Florida, Inc. (EFI), serves as the state's economic development organization, operating under a contract with the

Department of Economic Opportunity (DEO).¹ EFI is a public-private partnership that serves as the state's primary contact for businesses interested in pursuing relocation, expansion, or retention possibilities. EFI works with businesses to match business needs with state and local resources, including developing an economic development incentive proposal for the prospective business in order to "sell the State as a place to do business."²

After EFI has worked with businesses and offered incentives proposals, incentives applications are sent to DEO, who in turn evaluates incentive applications based on statutorily-defined requirements. DEO makes the final determination of incentive eligibility, executes incentives contracts, and is responsible for contract monitoring and compliance.³

EFI performs a prospective impact analysis on each potential project. Presently, the qualified target industry tax refund program,⁴ quick action closing fund,⁵ qualified defense contractor and space flight business tax refund program,⁶ and the brownfield redevelopment bonus refund program⁷ have statutory provisions that require any application for the incentive be evaluated prospectively for "economic benefits." EFI currently performs a similar prospective impact analysis for the high-impact sector performance grants⁸ and the capital investment tax credit program,⁹ but there is no statutory requirement for such an evaluation.¹⁰

Section 288.005(1), F.S., defines the term "economic benefits" to mean "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives." Direct economic effects are those resulting directly from the economic event, in this case the state's expenditure on the incentive to the applicant business. Indirect effects are the secondary effects of the economic event on suppliers, services, labor, and taxes. Induced effects are one step further and measure the effects on the economy as a result of spending from indirect effects as the money spent continues to cycle through the economy.¹¹

According to the Office of Economic and Demographic Research (EDR), EFI prospectively evaluates applications for each of the incentives and programs mentioned above using RIMS II multipliers, a model developed by the U.S. Department of Commerce's Bureau of Economic

¹ Section 288.901, F.S.

² Enterprise Florida, Inc., *2012 Annual Incentives Report*, (2012), available at: http://www.floridajobs.org/about%20aw/open_government/2012_IncentivesReport.pdf, (last visited on February 15, 2013).

³ Section 288.061, F.S.

⁴ Section 288.106, F.S.

⁵ Section 288.1088, F.S.

⁶ Section 288.1045, F.S.

⁷ Section 288.107, F.S.

⁸ Section 288.108, F.S.

⁹ Section 220.191, F.S.

¹⁰ Office of Economic and Demographic Research, *Tax Refund Program for Qualified Target Industry Businesses: A review of the methodology and model used in determining the state's return on investment*, (9/1/2010), available at: <http://edr.state.fl.us/Content/special-research-projects/economic/ROI.pdf>, (last visited on February 15, 2013).

¹¹ Adapted from "What is IMPLAN?" by MIG. Available at: http://implan.com/v4/index.php?option=com_content&view=article&id=282:what-is-implan&catid=152:implan-appliance-&Itemid=2, (last visited on February 15, 2013).

Analysis.¹² The EDR is required to evaluate the model used by EFI for the prospective impact analysis of all qualified target industry refund projects, and to report such findings every 3 years.¹³ The model evaluated by the EDR and used by EFI for the qualified target industry tax refund program is also used across the programs previously mentioned except for the Innovation Incentive Program.¹⁴

In 2010, the EDR produced its first report on the model used by EFI to evaluate qualified target industry refund projects. In their report, the EDR concluded that the model being utilized by EFI was not fully in compliance with statutory requirements that EFI's model evaluate "return on investment" (ROI), defined as the gain in state revenues as a percentage of the state's investment. EDR determined that the model, which EFI terms a "payback ratio," needed changes to move incrementally closer to a true ROI. EFI and the EDR worked to redefine certain variables for the impact analysis in the interim period. In the report, the EDR noted that recommendations and changes on the model used by EFI "should be viewed as interim measures, pending completion of the new ROI model that will be ultimately required."¹⁵ The next report is due September 1, 2013.

The Innovation Incentive Program is not required by law to be evaluated for "economic benefits," but any potential project is required to have a break-even "return on investment" within a 20-year period, except for certain exceptions.¹⁶ Return on investment as it relates to the Innovation Incentive Program is not defined under current law. EFI evaluates the Innovation Incentive Program using the REMI model.¹⁷ EFI's modeling evaluation of the Innovation Incentive Program is not currently evaluated by the EDR.¹⁸

Incentive and Program Reporting

In addition to conducting an up-front impact analysis of each potential economic development project, EFI is also required to produce an Annual Incentives Report¹⁹ that requires, among other things, an analysis of the economic benefits that actually occurred based on actual private investment, jobs created, and wages paid over the previous 3 years. The Annual Incentives Report compares the projected impacts of each incentive program over the previous 3 years to

¹² For more information on RIMS II multipliers and their application, see U.S. Department of Commerce, *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II)*, (March, 1997), available at: <http://www.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf>, (last visited on February 15, 2013).

¹³ Section 288.106(4)(c)2., F.S.

¹⁴ *Supra* note 10 at page 20.

¹⁵ *Supra* note 10 at pages 3 and 4.

¹⁶ Section 288.1089, F.S., requires any potential business qualifying for the Innovation Incentive Program be a high-value research and development, innovation business, or an alternative and renewable energy project. Research and development and alternative and renewable energy projects are required to meet the break-even 20-year return on investment requirement, but applicants qualifying as "innovation business projects" are not required to demonstrate the return on investment requirements.

¹⁷ The REMI model is a proprietary model developed by Regional Economic Models, Inc. The model evaluates linkages in an economy and how economic impacts can impact the larger regional economy. For more information see "The REMI Model," available at: <http://www.remi.com/the-remi-model>, (last visited on February 15, 2013).

¹⁸ *Supra* note 10.

¹⁹ Section 288.907, F.S.

the confirmed, realized results. The Division of Strategic Business Development within the DEO is required to assist EFI in the preparation of the Annual Incentives Report.²⁰

The Annual Incentives Report also reports certain information such as the amount of awards given, jobs created, amount of capital investment, and wages paid. This information is organized by incentive program and by project. The Annual Incentives Report also includes information on incentive projects that occurred over the previous fiscal year, including the number of incentive applications received, recommendations from EFI to the DEO, the number of final decisions issued by DEO for approval or denial, and the projects which incentive agreements were executed.

Other required information in the Annual Incentives Report includes:

- A description of federal or local incentives received, organized by project.
- The number of withdrawn or terminated projects that did not receive incentives due to not fulfilling the terms of their incentives agreement.
- An analysis of the economic benefits of incentives made to projects locating in state enterprise zones, rural communities, brownfield areas, or distressed urban communities.
- Identification of target industry businesses and high-impact businesses.
- Trends relating to business interest in and usage of the state's incentives programs, including the number of minority-owned and woman-owned businesses receiving incentives.
- Identification of incentive programs not utilized.

Section 288.095(3)(c), F.S., requires information similar to the Annual Incentives Report to be reported by DEO related to programs funded through the Economic Development Incentives Account in the Economic Development Trust Fund.

The DEO also produces an annual report, which is required to include information on the state's business climate and economic development, as well as an identification of problems and recommendations.²¹

Information on local economic development incentives is collected by the EDR. The EDR is required to collect information relating to each county or municipality that granted local economic development incentives in excess of \$25,000 during a fiscal year.²² Counties and municipalities may complete their reporting requirements by completing a survey either online or by hard copy and returning it to the EDR, who compiles the information into a single report.²³

²⁰ Section 288.907(2), F.S.

²¹ Section 20.60(10), F.S.

²² Section 125.045, F.S., requires counties to report economic development incentives of \$25,000 or more that were granted in the fiscal year. Section 166.021, F.S., requires municipalities with revenues and expenditures over \$250,000 to report economic development incentives of \$25,000 or more granted in the fiscal year.

²³ More information on the report and survey can be accessed by visiting <http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm>, (last visited on February 15, 2013).

DEO Incentives Portal

On August 2, 2012, DEO launched an online portal for the public to view economic development projects receiving state funds.²⁴ The portal allows the public to view:

- Completed projects approved from January 1996 through May 2012;
- Inactive or terminated projects that were approved from January 1996 through December 1998; and
- Quick Action Closing Fund projects approved from program inception (1999) through December 2011, which are not confidential.

The portal's website states that DEO expects to have all non-confidential projects available on the portal by March of 2013.²⁵ The portal website allows users to view projects by incentive program, by the county of the project's location, by the date of the project, and by the recipient business's name. Information provided includes the total state incentive awarded, payments to date, job requirements, and capital investment requirements.

Economic Development Confidentiality Requirements

Section 288.075, F.S., specifies confidentiality of records requirements relating to a business's plans to locate, relocate, or expand business activities in Florida. Currently, certain business records are confidential and exempt²⁶ from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc. (EFI), and public economic development agencies of local governments.

The following information is confidential and exempt from public records requirements for the duration specified:

- Upon written request, information relating to a business's plans, intentions, and interests to locate, relocate, or expand its business activities in Florida. This information remains confidential and exempt for 12 months and may be extended an additional 12 months. If a final project order is issued, the information becomes public the earlier of: 180 days after the final project order for a signed economic development incentive award agreement is issued, a date specified in the final project order, or when the information is otherwise disclosed.

²⁴ DEO press release, "DEO Launches Public Economic Development Incentives Portal, (August 02, 2012), available at: <http://www.floridajobs.org/news-center/news-feed/2012/08/02/deo-launches-public-economic-development-incentives-portal>, (last visited on February 15, 2013).

²⁵ DEO Economic Development Incentives Portal website, available at: <http://www.floridajobs.org/office-directory/division-of-strategic-business-development/economic-development-incentives-portal>, (last visited on February 15, 2013).

²⁶ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

- Proprietary confidential business information and trade secrets are always confidential and exempt.
- Information on a business's federal employer identification number, reemployment assistance account number, or Florida sales tax registration number is always confidential and exempt.
- Certain information pertaining to economic development incentive agreements. Specific sales, employee wage, and tax information remains confidential and exempt for the duration of the incentive agreement. Information including a business's name, expected number of jobs created or retained, total jobs, the amount of incentives awarded, and the committed total annual wages remain confidential and exempt until the earlier of: 180 days after a final project order is issued for a signed economic development incentives agreement, a date specified in the final project order, or when the information is otherwise disclosed.

III. Effect of Proposed Changes:

The bill establishes an economic development incentive review and online publication process to be implemented by the DEO.

Section 1 creates s. 288.076, F.S., relating to reporting for economic development programs.

The bill requires the DEO to maintain a website that publishes information on economic development incentive awards to businesses. Information must be made available in an easy to use format that allows users to view and retrieve all required information at once. DEO has 48 hours after the expiration of the period of confidentiality to publish the following information on each project:

Projected Economic Benefits

DEO must publish the economic benefits *projected* to occur for each project at the time of the initial project award date.

Project Information

- The program or programs through which state investment is being made. "State investment" is defined by the bill as any state grants, tax exemptions, tax refunds, tax credits, or other state incentives awarded to a business under a program administered by DEO, including the capital investment tax credit.
- The maximum potential cumulative value of the state investment in a project.
- The target industries²⁷ or high-impact sectors²⁸ that the project may fall under.
- The county or counties that may be affected by the project.
- The total cumulative value of any local financial commitment and in-kind support for the project.

Participant Business Information

²⁷ Section 288.106(2)(q), F.S.

²⁸ Section 288.108(6)(a), F.S.

- The location of the participant business's headquarters or the headquarters of the parent company if it is a subsidiary. "Participant business" is defined by the bill to mean an employing unit, as defined in s. 443.036, F.S., that has entered into an agreement with DEO to receive a state investment.
- The firm size class of the participant business, or where owned by a parent company, the firm size class of the participant business's parent company, using firm size classes established by the U.S. Department of Labor's Bureau of Labor Statistics. This information must also note whether the participant business qualifies as a small business under s. 288.703, F.S.
- The date of the project award.
- The expected duration of the contract.
- The anticipated date when the participant business will claim its last state investment.

Project Evaluation Criteria

- The economic benefits generated by the project.
- The net indirect and induced incremental jobs to be generated by the project. The bill states that "jobs" has the same meaning as in s. 288.106(2)(i), F.S., which means full-time equivalent positions, including positions obtained from a temporary employment agency or employee leasing company, or through a union agreement or coemployment under a professional employer organization agreement. Temporary construction jobs are not included in the definition.
- The net indirect and induced incremental capital investment to be generated by the project.
- The net indirect and induced incremental tax revenue paid to the state to be generated by the project.

Project Performance Goals

- The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.
- The number of jobs generated and the number of jobs retained by the project. For projects that begin after the bill's effective date, the DEO must report the median annual wage of persons holding such jobs.
- The incremental direct capital investment in the state generated by the project.
- The incremental projected tax revenue to the state paid by the participant business for the project.

Total State Investment to Date

The total amount of state investment disbursed to the participant business to date, itemized by incentive program.

The DEO is required to use the methodology and formulas developed by the Office of Economic and Demographic Research (EDR) to determine each project's economic benefits. Each project's economic benefits must be published on the DEO website within 48 hours after the conclusion of an agreement between a participant business and the DEO. This ensures a project's total economic benefits that actually occurred are published, allowing visitors of the website to view

and compare the information with projected economic benefits at the time of the project's award date. The DEO is directed to publish a description of the methodology and formulas developed by EDR to calculate economic benefits of a project, and must publish the information on its website within 48 hours after receiving it from the EDR.

The bill requires the DEO to update information on its website for each project annually from its award date. Verified results must be updated for each project, including information on Project Information, Participant Business Information, Project Evaluation Criteria, Project Performance Goals, and Total State Investment discussed above. The DEO must publish the date on which the information was last updated on the website.

Within 48 hours after the expiration of the period of confidentiality, the DEO must publish the contract or award agreement with the participant business on its website. The agreement may be redacted to protect a participant business from disclosure of any information that remains confidential or exempt by law.

The bill requires the DEO to publish all information required above for all projects completed prior to the bill's effective date of October 1, 2013. The DEO has until October 1, 2014, to compile and publish the information.

The bill clarifies that provisions restricting DEO's publication of any information on the DEO's website is limited to that purpose, and is not to be construed as creating a public records exemption.

The DEO may adopt rules to administer the provisions of the bill.

Qualified Target Industry Tax Refund Reports

The DEO must publish on the website any reports of findings and recommendations concerning a business's failure to complete its qualified target industry tax refund program agreement within 48 hours after submitting the report.

Quick Action Closing Fund Timeline

The bill requires the DEO to publish information on its website relating to Quick Action Closing Fund²⁹ (QACF) incentive projects, including the average number of days between the date DEO receives a completed QACF application and the date on which the application was approved.

Section 2 provides an effective date of October 1, 2013.

²⁹ Section 288.1088, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is expected to increase the administrative costs of the DEO as it relates to developing and maintaining all information made public by the bill.

The EDR may incur administrative costs related to the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on March 4, 2013:**

The CS makes the following changes:

- Requires certain information to be published by DEO on its website 48 hours after the expiration of the period of confidentiality rather than within 48 hours after a project award date.

- Replaces the term “beneficiary business” with “participant business” and provides a definition.
- Adds a definition for the term “jobs.” Updates definitions for the terms “project” and “project award date.”
- Removes requirements that the DEO assign a unique code to each project that has certain identifying information withheld.
- Adds a requirement that the DEO publish projected economic benefits at the time of the initial project award date, as well as the economic benefits for the entire project within 48 hours after the conclusion of an agreement between a participant business and the DEO.
- Requires the EDR to provide information on the methodology and model used to calculate economic benefits to the DEO, rather than Return on Investment, and requires the DEO to publish the information within 48 hours after receiving it from the EDR.
- Removes requirement that the DEO publish the number of full-time employees of the business or parent company and replaces it with a requirement that the DEO publish the business’s firm size class or the firm size class of the parent company. Directs that firm sized classes are those defined by the U.S. Department of Labor’s Bureau of Labor Statistics.
- Adds a new section of required information entitled “Project Evaluation Criteria.”
- Removes requirements that the DEO publish a business’s North American Industry Classification System.
- Removes requirement that the DEO publish the lowest, highest, and median wages associated with incremental direct jobs attributable to each project.
- Adds requirement that the DEO publish median wage information for the jobs generated or retained by projects beginning after October 1, 2013.
- Changes requirement that the DEO publish incremental direct tax revenue paid to the state by the beneficiary business to incremental projected tax revenue to the state paid by the participant business.
- Requires the DEO to publish the total amount of state investment disbursed to a participant business to date, itemized by incentive program.
- Changes requirement that information on projects be updated on June 30 and December 31 of each year to require information on projects be updated at least annually from the project award date.
- Requires the DEO to publish the date when information on each project was last updated.
- Removes requirement that the DEO publish a timeline of QACF projects and replaces it with a requirement that the DEO publish the average time between receipt of a completed QACF application and approval of the application by the DEO.
- Changes due dates for the DEO to gather and publish information on projects completed prior to the bill’s effective date. The DEO still has 1 year to gather and publish the information, but dates are changed from July 1, 2013, and July 1, 2014, to October 1, 2013, and October 1, 2014.
- Removes language allowing businesses to request a delay in the release of certain information.

- Removes the misdemeanor penalty for employees of the DEO who violate the bill's provisions.
- Deletes Section 2 of the bill. Section 2 amended s. 288.075, F.S., relating to economic development confidentiality provisions.
- Changes the bill's effective date from July 1, 2013, to October 1, 2013.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Commerce and Tourism; and Senator Sobel

577-01868-13

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A bill to be entitled

An act relating to reporting requirements for economic development programs; creating s. 288.076, F.S.; providing definitions; requiring the Department of Economic Opportunity to publish on a website specified information concerning state investment in economic development programs; requiring the department to use methodology and formulas established by the Office of Economic and Demographic Research for specified calculations; requiring the Office of Economic and Demographic Research to provide a description of specified methodology and formulas to the department and the department to publish the description on its website within a specified period; providing procedures and requirements for reviewing, updating, and supplementing specified published information; requiring the department to annually publish information relating to the progress of Quick Action Closing Fund projects; requiring the department to publish certain confidential information pertaining to participant businesses upon expiration of a specified confidentiality period; requiring the department to publish certain reports concerning businesses that fail to complete tax refund agreements under the tax refund program for qualified target industry businesses; providing for construction and legislative intent; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Section 288.076, Florida Statutes, is created to read:

288.076 Return on investment reporting for economic development programs.—

(1) As used in this section, the term:

(a) "Jobs" has the same meaning as provided in s. 288.106(2) (i).

(b) "Participant business" means an employing unit, as defined in s. 443.036, that has entered into an agreement with the department to receive a state investment.

(c) "Project" has the same meaning as provided in s. 288.106(2) (m).

(d) "Project award date" means the date a participant business enters into an agreement with the department to receive a state investment.

(e) "State investment" means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by the department, including the capital investment tax credit under s. 220.191.

(2) The department shall maintain a website for the purpose of publishing the information described in this section. The information required to be published under this section must be provided in a format accessible to the public which enables users to search for and sort specific data and to easily view and retrieve all data at once.

(3) Within 48 hours after expiration of the period of

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59 confidentiality for project information deemed confidential and
 60 exempt pursuant to s. 288.075, the department shall publish the
 61 following information pertaining to each project:

62 (a) Projected economic benefits.—The projected economic
 63 benefits at the time of the initial project award date.

64 (b) Project information.—

65 1. The program or programs through which state investment
 66 is being made.

67 2. The maximum potential cumulative state investment in the
 68 project.

69 3. The target industry or industries, and any high impact
 70 sectors implicated by the project.

71 4. The county or counties that will be impacted by the
 72 project.

73 5. The total cumulative local financial commitment and in-
 74 kind support for the project.

75 (c) Participant business information.—

76 1. The location of the headquarters of the participant
 77 business or, if a subsidiary, the headquarters of the parent
 78 company.

79 2. The firm size class of the participant business, or
 80 where owned by a parent company the firm size class of the
 81 participant business's parent company, using the firm size
 82 classes established by the United States Department of Labor
 83 Bureau of Labor Statistics, and whether the participant business
 84 qualifies as a small business as defined in s. 288.703.

85 3. The date of the project award.

86 4. The expected duration of the contract.

87 5. The anticipated dates when the participant business will

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88 claim the last state investment.

89 (d) Project evaluation criteria.—

90 1. Economic benefits generated by the project.

91 2. The net indirect and induced incremental jobs to be
 92 generated by the project.

93 3. The net indirect and induced incremental capital
 94 investment to be generated by the project.

95 4. The net indirect and induced incremental tax revenue
 96 paid to the state to be generated by the project.

97 (e) Project performance goals.—

98 1. The incremental direct jobs attributable to the project,
 99 identifying the number of jobs generated and the number of jobs
 100 retained.

101 2. The number of jobs generated and the number of jobs
 102 retained by the project, and for projects commencing after
 103 October 1, 2013, the median annual wage of persons holding such
 104 jobs.

105 3. The incremental direct capital investment in the state
 106 generated by the project.

107 4. The incremental projected tax revenue to the state paid
 108 by the participant business for the project.

109 (f) Total state investment to date.—The total amount of
 110 state investment disbursed to the participant business to date
 111 under the terms of the contract, itemized by incentive program.

112 (4) The department shall use methodology and formulas
 113 established by the Office of Economic and Demographic Research
 114 to calculate the economic benefits of each project. The
 115 department shall calculate and publish on its website the
 116 economic benefits of each project within 48 hours after the

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117 conclusion of the agreement between each participant business
 118 and the department. The Office of Economic and Demographic
 119 Research shall provide a description of the methodology and
 120 formulas used to calculate the economic benefits of a project to
 121 the department, and the department must publish the information
 122 on its website within 48 hours after receiving such information.

123 (5) At least annually, from the project award date, the
 124 department shall:

125 (a) Publish verified results to update the information
 126 described in paragraphs (3)(b)-(f) to accurately reflect any
 127 changes in the published information since the project award
 128 date.

129 (b) Publish on its website the date on which the
 130 information collected and published for each project was last
 131 updated.

132 (6) Annually, the department shall publish information
 133 relating to the progress of Quick Action Closing Fund projects,
 134 including the average number of days between the date the
 135 department receives a completed application and the date on
 136 which the application is approved.

137 (7) The department shall publish the following documents at
 138 the times specified herein:

139 (a) Within 48 hours after expiration of the period of
 140 confidentiality provided under s. 288.075, the department shall
 141 publish the contract or agreement described in s. 288.061. The
 142 contract or agreement must be redacted to protect the
 143 participant business from disclosure of information that remains
 144 confidential or exempt by law.

145 (b) Within 48 hours after submitting any report of findings

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146 and recommendations made pursuant to s. 288.106(7)(d) concerning
 147 a business's failure to complete a tax refund agreement pursuant
 148 to the tax refund program for qualified target industry
 149 businesses, the department shall publish such report.

150 (8) For projects completed before October 1, 2013, the
 151 department shall compile and, by October 1, 2014, shall publish
 152 the information described in subsections (3), (4), and (5), to
 153 the extent such information is available and applicable.

154 (9) The provisions of this section that restrict the
 155 department's publication of information are intended only to
 156 limit the information that the department may publish on its
 157 website and shall not be construed to create an exemption from
 158 public records requirements under s. 119.07(1) or s. 24(a), Art.
 159 I of the State Constitution.

160 (10) The department may adopt rules to administer this
 161 section.

162 Section 2. This act shall take effect October 1, 2013.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (m) of subsection (3) of section
11.45, Florida Statutes, is repealed.

Section 2. Paragraph (b) of subsection (2) and subsection
(3) of section 20.23, Florida Statutes, are amended, and present
subsections (4) through (7) of that subsection are renumbered as
subsections (3) through (6), to read:

20.23 Department of Transportation.—There is created a
Department of Transportation which shall be a decentralized



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agency.

(2)

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

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

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

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

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

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

6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and



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42 recommend to the Legislature and the Governor methods to
43 eliminate or reduce the disruptive effects of these factors.

44 7. Recommend to the Governor and the Legislature
45 improvements to the department's organization in order to
46 streamline and optimize the efficiency of the department. In
47 reviewing the department's organization, the commission shall
48 determine if the current district organizational structure is
49 responsive to Florida's changing economic and demographic
50 development patterns. The initial report by the commission must
51 be delivered to the Governor and Legislature by December 15,
52 2000, and each year thereafter, as appropriate. The commission
53 may retain ~~such~~ experts that ~~as~~ are reasonably necessary to
54 effectuate this subparagraph, and the department shall pay the
55 expenses of the ~~such~~ experts.

56 8. Monitor the efficiency, productivity, and management of
57 the authorities created under chapters 345, 348, and 349,
58 including any authority formed using the provisions of part I of
59 chapter 348, and any authority formed under chapter 343 ~~which is~~
60 ~~not monitored under subsection (3)~~. The commission shall also
61 conduct periodic reviews of each authority's operations and
62 budget, acquisition of property, management of revenue and bond
63 proceeds, and compliance with applicable laws and generally
64 accepted accounting principles.

65 ~~(3) There is created the Florida Statewide Passenger Rail~~
66 ~~Commission.~~

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

69 ~~a. Three members shall be appointed by the Governor, one of~~
70 ~~whom must have a background in the area of environmental~~



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~~concerns, one of whom must have a legislative background, and one of whom must have a general business background.~~

~~b. Three members shall be appointed by the President of the Senate, one of whom must have a background in civil engineering, one of whom must have a background in transportation construction, and one of whom must have a general business background.~~

~~c. Three members shall be appointed by the Speaker of the House of Representatives, one of whom must have a legal background, one of whom must have a background in financial matters, and one of whom must have a general business background.~~

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

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

~~4. The commission shall elect one of its members as chair of the commission. The chair shall hold office at the will of the commission. Five members of the commission shall constitute a quorum, and the vote of five members shall be necessary for any action taken by the commission. The commission may meet upon the constitution of a quorum. A vacancy in the commission does~~



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~~not impair the right of a quorum to exercise all rights and perform all duties of the commission.~~

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

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

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

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

~~3. Evaluating passenger rail policies and providing advice and recommendations to the Legislature on passenger rail~~



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~~operations in the state.~~

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

~~1. The awarding of contracts.~~

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

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

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

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

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

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

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

Section 3. Paragraphs (j) and (m) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—



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

(j) The appointed secretaries and the State Surgeon General, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, the State Transportation Development Administrator, State Freight and Logistics ~~Public Transportation and Modal~~ Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices specified in s. 20.23(3)(b) ~~20.23(4)(b)~~, of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service; and the county health department directors and county health department administrators of the Department of Health.

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



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1. Positions in the Department of Health and the Department of Children and Family Services that are assigned primary duties of serving as the superintendent or assistant superintendent of an institution.

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

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

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

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

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

Section 4. Section 311.22, Florida Statutes, is amended to read:

311.22 Additional authorization for funding certain dredging projects.—



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(1) The Department of Transportation ~~Florida Seaport Transportation and Economic Development Council~~ shall establish a program to fund dredging projects in counties having a population of fewer than 300,000 according to the last official census. Funds made available under this program may be used to fund approved projects for the dredging or deepening of channels, turning basins, or harbors on a 25-percent local matching basis with any port authority, as such term is defined in s. 315.02(2), which complies with the permitting requirements in part IV of chapter 373 and the local financial management and reporting provisions of part III of chapter 218.

(2) The department ~~council~~ shall adopt rules for evaluating the projects that may be funded pursuant to this section. The rules must provide criteria for evaluating the economic benefit of the project. The rules must include the creation of an administrative review process by the department ~~council~~ which is similar to the process described in s. 311.09(5)-(11), and provide for a review by the ~~Department of Transportation and the~~ Department of Economic Opportunity of all projects submitted for funding under this section.

(3) This section expires on July 1, 2018.

Section 5. Subsection (3) of section 316.530, Florida Statutes, is repealed.

Section 6. Subsection (3) of section 316.545, Florida Statutes, is amended to read:

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

(3) Any person who violates the overloading provisions of this chapter shall be conclusively presumed to have damaged the



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highways of this state by reason of such overloading, which damage is hereby fixed as follows:

(a) ~~If~~ ~~When~~ the excess weight is 200 pounds or less than the maximum ~~herein~~ provided by this chapter, the penalty is ~~shall be~~ \$10;

(b) Five cents per pound for each pound of weight in excess of the maximum ~~herein~~ provided in this chapter if ~~when~~ the excess weight exceeds 200 pounds. However, if ~~whenever~~ the gross weight of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight is ~~shall be~~ \$10;

(c) For a vehicle equipped with fully functional idle-reduction technology, any penalty shall be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 ~~400~~ pounds, whichever is less. The vehicle operator must present written certification of the weight of the idle-reduction technology and must demonstrate or certify that the idle-reduction technology is fully functional at all times. This calculation is not allowed for vehicles described in s. 316.535(6);

(d) An apportioned motor vehicle, as defined in s. 320.01, operating on the highways of this state without being properly licensed and registered shall be subject to the penalties as ~~herein~~ provided in this section; and

(e) Vehicles operating on the highways of this state from nonmember International Registration Plan jurisdictions which are not in compliance with the provisions of s. 316.605 shall be subject to the penalties as ~~herein~~ provided in this section.



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Section 7. Section 331.360, Florida Statutes, is reordered and amended to read:

331.360 ~~Joint participation agreement or assistance;~~
Spaceport system master plan.—

~~(2)(1)~~ It shall be the duty, function, and responsibility of The department shall ~~of Transportation~~ to promote the further development and improvement of aerospace transportation facilities; to address intermodal requirements and impacts of the launch ranges, spaceports, and other space transportation facilities; to assist in the development of joint-use facilities and technology that support aviation and aerospace operations; to coordinate and cooperate in the development of spaceport infrastructure and related transportation facilities contained in the Strategic Intermodal System Plan; to encourage, where appropriate, the cooperation and integration of airports and spaceports in order to meet transportation-related needs; and to facilitate and promote cooperative efforts between federal and state government entities to improve space transportation capacity and efficiency. In carrying out this duty and responsibility, the department may assist and advise, cooperate with, and coordinate with federal, state, local, or private organizations and individuals. The department may administratively house its space transportation responsibilities within an existing division or office.

~~(3)(2)~~ Notwithstanding any other provision of law, the department ~~of Transportation~~ may enter into an ~~a joint participation~~ agreement with, or otherwise assist, Space Florida as necessary to effectuate the provisions of this chapter and may allocate funds for such purposes in its 5-year work program.



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However, the department may not fund the administrative or operational costs of Space Florida.

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

(4)(a) Beginning in fiscal year 2013-2014, a minimum of \$15
million annually is authorized to be made available from the
State Transportation Trust Fund to fund space transportation
projects. The funds for this initiative shall be from the funds
dedicated to public transportation projects pursuant to s.
206.46(3).

(b) Before executing an agreement, Space Florida must
provide project-specific information to the department in order
to demonstrate that the project includes transportation and



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aerospace benefits. The project-specific information must include, but need not be limited to:

1. The description, characteristics, and scope of the project.

2. The funding sources for and costs of the project.

3. The financing considerations that emphasize federal, local, and private participation.

4. A financial feasibility and risk analysis, including a description of the efforts to protect the state's investment and to ensure that project goals are realized.

5. A demonstration that the project will encourage, enhance, or create economic benefits for the state.

(c) The department may fund up to 50 percent of eligible project costs. If the project meets the following criteria, the department may fund up to 100 percent of eligible project costs. The project must:

1. Provide important access and on-spaceport capacity improvements;

2. Provide capital improvements to strategically position the state to maximize opportunities in the aerospace industry or foster growth and development of a sustainable and world-leading aerospace industry in the state;

3. Meet state goals of an integrated intermodal transportation system; and

4. Demonstrate the feasibility and availability of matching funds through federal, local, or private partners ~~Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible spaceport discretionary capacity improvement projects. The annual~~



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~~legislative budget request shall be based on the proposed
funding requested for approved spaceport discretionary capacity
improvement projects.~~

Section 8. Subsection (11) is added to section 332.007,
Florida Statutes, to read:

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

(11) The department may fund strategic airport investment
projects at up to 100 percent of the project's cost if all the
following criteria are met:

(a) Important access and on-airport capacity improvements
are provided.

(b) Capital improvements that strategically position the
state to maximize opportunities in international trade,
logistics, and the aviation industry are provided.

(c) Goals of an integrated intermodal transportation system
for the state are achieved.

(d) Feasibility and availability of matching funds through
federal, local, or private partners are demonstrated.

Section 9. Subsections (16) and (26) of section 334.044,
Florida Statutes, are amended to read:

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

(16) To plan, acquire, lease, construct, maintain, and
operate toll facilities; to authorize the issuance and refunding
of bonds; and to fix and collect tolls or other charges for
travel on any such facilities. Effective July 1, 2013, and
notwithstanding any other law to the contrary, the department
may not enter into a lease-purchase agreement with an expressway



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authority, regional transportation authority, or other entity.
This provision does not invalidate a lease-purchase agreement
authorized under chapter 348 or chapter 2000-411, Laws of
Florida, and existing as of July 1, 2013, and does not limit the
department's authority under s. 334.30.

(26) To provide for the enhancement of environmental
benefits, including air and water quality; to prevent roadside
erosion; to conserve the natural roadside growth and scenery;
and to provide for the implementation and maintenance of
roadside conservation, enhancement, and stabilization programs.
No less than 1.5 percent of the amount contracted for
construction projects shall be allocated by the department on a
statewide basis for the purchase of plant materials. Department
districts may not expend funds for landscaping in connection
with any project that is limited to resurfacing existing lanes
unless the expenditure has been approved by the department's
secretary or the secretary's designee. To the greatest extent
practical, a minimum of 50 percent of the funds allocated under
this subsection shall be allocated for large plant materials and
the remaining funds for other plant materials. Except as
prohibited by applicable federal law or regulation, all plant
materials shall be purchased from Florida commercial nursery
stock in this state on a uniform competitive bid basis. The
department shall develop grades and standards for landscaping
materials purchased through this process. To accomplish these
activities, the department may contract with nonprofit
organizations having the primary purpose of developing youth
employment opportunities.

Section 10. Section 335.06, Florida Statutes, is amended to



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read:

335.06 Access roads to the state park system.—~~A~~ Any road that which provides access to property within the state park system must ~~shall~~ be maintained by the department if the road is a part of the State Highway System and may be improved and maintained by the department if the road is part of a county road system or city street system. If the department does not maintain a county or city road that is a part of the county road system or the city street system and that provides access to the state park system, the road must ~~or shall~~ be maintained by the appropriate county or municipality ~~if the road is a part of the county road system or the city street system.~~

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

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

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

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

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



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(1) A ~~Any~~ person who desires ~~desiring~~ to bid for the performance of any construction contract with a proposed budget estimate in excess of \$250,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department must ~~shall~~ address the qualification of a person ~~persons~~ to bid on construction contracts with a proposed budget estimate that is in excess of \$250,000 and must ~~shall~~ include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification. The department may limit the dollar amount of any contract upon which a person is qualified to bid or the aggregate total dollar volume of contracts such person may ~~is allowed to~~ have under contract at any one time. Each applicant who seeks ~~seeking~~ qualification to bid on construction contracts with a proposed budget estimate in excess of \$250,000 must ~~shall~~ furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must ~~shall~~ be accompanied by the latest annual financial statement of the applicant completed within the last 12 months. If the application or the annual financial statement shows the financial condition of the applicant more than 4 months before ~~prior to~~ the date on which the application is received by the department, ~~then~~ an interim financial statement must be submitted and be accompanied by an updated application. The interim financial statement must cover the period from the end



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date of the annual statement and must show the financial condition of the applicant no more than 4 months before ~~prior to~~ the date the interim financial statement is received by the department. However, upon request by the applicant, an application and accompanying annual or interim financial statement received by the department within 15 days after either 4-month period provided pursuant to ~~under~~ this subsection must ~~shall~~ be considered timely. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant. An applicant desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than \$1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from the provisions of s. 119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of \$500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.

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

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

(2) A document that reveals ~~revealing~~ the identity of a person who has ~~persons who have~~ requested or obtained a bid



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package, ~~plan packages, plans,~~ or specifications pertaining to any project to be let by the department is confidential and exempt from the provisions of s. 119.07(1) for the period that ~~which~~ begins 2 working days before ~~prior to~~ the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. A document that reveals the identity of a person who has requested or obtained a bid package, plan, or specifications pertaining to any project to be let by the department before the 2 working days before the deadline for obtaining bid packages, plans, or specifications remains a public record subject to the provisions of s. 119.07(1).

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

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

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

(b) The department may accept donations of any land or buildings or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the department. Such donations may be used as



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transportation rights-of-way or to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a transportation corridor designated by the department.

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

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

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



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of each item of property, both real and personal.

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

(4) The department may convey ~~sell~~, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. ~~With the exception of any parcel governed by paragraph (c), paragraph (d), paragraph (f), paragraph (g), or paragraph (i), the department shall afford first right of refusal to the local government in the jurisdiction of which the parcel is situated.~~ When such a determination has been made, property may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest, with due advertisement for property valued by the department at greater than \$10,000. A sale may not occur at a price less than the department's current estimate of value, except as provided in paragraphs (a)-(d). The department may afford a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is



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situated, except in conveyances transacted under paragraph (a),
paragraph (c), or paragraph (e). ~~in the following manner:~~

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

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

(c) ~~If the property was originally acquired specifically to~~
~~provide replacement housing for persons displaced by~~
~~transportation projects, the department may negotiate for the~~
~~sale of such property as replacement housing. As compensation,~~
~~the state shall receive no less than its investment in such~~
~~property or the department's current estimate of value,~~
~~whichever is lower. It is expressly intended that this benefit~~
~~be extended only to persons actually displaced by the project.~~
~~Dispositions to any other person must be for no less than the~~
~~department's current estimate of value, in the discretion of the~~



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~~department, public sale would be inequitable, properties may be sold by negotiation to the owner holding title to the property abutting the property to be sold, provided such sale is at a negotiated price not less than fair market value as determined by an independent appraisal, the cost of which shall be paid by the owner of the abutting land. If negotiations do not result in the sale of the property to the owner of the abutting land and the property is sold to someone else, the cost of the independent appraisal shall be borne by the purchaser; and the owner of the abutting land shall have the cost of the appraisal refunded to him or her. If, however, no purchase takes place, the owner of the abutting land shall forfeit the sum paid by him or her for the independent appraisal. If, due to action of the department, the property is removed from eligibility for sale, the cost of any appraisal prepared shall be refunded to the owner of the abutting land.~~

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



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

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

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

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



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entity.

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

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

(5) The department may convey a leasehold interest for commercial or other purposes, in the name of the state, to any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1). However, a lease may not be entered into at a price less than the department's current estimate of value.

(a) A lease may be through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest ~~The department may negotiate such a lease at the prevailing market value with the owner from whom the property was acquired; with the holders of leasehold estates existing at the time of the department's acquisition; or, if~~



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~~public bidding would be inequitable, with the owner holding title to privately owned abutting property, if reasonable notice is provided to all other owners of abutting property.~~ The department may allow an outdoor advertising sign to remain on the property acquired, or be relocated on department property, and such sign shall not be considered a nonconforming sign pursuant to chapter 479.

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

(c) No lease signed pursuant to paragraph (a) ~~or paragraph (b)~~ shall be for a period of more than 5 years; however, the department may renegotiate or extend such a lease for an additional term of 5 years as the department deems appropriate without rebidding.

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

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

(f) Paragraphs (c) and (e) ~~(d)~~ do not apply to leases



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entered into pursuant to s. 260.0161(3), except as provided in such a lease.

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

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

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

(7) The department's estimate of value, required by subsections (4) and (5), shall be prepared in accordance with department procedures, guidelines, and rules for valuation of real property. If the value of the property exceeds \$50,000, as determined by the department estimate, the sale or lease must be at a negotiated price not less than the estimate of value as determined by an appraisal prepared in accordance with department procedures, guidelines, and rules for valuation of real property, the cost of which shall be paid by the party seeking the purchase or lease of the property ~~appraisal required by paragraphs (4) (c) and (d) shall be prepared in accordance with department guidelines and rules by an independent appraiser who has been certified by the department. If federal funds were used in the acquisition of the property, the appraisal shall~~



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767 ~~also be subject to the approval of the Federal Highway~~
768 ~~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 prior to
772 the date of the receipt of bids or the date on which a public
773 auction is to be held.

774 (9) The department, with the approval of the Chief
775 Financial Officer, 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 is authorized to purchase title
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 must meet.

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

789 Section 15. 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 a particular department property that the



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department desires to consider, the department must ~~it shall~~ publish a notice in a newspaper of general circulation at least once a week for 2 weeks, stating that it has received the proposal and will accept, for 120 ~~60~~ days after the date of publication, other proposals for lease of the particular property use of the space. A copy of the notice must be mailed to each local government in the affected area. The department shall, by rule, establish an application fee for the submission of proposals pursuant to this section. The fee must be sufficient to pay the anticipated costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed lease:

(a) Is in the public's best interest;
(b) Does not require state funds to be used; and
(c) Has adequate safeguards in place to ensure that no additional costs are borne and no service disruptions are experienced by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

Section 16. Subsection (5) of section 338.161, Florida Statutes, is amended to read:

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

(5) If the department finds that it can increase nontoll revenues or add convenience or other value for its customers, and if a public or private transportation facility owner agrees



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that its facility will become interoperable with the department's electronic toll collection and video billing systems, the department may ~~is authorized to~~ enter into an agreement with the owner of such facility under which the department uses ~~private or public entities for the department's use of~~ its electronic toll collection and video billing systems to collect and enforce for the owner tolls, fares, administrative fees, and other applicable charges due ~~imposed~~ in connection with use of the owner's facility ~~transportation facilities of the private or public entities that become interoperable with the department's electronic toll collection system~~. The department may modify its rules regarding toll collection procedures and the imposition of administrative charges to be applicable to toll facilities that are not part of the turnpike system or otherwise owned by the department. This subsection may not be construed to limit the authority of the department under any other provision of law or under any agreement entered into before ~~prior to~~ July 1, 2012.

Section 17. Subsection (4) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, ~~the Beeline-East Expressway, the Navarre Bridge,~~ and the Pinellas Bayway to fund transportation projects located within the county or counties in which the revenue-producing



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project is located and contained in the adopted work program of the department.

Section 18. Subsections (3) and (4) of section 338.26, Florida Statutes, are amended to read:

338.26 Alligator Alley toll road.—

(3) Fees generated from tolls shall be deposited in the State Transportation Trust Fund, and any amount of funds generated annually in excess of that required to reimburse outstanding contractual obligations, to operate and maintain the highway and toll facilities, including reconstruction and restoration, to pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994, and to design and construct ~~develop and operate~~ a fire station at mile marker 63 on Alligator Alley, which may be used by Collier County or other appropriate local governmental entity to provide fire, rescue, and emergency management services ~~to the adjacent counties~~ along Alligator Alley, may be transferred to the Everglades Fund of the South Florida Water Management District in accordance with the memorandum of understanding of June 30, 1997, between the district and the department. The South Florida Water Management District shall deposit funds for projects undertaken pursuant to s. 373.4592 in the Everglades Trust Fund pursuant to s. 373.45926(4)(a). Any funds remaining in the Everglades Fund may be used for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects must ~~shall~~ be limited to:



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

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

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

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

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

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

Section 19. S ubsections (2) through (4) of section 339.175, Florida Statutes, are amended to read:

339.175 Metropolitan planning organization.—

(2) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area



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of the state; however, this does not require that an individual M.P.O. be designated for each such area. The M.P.O. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government that together represent ~~representing~~ at least 75 percent of the population, including the largest incorporated municipality, based on population, ~~of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction,~~ as named defined by the United States Bureau of the Census, ~~must be a party to such agreement.~~

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

(b) Each M.P.O. designated in a manner prescribed by Title 23 of the United States Code shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. Each M.P.O. shall be considered separate from the state or the governing body of a local government that is represented on the governing board of the M.P.O. or that is a signatory to the interlocal agreement creating the M.P.O. and shall have such powers and privileges that are provided under s.



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163.01. If there is a conflict between this section and s.
163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

(e) The governing body of the M.P.O. shall designate, at a minimum, a chair, vice chair, and agency clerk. The chair and vice chair shall be selected from among the member delegates comprising the governing board. The agency clerk shall be charged with the responsibility of preparing meeting minutes and maintaining agency records. The clerk shall be a member of the M.P.O. governing board, an employee of the M.P.O., or other



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natural person.

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

(3) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio ~~basis by the Governor~~, based on an agreement among the affected units of general-purpose local government and the Governor as required by federal rules and regulations. The voting membership of an M.P.O. that is redesignated after the effective date of this act as a result of the expansion of the M.P.O. to include a new urbanized area or the consolidation of two or more M.P.O.'s may consist of no more than 25 members. The Governor, in accordance with 23 U.S.C. s. 134, may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a 5-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose local governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of



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a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida. As used in this section, the term "elected officials of a general-purpose local government" excludes ~~shall exclude~~ constitutional officers, including sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of the court, and similar types of officials. County commissioners shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

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

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

1. The M.P.O. approves the reapportionment plan by a three-



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fourths vote of its membership;

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

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

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

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

(4) APPORTIONMENT.—

(a) Each M.P.O. in the state shall review the composition of its membership in conjunction with the decennial census, as prepared by the United States Department of Commerce, Bureau of



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the Census, and, with the agreement of the affected units of
general-purpose local government and the Governor, reapportion
the membership as necessary to comply with subsection (3) ~~The~~
~~Governor shall, with the agreement of the affected units of~~
~~general-purpose local government as required by federal rules~~
~~and regulations, apportion the membership on the applicable~~
~~M.P.O. among the various governmental entities within the area.~~

(b) At the request of a majority of the affected units of
general-purpose local government comprising an M.P.O., the
Governor and a majority of units of general-purpose local
government serving on an M.P.O. shall cooperatively agree upon
and prescribe who may serve as an alternate member and a method
for appointing alternate members who may vote at any M.P.O.
meeting that an alternate member attends in place of a regular
member. The method must ~~shall~~ be set forth as a part of the
interlocal agreement describing the M.P.O.'s membership or in
the M.P.O.'s operating procedures and bylaws. The governmental
entity so designated shall appoint the appropriate number of
members to the M.P.O. from eligible officials. Representatives
of the department shall serve as nonvoting advisers to the
M.P.O. governing board. Additional nonvoting advisers may be
appointed by the M.P.O. as deemed necessary; however, to the
maximum extent feasible, each M.P.O. shall seek to appoint
nonvoting representatives of various multimodal forms of
transportation not otherwise represented by voting members of
the M.P.O. An M.P.O. shall appoint nonvoting advisers
representing major military installations located within the
jurisdictional boundaries of the M.P.O. upon the request of the
aforesaid major military installations and subject to the



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1086 agreement of the M.P.O. All nonvoting advisers may attend and
1087 participate fully in governing board meetings but may not vote
1088 or be members of the governing board. ~~The Governor shall review~~
1089 ~~the composition of the M.P.O. membership in conjunction with the~~
1090 ~~decennial census as prepared by the United States Department of~~
1091 ~~Commerce, Bureau of the Census, and reapportion it as necessary~~
1092 ~~to comply with subsection (3).~~

1093 (c) ~~(b)~~ Except for members who represent municipalities on
1094 the basis of alternating with representatives from other
1095 municipalities that do not have members on the M.P.O. as
1096 provided in paragraph (3) (a), the members of an M.P.O. shall
1097 serve 4-year terms. Members who represent municipalities on the
1098 basis of alternating with representatives from other
1099 municipalities that do not have members on the M.P.O. as
1100 provided in paragraph (3) (a) may serve terms of up to 4 years as
1101 further provided in the interlocal agreement described in
1102 paragraph (2) (b). The membership of a member who is a public
1103 official automatically terminates upon the member's leaving his
1104 or her elective or appointive office for any reason, or may be
1105 terminated by a majority vote of the total membership of the
1106 entity's governing board represented by the member. A vacancy
1107 shall be filled by the original appointing entity. A member may
1108 be reappointed for one or more additional 4-year terms.

1109 (d) ~~(e)~~ If a governmental entity fails to fill an assigned
1110 appointment to an M.P.O. within 60 days after notification by
1111 the Governor of its duty to appoint, that appointment must ~~shall~~
1112 be made by the Governor from the eligible representatives of
1113 that governmental entity.

1114 Section 20. Paragraph (a) of subsection (1) and subsections



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(4) and (5) of section 339.2821, Florida Statutes, are amended to read:

339.2821 Economic development transportation projects.—

(1)(a) The department, in consultation with the Department of Economic Opportunity and Enterprise Florida, Inc., may make and approve expenditures and contract with the appropriate governmental body for the direct costs of transportation projects. The Department of Economic Opportunity and the Department of Environmental Protection may formally review and comment on recommended transportation projects, although the department has final approval authority for any project authorized under this section.

(4) A contract between the department and a governmental body for a transportation project must:

(a) Specify that the transportation project is for the construction of a new or expanding business and specify the number of full-time permanent jobs that will result from the project.

(b) Identify the governmental body and require that the governmental body award the construction of the particular transportation project to the lowest and best bidder in accordance with applicable state and federal statutes or rules unless the transportation project can be constructed using existing local governmental employees within the contract period specified by the department.

(c) Require that the governmental body provide the department with ~~quarterly~~ progress reports. Each ~~quarterly~~ progress report must contain:

1. A narrative description of the work completed and



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whether the work is proceeding according to the transportation project schedule;

2. A description of each change order executed by the governmental body;

3. A budget summary detailing planned expenditures compared to actual expenditures; and

4. The identity of each small or minority business used as a contractor or subcontractor.

(d) Require that the governmental body make and maintain records in accordance with accepted governmental accounting principles and practices for each progress payment made for work performed in connection with the transportation project, each change order executed by the governmental body, and each payment made pursuant to a change order. The records are subject to financial audit as required by law.

(e) Require that the governmental body, upon completion and acceptance of the transportation project, certify to the department that the transportation project has been completed in compliance with the terms and conditions of the contract between the department and the governmental body and meets the minimum construction standards established in accordance with s. 336.045.

(f) Specify that ~~the department transfer funds~~ will not be transferred to the governmental body unless construction has begun on the facility of the ~~not more often than quarterly, upon receipt of a request for funds from the governmental body and consistent with the needs of the transportation project. The governmental body shall expend funds received from the department in a timely manner. The department may not transfer~~



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~~funds unless construction has begun on the facility of a
business on whose behalf the award was made. If construction of
the transportation project does not begin within 4 years after
the date of the initial grant award, the grant award is
terminated A contract totaling less than \$200,000 is exempt from
the transfer requirement.~~

(g) Require that funds be used only on a transportation
project that has been properly reviewed and approved in
accordance with the criteria set forth in this section.

(h) Require that the governing board of the governmental
body adopt a resolution accepting future maintenance and other
attendant costs occurring after completion of the transportation
project if the transportation project is constructed on a county
or municipal system.

(5) For purposes of this section, Space Florida may serve
as the governmental body or as the contracting agency for a
~~transportation~~ project within a spaceport territory as defined
by s. 331.304.

Section 21. Section 339.401, Florida Statutes, is repealed.

Section 22. Section 339.402, Florida Statutes, is repealed.

Section 23. Section 339.403, Florida Statutes, is repealed.

Section 24. Section 339.404, Florida Statutes, is repealed.

Section 25. Section 339.405, Florida Statutes, is repealed.

Section 26. Section 339.406, Florida Statutes, is repealed.

Section 27. Section 339.407, Florida Statutes, is repealed.

Section 28. Section 339.408, Florida Statutes, is repealed.

Section 29. Section 339.409, Florida Statutes, is repealed.

Section 30. Section 339.410, Florida Statutes, is repealed.

Section 31. Section 339.411, Florida Statutes, is repealed.



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Section 32. Section 339.412, Florida Statutes, is repealed.
Section 33. Section 339.414, Florida Statutes, is repealed.
Section 34. Section 339.415, Florida Statutes, is repealed.
Section 35. Section 339.416, Florida Statutes, is repealed.
Section 36. Section 339.417, Florida Statutes, is repealed.
Section 37. Section 339.418, Florida Statutes, is repealed.
Section 38. Section 339.419, Florida Statutes, is repealed.
Section 39. Section 339.420, Florida Statutes, is repealed.
Section 40. Section 339.421, Florida Statutes, is repealed.
Section 41. Paragraphs (a) and (c) of subsection (2) and
paragraph (i) of subsection (7) of section 339.55, Florida
Statutes, are amended to read:
339.55 State-funded infrastructure bank.—
(2) The bank may lend capital costs or provide credit
enhancements for:
(a) A transportation facility project that is on the State
Highway System or that provides for increased mobility on the
state's transportation system or provides intermodal
connectivity with airports, seaports, spaceports, rail
facilities, and other transportation terminals, pursuant to s.
341.053, for the movement of people and goods.
(c)1. Emergency loans for damages incurred to public-use
commercial deepwater seaports, public-use airports, public-use
spaceports, and other public-use transit and intermodal
facilities that are within an area that is part of an official
state declaration of emergency pursuant to chapter 252 and all
other applicable laws. Such loans:
a. May not exceed 24 months in duration except in extreme
circumstances, for which the Secretary of Transportation may



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grant up to 36 months upon making written findings specifying the conditions requiring a 36-month term.

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

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

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

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

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

Section 42. Subsection (11) of section 341.031, Florida Statutes, is amended to read:

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

(11) "Intercity bus service" means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in



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close proximity; has the capacity for transporting baggage carried by passengers; and makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; ~~maintains scheduled information in the National Official Bus Guide; and provides package express service incidental to passenger transportation.~~

Section 43. Section 341.053, Florida Statutes, is amended to read:

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

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

(2) The Intermodal Development Program shall be used for projects that support statewide goals as outlined in the Florida Transportation Plan, the Strategic Intermodal System Plan, the Freight Mobility and Trade Plan, or the appropriate department modal plan ~~In recognition of the department's role in the economic development of this state, the department shall develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Strategic Intermodal System highway corridors as the primary~~



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~~system for the movement of people and freight in this state in order to make the intermodal development plan a fully integrated and interconnected system. The intermodal development plan must:~~

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

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

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

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

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

~~(5) No single transportation authority operating a fixed-guideway transportation system, or single fixed-guideway transportation system not administered by a transportation authority, receiving funds under the Intermodal Development Program shall receive more than 33 1/3 percent of the total intermodal development funds appropriated between July 1, 1990, and June 30, 2015. In determining the distribution of funds under the Intermodal Development Program in any fiscal year, the~~



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~~department shall assume that future appropriation levels will be equal to the current appropriation level.~~

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

Section 44. Section 343.80, Florida Statutes, is amended to read:

343.80 Short title.—This part may be cited as the “Northwest Florida Transportation Finance ~~Corridor~~ Authority Law.”

Section 45. Section 343.805, Florida Statutes, is amended to read:

343.805 Definitions.—As used in this part, the term:

(1) “Agency of the state” means the state and any department of, or corporation, agency, or instrumentality



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heretofore or hereafter created, designated, or established by, the state.

(2) "Authority" means the body politic and corporate and agency of the state created by this part.

(3) "Bonds" means the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, which the authority is authorized to issue pursuant to this part.

(4) "Department" means the Department of Transportation existing under chapters 334-339.

(5) "Federal agency" means the United States, the President of the United States, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(6) "Limited access expressway" or "expressway" means a street or highway especially designed for through traffic and over, from, or to which a person does not have the right of easement, use, or access except in accordance with the rules adopted and established by the authority for the use of such facility. Such highway or street may be a parkway, from which trucks, buses, and other commercial vehicles are excluded, or it may be a freeway open to use by all customary forms of street and highway traffic.

(7) "Members" means the governing body of the authority, and the term "member" means one of the individuals constituting such governing body.

(8) "Northwest Florida Transportation Finance Authority System" or "system" means any and all expressways and appurtenant facilities thereto owned by the Authority,



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including, but not limited to, all approaches, roads, bridges, and avenues of access for said expressway or expressways.

(9) ~~(8)~~ "State Board of Administration" means the body corporate existing under the provisions of s. 9, Art. XII of the State Constitution, or any successor thereto.

~~(9) "U.S. 98 corridor" means U.S. Highway 98 and any feeder roads, reliever roads, connector roads, bridges, and other transportation appurtenances, existing or constructed in the future, that support U.S. Highway 98 in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties.~~

~~(10) "U.S. 98 corridor system" means any and all expressways and appurtenant facilities, including, but not limited to, all approaches, roads, bridges, and avenues of access for the expressways that are either built by the authority or whose ownership is transferred to the authority by other governmental or private entities.~~

Terms importing singular number include the plural number in each case and vice versa, and terms importing persons include firms and corporations.

Section 46. Section 343.81, Florida Statutes, is amended to read:

343.81 Northwest Florida Transportation Finance Corridor Authority.—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the Northwest Florida Transportation Finance Corridor Authority, hereinafter referred to as "the authority."

(2) (a) The governing body of the authority shall consist of



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1405 five ~~eight~~ voting members, two from Okaloosa County and one each
1406 from Escambia, Santa Rosa, Walton, Okaloosa, Bay, and Gulf,
1407 Franklin, and Wakulla Counties, appointed by the Governor to a
1408 4-year term. The appointees shall be residents of their
1409 respective counties and may not hold an elected office. Upon the
1410 effective date of his or her appointment, or as soon thereafter
1411 as practicable, each appointed member of the authority shall
1412 enter upon his or her duties. Each appointed member shall hold
1413 office until his or her successor has been appointed and has
1414 qualified. A vacancy occurring during a term shall be filled
1415 only for the balance of the unexpired term. Any member of the
1416 authority shall be eligible for reappointment. Members of the
1417 authority may be removed from office by the Governor for
1418 misconduct, malfeasance, misfeasance, or nonfeasance in office.

1419 (b) The district secretary of the Department of
1420 Transportation serving Northwest Florida shall serve as an ex
1421 officio, nonvoting member.

1422 (3)(a) The authority shall elect one of its members as
1423 chair and shall also elect a secretary and a treasurer who may
1424 or may not be members of the authority. The chair, secretary,
1425 and treasurer shall hold such offices at the will of the
1426 authority.

1427 (b) Three ~~Five~~ members of the authority shall constitute a
1428 quorum, and the vote of at least three ~~Five~~ members shall be
1429 necessary for any action taken by the authority. A vacancy in
1430 the authority does not impair the right of a quorum of the
1431 authority to exercise all of the rights and perform all of the
1432 duties of the authority.

1433 (c) The authority shall meet at least quarterly but may



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meet more frequently upon the call of the chair. The authority should alternate the locations of its meetings among the seven counties.

(4) Members of the authority shall serve without compensation but shall be entitled to receive from the authority their travel expenses and per diem incurred in connection with the business of the authority, as provided in s. 112.061.

(5) The authority may employ an executive director, an executive secretary, its own counsel and legal staff, technical experts, engineers, and such employees, permanent or temporary, as it may require. The authority shall determine the qualifications and fix the compensation of such persons, firms, or corporations and may employ a fiscal agent or agents; however, the authority shall solicit sealed proposals from at least three persons, firms, or corporations for the performance of any services as fiscal agents. The authority may delegate to one or more of its agents or employees its power as it shall deem necessary to carry out the purposes of this part, subject always to the supervision and control of the authority.

~~(6) The authority may establish technical advisory committees to provide guidance and advice on corridor-related issues. The authority shall establish the size, composition, and focus of any technical advisory committee created. A member appointed to a technical advisory committee shall serve without compensation but shall be entitled to per diem or travel expenses, as provided in s. 112.061.~~

Section 47. Section 343.82, Florida Statutes, is amended to read:

343.82 Purposes and powers.—



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(1) The authority created and established by the provisions of this part is hereby granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own and lease in the capacity of lessor, the Northwest Florida Transportation Finance Authority System. ~~The primary purpose of the authority is to improve mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion.~~

(2) (a) The authority, in the construction of the Northwest Florida Transportation Finance Authority System, is authorized to construct any feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities ~~that are intended to improve mobility along the U.S. 98 corridor.~~ The transportation improvement projects may also include all necessary approaches, roads, bridges, and avenues of access that are desirable and proper with the concurrence, where applicable, of the department if the project is to be part of the State Highway System or the respective county or municipal governing boards. Any transportation facilities constructed by the authority may be tolled.

(b) Notwithstanding any special act to the contrary, the authority shall plan for and study the feasibility of constructing, operating, and maintaining a bridge or bridges spanning Choctawhatchee Bay ~~or Santa Rosa Sound, or both,~~ and access roads to such bridge or bridges, including studying the environmental and economic feasibility of such bridge or bridges and access roads, and such other transportation facilities that



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become part of such bridge system. The authority may construct, operate, and maintain the bridge system if the authority determines that the bridge system project is feasible and consistent with the authority's primary purpose and master plan.

~~(3) (a) The authority shall develop and adopt a corridor master plan no later than July 1, 2007. The goals and objectives of the master plan are to identify areas of the corridor where mobility, traffic safety, and efficient hurricane evacuation need to be improved; evaluate the economic development potential of the corridor and consider strategies to develop that potential; develop methods of building partnerships with local governments, other state and federal entities, the private sector business community, and the public in support of corridor improvements; and to identify projects that will accomplish these goals and objectives.~~

~~(b) After its adoption, the master plan shall be updated annually before July 1 of each year.~~

~~(c) The authority shall present the original master plan and updates to the governing bodies of the counties within the corridor and to the legislative delegation members representing those counties within 90 days after adoption.~~

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



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~~any other sources.~~

(3)~~(4)~~ The authority is granted and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor transportation facilities within the U.S. 98 corridor.

(b) To borrow money and to make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, hereinafter in this chapter sometimes called "revenue bonds" of the authority, for the purpose of financing all or part of the Northwest Florida Transportation Finance Authority System ~~mobility improvements within the U.S. 98 corridor~~, as well as the appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access authorized by this part, the bonds to mature not exceeding 40 years after the date of the issuance thereof, and to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges.

(c) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities of the Northwest Florida Transportation Finance ~~Corridor~~ System, which rates, fees, rentals, and other charges shall always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this part; however, such right and power may be assigned or delegated by the authority to the department. ~~The authority may not impose~~



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~~tolls or other charges on existing highways and other
transportation facilities within the corridor.~~

(d) To acquire by donation or otherwise, purchase, hold,
lease as lessee, and use any franchise, property, real,
personal, or mixed, tangible or intangible, or any options
thereof in its own name or in conjunction with others, or
interest therein, necessary or desirable for carrying out the
purposes of the authority and to sell, lease as lessor,
transfer, and dispose of any property or interest therein at any
time acquired by the authority, which the authority and the
department have determined is not needed for the construction,
operation, and maintenance of the system ~~it~~.

(e) To sue and be sued, implead and be impleaded, complain,
and defend in all courts.

(f) To adopt, use, and alter at will a corporate seal.

(g) To enter into and make leases.

~~(h) To enter into and make lease-purchase agreements with
the department for terms not exceeding 40 years or until any
bonds secured by a pledge of rentals thereunder, and any
refundings thereof, are fully paid as to both principal and
interest, whichever is longer.~~

(h) ~~(i)~~ To make contracts of every name and nature,
including, but not limited to, partnerships providing for
participation in ownership and revenues, and to execute all
instruments necessary or convenient for the carrying on of its
business.

(i) ~~(j)~~ Without limitation of the foregoing, to borrow money
and accept grants from and to enter into contracts, leases, or
other transactions with any federal agency, the state, any



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agency of the state, or any other public body of the state.

(j)~~(k)~~ To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(k)~~(l)~~ To pledge, hypothecate, or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority.

(l)~~(m)~~ To enter into partnership and other agreements respecting ownership and revenue participation in order to facilitate financing and constructing any project or portions thereof.

(m)~~(n)~~ To participate in agreements with private entities and to receive private contributions.

(n)~~(o)~~ To contract with the department or with a private entity for the operation of traditional and electronic toll collection facilities along the U.S. 98 corridor.

(o)~~(p)~~ To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(p)~~(q)~~ To construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and to construct, repair, replace, operate, install, and maintain electronic toll payment systems thereon, with all necessary and incidental powers to accomplish the foregoing.

(4)~~(5)~~ The authority does not have power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof, nor shall any of the authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor



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shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or interest on such obligations.

Section 48. Section 343.83, Florida Statutes, is amended to read:

343.83 Improvements, bond financing authority.—Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature approves bond financing by the Northwest Florida Transportation Finance Corridor Authority for improvements to toll collection facilities, interchanges to the legislatively approved system, and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds issued pursuant to s. 343.835(1)(a) or (b) whether currently issued or issued in the future or by a combination of such bonds.

Section 49. Subsections (2) and (3) of section 343.835, Florida Statutes, is amended to read:

343.835 Bonds of the authority.—

(2) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions that are part of the contract with the holders of such bonds, as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, ~~derived by the authority for the U.S. 98 corridor improvements.~~

(b) The completion, improvement, operation, extension, maintenance, repair, or lease of the system, and the duties of the authority and others with reference thereto.

(c) Limitations on the purposes to which the proceeds of



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the bonds, then or thereafter to be issued, or of any loan or grant by the United States or the state may be applied.

(d) The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities owned or provided ~~constructed~~ by the authority.

(e) The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof.

(f) Limitations on the issuance of additional bonds.

(g) The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds or under which the same may be issued.

(h) Any other or additional agreements with the holders of the bonds which the authority may deem desirable and proper.

(3) The authority may employ fiscal agents as provided by this part or the State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds that are issued pursuant to this part, and the State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this part. The authority may enter into any deeds of trust, indentures, or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority. Such deed of trust, indenture, or other agreement may contain such provisions as are



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customary in such instruments or, as the authority authorizes, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of the system ~~U.S. 98 corridor improvements~~ and the duties of the authority and others with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of the bonds.

Section 50. Section 343.84, Florida Statutes, is amended to read:

343.84 Department to construct, operate, and maintain facilities ~~may be appointed agent of authority for construction.~~ ~~The department is the agent of~~ ~~may be appointed by the authority as its agent~~ for the purpose of constructing improvements and extensions to the system and for the completion thereof. ~~In such event,~~ The authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto, shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the system, and shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor. The department shall proceed with such construction and use the funds for such purpose in the same manner that it is now



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authorized to use the funds otherwise provided by law for its use in construction of roads and bridges. The authority may alternatively, with the consent and approval of the department, elect to appoint a local agency certified by the department to administer federal aid projects in accordance with federal law as the authority's agent for the purpose of performing each phase of a project.

(2) Notwithstanding the provisions of subsection (1), the department is the agent of the authority for the purpose of operating and maintaining the system. The department shall operate and maintain the system, and the costs incurred by the department for operation and maintenance shall be reimbursed from revenues of the system. The appointment of the department as agent for the authority does not create an independent obligation of the department to operate and maintain the system. The authority shall remain obligated as principal to operate and maintain its system, and, except as otherwise provided by the lease-purchase agreement between the department and the Mid-Bay Bridge Authority in connection with its issuance of bonds, the authority's bondholders do not have an independent right to compel the department to operate and maintain any part of the authority's system.

(3) The authority shall fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the authority's facilities, as otherwise provided in this part.

Section 51. Subsection (1) of section 343.85, Florida Statutes, is amended to read:

343.85 Acquisition of lands and property.—

(1) For the purposes of this part, the Northwest Florida



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Transportation Finance Corridor Authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary for any purpose of this part, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities ~~within the U.S. 98 transportation corridor designated by the authority~~; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. The authority may condemn any material and property necessary for such purposes.

Section 52. Section 343.875, Florida Statutes, is repealed.

Section 53. Subsection (3) of section 343.89, Florida Statutes, is amended to read:

343.89 Complete and additional statutory authority.—

(3) This part does not preclude the department from acquiring, holding, constructing, improving, maintaining, operating, or owning tolled or nontolled facilities funded and constructed from nonauthority sources that are part of the State Highway System within the geographical boundaries of the Northwest Florida Transportation Finance Corridor Authority.

Section 54. Subsection (4) of section 343.922, Florida Statutes, is amended to read:



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343.922 Powers and duties.—

(4) The authority may undertake projects or other improvements in the master plan in phases as particular projects or segments become feasible, as determined by the authority. The authority shall coordinate project planning, development, and implementation with the applicable local governments. The authority's projects that are transportation oriented shall be consistent to the maximum extent feasible with the adopted local government comprehensive plans at the time they are funded for construction. Authority projects that are not transportation oriented and meet the definition of development pursuant to s. 380.04 shall be consistent with the local comprehensive plans. In carrying out its purposes and powers, the authority may request funding and technical assistance from the department and appropriate federal and local agencies, including, but not limited to, state infrastructure bank loans, ~~advances from the Toll Facilities Revolving Trust Fund,~~ and funding and technical assistance from any other source.

Section 55. Chapter 345, Florida Statutes, consisting of sections 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, 345.0014, 345.0015, 345.0016, and 345.0017, is created to read:

345.0001 Short title.—This act may be cited as the "Florida Regional Tollway Authority Act."

345.0002 Definitions.—As used in this chapter, the term:

(1) "Agency of the state" means the state and any department of, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by,



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the state.

(2) "Area served" means the geographical area of the counties for which an authority is established.

(3) "Authority" means a regional tollway authority, a body politic and corporate, and an agency of the state, established pursuant to the Florida Regional Tollway Authority Act.

(4) "Bonds" means the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in temporary or definitive form, which an authority may issue pursuant to this act.

(5) "Department" means the Department of Transportation of Florida and any successor thereto.

(6) "Division" means the Division of Bond Finance of the State Board of Administration.

(7) "Federal agency" means the United States, the President of the United States, and any department of, or any bureau, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(8) "Members" means the governing body of an authority, and the term "member" means one of the individuals constituting such governing body.

(9) "Regional system" or "system" means, generally, a modern tolled highway system of roads, bridges, causeways, and tunnels within any area of the authority, with access limited or unlimited as an authority may determine, and the buildings and structures and appurtenances and facilities related to the system, including all approaches, streets, roads, bridges, and avenues of access for the system.

(10) "Revenues" means the tolls, revenues, rates, fees,



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charges, receipts, rentals, contributions, and other income derived from or in connection with the operation or ownership of a regional system, including the proceeds of any use and occupancy insurance on any portion of the system but excluding state funds available to an authority and any other municipal or county funds available to an authority under an agreement with a municipality or county.

345.0003 Tollway authority; formation; membership.—

(1) A county, or two or more contiguous counties, may, after the approval of the Legislature, form a regional tollway authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state. An authority shall be governed in accordance with the provisions of this chapter. An authority may not be created without the approval of the Legislature and the approval of the county commission of each county that will be a part of the authority. An authority may not be created to serve a particular area of this state as provided by this subsection if a regional tollway authority has been created and is operating within all or a portion of the same area served pursuant to an act of the Legislature. Each authority shall be the only authority created and operating pursuant to this chapter within the area served by the authority.

(2) The governing body of an authority shall consist of a board of voting members as follows:

(a) The county commission of each county in the area served by the authority shall each appoint a member who must be a resident of the county from which he or she is appointed. If possible, the member must represent the business and civic



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interests of the community.

(b) The Governor shall appoint an equal number of members to the board as those appointed by the county commissions. The members appointed by the Governor must be residents of the area served by the authority.

(c) The secretary of the Department of Transportation shall appoint one of the district secretaries, or his or her designee, for the districts within which the area served by the authority is located.

(3) The term of office of each member shall be for 4 years or until his or her successor is appointed and qualified.

(4) A member may not hold an elected office.

(5) A vacancy occurring in the governing body before the expiration of the member's term shall be filled by the respective appointing authority in the same manner as the original appointment and only for the balance of the unexpired term.

(6) Each member, before entering upon his or her official duties, must take and subscribe to an oath before an official authorized by law to administer oaths that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the governing body of the authority and that he or she will not neglect any duties imposed upon him or her by this chapter.

(7) A member of an authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(8) The members of the authority shall designate one of its members as chair.



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(9) The members of the authority shall serve without compensation, but shall be entitled to reimbursement for per diem and other expenses in accordance with s. 112.061 while in performance of their duties.

(10) A majority of the members of the authority constitutes a quorum, and resolutions enacted or adopted by a vote of a majority of the members present and voting at any meeting become effective without publication, posting, or any further action of the authority.

345.0004 Powers and duties.—

(1) (a) An authority created and established, or governed, by the Florida Regional Tollway Authority Act shall plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority.

(b) An authority may not exercise the powers in paragraph (a) with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity. If an authority acquires, purchases, or inherits an existing entity, the authority shall also inherit and assume all rights, assets, appropriations, privileges, and obligations of the existing entity.

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the purposes of this section, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.



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1898 (c) To have the power of eminent domain, including the
1899 procedural powers granted under chapters 73 and 74.

1900 (d) To acquire, purchase, hold, lease as a lessee, and use
1901 any property, real, personal, or mixed, tangible or intangible,
1902 or any interest therein, necessary or desirable for carrying out
1903 the purposes of the authority.

1904 (e) To sell, convey, exchange, lease, or otherwise dispose
1905 of any real or personal property acquired by the authority,
1906 including air rights.

1907 (f) To fix, alter, charge, establish, and collect rates,
1908 fees, rentals, and other charges for the use of any system owned
1909 or operated by the authority, which rates, fees, rentals, and
1910 other charges must always be sufficient to comply with any
1911 covenants made with the holders of any bonds issued pursuant to
1912 this act; however, such right and power may be assigned or
1913 delegated by the authority to the department.

1914 (g) To borrow money, make and issue negotiable notes,
1915 bonds, refunding bonds, and other evidences of indebtedness or
1916 obligations, in temporary or definitive form, for the purpose of
1917 financing all or part of the improvement of the authority's
1918 system and appurtenant facilities, including the approaches,
1919 streets, roads, bridges, and avenues of access for the system
1920 and for any other purpose authorized by this chapter, the bonds
1921 to mature in not exceeding 30 years after the date of the
1922 issuance thereof, and to secure the payment of such bonds or any
1923 part thereof by a pledge of its revenues, rates, fees, rentals,
1924 or other charges, including municipal or county funds received
1925 by the authority pursuant to the terms of an agreement between
1926 the authority and a municipality or county; and, in general, to



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provide for the security of the bonds and the rights and remedies of the holders of the bonds; however, municipal or county funds may not be pledged for the construction of a project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the governing board of the municipality or county, at the date of its resolution pledging said funds, to be sufficient to cover the principal and interest of such obligations during the period when the pledge of funds is in effect.

1. An authority shall reimburse a municipality or county for sums expended from municipal or county funds used for the payment of the bond obligations.

2. If an authority determines to fund or refund any bonds issued by the authority before the maturity of the bonds, the proceeds of the funding or refunding bonds shall, pending the prior redemption of the bonds to be funded or refunded, be invested in direct obligations of the United States, and the outstanding bonds may be funded or refunded by the issuance of bonds pursuant to this chapter.

(h) To make contracts of every name and nature, including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute each instrument necessary or convenient for the conduct of its business.

(i) Without limitation of the foregoing, to cooperate with, to borrow money and accept grants from, and to enter into contracts or other transactions with any federal agency, the state, or any agency or any other public body of the state.

(j) To employ an executive director, attorney, staff, and consultants. Upon the request of an authority, the department



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shall furnish the services of a department employee to act as the executive director of the authority.

(k) To enter into joint development agreements.

(l) To accept funds or other property from private donations.

(m) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it by this act or any other law.

(3) An authority does not have the power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof. Obligations of the authority may not be deemed to be obligations of the state or of any other political subdivision or agency thereof. The state or any political subdivision or agency thereof, except the authority, is not liable for the payment of the principal of or interest on such obligations.

(4) An authority has no power, other than by consent of the affected county or an affected municipality, to enter into an agreement that would legally prohibit the construction of a road by the county or the municipality.

(5) An authority formed pursuant to this chapter shall comply with the statutory requirements of general application which relate to the filing of a report or documentation required by law, including the requirements of ss. 189.4085, 189.415, 189.417, and 189.418.

345.0005 Bonds.—

(1) (a) Bonds may be issued on behalf of an authority pursuant to the State Bond Act.



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(b) An authority may also issue bonds in such principal amount as is necessary, in the opinion of the authority, to provide sufficient moneys for achieving its corporate purposes, including construction, reconstruction, improvement, extension, repair, maintenance and operation of the system, the cost of acquisition of all real property, interest on bonds during construction and for a reasonable period thereafter, establishment of reserves to secure bonds, and other expenditures of the authority incident, and necessary or convenient, to carry out its corporate purposes and powers.

(2) (a) Bonds issued by an authority pursuant to paragraph (1) (a) or paragraph (1) (b) must be authorized by resolution of the members of the authority and must bear such date or dates; mature at such time or times, not exceeding 30 years after their respective dates; bear interest at such rate or rates, not exceeding the maximum rate fixed by general law for authorities; be in such denominations; be in such form, either coupon or fully registered; carry such registration, exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption; and be entitled to such priorities of lien on the revenues and other available moneys as such resolution or any resolution subsequent to the bonds' issuance may provide. The bonds must be executed by manual or facsimile signature by such officers as the authority shall determine, provided that such bonds bear at least one signature that is manually executed on the bond. The coupons attached to the bonds must bear the facsimile signature or signatures of the officer or officers as shall be designated by the authority. The bonds must have the



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seal of the authority affixed, imprinted, reproduced, or lithographed thereon.

(b) Bonds issued pursuant to paragraph (1)(a) or paragraph (1)(b) must be sold at public sale in the same manner provided in the State Bond Act. Pending the preparation of definitive bonds, temporary bonds or interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(3) A resolution that authorizes any bonds may contain provisions that must be part of the contract with the holders of the bonds, as to:

(a) The pledging of all or any part of the revenues, available municipal or county funds, or other charges or receipts of the authority derived from the regional system.

(b) The construction, reconstruction, improvement, extension, repair, maintenance, and operation of the system, or any part or parts of the system, and the duties and obligations of the authority with reference thereto.

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter issued, or of any loan or grant by any federal agency or the state or any political subdivision of the state may be applied.

(d) The fixing, charging, establishing, revising, increasing, reducing, and collecting of tolls, rates, fees, rentals, or other charges for use of the services and facilities of the system or any part of the system.

(e) The setting aside of reserves or of sinking funds and the regulation and disposition of the reserves or sinking funds.

(f) Limitations on the issuance of additional bonds.



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(g) The terms and provisions of any deed of trust or indenture securing the bonds, or under which the bonds may be issued.

(h) Any other or additional matters, of like or different character, which in any way affect the security or protection of the bonds.

(4) The authority may enter into any deeds of trust, indentures, or other agreements with any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, assign and pledge any of the revenues and other available moneys, including any available municipal or county funds, pursuant to the terms of this chapter. The deed of trust, indenture, or other agreement may contain provisions that are customary in such instruments or that the authority may authorize, including, but without limitation, provisions that:

(a) Pledge any part of the revenues or other moneys lawfully available therefor.

(b) Apply funds and safeguard funds on hand or on deposit.

(c) Provide for the rights and remedies of the trustee and the holders of the bonds.

(d) Provide for the terms and provisions of the bonds or for resolutions authorizing the issuance of the bonds.

(e) Provide for any other or additional matters, of like or different character, which affect the security or protection of the bonds.

(5) Any bonds issued pursuant to this act are negotiable instruments and have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable



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instruments law of the state.

(6) A resolution that authorizes the issuance of authority bonds and pledges the revenues of the system must require that revenues of the system be periodically deposited into appropriate accounts in such sums as are sufficient to pay the costs of operation and maintenance of the system for the current fiscal year as set forth in the annual budget of the authority and to reimburse the department for any unreimbursed costs of operation and maintenance of the system from prior fiscal years before revenues of the system are deposited into accounts for the payment of interest or principal owing or that may become owing on such bonds.

(7) State funds may not be used or pledged to pay the principal or interest of any authority bonds, and all such bonds must contain a statement on their face to this effect.

345.0006 Remedies of bondholders.—

(1) The rights and the remedies granted to authority bondholders under this chapter are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or indenture providing for the issuance of bonds, or by any deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If an authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to this chapter after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, as provided in the resolution or indenture, and such default continues for 30 days, or in the event that the authority fails or refuses to comply with the provisions of this chapter or any agreement made



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with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding shall be entitled as of right to the appointment of a trustee to represent such bondholders for the purposes of the default provided that the holders of 25 percent in aggregate principal amount of the bonds then outstanding first gave written notice of their intention to appoint a trustee, to the authority and to the department.

(2) The trustee, and any trustee under any deed of trust, indenture, or other agreement, may, and upon written request of the holders of 25 percent, or such other percentages specified in any deed of trust, indenture, or other agreement, in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in his, her, or its own name:

(a) By mandamus or other suit, action, or proceeding at law, or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues, and to require the authority to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this chapter.

(b) Bring suit upon the bonds.

(c) By action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders.

(d) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the



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bondholders.

(3) A trustee, if appointed pursuant to this section or acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver. The receiver may enter upon and take possession of the system or the facilities or any part or parts of the system, the revenues and other pledged moneys, for and on behalf of and in the name of, the authority and the bondholders. The receiver may collect and receive all revenues and other pledged moneys in the same manner as the authority might do. The receiver shall deposit all such revenues and moneys in a separate account and apply all such revenues and moneys remaining after allowance for payment of all costs of operation and maintenance of the system in such manner as the court directs. In a suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee, and said receiver, if any, and all costs and disbursements allowed by the court must be a first charge on any revenues after payment of the costs of operation and maintenance of the system. The trustee also has all other powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this chapter does not authorize a receiver appointed pursuant to this section for the purpose of operating and maintaining the system or any facilities or parts thereof to sell, assign, mortgage, or otherwise dispose of any of the assets belonging to the



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authority. The powers of such receiver are limited to the operation and maintenance of the system, or any facility or parts thereof and to the collection and application of revenues and other moneys due the authority, in the name and for and on behalf of the authority and the bondholders. A holder of bonds or any trustee does not have the right in any suit, action, or proceeding, at law or in equity, to compel a receiver, or a receiver may not be authorized or a court may not direct a receiver to, sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority.

345.0007 Department to construct, operate, and maintain facilities.-

(1) The department is the agent of each authority for the purpose of performing all phases of a project, including, but not limited to, constructing improvements and extensions to the system. The division and the authority shall provide to the department complete copies of the documents, agreements, resolutions, contracts, and instruments that relate to the project and shall request that the department perform the construction work, including the planning, surveying, design, and actual construction of the completion, extensions, and improvements to the system. After the issuance of bonds to finance construction of an improvement or addition to the system, the division and the authority shall transfer to the credit of an account of the department in the State Treasury the necessary funds for construction. The department shall proceed with construction and use the funds for the purpose authorized and as otherwise provided by law for construction of roads and bridges. An authority may alternatively, with the consent and



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approval of the department, elect to appoint a local agency
certified by the department to administer federal aid projects
in accordance with federal law as the authority's agent for the
purpose of performing each phase of a project.

(2) Notwithstanding the provisions of subsection (1), the
department is the agent of each authority for the purpose of
operating and maintaining the system. The department shall
operate and maintain the system, and the costs incurred by the
department for operation and maintenance shall be reimbursed
from revenues of the system. The appointment of the department
as agent for each authority does not create an independent
obligation of the department to operate and maintain a system.
Each authority shall remain obligated as principal to operate
and maintain its system, and an authority's bondholders do not
have an independent right to compel the department to operate or
maintain the authority's system.

(3) Each authority shall fix, alter, charge, establish, and
collect tolls, rates, fees, rentals, and other charges for the
authority's facilities, as otherwise provided in this chapter.

345.0008 Department contributions to authority projects.-

(1) The department may, at the request of an authority,
provide for or contribute to the payment of costs of financial
or engineering and traffic feasibility studies and the design,
financing, acquisition, or construction of an authority project
or system, subject to appropriation by the Legislature.

(2) The department may use its engineering and other
personnel, including consulting engineers and traffic engineers,
to conduct feasibility studies pursuant to subsection (1).

(3) An obligation or expense incurred by the department



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under this section is a part of the cost of the authority project for which the obligation or expense was incurred. The department may require money contributed by the department under this section to be repaid from tolls of the project on which the money was spent, other revenue of the authority, or other sources of funds.

(4) The department shall receive from an authority a share of the authority's net revenues equal to the ratio of the department's total contributions to the authority under this section to the sum of: the department's total contributions under this section; contributions by any local government to the cost of revenue producing authority projects; and the sale proceeds of authority bonds after payment of costs of issuance. For the purpose of this subsection, net revenues are gross revenues of an authority after payment of debt service, administrative expenses, operations and maintenance expenses, and all reserves required to be established under any resolution under which authority bonds are issued.

345.0009 Acquisition of lands and property.-

(1) For the purposes of this chapter, an authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, condemnation by eminent domain proceedings, or transfer from another political subdivision of the state, as the authority may deem necessary for any of the purposes of this chapter, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners



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2246 whose access is impaired due to the construction of a facility,
2247 and replacement rights-of-way for relocated rail and utility
2248 facilities; for existing, proposed, or anticipated
2249 transportation facilities on the system or in a transportation
2250 corridor designated by the authority; or for the purposes of
2251 screening, relocation, removal, or disposal of junkyards and
2252 scrap metal processing facilities. Each authority shall also
2253 have the power to condemn any material and property necessary
2254 for such purposes.

2255 (2) An authority shall exercise the right of eminent domain
2256 conferred under this section in the manner provided by law.

2257 (3) If an authority acquires property for a transportation
2258 facility or in a transportation corridor, it is not subject to
2259 any liability imposed by chapter 376 or chapter 403 for
2260 preexisting soil or groundwater contamination due solely to its
2261 ownership. This section does not affect the rights or
2262 liabilities of any past or future owners of the acquired
2263 property or affect the liability of any governmental entity for
2264 the results of its actions which create or exacerbate a
2265 pollution source. An authority and the Department of
2266 Environmental Protection may enter into interagency agreements
2267 for the performance, funding, and reimbursement of the
2268 investigative and remedial acts necessary for property acquired
2269 by the authority.

2270 345.0010 Cooperation with other units, boards, agencies,
2271 and individuals.—A county, municipality, drainage district, road
2272 and bridge district, school district, or any other political
2273 subdivision, board, commission, or individual in, or of, the
2274 state may make and enter into a contract, lease, conveyance,



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partnership, or other agreement with an authority within the provisions and purposes of this chapter. Each authority may make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any federal agency, corporation, and individual, to carry out the purposes of this chapter.

345.0011 Covenant of the state.—The state pledges to, and agrees with, any person, firm, or corporation, or federal or state agency subscribing to, or acquiring the bonds to be issued by an authority for the purposes of this chapter that the state will not limit or alter the rights vested by this chapter in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the rights vested in the authority and the department affect the rights of the holders of bonds issued pursuant to this chapter. The state further pledges to, and agrees with, the United States that if a federal agency constructs or contributes any funds for the completion, extension, or improvement of the system, or any parts of the system, the state will not alter or limit the rights and powers of the authority and the department in any manner that is inconsistent with the continued maintenance and operation of the system or the completion, extension, or improvement of the system, or which would be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers granted in this section, so long as the powers are necessary or desirable to carry out the



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purposes of this chapter and the purposes of the United States in the completion, extension, or improvement of the system, or any part of the system.

345.0012 Exemption from taxation.—The authority created under this chapter is for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and because the authority will be performing essential governmental functions pursuant to this chapter, the authority is not required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it, and the bonds issued by the authority, their transfer and the income from their issuance, including any profits made on the sale of the bonds, shall be free from taxation by the state or by any political subdivision, taxing agency, or instrumentality of the state. The exemption granted by this section does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

345.0013 Eligibility for investments and security.—Any bonds or other obligations issued pursuant to this chapter are legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal, and other public funds and are also securities eligible for deposit as security for all state, municipal, or other public funds, notwithstanding the provisions of any other law to the contrary.

345.0014 Applicability.—



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(1) The powers conferred by this chapter are in addition to the powers conferred by other law and do not repeal the provisions of any other general or special law or local ordinance, but supplement such other laws in the exercise of the powers provided in this chapter, and provide a complete method for the exercise of the powers granted in this chapter. The extension and improvement of a system, and the issuance of bonds pursuant to this chapter to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this chapter without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, but not limited to, s. 215.821, and approval of any bonds issued under this act by the qualified electors or qualified electors who are freeholders in the state or in any political subdivision of the state is not required for the issuance of such bonds pursuant to this chapter.

(2) This act does not repeal, rescind, or modify any other law or laws relating to the State Board of Administration, the Department of Transportation, or the Division of Bond Finance of the State Board of Administration, but supersedes any other law that is inconsistent with the provisions of this chapter, including, but not limited to, s. 215.821.

345.0015 Santa Rosa-Escambia Regional Tollway Authority.-

(1) There is hereby created and established a body politic and corporate, an agency of the state, to be known as the Santa Rosa-Escambia Regional Tollway Authority, hereinafter referred to as the "authority."

(2) The area served by the authority shall be Escambia and



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Santa Rosa Counties.

(3) The purposes and powers of the authority are as identified in the Florida Regional Tollway Authority Act for the area served by the authority, and the authority operates in the manner provided by the Florida Regional Tollway Authority Act.

345.0016 Suncoast Regional Tollway Authority.—

(1) There is hereby created and established a body politic and corporate, an agency of the state, to be known as the Suncoast Regional Tollway Authority, hereinafter referred to as the "authority."

(2) The area served by the authority shall be Citrus, Levy, Marion, and Alachua Counties.

(3) The purposes and powers of the authority are as identified in the Florida Regional Tollway Authority Act for the area served by the authority, and the authority operates in the manner provided by the Florida Regional Tollway Authority Act.

Section 56. Transfer to the Northwest Florida Transportation Finance Authority.—The governance and control of the Mid-Bay Bridge Authority System, created pursuant to chapter 2000-411, Laws of Florida, is transferred to the Northwest Florida Transportation Finance Authority.

(1) The assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the Mid-Bay Bridge Authority, including the bridge system operated by the authority, are transferred to the Northwest Florida Transportation Finance Authority. All powers of the Mid-Bay Bridge Authority shall succeed to the Northwest Florida Transportation Finance Authority, and the operations and maintenance of the bridge system shall be under the control of



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the Northwest Florida Transportation Finance Authority, pursuant to this section. Revenues collected on the bridge system may be considered Northwest Florida Transportation Finance Authority revenues, and the Mid-Bay Bridge may be considered part of the authority system, if bonds of the Mid-Bay Bridge Authority are not outstanding. The Northwest Florida Transportation Finance Authority also assumes all liability for bonds of the Mid-Bay Bridge Authority pursuant to the provisions of subsection (2). The Northwest Florida Transportation Finance Authority may review other contracts, financial obligations, and contractual obligations and liabilities of the Mid-Bay Bridge Authority and may assume legal liability for the obligations that are determined to be necessary for the continued operation of the bridge system.

(2) The transfer pursuant to this section is subject to the terms and covenants provided for the protection of the holders of the Mid-Bay Bridge Authority bonds in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds. Further, the transfer does not impair the terms of the contract between the Mid-Bay Bridge Authority and the bondholders, does not act to the detriment of the bondholders, and does not diminish the security for the bonds. After the transfer, until the bonds of the Mid-Bay Bridge Authority are fully defeased or paid in full, the department shall operate and maintain the bridge system and any other facilities of the authority in accordance with the terms, conditions, and covenants contained in the bond resolutions and lease-purchase agreement securing the bonds of the bridge authority. The Department of Transportation, as the agent of the



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Northwest Florida Transportation Finance Authority, shall
collect toll revenues and apply them to the payment of debt
service as provided in the bond resolution securing the bonds.
The Northwest Florida Transportation Finance Authority shall
expressly assume all obligations relating to the bonds to ensure
that the transfer will have no adverse impact on the security
for the bonds of the Mid-Bay Bridge Authority. The transfer does
not make the obligation to pay the principal and interest on the
bonds a general liability of the Northwest Florida
Transportation Finance Authority or pledge the authority system
revenues to payment of the Mid-Bay Bridge Authority bonds.
Revenues that are generated by the bridge system and other
facilities of the Mid-Bay Bridge Authority and that were pledged
by the Mid-Bay Bridge Authority to the payment of the bonds
remain subject to the pledge for the benefit of the bondholders.
The transfer does not modify or eliminate any prior obligation
of the Department of Transportation to pay certain costs of the
bridge system from sources other than revenues of the bridge
system. With regard to the bridge authority's current long-term
debt of \$9.5 million due to the department as of June 30, 2012,
and to the extent permitted by the bond resolutions and lease-
purchase agreement securing the bonds, the Northwest Florida
Transportation Finance Authority shall make payment annually to
the State Transportation Trust Fund, for the purpose of repaying
the Mid-Bay Bridge Authority's long-term debt due to the
department, from any bridge system revenues obtained under this
section which remain after the payment of the costs of
operations, maintenance, renewal, and replacement of the bridge
system; the payment of current debt service; and other payments



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required in relation to the bonds. The Northwest Florida
Transportation Finance Authority shall make the annual payments,
not to exceed \$1 million per year, to the State Transportation
Trust Fund until all remaining authority long-term debt due to
the department has been repaid.

(3) Any remaining toll revenue from the facilities of the
Mid-Bay Bridge Authority collected by the Northwest Florida
Transportation Finance Authority after meeting the requirements
of subsections (1) and (2) shall be used for the construction,
maintenance, or improvement of any toll facility of the
Northwest Florida Transportation Finance Authority within the
county or counties in which the revenue was collected.

Section 57. Paragraph (d) of subsection (2) of section
348.754, Florida Statutes, is amended to read:

348.754 Purposes and powers.—

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

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

Section 58. Section 373.4137, Florida Statutes, is amended
to read:

373.4137 Mitigation requirements for specified
transportation projects.—

(1) The Legislature finds that environmental mitigation for
the impact of transportation projects proposed by the Department



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of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.

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

(a) By July 1 of each year, the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program, shall submit to the water management districts a list of its projects in the adopted work program and an environmental impact inventory of habitat impacts and the anticipated amount of mitigation needed to offset impacts as described in paragraph (b). The environmental impact inventory must be based on ~~habitats addressed in~~ the rules adopted pursuant to this part, ~~and~~ s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and which may be impacted by the Department of Transportation's ~~its~~ plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also



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include in its environmental impact inventory the habitat impacts and the anticipated amount of mitigation needed for ~~of~~ any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory must ~~shall~~ include a description of ~~these~~ habitat impacts, including ~~their~~ location, acreage, and type; the anticipated amount of mitigation needed based on the functional loss as determined through the Uniform Mitigation Assessment Method (UMAM) adopted in Chapter 62-345, F.A.C.; identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider availability of suitable and sufficient mitigation bank credits within the transportation project's area, ability to satisfy commitments to regulatory and resource agencies, availability of suitable and sufficient mitigation purchased or developed through this section, ability to complete existing water management district or Department of Environmental Protection suitable mitigation sites initiated with Department of Transportation mitigation funds, and ability



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to satisfy state and federal requirements including long-term maintenance and liability.

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



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section.

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

(c) For mitigation implemented by the water management district or the Department of Environmental Protection, as appropriate, the amount paid each year must be based on mitigation services provided by the water management districts or Department of Environmental Protection pursuant to an approved water management district plan, as described in subsection (4). ~~Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d),~~ The water management districts or the Department of Environmental Protection, as appropriate, may request payment ~~a transfer of funds from an escrow account~~ no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of the permitted mitigation meeting the requirements pursuant to this part, 33 U.S.C. s. 1344, and 33 C.F.R. s. 332, in the approved mitigation plan described in subsection (4) for the current fiscal year. ~~including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department~~



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~~of Transportation or the appropriate transportation authority
each year with the plan. The conceptual plan preparation costs
of each water management district will be paid from mitigation
funds associated with the environmental impact inventory for the
current year. The amount transferred to the escrow accounts each
year by the Department of Transportation and participating
transportation authorities established pursuant to chapter 348
or chapter 349 shall correspond to a cost per acre of \$75,000
multiplied by the projected acres of impact identified in the
environmental impact inventory described in subsection (2).
However, the \$75,000 cost per acre does not constitute an
admission against interest by the state or its subdivisions and
is not admissible as evidence of full compensation for any
property acquired by eminent domain or through inverse
condemnation. Each July 1, the cost per acre shall be adjusted
by the percentage change in the average of the Consumer Price
Index issued by the United States Department of Labor for the
most recent 12-month period ending September 30, compared to the
base year average, which is the average for the 12-month period
ending September 30, 1996. Each quarter, the projected amount of
mitigation must ~~acreage of impact shall~~ be reconciled with the
actual amount of mitigation needed for ~~acreage of impact of~~
projects as permitted, including permit modifications, pursuant
to this part and s. 404 of the Clean Water Act, 33 U.S.C. s.
1344. The subject year's programming ~~transfer~~ of funds shall be
adjusted ~~accordingly~~ to reflect the mitigation ~~acreage of~~
~~impacts~~ as permitted. The Department of Transportation and
participating transportation authorities established pursuant to
chapter 348 or chapter 349 are authorized to transfer such funds~~



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~~from the escrow accounts to the water management districts to~~
~~carry out the mitigation programs. Environmental mitigation~~
~~funds that are identified for or maintained in an escrow account~~
~~for the benefit of a water management district may be released~~
~~if the associated transportation project is excluded in whole or~~
~~part from the mitigation plan. For a mitigation project that is~~
~~in the maintenance and monitoring phase, the water management~~
~~district may request and receive a one-time payment based on the~~
~~project's expected future maintenance and monitoring costs. If~~
~~the water management district excludes a project from an~~
~~approved water management district mitigation plan, cannot~~
~~timely permit a mitigation site to offset the impacts of a~~
~~Department of Transportation project identified in the~~
~~environmental impact inventory, or if the proposed mitigation~~
~~does not meet state and federal requirements, the Department of~~
~~Transportation may use the associated funds for the purchase of~~
~~mitigation bank credits or any other mitigation option that~~
~~satisfies state and federal requirements. Upon final~~
~~disbursement of the final maintenance and monitoring payment for~~
~~mitigation of a transportation project as permitted, the~~
~~obligation of the Department of Transportation or the~~
~~participating transportation authority is satisfied and the~~
~~water management district or the Department of Environmental~~
~~Protection, as appropriate, will have continuing responsibility~~
~~for the mitigation project. , the escrow account for the project~~
~~established by the Department of Transportation or the~~
~~participating transportation authority may be closed. Any~~
~~interest earned on these disbursed funds shall remain with the~~
~~water management district and must be used as authorized under~~



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~~this section.~~

(d) Beginning with the March 2014 water management district mitigation plans, in the 2005-2006 fiscal year, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet requirements pursuant to this section, 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. ~~be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation must purchase the bank credits.~~

(e) For mitigation activities occurring on existing water



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management district or Department of Environmental Protection
mitigation sites initiated with Department of Transportation
mitigation funds before July 1, 2013, the water management
district or Department of Environmental Protection shall invoice
the Department of Transportation or a participating
transportation authority at a cost per acre of \$75,000
multiplied by the projected acres of impact as identified in the
environmental impact inventory. The cost per acre must be
adjusted by the percentage change in the average of the Consumer
Price Index issued by the United States Department of Labor for
the most recent 12-month period ending September 30, compared to
the base year average, which is the average for the 12-month
period ending September 30, 1996. When implementing the
mitigation activities necessary to offset the permitted impacts
as provided in the approved mitigation plan, the water
management district shall maintain records of the costs incurred
in implementing the mitigation. The records must include, but
are not limited to, costs for planning, land acquisition,
design, construction, staff support, long-term maintenance and
monitoring of the mitigation site, and other costs necessary to
meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

(f) For purposes of preparing and implementing the
mitigation plans to be adopted by the water management districts
on or before March 1, 2013, for impacts based on the July 1,
2012, environmental impact inventory, the funds identified in
the Department of Transportation's work program or participating
transportation authorities' escrow accounts must correspond to a
cost per acre of \$75,000 multiplied by the project acres of
impact as identified in the environmental impact inventory. The



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cost per acre shall be adjusted by the percentage change in the
average of the Consumer Price Index issued by the United States
Department of Labor for the most recent 12-month period ending
September 30, compared to the base year average, which is the
average for the 12-month period ending September 30, 1996.
Payment as provided under this paragraph is limited to those
mitigation activities that are identified in the first year of
the 2013 mitigation plan and for which the transportation
project is permitted and is in the Department of
Transportation's adopted work program, or equivalent for a
transportation authority. When implementing the mitigation
activities necessary to offset the permitted impacts as provided
in the approved mitigation plan, the water management district
shall maintain records of the costs incurred in implementing the
mitigation. The records must include, but are not limited to,
costs for planning, land acquisition, design, construction,
staff support, long-term maintenance and monitoring of the
mitigation site, and other costs necessary to meet the
requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332. To the
extent moneys paid to a water management district by the
Department of Transportation or a participating transportation
authority exceed the amount expended by the water management
districts in implementing the mitigation to offset the permitted
impacts, these funds must be refunded to the Department of
Transportation or participating transportation authority. This
paragraph expires June 30, 2014.

(4) Before March 1 of each year, each water management
district shall develop a mitigation plan to offset only the
impacts of transportation projects in the environmental impact



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inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. The water management-district mitigation plan must be developed, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, ~~shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344.~~ In developing such plans, the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider ~~shall focus on~~ activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part, ~~and 33 U.S.C. s. 1344,~~ and 33 C.F.R. s. 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services, provide the functional gain as determined through the UMAM per Chapter 62-345, F.A.C., describe how the mitigation



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offsets the impacts of each transportation project as permitted,
and provide a schedule for the mitigation services. The water
management districts shall maintain records of costs incurred
and payments received for providing these services. Records must
include, but are not limited to, planning, land acquisition,
design, construction, staff support, long-term maintenance and
monitoring of the mitigation site, and other costs necessary to
meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.
To the extent monies paid to a water management district by the
Department of Transportation or a participating transportation
authority exceed the amount expended by the water management
districts in providing the mitigation services to offset the
permitted transportation project impacts, these monies must be
refunded to the Department of Transportation or participating
transportation authority. ~~In determining the activities to be
included in the plans, the districts shall consider the purchase
of credits from public or private mitigation banks permitted
under s. 373.4136 and associated federal authorization and shall
include the purchase as a part of the mitigation plan when the
purchase would offset the impact of the transportation project,
provide equal benefits to the water resources than other
mitigation options being considered, and provide the most cost-
effective mitigation option.~~ The mitigation plan shall be
submitted to the water management district governing board, or
its designee, for review and approval. At least 14 days before
approval by the governing board, the water management district
shall provide a copy of the draft mitigation plan to the
Department of Environmental Protection and any person who has
requested a copy. Subsequent to governing board approval, the



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mitigation plan must be submitted to the Department of
Environmental Protection for approval. The plan may not be
implemented until it is submitted to and approved, in part or in
its entirety, by the Department of Environmental Protection.

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

(a)(b) Specific projects may be excluded from the
mitigation plan, in whole or in part, and are not subject to
this section upon the election of the Department of
Transportation, a transportation authority if applicable, or the
appropriate water management district. The Department of
Transportation or a participating transportation authority may
not exclude a transportation project from the mitigation plan
when mitigation is scheduled for implementation by the water
management district in the current fiscal year, except when the
transportation project is removed from the Department of
Transportation's work program or transportation authority
funding plan, the mitigation cannot be timely permitted to
offset the impacts of a Department of Transportation project
identified in the environmental impact inventory, or the
proposed mitigation does not meet state and federal
requirements. If a project is removed from the work program or
the mitigation plan, costs expended by the water management
district prior to removal are eligible for reimbursement by the



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Department of Transportation or participating transportation
authority.

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

(5) The water management district shall ensure that
mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33
C.F.R. s. 332 are met for the impacts identified in the
environmental impact inventory for which the water management
district will implement mitigation described in subsection (2),
by implementation of the approved mitigation plan described in
subsection (4) to the extent funding is provided by the
Department of Transportation, or a transportation authority
established pursuant to chapter 348 or chapter 349, if
applicable. In developing and implementing the mitigation plan,
the water management district shall comply with federal
permitting requirements pursuant to 33 U.S.C. s. 1344 and 33



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C.F.R. s. 332. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements upon notice and coordination with the Department of Transportation or participating transportation authority.

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

(7) Upon approval by the governing board of the water management district and the Department of Environmental Protection ~~or its designee~~, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part for impacts specifically identified in the environmental impact inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts. The approval of the governing board of the water management district ~~or its designee~~ and the Department of Environmental Protection shall authorize the activities proposed



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in the mitigation plan, and no other state, regional, or local permit or approval shall be necessary.

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

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

Section 59. Section 373.618, Florida Statutes, is amended



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to read:

373.618 Public service warnings, alerts, and announcements.—The Legislature believes it is in the public interest that each ~~all~~ water management district ~~districts~~ created pursuant to s. 373.069 own, acquire, develop, construct, operate, and manage public information systems. Public information systems may be located on property owned by the water management district, upon terms and conditions approved by the water management district, and must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. Local government review or approval is not required for a public information system owned or hereafter acquired, developed, or constructed by the water management district on its own property. A public information system is exempt from the requirements of chapter 479; however, a public information system that is subject to the Highway Beautification Act of 1965 must be approved by the Department of Transportation and the Federal Highway Administration if required by federal law and federal regulation under the agreement between the state and the United States Department of Transportation, and federal regulations enforced by the Department of Transportation under s. 479.02(1). Water management district funds may not be used to pay the cost to acquire, develop, construct, operate, or manage a public information system. Any necessary funds for a public information system shall be paid for and collected from private sponsors who may display commercial messages.



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Section 60. Subsection (3) of section 341.052, Florida Statutes, is amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(3) The following limitations shall apply to the use of public transit block grant program funds:

(a) State participation in eligible capital projects shall be limited to 50 percent of the nonfederal share of such project costs.

(b) State participation in eligible public transit operating costs may not exceed 50 percent of such costs or an amount equal to the total revenue, excluding farebox, charter, and advertising revenue and federal funds, received by the provider for operating costs, whichever amount is less.

(c) No eligible public transit provider shall use public transit block grant funds to supplant local tax revenues made available to such provider for operations in the previous year; however, the Secretary of Transportation may waive this provision for public transit providers located in a county recovering from a state of emergency declared pursuant to part I of chapter 252.

(d) Notwithstanding any law to the contrary, no eligible public transit provider shall use public transit block grant funds in pursuit of strategies or actions leading to or promoting the levying of new or additional taxes through public referenda. To the extent that a public transit provider uses other public funds in pursuit of strategies or actions leading to or promoting the levying of new or additional taxes through public referenda, the amount of the provider's grant must be



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reduced by the same amount. As used in this paragraph, the term
"public funds" means all moneys under the jurisdiction or
control of a federal agency, the state, a county, or a
municipality, including any district, authority, commission,
board, or agency thereof for any public purpose.

(e) The state may not give any county more than 39 percent
of the funds available for distribution under this section or
more than the amount that local revenue sources provide to that
transit system.

Section 61. Except as otherwise expressly provided in this
act, this act shall take effect upon becoming law.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Department of Transportation;
repealing s. 11.45(3)(m), F.S., relating to the
authority of the Auditor General to conduct audits of
transportation corporations under the Florida
Transportation Corporation Act; amending s. 20.23,
F.S.; requiring the Transportation Commission to also
monitor authorities created under ch. 345, F.S.,
relating to the Florida Regional Tollway Authority
Act; amending s. 110.205, F.S.; changing a title to
the State Freight and Logistics Administrator from the
State Public Transportation and Modal Administrator,
which is an exempt position not covered under career
service; amending s. 311.22, F.S.; establishing the



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3000 Department of Transportation as the agency responsible
3001 for administering the section, instead of the Florida
3002 Seaport Transportation and Economic Development
3003 Council; providing for the future repeal of the
3004 section; repealing s. 316.530(3), F.S.; relating to
3005 load limits for certain towed vehicles; amending s.
3006 316.545, F.S.; increasing the weight amount used for
3007 penalty calculations; conforming terminology; amending
3008 s. 331.360, F.S.; reordering provisions; providing for
3009 a spaceport system plan; providing funding for space
3010 transportation projects from the State Transportation
3011 Trust Fund; requiring Space Florida to provide the
3012 Department of Transportation with specific project
3013 information and to demonstrate transportation and
3014 aerospace benefits; specifying the information to be
3015 provided; providing funding criteria; amending s.
3016 332.007, F.S.; authorizing the Department of
3017 Transportation to fund strategic airport investments;
3018 providing criteria; amending s. 334.044, F.S.;
3019 prohibiting the department from entering into a lease-
3020 purchase agreement with certain transportation
3021 authorities after a specified time; providing an
3022 exception from the requirement to purchase all plant
3023 materials from Florida commercial nursery stock when
3024 prohibited by applicable federal law or regulation;
3025 amending s. 335.06, F.S.; revising the
3026 responsibilities of the Department of Transportation,
3027 a county, or a municipality to improve or maintain a
3028 road that provides access to property within the state



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park system; amending s. 337.11, F.S.; removing the requirement that a contractor provide a notarized affidavit as proof of registration; amending s. 337.14, F.S.; revising the criteria for bidding certain construction contracts to require a proposed budget estimate if a contract is more than a specified amount; amending s. 337.168, F.S.; providing that a document that reveals the identity of a person who has requested or received certain information before a certain time is a public record; amending s. 337.25, F.S.; authorizing the Department of Transportation to use auction services in the conveyance of certain property or leasehold interests; revising certain inventory requirements; revising provisions and providing criteria for the department to dispose of certain excess property; providing such criteria for the disposition of donated property, property used for a public purpose, or property acquired to provide replacement housing for certain displaced persons; providing value offsets for property that requires significant maintenance costs or exposes the department to significant liability; providing procedures for the sale of property to abutting property owners; deleting provisions to conform to changes made by the act; providing monetary restrictions and criteria for the conveyance of certain leasehold interests; providing exceptions to restrictions for leases entered into for a public purpose; providing criteria for the preparation of



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estimates of value prepared by the department;
providing that the requirements of s. 73.013, F.S.,
relating to eminent domain, are not modified; amending
s. 337.251, F.S.; revising criteria for leasing
particular department property; increasing the time
the department must accept proposals for lease after a
notice is published; authorizing the department to
establish an application fee by rule; providing
criteria for the fee; providing criteria that the
lease must meet; amending s. 338.161, F.S.;
authorizing the department to enter into agreements
with owners of public or private transportation
facilities under which the department uses its
electronic toll collection and video billing systems
to collect for the owner certain charges for use of
the owners' transportation facilities; amending s.
338.165, F.S.; removing the Beeline-East Expressway
and the Navarre Bridge from the list of facilities
that have toll revenues to secure their bonds;
amending s. 338.26, F.S.; revising the uses of fees
that are generated from tolls to include the design
and construction of a fire station that may be used by
certain local governments in accordance with a
specified memorandum; removing authority of a district
to issue bonds or notes; amending s. 339.175, F.S.;
revising the criteria that qualify a local government
for participation in a metropolitan planning
organization; revising the criteria to determine
voting membership of a metropolitan planning



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organization; providing that each metropolitan planning organization shall review its membership and reapportion it as necessary; providing criteria; relocating the requirement that the Governor review and apportion the voting membership among the various governmental entities within the metropolitan planning area; amending s. 339.2821, F.S.; authorizing Enterprise Florida, Inc., to be a consultant to the Department of Transportation for consideration of expenditures associated with and contracts for transportation projects; revising the requirements for economic development transportation project contracts between the department and a governmental entity; repealing the Florida Transportation Corporation Act; repealing s. 339.401, F.S., relating to the short title; repealing s. 339.402, F.S., relating to definitions; repealing s. 339.403, F.S., relating to legislative findings and purpose; repealing s. 339.404, F.S., relating to authorization of corporations; repealing s. 339.405, F.S., relating to type and structure of the corporation and income; repealing s. 339.406, F.S., relating to contracts between the department and the corporation; repealing s. 339.407, F.S., relating to articles of incorporation; repealing s. 339.408, F.S., relating to the board of directors and advisory directors; repealing s. 339.409, F.S., relating to bylaws; repealing s. 339.410, F.S., relating to notice of meetings and open records; repealing s. 339.411, F.S.,



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3116 relating to the amendment of articles; repealing s.
3117 339.412, F.S., relating to the powers of the
3118 corporation; repealing s. 339.414, F.S., relating to
3119 use of state property; repealing s. 339.415, F.S.,
3120 relating to exemptions from taxation; repealing s.
3121 339.416, F.S., relating to the authority to alter or
3122 dissolve corporations; repealing s. 339.417, F.S.,
3123 relating to the dissolution of a corporation upon the
3124 completion of purposes; repealing s. 339.418, F.S.,
3125 relating to transfer of funds and property upon
3126 dissolution; repealing s. 339.419, F.S., relating to
3127 department rules; repealing s. 339.420, F.S., relating
3128 to construction; repealing s. 339.421, F.S., relating
3129 to issuance of debt; amending s. 339.55, F.S.; adding
3130 spaceports to the list of facility types for which the
3131 state-funded infrastructure bank may lend capital
3132 costs or provide credit enhancements; amending s.
3133 341.031, F.S.; revising the definition of the term
3134 "intercity bus service"; amending s. 341.053, F.S.;
3135 revising the types of eligible projects and criteria
3136 of the intermodal development program; amending s.
3137 343.80, F.S.; re-naming the Northwest Florida
3138 Transportation Corridor Authority Law as the Northwest
3139 Florida Transportation Finance Authority Law; amending
3140 s. 343.805, F.S., defining "Northwest Florida
3141 Transportation Finance Authority System" or "system";
3142 deleting definitions of "U.S. 98 corridor" and "U.S.
3143 98 corridor system"; amending s. 343.81, F.S.; re-
3144 naming the Northwest Florida Transportation Corridor



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Authority as the Northwest Florida Transportation Finance Authority; revising the composition of the governing board of the authority from eight to five voting members, two from Okaloosa County and one each from Walton, Bay, and Gulf Counties; removing from the governing body of the authority voting members from Escambia, Santa Rosa, Franklin, and Wakulla Counties; revising quorum requirements and the number of votes necessary for any action by the authority; removing the authority's authorization to establish a technical advisory committee and related provisions; amending s. 343.82, F.S.; authorizing the authority to acquire, hold, construct, improve, maintain, operate, own and lease the Northwest Florida Transportation Finance Authority System; removing references to intended improvement of mobility along the U.S. 98 corridor and to the Santa Rosa Sound; removing direction to the authority to adopt a corridor master plan, to annually update and present the plan, to undertake projects or other improvements in the plan, and to request certain funding and technical assistance; conforming terminology; removing a prohibition against the authority imposing tolls or other charges; providing the authority may dispose of property which the authority and the Department of Transportation have determined is not needed for the system; removing the authority's authorization to enter into lease-purchase agreements with the department; amending s. 343.83, F.S.; conforming terminology; amending s. 343.835,



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3174 F.S.; making conforming changes; replacing a reference
3175 to facilities "constructed" by the authority to
3176 facilities "owned or provided"; amending s. 343.84,
3177 F.S.; providing that the department is the agent of
3178 the authority for the purpose of constructing,
3179 operating, and maintaining system facilities;
3180 providing for alternative appointment of a specified
3181 local agency as construction agent with the consent
3182 and approval of the department; providing for
3183 reimbursement from revenues of the system of costs
3184 incurred by the department to operate and maintain the
3185 system; providing that the department has no
3186 independent obligation to operate and maintain the
3187 system; providing the authority remains obligated as
3188 to operate and maintain its system; directing the
3189 authority to establish and collect tolls and other
3190 charges for the authority's facilities; amending s.
3191 343.85, F.S.; conforming terminology; repealing s.
3192 343.875, F.S., removing the authority's authorization
3193 to enter into public-private partnership agreements;
3194 removing project criteria; removing department
3195 authorization to use state resources to participate in
3196 projects; removing authorization to request proposals
3197 and to receive unsolicited proposals, removing related
3198 notice provisions, and removing procedural provisions
3199 related to consideration of such proposals; removing
3200 authorization for the public-private entity to impose
3201 tolls or fares; to exercise its powers, including
3202 eminent domain; and to adopt rules; amending s.



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3203 343.89, F.S.; conforming terminology; amending s.
3204 343.922, F.S.; removing reference to advances from the
3205 Toll Facilities Revolving Trust Fund as a source of
3206 funding for certain projects by an authority; creating
3207 ch. 345, F.S., relating to the Florida Regional
3208 Tollway Authority; creating s. 345.0001, F.S.;
3209 providing a short title; creating s. 345.0002, F.S.;
3210 providing definitions; creating s. 345.0003, F.S.;
3211 authorizing counties to form a regional tollway
3212 authority that can construct, maintain, or operate
3213 transportation projects in a region of the state;
3214 providing for governance of the authority; creating s.
3215 345.0004, F.S.; providing for the powers and duties of
3216 a regional tollway authority; limiting an authority's
3217 power with respect to an existing system; prohibiting
3218 an authority from pledging the credit or taxing power
3219 of the state or any political subdivision or agency of
3220 the state; requiring that an authority comply with
3221 certain reporting and documentation requirements;
3222 creating s. 345.0005, F.S.; authorizing the authority
3223 to issue bonds; providing that the issued bonds must
3224 meet certain requirements; providing that the
3225 resolution that authorizes the issuance of bonds meet
3226 certain requirements; authorizing an authority to
3227 enter into security agreements for issued bonds with a
3228 bank or trust company; providing that the issued bonds
3229 are negotiable instruments and have certain qualities;
3230 providing that a resolution authorizing the issuance
3231 of bonds and pledging of revenues of the system must



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3232 contain certain requirements; prohibiting the use or
3233 pledge of state funds to pay principal or interest of
3234 an authority's bonds; creating s. 345.0006, F.S.;
3235 providing for the rights and remedies granted to
3236 certain bondholders; providing the actions a trustee
3237 may take on behalf of the bondholders; providing for
3238 the appointment of a receiver; providing for the
3239 authority of the receiver; providing limitations to
3240 the receiver's authority; creating s. 345.0007, F.S.;
3241 providing that the Department of Transportation is the
3242 agent of each authority for specified purposes;
3243 providing for the administration and management of
3244 projects by the department; providing limits on the
3245 department as an agent; providing for the fiscal
3246 responsibilities of the authority; creating s.
3247 345.0008, F.S.; authorizing the department to provide
3248 for or commit its resources for an authority project
3249 or system, if approved by the Legislature; providing
3250 for payment of expenses incurred by the department on
3251 behalf of an authority; requiring the department to
3252 receive a share of the revenue from the authority;
3253 providing calculations for disbursement of revenues;
3254 creating s. 345.0009, F.S.; authorizing the authority
3255 to acquire private or public property and property
3256 rights for a project or plan; authorizing the
3257 authority to exercise the right of eminent domain;
3258 providing for the rights and liabilities and remedial
3259 actions relating to property acquired for a
3260 transportation project or corridor; creating s.



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3261 345.0010, F.S.; providing for contracts between
3262 governmental entities and an authority; creating s.
3263 345.0011, F.S.; providing that the state will not
3264 limit or alter the vested rights of a bondholder with
3265 regard to any issued bonds or rights relating to the
3266 bonds under certain conditions; creating s. 345.0012,
3267 F.S.; relieving the authority from the obligation of
3268 paying certain taxes or assessments for property
3269 acquired or used for certain public purposes or for
3270 revenues received relating to the issuance of bonds;
3271 providing exceptions; creating s. 345.0013, F.S.;
3272 providing that the bonds or obligations issued are
3273 legal investments of specified entities; creating s.
3274 345.0014, F.S.; providing applicability; creating s.
3275 345.0015, F.S.; creating the Northwest Florida Santa
3276 Rosa-Escambia Regional Tollway Authority; creating s.
3277 345.0016, F.S.; creating the Suncoast Regional Tollway
3278 Authority; providing for the transfer of the
3279 governance and control of the Mid-Bay Bridge Authority
3280 System to the Northwest Florida Transportation Finance
3281 Authority; providing for the disposition of bonds, the
3282 protection of the bondholders, the effect on the
3283 rights and obligations under a contract or the bonds,
3284 and the revenues associated with the bonds; amending
3285 s. 348.754, F.S.; revising the term limitation for
3286 leases that the Orlando-Orange County Expressway
3287 Authority may enter into; amending s. 373.4137, F.S.;
3288 providing legislative intent that mitigation be
3289 implemented in a manner that promotes efficiency,



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3290 timeliness, and cost-effectiveness in project
3291 delivery; revising the criteria of the environmental
3292 impact inventory; revising the criteria for mitigation
3293 of projected impacts identified in the environmental
3294 impact inventory; requiring the Department of
3295 Transportation to include funding for environmental
3296 mitigation for its projects in its work program;
3297 revising the process and criteria for the payment by
3298 the department or participating transportation
3299 authorities of mitigation implemented by water
3300 management districts or the Department of
3301 Environmental Protection; revising the requirements
3302 for the payment to a water management district or the
3303 Department of Environmental Protection of the costs of
3304 mitigation planning and implementation of the
3305 mitigation required by a permit; revising the payment
3306 criteria for preparing and implementing mitigation
3307 plans adopted by water management districts for
3308 transportation impacts based on the environmental
3309 impact inventory; adding federal requirements for the
3310 development of a mitigation plan; providing for
3311 transportation projects in the environmental
3312 mitigation plan for which mitigation has not been
3313 specified; revising a water management district's
3314 responsibilities relating to a mitigation plan;
3315 amending s. 373.618, F.S.; revising the outdoor
3316 advertisement exemption criteria for a public
3317 information system; amending s. 341.052, F.S.;
3318 prohibiting an eligible public transit provider from



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3319 using public transit block grant funds to pursue or
3320 promote the levying of new or additional taxes through
3321 public referenda; requiring the amount of the
3322 provider's grant to be reduced by any amount so spent;
3323 defining the term "public funds" for purposes of the
3324 prohibition; providing an effective date.



243366

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/15/2013	.	
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	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

**Senate Amendment to Amendment (955216) (with title
amendment)**

Between lines 236 and 237
insert:

Section 5. Paragraph (d) is added to subsection (2) of
section 316.006, Florida Statutes, to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is
vested as follows:

(2) MUNICIPALITIES.—

(d) Notwithstanding any other provision of law to the
contrary, at the request of a municipality with a population



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density of at least 10,000 persons per square mile, the
Department of Transportation shall, by interlocal agreement,
transfer traffic regulatory authority over state roads within
the municipality to the municipality. Traffic regulatory
authority includes, but is not limited to, street design, street
cleaning, landscaping, maintenance, and speed regulation and
controls. This paragraph does not apply to any agency or
authority created by chapter 348.

This subsection shall not limit those counties which have the
charter powers to provide and regulate arterial, toll, and other
roads, bridges, tunnels, and related facilities from the proper
exercise of those powers by the placement and maintenance of
traffic control devices which conform to the manual and
specifications of the Department of Transportation on streets
and highways located within municipal boundaries.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

 Delete line 3004

and insert:

 section; amending s. 316.006, F.S.; requiring the
 department to transfer traffic regulatory authority by
 interlocal agreement to certain municipalities upon
 request; providing applicability; repealing s.
 316.530(3), F.S., relating to



935546

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

**Senate Amendment to Amendment (955216) (with title
amendment)**

Delete lines 1776 - 2212

and insert:

345.001 Short title.—This act may be cited as the “Florida
Regional Transportation Finance Authority Act.”

345.0002 Definitions.—As used in this chapter, the term:

(1) “Agency of the state” means the state and any
department of, or any corporation, agency, or instrumentality
heretofore or hereafter created, designated, or established by,
the state.



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13 (2) "Area served" means the geographical area of the
14 counties for which an authority is established.

15 (3) "Authority" means a regional transportation finance
16 authority, a body politic and corporate, and an agency of the
17 state, established pursuant to the Florida Regional
18 Transportation Finance Authority Act.

19 (4) "Bonds" means the notes, bonds, refunding bonds, or
20 other evidences of indebtedness or obligations, in temporary or
21 definitive form, which an authority may issue pursuant to this
22 act.

23 (5) "Department" means the Department of Transportation of
24 Florida and any successor thereto.

25 (6) "Division" means the Division of Bond Finance of the
26 State Board of Administration.

27 (7) "Federal agency" means the United States, the President
28 of the United States, and any department of, or any bureau,
29 corporation, agency, or instrumentality heretofore or hereafter
30 created, designated, or established by, the United States.

31 (8) "Members" means the governing body of an authority, and
32 the term "member" means one of the individuals constituting such
33 governing body.

34 (9) "Regional system" or "system" means, generally, a
35 modern tolled highway system of roads, bridges, causeways, and
36 tunnels within any area of the authority, with access limited or
37 unlimited as an authority may determine, and the buildings and
38 structures and appurtenances and facilities related to the
39 system, including all approaches, streets, roads, bridges, and
40 avenues of access for the system.

41 (10) "Revenues" means the tolls, revenues, rates, fees,



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charges, receipts, rentals, contributions, and other income derived from or in connection with the operation or ownership of a regional system, including the proceeds of any use and occupancy insurance on any portion of the system but excluding state funds available to an authority and any other municipal or county funds available to an authority under an agreement with a municipality or county.

345.0003 Transportation finance authority; formation; membership.—

(1) A county, or two or more contiguous counties, may, after the approval of the Legislature, form a regional transportation finance authority for the purposes of financing, constructing, maintaining, and operating transportation projects in a region of this state. An authority shall be governed in accordance with the provisions of this chapter. An authority may not be created without the approval of the Legislature and the approval of the county commission of each county that will be a part of the authority. An authority may not be created to serve a particular area of this state as provided by this subsection if a regional transportation finance authority has been created and is operating within all or a portion of the same area served pursuant to an act of the Legislature. Each authority shall be the only authority created and operating pursuant to this chapter within the area served by the authority.

(2) The governing body of an authority shall consist of a board of voting members as follows:

(a) The county commission of each county in the area served by the authority shall each appoint a member who must be a resident of the county from which he or she is appointed. The



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71 county commission of each county with a total population of more
72 than 250,000 shall appoint a second member who must be a
73 resident of the county. If possible, the member must represent
74 the business and civic interests of the community.

75 (b) The Governor shall appoint an equal number of members
76 to the board as those appointed by the county commissions. The
77 members appointed by the Governor must be residents of the area
78 served by the authority.

79 (c) The secretary of the Department of Transportation shall
80 appoint one of the district secretaries, or his or her designee,
81 for the districts within which the area served by the authority
82 is located.

83 (3) The term of office of each member shall be for 4 years
84 or until his or her successor is appointed and qualified.

85 (4) A member may not hold an elected office.

86 (5) A vacancy occurring in the governing body before the
87 expiration of the member's term shall be filled by the
88 respective appointing authority in the same manner as the
89 original appointment and only for the balance of the unexpired
90 term.

91 (6) Each member, before entering upon his or her official
92 duties, must take and subscribe to an oath before an official
93 authorized by law to administer oaths that he or she will
94 honestly, faithfully, and impartially perform the duties
95 devolving upon him or her in office as a member of the governing
96 body of the authority and that he or she will not neglect any
97 duties imposed upon him or her by this chapter.

98 (7) A member of an authority may be removed from office by
99 the Governor for misconduct, malfeasance, misfeasance, or



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nonfeasance in office.

(8) The members of the authority shall designate one of its members as chair.

(9) The members of the authority shall serve without compensation, but shall be entitled to reimbursement for per diem and other expenses in accordance with s. 112.061 while in performance of their duties.

(10) A majority of the members of the authority constitutes a quorum, and resolutions enacted or adopted by a vote of a majority of the members present and voting at any meeting become effective without publication, posting, or any further action of the authority.

345.0004 Powers and duties.—

(1) (a) An authority created and established, or governed, by the Florida Regional Transportation Finance Authority Act shall plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority.

(b) An authority may not exercise the powers in paragraph (a) with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity. If an authority acquires, purchases, or inherits an existing entity, the authority shall also inherit and assume all rights, assets, appropriations, privileges, and obligations of the existing entity.

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the purposes of this section, including, but not limited to, the following rights and powers:



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129 (a) To sue and be sued, implead and be impleaded, and
130 complain and defend in all courts in its own name.

131 (b) To adopt and use a corporate seal.

132 (c) To have the power of eminent domain, including the
133 procedural powers granted under chapters 73 and 74.

134 (d) To acquire, purchase, hold, lease as a lessee, and use
135 any property, real, personal, or mixed, tangible or intangible,
136 or any interest therein, necessary or desirable for carrying out
137 the purposes of the authority.

138 (e) To sell, convey, exchange, lease, or otherwise dispose
139 of any real or personal property acquired by the authority,
140 which the authority and the department have determined is not
141 needed for the construction, operation, and maintenance of the
142 system, including air rights.

143 (f) To fix, alter, charge, establish, and collect rates,
144 fees, rentals, and other charges for the use of any system owned
145 or operated by the authority, which rates, fees, rentals, and
146 other charges must always be sufficient to comply with any
147 covenants made with the holders of any bonds issued pursuant to
148 this act; however, such right and power may be assigned or
149 delegated by the authority to the department.

150 (g) To borrow money, make and issue negotiable notes,
151 bonds, refunding bonds, and other evidences of indebtedness or
152 obligations, in temporary or definitive form, for the purpose of
153 financing all or part of the improvement of the authority's
154 system and appurtenant facilities, including the approaches,
155 streets, roads, bridges, and avenues of access for the system
156 and for any other purpose authorized by this chapter, the bonds
157 to mature in not exceeding 30 years after the date of the



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issuance thereof, and to secure the payment of such bonds or any part thereof by a pledge of its revenues, rates, fees, rentals, or other charges, including municipal or county funds received by the authority pursuant to the terms of an agreement between the authority and a municipality or county; and, in general, to provide for the security of the bonds and the rights and remedies of the holders of the bonds; however, municipal or county funds may not be pledged for the construction of a project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the governing board of the municipality or county, at the date of its resolution pledging said funds, to be sufficient to cover the principal and interest of such obligations during the period when the pledge of funds is in effect. An authority shall reimburse a municipality or county for sums expended from municipal or county funds used for the payment of the bond obligations.

(h) To make contracts of every name and nature, including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute each instrument necessary or convenient for the conduct of its business.

(i) Without limitation of the foregoing, to cooperate with, to borrow money and accept grants from, and to enter into contracts or other transactions with any federal agency, the state, or any agency or any other public body of the state.

(j) To employ an executive director, attorney, staff, and consultants. Upon the request of an authority, the department shall furnish the services of a department employee to act as the executive director of the authority.

(k) To accept funds or other property from private



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187 donations.

188 (1) To do all acts and things necessary or convenient for
189 the conduct of its business and the general welfare of the
190 authority, in order to carry out the powers granted to it by
191 this act or any other law.

192 (3) An authority does not have the power at any time or in
193 any manner to pledge the credit or taxing power of the state or
194 any political subdivision or agency thereof. Obligations of the
195 authority may not be deemed to be obligations of the state or of
196 any other political subdivision or agency thereof. The state or
197 any political subdivision or agency thereof, except the
198 authority, is not liable for the payment of the principal of or
199 interest on such obligations.

200 (4) An authority has no power, other than by consent of the
201 affected county or an affected municipality, to enter into an
202 agreement that would legally prohibit the construction of a road
203 by the county or the municipality.

204 (5) An authority formed pursuant to this chapter shall
205 comply with the statutory requirements of general application
206 which relate to the filing of a report or documentation required
207 by law, including the requirements of ss. 189.4085, 189.415,
208 189.417, and 189.418.

209 345.0005 Bonds.—

210 (1) (a) Bonds may be issued on behalf of an authority
211 pursuant to the State Bond Act.

212 (b) An authority may also issue bonds in such principal
213 amount as is necessary, in the opinion of the authority, to
214 provide sufficient moneys for achieving its corporate purposes,
215 including construction, reconstruction, improvement, extension,



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and repair of the system, the cost of acquisition of all real property, interest on bonds during construction and for a reasonable period thereafter, and establishment of reserves to secure bonds.

(2) (a) Bonds issued by an authority pursuant to paragraph (1) (a) or paragraph (1) (b) must be authorized by resolution of the members of the authority and must bear such date or dates; mature at such time or times, not exceeding 30 years after their respective dates; bear interest at such rate or rates, not exceeding the maximum rate fixed by general law for authorities; be in such denominations; be in such form, either coupon or fully registered; carry such registration, exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption; and be entitled to such priorities of lien on the revenues and other available moneys as such resolution or any resolution subsequent to the bonds' issuance may provide.

(b) Bonds issued pursuant to paragraph (1) (a) or paragraph (1) (b) must be sold at public sale in the same manner provided in the State Bond Act. Pending the preparation of definitive bonds, temporary bonds or interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(3) A resolution that authorizes any bonds may contain provisions that must be part of the contract with the holders of the bonds, as to:

(a) The pledging of all or any part of the revenues, available municipal or county funds, or other charges or receipts of the authority derived from the regional system.



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245 (b) The construction, reconstruction, improvement,
246 extension, repair, maintenance, and operation of the system, or
247 any part or parts of the system, and the duties and obligations
248 of the authority with reference thereto.

249 (c) Limitations on the purposes to which the proceeds of
250 the bonds, then or thereafter issued, or of any loan or grant by
251 any federal agency or the state or any political subdivision of
252 the state may be applied.

253 (d) The fixing, charging, establishing, revising,
254 increasing, reducing, and collecting of tolls, rates, fees,
255 rentals, or other charges for use of the services and facilities
256 of the system or any part of the system.

257 (e) The setting aside of reserves or of sinking funds and
258 the regulation and disposition of the reserves or sinking funds.

259 (f) Limitations on the issuance of additional bonds.

260 (g) The terms and provisions of any deed of trust or
261 indenture securing the bonds, or under which the bonds may be
262 issued.

263 (h) Any other or additional matters, of like or different
264 character, which in any way affect the security or protection of
265 the bonds.

266 (4) The authority may enter into any deeds of trust,
267 indentures, or other agreements with any bank or trust company
268 within or without the state, as security for such bonds, and
269 may, under such agreements, assign and pledge any of the
270 revenues and other available moneys, including any available
271 municipal or county funds, pursuant to the terms of this
272 chapter. The deed of trust, indenture, or other agreement may
273 contain provisions that are customary in such instruments or



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274 that the authority may authorize, including, but without
275 limitation, provisions that:

276 (a) Pledge any part of the revenues or other moneys
277 lawfully available therefor.

278 (b) Apply funds and safeguard funds on hand or on deposit.

279 (c) Provide for the rights and remedies of the trustee and
280 the holders of the bonds.

281 (d) Provide for the terms and provisions of the bonds or
282 for resolutions authorizing the issuance of the bonds.

283 (e) Provide for any other or additional matters, of like or
284 different character, which affect the security or protection of
285 the bonds.

286 (5) Any bonds issued pursuant to this act are negotiable
287 instruments and have all the qualities and incidents of
288 negotiable instruments under the law merchant and the negotiable
289 instruments law of the state.

290 (6) A resolution that authorizes the issuance of authority
291 bonds and pledges the revenues of the system must require that
292 revenues of the system be periodically deposited into
293 appropriate accounts in such sums as are sufficient to pay the
294 costs of operation and maintenance of the system for the current
295 fiscal year as set forth in the annual budget of the authority
296 and to reimburse the department for any unreimbursed costs of
297 operation and maintenance of the system from prior fiscal years
298 before revenues of the system are deposited into accounts for
299 the payment of interest or principal owing or that may become
300 owing on such bonds.

301 (7) State funds may not be used or pledged to pay the
302 principal or interest of any authority bonds, and all such bonds



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303 must contain a statement on their face to this effect.

304 345.0006 Remedies of bondholders.—

305 (1) The rights and the remedies granted to authority
306 bondholders under this chapter are in addition to and not in
307 limitation of any rights and remedies lawfully granted to such
308 bondholders by the resolution or indenture providing for the
309 issuance of bonds, or by any deed of trust, indenture, or other
310 agreement under which the bonds may be issued or secured. If an
311 authority defaults in the payment of the principal of or
312 interest on any of the bonds issued pursuant to this chapter
313 after such principal of or interest on the bonds becomes due,
314 whether at maturity or upon call for redemption, as provided in
315 the resolution or indenture, and such default continues for 30
316 days, or in the event that the authority fails or refuses to
317 comply with the provisions of this chapter or any agreement made
318 with, or for the benefit of, the holders of the bonds, the
319 holders of 25 percent in aggregate principal amount of the bonds
320 then outstanding shall be entitled as of right to the
321 appointment of a trustee to represent such bondholders for the
322 purposes of the default provided that the holders of 25 percent
323 in aggregate principal amount of the bonds then outstanding
324 first gave written notice of their intention to appoint a
325 trustee, to the authority and to the department.

326 (2) The trustee, and any trustee under any deed of trust,
327 indenture, or other agreement, may, and upon written request of
328 the holders of 25 percent, or such other percentages specified
329 in any deed of trust, indenture, or other agreement, in
330 principal amount of the bonds then outstanding, shall, in any
331 court of competent jurisdiction, in his, her, or its own name:



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332 (a) By mandamus or other suit, action, or proceeding at
333 law, or in equity, enforce all rights of the bondholders,
334 including the right to require the authority to fix, establish,
335 maintain, collect, and charge rates, fees, rentals, and other
336 charges, adequate to carry out any agreement as to, or pledge
337 of, the revenues, and to require the authority to carry out any
338 other covenants and agreements with or for the benefit of the
339 bondholders, and to perform its and their duties under this
340 chapter.

341 (b) Bring suit upon the bonds.

342 (c) By action or suit in equity, require the authority to
343 account as if it were the trustee of an express trust for the
344 bondholders.

345 (d) By action or suit in equity, enjoin any acts or things
346 that may be unlawful or in violation of the rights of the
347 bondholders.

348 (3) A trustee, if appointed pursuant to this section or
349 acting under a deed of trust, indenture, or other agreement, and
350 whether or not all bonds have been declared due and payable,
351 shall be entitled as of right to the appointment of a receiver.
352 The receiver may enter upon and take possession of the system or
353 the facilities or any part or parts of the system, the revenues
354 and other pledged moneys, for and on behalf of and in the name
355 of, the authority and the bondholders. The receiver may collect
356 and receive all revenues and other pledged moneys in the same
357 manner as the authority might do. The receiver shall deposit all
358 such revenues and moneys in a separate account and apply all
359 such revenues and moneys remaining after allowance for payment
360 of all costs of operation and maintenance of the system in such



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manner as the court directs. In a suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee, and said receiver, if any, and all costs and disbursements allowed by the court must be a first charge on any revenues after payment of the costs of operation and maintenance of the system. The trustee also has all other powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this chapter does not authorize a receiver appointed pursuant to this section for the purpose of operating and maintaining the system or any facilities or parts thereof to sell, assign, mortgage, or otherwise dispose of any of the assets belonging to the authority. The powers of such receiver are limited to the operation and maintenance of the system, or any facility or parts thereof and to the collection and application of revenues and other moneys due the authority, in the name and for and on behalf of the authority and the bondholders. A holder of bonds or any trustee does not have the right in any suit, action, or proceeding, at law or in equity, to compel a receiver, or a receiver may not be authorized or a court may not direct a receiver to, sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority.

345.0007 Department to construct, operate, and maintain facilities.—

(1) The department is the agent of each authority for the purpose of performing all phases of a project, including, but



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not limited to, constructing improvements and extensions to the system. The authority shall provide to the department complete copies of the documents, agreements, resolutions, contracts, and instruments that relate to the project and shall request that the department perform the construction work, including the planning, surveying, design, and actual construction of the completion, extensions, and improvements to the system. After the issuance of bonds to finance construction of an improvement or addition to the system, the authority shall transfer to the credit of an account of the department in the State Treasury the necessary funds for construction. The department shall proceed with construction and use the funds for the purpose authorized and as otherwise provided by law for construction of roads and bridges. An authority may alternatively, with the consent and approval of the department, elect to appoint a local agency certified by the department to administer federal aid projects in accordance with federal law as the authority's agent for the purpose of performing each phase of a project.

(2) Notwithstanding the provisions of subsection (1), the department is the agent of each authority for the purpose of operating and maintaining the system. The department shall operate and maintain the system, and the costs incurred by the department for operation and maintenance shall be reimbursed from revenues of the system. The appointment of the department as agent for each authority does not create an independent obligation of the department to operate and maintain a system. Each authority shall remain obligated as principal to operate and maintain its system, and an authority's bondholders do not have an independent right to compel the department to operate or



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maintain the authority's system.

(3) Each authority shall fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the authority's facilities, as otherwise provided in this chapter.

345.0008 Department contributions to authority projects.-

(1) The department may, at the request of an authority, provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of an authority project included in the 10-year Strategic Intermodal Plan, subject to appropriation by the Legislature. The department shall separately include each such authority project in its work program, through amendment if necessary. The department may not request legislative approval of acquisition or construction of a proposed authority project unless the estimated net revenues of the proposed project will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of the 12th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 30th year of operation.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 3249

and insert:

or system, included in the 10-year Strategic Intermodal Plan, if approved by the Legislature; prohibiting the department from requesting legislative approval of a project unless certain conditions are met; providing



628144

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Brandes) recommended the following:

**Senate Amendment to Amendment (955216) (with title
amendment)**

Delete line 2356

and insert:

345.0015 Santa Rosa-Escambia Regional Transportation
Finance Authority.-

Delete line 2359

and insert:

Rosa-Escambia Regional Transportation Finance Authority,
hereinafter referred



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Delete line 2364
and insert:
identified in the Florida Regional Transportation Finance
Authority Act for the

Delete line 2366
and insert:
manner provided by the Florida Regional Transportation Finance
Authority Act.

Delete line 2367
and insert:
345.0016 Suncoast Regional Transportation Finance
Authority.-

Delete line 2370
and insert:
Suncoast Regional Transportation Finance Authority, hereinafter
referred to as

Delete line 2375
and insert:
identified in the Florida Regional Transportation Finance
Authority Act for the

Delete line 2377
and insert:
manner provided by the Florida Regional Transportation Finance
Authority Act.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 2994

and insert:

relating to the Florida Regional Transportation
Finance Authority

Delete line 3208

and insert:

Transportation Finance Authority; creating s.
345.0001, F.S.;

Delete line 3211

and insert:

authorizing counties to form a regional transportation
finance

Delete line 3216

and insert:

a regional transportation finance authority; limiting
an authority's

Delete lines 3275 - 3277

and insert:

345.0015, F.S.; creating the Santa Rosa-Escambia
Regional Transportation Finance Authority; creating s.
345.0016, F.S.; creating the Suncoast Regional
Transportation Finance



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
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	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and
Economic Development (Gardiner) recommended the following:

**Senate Amendment to Amendment (955216) (with title
amendment)**

Delete lines 2461 - 2471
and insert:

Section 57. Section 348.751, Florida Statutes, is amended
to read:

348.751 Short title.—This part ~~shall be known and~~ may be
cited as the "Central Florida ~~Orlando-Orange County~~ Expressway
Authority Law."

Section 58. Section 348.752, Florida Statutes, is amended
to read:



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13 348.752 Definitions.—As used in this chapter ~~The following~~
14 ~~terms, whenever used or referred to in this law, shall have the~~
15 ~~following meanings, except in those instances where the context~~
16 ~~clearly indicates otherwise:~~

17 (1) The term "agency of the state" means ~~and includes~~ the
18 state and any department of, or corporation, agency, or
19 instrumentality ~~heretofore or hereafter~~ created, designated, or
20 established by, the state.

21 (2) The term "authority" means the body politic and
22 corporate, and agency of the state created by this part.

23 (3) The term "bonds" means ~~and includes~~ the notes, bonds,
24 refunding bonds, or other evidences of indebtedness or
25 obligations, in either temporary or definitive form, which the
26 authority is authorized to issue pursuant to this part.

27 (4) The term "Central Florida Expressway Authority" means
28 the body politic and corporate, and agency of the state created
29 by this chapter ~~The term "city" means the City of Orlando.~~

30 (5) The term "Central Florida Expressway System" means any
31 expressway and appurtenant facilities, including all approaches,
32 roads, bridges, and avenues for the expressway and any rapid
33 transit, trams, or fixed guideways located within the right-of-
34 way of an expressway ~~The term "county" means the County of~~
35 ~~Orange.~~

36 (6) The term "department" means the Department of
37 Transportation ~~existing under chapters 334-339.~~

38 (7) The term "expressway" has the same meaning ~~is the same~~
39 as limited access expressway.

40 (8) The term "federal agency" means and includes the United
41 States, the President of the United States, and any department



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of, or corporation, agency, or instrumentality ~~heretofore or hereafter~~ created, designated, or established by, the United States.

(9) The term "lease-purchase agreement" means the lease-purchase agreements that ~~which~~ the authority is authorized ~~pursuant to this part~~ to enter into with the Department of Transportation pursuant to this part.

(10) The term "limited access expressway" means a street or highway specifically ~~especially~~ designed for through traffic, and over, from, or to which, a no person does not shall have the right of easement, use, or access except in accordance with the rules of ~~and regulations promulgated and established by~~ the authority governing its use ~~for the use of such facility~~. Such highways or streets may be parkways that do not allow traffic by, from which trucks, buses, and other commercial vehicles ~~shall be excluded, or they may be~~ freeways open to use by all customary forms of street and highway traffic.

(11) The term ~~"members"~~ means ~~the governing body of the authority, and the term~~ "member" means an individual who serves on the one of the individuals constituting such governing body of the authority.

(12) The term "Orange County gasoline tax funds" means ~~all~~ the revenue derived from the 80-percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Orange County under ~~the provisions of s. 9, Art. XII~~ of the State Constitution, after deducting ~~deduction only of~~ any amounts of said gasoline tax funds previously ~~heretofore~~ pledged by the department or the county for outstanding obligations.

~~(13) The term "Orlando-Orange County Expressway System"~~



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71 ~~means any and all expressways and appurtenant facilities~~
72 ~~thereto, including, but not limited to, all approaches, roads,~~
73 ~~bridges, and avenues of access for said expressway or~~
74 ~~expressways.~~

75 (13) ~~(14)~~ The term "State Board of Administration" means the
76 body corporate existing under the provisions of s. 9, Art. XII
77 of the State Constitution, or any successor ~~thereto~~.

78 (14) The term "transportation facilities" means and
79 includes the mobile and fixed assets, and the associated real or
80 personal property or rights, used in the transportation of
81 persons or property by any means of conveyance, and all
82 appurtenances, such as, but not limited to, highways; limited or
83 controlled access lanes, avenues of access, and facilities;
84 vehicles; fixed guideway facilities, including maintenance
85 facilities; and administrative and other office space for the
86 exercise by the authority of the powers and obligations granted
87 in this part.

88 ~~(15) Words importing singular number include the plural~~
89 ~~number in each case and vice versa, and words importing persons~~
90 ~~include firms and corporations.~~

91 Section 59. Section 348.753, Florida Statutes, is amended
92 to read:

93 348.753 Central Florida ~~Orlando-Orange County~~ Expressway
94 Authority.—

95 (1) There is ~~hereby~~ created and established a body politic
96 and corporate, an agency of the state, to be known as the
97 Central Florida ~~Orlando-Orange County~~ Expressway Authority.
98 ~~hereinafter referred to as "authority."~~

99 (2) (a) Effective July 1, 2014, the Central Florida



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Expressway Authority shall assume the governance and control of the Orlando-Orange County Expressway Authority System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property. Any rights in such property, and other legal rights of the authority, are transferred to the Central Florida Expressway Authority. The powers, responsibilities, and obligations of the Orlando-Orange County Expressway Authority shall succeed to and be assumed by the Central Florida Expressway Authority on July 1, 2014.

(b) The transfer pursuant to this subsection is subject to the terms and covenants provided for the protection of the holders of the Orlando-Orange County Expressway Authority bonds in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds. Further, the transfer does not impair the terms of the contract between the Orlando-Orange County Expressway Authority and the bondholders, does not act to the detriment of the bondholders, and does not diminish the security for the bonds. After the transfer, the Central Florida Expressway Authority shall operate and maintain the expressway system and any other facilities of the Orlando-Orange County Expressway Authority in accordance with the terms, conditions, and covenants contained in the bond resolutions and lease-purchase agreement securing the bonds of the authority. The Central Florida Expressway Authority shall collect toll revenues and apply them to the payment of debt service as provided in the bond resolution securing the bonds, and shall expressly assumes all obligations relating to the bonds to ensure that the transfer will have no adverse impact on the security for the bonds. The transfer does not make the



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obligation to pay the principal and interest on the bonds a
general liability of the Central Florida Expressway Authority or
pledge additional expressway system revenues to payment of the
bonds. Revenues that are generated by the expressway system and
other facilities of the Central Florida Expressway Authority
which were pledged by the Orlando-Orange County Expressway
Authority to payment of the bonds will remain subject to the
pledge for the benefit of the bondholders. The transfer does not
modify or eliminate any prior obligation of the department to
pay certain costs of the expressway system from sources other
than revenues of the expressway system.

(3)(2) The governing body of the authority shall consist of
11 ~~five~~ members. The chairs of the boards of the county
commissions of Seminole, Lake, and Osceola Counties shall each
appoint 1 member, who may be a commission member or chair. The
Governor shall appoint 6 citizen members. Of the Governor's
appointments, 2 ~~Three~~ members must ~~shall~~ be citizens of Orange
County, 1 member each must be a citizen of Seminole, Lake, and
Osceola Counties, and 1 member may be a citizen of any of the
identified counties ~~who shall be appointed by the Governor.~~ The
10th ~~fourth~~ member must ~~shall~~ be, ~~ex officio,~~ the Mayor of ~~chair~~
~~of the County Commissioners of Orange County.~~ The 11th member
must be the Mayor of the City of Orlando. The executive director
of Florida Turnpike Enterprise shall serve as a nonvoting
advisor to the governing body of the authority, ~~and the fifth~~
~~member shall be, ex officio, the district secretary of the~~
~~Department of Transportation serving in the district that~~
~~contains Orange County. The term of Each appointed member~~
~~appointed by the Governor shall serve~~ be for 4 years. Each



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158 county-appointed member shall serve for 2 years. Standing board
159 members shall complete their terms. Each appointed member shall
160 hold office until his or her successor has been appointed and
161 has qualified. A vacancy occurring during a term must ~~shall~~ be
162 filled only for the balance of the unexpired term. Each
163 appointed member of the authority shall be a person of
164 outstanding reputation for integrity, responsibility, and
165 business ability, but, except as provided in this subsection, a
166 ~~no~~ person who is an officer or employee of a municipality or any
167 ~~city or of Orange county may not in any other capacity~~ shall be
168 an appointed member of the authority. Any member of the
169 authority ~~is shall be~~ eligible for reappointment.

170 (4)-(3) (a) The authority shall elect one of its members as
171 chair of the authority. The authority shall also elect one of
172 its members as vice chair, one of its members as a secretary,
173 and one of its members as a treasurer ~~who may or may not be~~
174 ~~members of the authority.~~ The chair, vice chair, secretary, and
175 treasurer shall hold such offices at the will of the authority.
176 Five ~~Three~~ members of the authority ~~shall~~ constitute a quorum,
177 and the vote of five ~~three~~ members ~~is shall be~~ necessary for any
178 action taken by the authority. A ~~No~~ vacancy in the authority
179 does not ~~shall~~ impair the right of a quorum of the authority to
180 exercise all of the rights and perform all of the duties of the
181 authority.

182 (b) Upon the effective date of his or her appointment, or
183 as soon thereafter as practicable, each appointed member of the
184 authority shall enter upon his or her duties.

185 (5)-(4) (a) The authority may employ an executive secretary,
186 an executive director, its own counsel and legal staff,



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technical experts, and the ~~such~~ engineers, and ~~such~~ employees
~~that, permanent or temporary,~~ as it requires. The authority ~~may~~
~~require~~ and may determine the qualifications and fix the
compensation of such persons, firms, or corporations, and may
employ a fiscal agent or agents; ~~provided, however, that the~~
authority shall solicit sealed proposals from at least three
persons, firms, or corporations for the performance of any
services as fiscal agents. The authority may delegate to one or
more of its agents or employees the ~~such of its~~ power as it
deems ~~shall deem~~ necessary to carry out the purposes of this
part, ~~subject always to the supervision and control of the~~
~~authority~~. Members of the authority may be removed from ~~their~~
office by the Governor for misconduct, malfeasance, misfeasance,
or nonfeasance in office.

(b) Members of the authority are ~~shall be~~ entitled to
receive from the authority their travel and other necessary
expenses incurred in connection with the business of the
authority as provided in s. 112.061, but may not ~~they shall~~ draw
~~no~~ salaries or other compensation.

Section 60. Section 348.754, Florida Statutes, is amended
to read:

348.754 Purposes and powers.—

(1) (a) The authority created and established under ~~by the~~
~~provisions of this part is hereby~~ granted and has ~~shall have~~ the
right to acquire, hold, construct, improve, maintain, operate,
own, and lease in the capacity of lessor, the Central Florida
~~Orlando-Orange County~~ Expressway System, hereinafter referred to
as "system." Except as otherwise specifically provided by law,
including paragraph (2) (n), the area served by the authority



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shall be within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.

(b) ~~It is the express intention of this part that said authority,~~ In the construction of the Central Florida said Orlando-Orange County Expressway System, the authority may ~~shall be authorized to~~ construct any extensions, additions, or improvements to the said system or appurtenant facilities, including all necessary approaches, roads, bridges, ~~and~~ avenues of access, rapid transit, trams, fixed guideways, thoroughfares, and boulevards with any such changes, modifications, or revisions of the said project which are ~~as shall be~~ deemed desirable and proper.

(c) Notwithstanding any other provision of this section to the contrary, to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the department, the authority may not, without the prior consent of the secretary of the department, construct an extension, addition, or improvement to the expressway system in Lake County.

(2) The authority ~~is hereby granted, and shall have and~~ may exercise all powers necessary, appurtenant, convenient, or incidental to the implementation ~~carrying out~~ of the stated ~~aforesaid~~ purposes, including, but not ~~without being~~ limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire by donation or otherwise, purchase, hold, lease as lessee, and use any franchise or any, property, real,



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personal, ~~or~~ mixed, or tangible or intangible, or any options
~~thereof~~ in its own name or in conjunction with others, or
interest in those options ~~therein~~, necessary or desirable to
carry ~~for carrying~~ out the purposes of the authority, and to
sell, lease as lessor, transfer, and dispose of any property or
interest in the property ~~therein~~ at any time acquired by it.

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

(e) To enter into and make lease-purchase agreements with
the department for terms not exceeding 99 40 years, or until any
bonds secured by a pledge of rentals pursuant to the agreement
~~thereunder~~, and any refundings pursuant to the agreement
~~thereof~~, are fully paid as to both principal and interest,
whichever is longer. The authority is a party to a lease-
purchase agreement between the department and the authority
dated December 23, 1985, as supplemented by a first supplement
to the lease-purchase agreement dated November 25, 1986, and a
second supplement to the lease-purchase agreement dated October
27, 1988. The authority may not enter into other lease-purchase
agreements with the department and may not amend the existing
agreement in a manner that expands or increases the department's
obligations unless the department determines that the agreement
or amendment is necessary to permit the refunding of bonds
issued before July 1, 2012.

(f) To fix, alter, charge, establish, and collect rates,
fees, rentals, and other charges for the services and facilities
of the Central Florida ~~Orlando-Orange County~~ Expressway System,
which must ~~rates, fees, rentals and other charges shall~~ always



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be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this part; ~~provided,~~ however, ~~that~~ such right and power may be assigned or delegated, by the authority, to the department. Toll revenues attributable to an increase in the toll rates charged on or after July 1, 2014, for the use of a facility or portion of a facility may not be used to construct or expand a different facility unless a two-thirds majority of the members of the authority votes to approve such use. This requirement does not apply if, and to the extent that:

1. Application of the requirement would violate any covenant established in a resolution or trust indenture under which bonds were issued by the Orlando-Orange County Expressway Authority on or before July 1, 2014; or

2. Application of the requirement would cause the authority to be unable to meet its obligations under the terms of the memorandum of understanding between the authority and the department as ratified by the Orlando-Orange County Expressway Authority board on February 22, 2012.

Notwithstanding s. 338.165, and except as otherwise prohibited by this part, to the extent revenues of the expressway system exceed amounts required to comply with any covenants made with the holders of bonds issued pursuant to this part, revenues may be used for purposes enumerated in subsection (6), if the expenditures are consistent with the metropolitan planning organization's adopted long-range plan.

(g) To borrow money, make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, ~~hereinafter~~



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~~in this chapter sometimes called "bonds" of the authority, for~~
the purpose of financing all or part of the improvement or
extension of the Central Florida ~~Orlando-Orange County~~
Expressway System, and appurtenant facilities, including all
approaches, streets, roads, bridges, and avenues of access for
the Central Florida ~~said Orlando-Orange County~~ Expressway System
and for any other purpose authorized by this part, ~~said bonds to~~
~~mature in not exceeding 40 years from the date of the issuance~~
~~thereof~~, and to secure the payment of such bonds or any part
thereof by a pledge of any or all of its revenues, rates, fees,
rentals, or other charges, including all or any portion of the
Orange County gasoline tax funds received by the authority
pursuant to ~~the terms of~~ any lease-purchase agreement between
the authority and the department; and in general to provide for
the security of the ~~said~~ bonds and the rights and remedies of
the holders thereof. ~~Provided, However, that~~ no portion of the
Orange County gasoline tax funds may ~~shall~~ be pledged for the
construction of any project for which a toll is to be charged
unless the anticipated toll is ~~tolls are~~ reasonably estimated by
the board of county commissioners, at the date of its resolution
pledging the ~~said~~ funds, to be sufficient to cover the principal
and interest of such obligations during the period when the ~~said~~
pledge of funds is ~~shall be~~ in effect. The bonds issued under
this paragraph must mature not more than 40 years after their
issue date.

1. The authority shall reimburse Orange County for any sums
expended from the ~~said~~ gasoline tax funds used for the payment
of such obligations. Any gasoline tax funds so disbursed must
~~shall~~ be repaid when the authority deems it practicable,



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together with interest at the highest rate applicable to any obligations of the authority.

2. If, pursuant to this section, ~~In the event~~ the authority ~~funds shall determine to fund or refunds refund~~ any bonds ~~previously theretofore~~ issued by ~~the said~~ authority, ~~or the by~~ ~~said~~ commission ~~before the bonds mature as aforesaid prior to~~ ~~the maturity thereof,~~ the proceeds of such funding or refunding ~~must bonds shall,~~ pending the prior redemption of ~~these the~~ bonds ~~to be funded or refunded,~~ be invested in direct obligations of the United States, ~~and it is the express~~ ~~intention of this part that such outstanding bonds may be funded~~ ~~or refunded by the issuance of bonds pursuant to this part.~~

(h) ~~To make contracts of every name and nature,~~ including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute all instruments necessary or convenient for conducting ~~the carrying on of~~ its business.

(i) Notwithstanding paragraphs (a)-(h), ~~Without limitation of the foregoing,~~ to borrow money and accept grants from, and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, the County of Orange, the City of Orlando, or with any other public body of the state.

(j) To have the power of eminent domain, including the procedural powers granted under both chapters 73 and 74.

(k) To pledge, hypothecate, or otherwise encumber ~~all or~~ any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the Orange County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between



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the authority and the department, as security for ~~all or~~ any of the obligations of the authority.

(l) To enter into partnership and other agreements respecting ownership and revenue participation in order to facilitate financing and constructing the Western Beltway, or portions thereof.

(m) To do everything ~~all acts and things~~ necessary or convenient for the conduct of its business and the general welfare of the authority, in order to comply with ~~carry out the powers granted to it by~~ this part or any other law.

(n) With the consent of the county within whose jurisdiction the following activities occur, the authority shall have the right to construct, operate, and maintain roads, bridges, avenues of access, transportation facilities, thoroughfares, and boulevards outside the jurisdictional boundaries of Orange, Seminole, Lake, and Osceola Counties ~~County~~, together with the right to construct, repair, replace, operate, install, and maintain electronic toll payment systems thereon, ~~with all necessary and incidental powers to accomplish the foregoing.~~

(3) The authority does not ~~shall~~ have the ~~no~~ power ~~at any time or in any manner~~ to pledge the credit or taxing power of the state or any political subdivision or agency thereof, including any city and any county ~~the City of Orlando and the County of Orange~~, nor may ~~nor shall~~ any of the authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor may ~~nor shall~~ the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or



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interest on such obligations.

~~(4) Anything in this part to the contrary notwithstanding, acquisition of right-of-way for a project of the authority which is within the boundaries of any municipality in Orange County shall not be begun unless and until the route of said project within said municipality has been given prior approval by the governing body of said municipality.~~

~~(4)(5) The authority has shall have no power other than by consent of an affected Orange county or any affected city, to enter into any agreement which would legally prohibit the construction of a any road by the respective county or city Orange County or by any city within Orange County.~~

~~(5) The authority shall encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.~~

~~(6)(a) The authority may, within the right-of-way of the expressway system, finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of an intermodal facility or facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system Notwithstanding s. 255.05, the Orlando Orange County Expressway Authority may waive payment and performance bonds on construction contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs on a public building or public work that has a cost of \$500,000 or less and when the project is awarded pursuant to an economic development program for the encouragement of local small businesses that has been adopted by~~



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~~the governing body of the Orlando Orange County Expressway Authority pursuant to a resolution or policy.~~

~~(b) The authority's adopted criteria for participation in the economic development program for local small businesses requires that a participant:~~

~~1. Be an independent business.~~

~~2. Be principally domiciled in the Orange County Standard Metropolitan Statistical Area.~~

~~3. Employ 25 or fewer full-time employees.~~

~~4. Have gross annual sales averaging \$3 million or less over the immediately preceding 3 calendar years with regard to any construction element of the program.~~

~~5. Be accepted as a participant in the Orlando Orange County Expressway Authority's microcontracts program or such other small business program as may be hereinafter enacted by the Orlando Orange County Expressway Authority.~~

~~6. Participate in an educational curriculum or technical assistance program for business development that will assist the small business in becoming eligible for bonding.~~

~~(c) The authority's adopted procedures for waiving payment and performance bonds on projects with values not less than \$200,000 and not exceeding \$500,000 shall provide that payment and performance bonds may only be waived on projects that have been set aside to be competitively bid on by participants in an economic development program for local small businesses. The authority's executive director or his or her designee shall determine whether specific construction projects are suitable for:~~

~~1. Bidding under the authority's microcontracts program by~~



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~~registered local small businesses; and~~

~~2. Waiver of the payment and performance bond.~~

~~The decision of the authority's executive director or deputy executive director to waive the payment and performance bond shall be based upon his or her investigation and conclusion that there exists sufficient competition so that the authority receives a fair price and does not undertake any unusual risk with respect to such project.~~

~~(d) For any contract for which a payment and performance bond has been waived pursuant to the authority set forth in this section, the Orlando-Orange County Expressway Authority shall pay all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract to the same extent and upon the same conditions that a surety on the payment bond under s. 255.05 would have been obligated to pay such persons if the payment and performance bond had not been waived. The authority shall record notice of this obligation in the manner and location that surety bonds are recorded. The notice shall include the information describing the contract that s. 255.05(1) requires be stated on the front page of the bond. Notwithstanding that s. 255.05(9) generally applies when a performance and payment bond is required, s. 255.05(9) shall apply under this subsection to any contract on which performance or payment bonds are waived and any claim to payment under this subsection shall be treated as a contract claim pursuant to s. 255.05(9).~~

~~(e) A small business that has been the successful bidder on six projects for which the payment and performance bond was~~



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~~waived by the authority pursuant to paragraph (a) shall be ineligible to bid on additional projects for which the payment and performance bond is to be waived. The local small business may continue to participate in other elements of the economic development program for local small businesses as long as it is eligible.~~

~~(f) The authority shall conduct bond eligibility training for businesses qualifying for bond waiver under this subsection to encourage and promote bond eligibility for such businesses.~~

~~(g) The authority shall prepare a biennial report on the activities undertaken pursuant to this subsection to be submitted to the Orange County legislative delegation. The initial report shall be due December 31, 2010.~~

Section 61. Section 348.7543, Florida Statutes, is amended to read:

348.7543 Improvements, bond financing authority for.—
Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the Central Florida Orlando-Orange County Expressway Authority improvements to toll collection facilities, interchanges to the legislatively approved expressway system, and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds issued pursuant to s. 348.755(1)(a) or (b) whether currently issued or issued in the future, or by a combination of such bonds.

Section 62. Section 348.7544, Florida Statutes, is amended to read:



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348.7544 Northwest Beltway Part A, construction authorized; financing.—Notwithstanding s. 338.2275, the Central Florida ~~Orlando-Orange County~~ Expressway Authority may ~~is hereby~~ authorized to construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83.

Section 63. Section 348.7545, Florida Statutes, is amended to read:

348.7545 Western Beltway Part C, construction authorized; financing.—Notwithstanding s. 338.2275, the Central Florida ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~ exercise its condemnation powers, construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Western Beltway Part C, extending from Florida's Turnpike near Ocoee in Orange County southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk County line, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83. This



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project may be refinanced with bonds issued by the authority pursuant to s. 348.755(1)(d).

Section 64. Section 348.7546, Florida Statutes, is amended to read:

348.7546 Wekiva Parkway, construction authorized; financing.—

(1) The Central Florida ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~ exercise its condemnation powers and ~~to~~ construct, finance, operate, own, and maintain those portions of the Wekiva Parkway which are identified by agreement between the authority and the department and which are included as part of the authority's long-range capital improvement plan. The "Wekiva Parkway" means any limited access highway or expressway constructed between State Road 429 and Interstate 4 specifically incorporating the corridor alignment recommended by Recommendation 2 of the Wekiva River Basin Area Task Force final report dated January 15, 2003, and the recommendations of the SR 429 Working Group, which were adopted January 16, 2004. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the authority under s. 11, Art. VII of the State Constitution and s. 348.755(1)(b). This section does not invalidate the exercise by the authority of its condemnation powers or the acquisition of any property for the Wekiva Parkway before July 1, 2012.

(2) Notwithstanding any other provision of law ~~to the contrary,~~ in order to ensure that funds are available to the department for its portion of the Wekiva Parkway, beginning July 1, 2012, the authority shall repay the expenditures by the department for costs of operation and maintenance of the Central



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Florida ~~Orlando-Orange County~~ Expressway System in accordance with the terms of the memorandum of understanding between the authority and the department as ratified by the authority board on February 22, 2012, which requires the authority to pay the department \$10 million on July 1, 2012, and \$20 million on each successive July 1 until the department has been fully reimbursed for all costs of the Central Florida ~~Orlando-Orange County~~ Expressway System which were paid, advanced, or reimbursed to the authority by the department, with a final payment in the amount of the balance remaining. Notwithstanding any other law ~~to the contrary~~, the funds paid to the department pursuant to this subsection must ~~shall~~ be allocated by the department for construction of the Wekiva Parkway.

(3) The department's obligation to construct its portions of the Wekiva Parkway is contingent upon the timely payment by the authority of the annual payments required of the authority and receipt of all required environmental permits and approvals by the Federal Government.

Section 65. Section 348.7547, Florida Statutes, is amended to read:

348.7547 Maitland Boulevard Extension and Northwest Beltway Part A Realignment construction authorized; financing.—
Notwithstanding s. 338.2275, the Central Florida ~~Orlando-Orange County~~ Expressway Authority may ~~is hereby authorized to~~ exercise its condemnation powers, construct, finance, operate, own, and maintain the portion of State Road 414 known as the Maitland Boulevard Extension and the realigned portion of the Northwest Beltway Part A as part of the authority's long-range capital improvement plan. The Maitland Boulevard Extension extends ~~will~~



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~~extend~~ from the current terminus of State Road 414 at U.S. 441 west to State Road 429 in west Orange County. The realigned portion of the Northwest Beltway Part A runs ~~will run~~ from the point at or near where the Maitland Boulevard Extension connects ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to the west and then north resulting in the northern terminus of State Road 429 moving farther west before reconnecting with U.S. 441. However, under no circumstances may ~~shall~~ the realignment of the Northwest Beltway Part A conflict with or contradict ~~with~~ the alignment of the Wekiva Parkway as defined in s. 348.7546. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the authority under s. 11, Art. VII of the State Constitution and s. 348.755(1) (b).

Section 66. Subsections (2) and (3) of section 348.755, Florida Statutes, are amended to read:

348.755 Bonds of the authority.—

(2) Any ~~such~~ resolution that authorizes ~~or resolutions authorizing~~ any bonds issued under this section hereunder may contain provisions that must ~~which shall~~ be part of the contract with the holders of such bonds, relating ~~as~~ to:

(a) The pledging of ~~all or~~ any part of the revenues, rates, fees, rentals, ~~(including all or~~ any portion of the Orange County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, or any part thereof), or other charges or receipts of the authority, derived by the authority, from the Central Florida ~~Orlando-Orange County~~ Expressway System.

(b) The completion, improvement, operation, extension,



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622 maintenance, repair, lease or lease-purchase agreement of the
623 ~~said~~ system, and the duties of the authority and others,
624 including the department, ~~with reference thereto~~.

625 (c) Limitations on the purposes to which the proceeds of
626 the bonds, then or thereafter to be issued, or of any loan or
627 grant by the United States or the state may be applied.

628 (d) The fixing, charging, establishing, and collecting of
629 rates, fees, rentals, or other charges for use of the services
630 and facilities of the Central Florida ~~Orlando-Orange County~~
631 Expressway System or any part thereof.

632 (e) The setting aside of reserves or sinking funds or
633 repair and replacement funds and the regulation and disposition
634 thereof.

635 (f) Limitations on the issuance of additional bonds.

636 (g) The terms and provisions of any lease-purchase
637 agreement, deed of trust or indenture securing the bonds, or
638 under which the same may be issued.

639 (h) Any other or additional agreements with the holders of
640 the bonds which the authority may deem desirable and proper.

641 (3) The authority may employ fiscal agents as provided by
642 this part or the State Board of Administration of Florida may
643 upon request of the authority act as fiscal agent for the
644 authority in the issuance of any bonds that ~~which~~ may be issued
645 pursuant to this part, and the State Board of Administration may
646 upon request of the authority take over the management, control,
647 administration, custody, and payment of any ~~or all~~ debt services
648 or funds or assets now or hereafter available for any bonds
649 issued pursuant to this part. The authority may enter into any
650 deeds of trust, indentures or other agreements with its fiscal



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agent, or with any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, sign and pledge ~~all or~~ any of the revenues, rates, fees, rentals or other charges or receipts of the authority, including ~~all or~~ any portion of the Orange County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, ~~thereunder~~. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments, or, as the authority may authorize, including but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to the Central Florida ~~Orlando-Orange County~~ Expressway System, and the duties of the authority and others including the department, with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of same.

Section 67. Subsections (3) and (4) of section 348.756, Florida Statutes, are amended to read:

348.756 Remedies of the bondholders.—

(3) When a ~~Any~~ trustee is ~~when~~ appointed pursuant to subsection (1) ~~as aforesaid~~, or is acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, the trustee is ~~shall be~~ entitled



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as ~~of right~~ to the appointment of a receiver, who may enter upon and take possession of the Central Florida ~~Orlando-Orange County~~ Expressway System or the facilities or any part of the system or facilities ~~or parts thereof~~, the rates, fees, rentals, or other revenues, charges, or receipts that ~~from which~~ are, or may be, applicable to the payment of the bonds so in default, and subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department operate and maintain the same, for and on behalf of and in the name of, the authority, the department, and the bondholders, and collect and receive all rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority or the department might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court directs ~~shall direct~~. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee, and the ~~said~~ receiver, if any, and all costs and disbursements allowed by the court must ~~shall~~ be a first charge on any rates, fees, rentals, or other charges, revenues, or receipts, derived from the Central Florida ~~Orlando-Orange County~~ Expressway System, or the facilities or services or any part of the system or facilities ~~or parts thereof~~, including payments under any such lease-purchase agreement ~~as aforesaid~~ which ~~said~~ rates, fees, rentals, or other charges, revenues, or receipts ~~shall or~~ may be applicable to the payment of the bonds that are ~~so~~ in default. The ~~Such~~ trustee has ~~shall~~, ~~in addition to the foregoing, have and possess~~ all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section ~~herein~~ or incident to the



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representation of the bondholders in the enforcement and protection of their rights.

(4) ~~Nothing in~~ This section or any other section of this part does not shall authorize any receiver appointed pursuant ~~hereto~~ for the purpose, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, of operating and maintaining the Central Florida Orlando-Orange County Expressway System or any facilities or part of the system or facilities ~~or parts thereof~~, to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. ~~It is the intention of this part to limit~~ The powers of the ~~such~~ receiver, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, are limited to the operation and maintenance of the Central Florida Orlando-Orange County Expressway System, or any facility, or part ~~or parts~~ thereof, as the court may direct, in the name and for and on behalf of the authority, the department, and the bondholders, and no holder of bonds on the authority nor any trustee, has ~~shall ever have~~ the right in any suit, action, or proceeding at law or in equity, to compel a receiver, nor may ~~shall~~ any receiver be authorized or any court be empowered to direct the receiver to sell, assign, mortgage, or otherwise dispose of any assets ~~of whatever kind or character~~ belonging to the authority.

Section 68. Subsections (1) through (7) of section 348.757, Florida Statutes, are amended to read:

348.757 Lease-purchase agreement.—

(1) ~~In order to effectuate the purposes of this part and as~~



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~~authorized by this part,~~ The authority may enter into a lease-purchase agreement with the department relating to and covering the former Orlando-Orange County Expressway System.

(2) The ~~Such~~ lease-purchase agreement must ~~shall~~ provide for the leasing of the former Orlando-Orange County Expressway System, by the authority, as lessor, to the department, as lessee, must ~~shall~~ prescribe the term of such lease and the rentals to be paid ~~thereunder~~, and must ~~shall~~ provide that upon the completion of the faithful performance ~~thereunder~~ and the termination of the ~~such~~ lease-purchase agreement, title in fee simple absolute to the former Orlando-Orange County Expressway System as then constituted shall be transferred in accordance with law by the authority, to the state and the authority shall deliver to the department such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

(3) The ~~Such~~ lease-purchase agreement may include ~~such~~ other provisions, agreements, and covenants that ~~as~~ the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under, and for the purposes of, this part, the completion, extension, improvement, operation, and maintenance of the former Orlando-Orange County Expressway System and the expenses and the cost of operation of the ~~said~~ authority, the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities of the system ~~thereof~~, the application of federal or state grants or aid that ~~which~~ may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance



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of the former Orlando-Orange County ~~Orlando~~ Expressway System, which the authority is ~~hereby~~ authorized to accept and apply to such purposes, the enforcement of payment and collection of rentals and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of and full performance under the ~~such~~ lease-purchase agreement.

(4) The department as lessee under the ~~such~~ lease-purchase agreement, may ~~is hereby authorized to~~ pay as rentals under the agreement ~~thereunder~~ any rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the former Orlando-Orange County Expressway System and the Orange County gasoline tax funds and may also pay as rentals any appropriations received by the department pursuant to any act of the Legislature of the state heretofore or hereafter enacted; ~~provided,~~ however, this part or the ~~that~~ ~~nothing herein nor in such~~ lease-purchase agreement is not intended to and does not ~~nor shall this part or such lease-purchase agreement~~ require the making or continuance of such appropriations, and ~~nor shall~~ any holder of bonds issued pursuant to this part does not ~~ever~~ have any right to compel the making or continuance of such appropriations.

(5) ~~A~~ No pledge of the ~~said~~ Orange County gasoline tax funds as rentals under a ~~such~~ lease-purchase agreement may not ~~shall~~ be made without the consent of the County of Orange evidenced by a resolution duly adopted by the board of county commissioners of said county at a public hearing held pursuant to due notice thereof published at least once a week for 3 consecutive weeks before the hearing in a newspaper of general circulation in Orange County. The ~~Said~~ resolution, among other



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things, must ~~shall~~ provide that any excess of the ~~said~~ pledged gasoline tax funds which is not required for debt service or reserves for the ~~such~~ debt service for any bonds issued by the ~~said~~ authority shall be returned annually to the department for distribution to Orange County as provided by law. Before making any application for a ~~such~~ pledge of gasoline tax funds, the authority shall present the plan of its proposed project to the Orange County planning and zoning commission for its comments and recommendations.

(6) The ~~Said~~ department may ~~shall have power to~~ covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of the ~~said~~ system, and any part of the cost of completing the ~~said~~ system to the extent that the proceeds of bonds issued ~~therefor~~ are insufficient, from sources other than the revenues derived from the operation of the ~~said~~ system and the ~~said~~ Orange County gasoline tax funds. The ~~said~~ department may also agree to make such other payments from any moneys available to the ~~said~~ commission, the ~~said~~ county, or the ~~said~~ city in connection with the construction or completion of the ~~said~~ system as shall be deemed by the ~~said~~ department to be fair and proper under any ~~such~~ covenants ~~heretofore or hereafter~~ entered into.

(7) The ~~said~~ system must ~~shall~~ be a part of the state road system and the ~~said~~ department may ~~is hereby authorized,~~ upon the request of the authority, ~~to~~ expend out of any funds available for the purpose the ~~such~~ moneys, and ~~to~~ use ~~such of~~ its engineering and other forces, as may be necessary ~~and desirable in the judgment of said department,~~ for the operation



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of the ~~said~~ authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies; provided, however, that the aggregate amount of moneys expended for the ~~said~~ purposes by the ~~said~~ department do ~~shall~~ not exceed the sum of \$375,000.

Section 69. Section 348.758, Florida Statutes, is amended to read:

348.758 Appointment of department as ~~may be appointed~~ agent of authority for construction.—The department may be appointed by the ~~said~~ authority as its agent for the purpose of constructing improvements and extensions to the Central Florida ~~Orlando-Orange County~~ Expressway System and for its ~~the~~ completion ~~thereof~~. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto and shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the Central Florida ~~Orlando-Orange County~~ Expressway System and shall transfer to the credit of an account of the department in the State Treasury ~~of the state~~ the necessary funds, ~~therefor~~ and the department may ~~shall thereupon be authorized, empowered and directed to~~ proceed with such construction and ~~to~~ use the ~~said~~ funds for such purpose in the same manner that it is ~~now~~ authorized to use the funds ~~otherwise provided by law~~ for the ~~its use in~~ construction of roads and bridges.

Section 70. Section 348.759, Florida Statutes, is amended to read:



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348.759 Acquisition of lands and property.-

(1) For the purposes of this part, the Central Florida
~~Orlando-Orange County~~ Expressway Authority may acquire private
or public property and property rights, including rights of
access, air, view, and light, by gift, devise, purchase, or
condemnation by eminent domain proceedings, as the authority
deems ~~may deem~~ necessary for any of the purposes of this part,
including, but not limited to, any lands reasonably necessary
for securing applicable permits, areas necessary for management
of access, borrow pits, drainage ditches, water retention areas,
rest areas, replacement access for landowners whose access is
impaired due to the construction of a facility, and replacement
rights-of-way for relocated rail and utility facilities; for
existing, proposed, or anticipated transportation facilities on
the Central Florida ~~Orlando-Orange County~~ Expressway System or
in a transportation corridor designated by the authority; or for
the purposes of screening, relocation, removal, or disposal of
junkyards and scrap metal processing facilities. The authority
may ~~shall also have the power to~~ condemn any material and
property necessary for such purposes.

(2) The ~~right of eminent domain herein conferred shall be~~
~~exercised by the~~ authority shall exercise the right of eminent
domain in the manner provided by law.

(3) When the authority acquires property for a
transportation facility or in a transportation corridor, it is
not subject to any liability imposed by chapter 376 or chapter
403 for preexisting soil or groundwater contamination due solely
to its ownership. This section does not affect the rights or
liabilities of any past or future owners of the acquired



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property and ~~not~~ does not ~~it~~ affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

Section 71. Section 348.760, Florida Statutes, is amended to read:

348.760 Cooperation with other units, boards, agencies, and individuals.—~~A Express authority and power is hereby given and granted any county, municipality, drainage district, road and bridge district, school district or any other political subdivision, board, commission, or individual in, or of, the state may to make and enter into with the authority, contracts, leases, conveyances, partnerships, or other agreements pursuant to within the provisions and purposes of this part. The authority may is hereby expressly authorized to make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of this part or with the consent of the Seminole County Expressway Authority, for the purpose of carrying out and implementing part VIII of this chapter.~~

Section 72. Section 348.761, Florida Statutes, is amended to read:

348.761 Covenant of the state.—The state pledges ~~does hereby pledge~~ to, and agrees, with any person, firm or



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corporation, or federal or state agency subscribing to, or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights that are hereby vested in the authority and the department until all issued bonds and interest ~~at any time issued, together with the interest thereon,~~ are fully paid and discharged insofar as the pledge same affects the rights of the holders of bonds issued pursuant to this part hereunder. The state does further pledge to, and agree, with the United States that in the event any federal agency constructs or contributes ~~shall construct or contribute~~ any funds for the completion, extension, or improvement of the Central Florida ~~Orlando-Orange County~~ Expressway System, or any part or portion of the system thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner that ~~which~~ would be inconsistent with the continued maintenance and operation of the Central Florida ~~Orlando-Orange County~~ Expressway System or the completion, extension, or improvement of the system thereof, or that ~~which~~ would be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers ~~herein~~ granted in this part, so long as the powers are ~~same shall be~~ necessary or desirable for the carrying out of the purposes of this part and the purposes of the United States in the completion, extension, or improvement of the Central Florida ~~Orlando-Orange County~~ Expressway System, or any part of the system ~~or portion thereof~~.

Section 73. Section 348.765, Florida Statutes, is amended



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to read:

348.765 This part complete and additional authority.—

(1) The powers conferred by this part are ~~shall be~~ in addition and supplemental to the existing powers of the ~~said~~ board and the department, and this part may ~~shall~~ not be construed as repealing any of the provisions, of any other law, general, special, or local, but to supersede such other laws in the exercise of the powers provided in this part, and to provide a complete method for the exercise of the powers granted in this part. The extension and improvement of the Central Florida ~~said Orlando-Orange County~~ Expressway System, and the issuance of bonds pursuant to this part hereunder to finance all or part of the cost of the system thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, but not limited to, s. 215.821, and no approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in the ~~said~~ County of Orange, or in the ~~said~~ City of Orlando, or in any other political subdivision of the state, is ~~shall be~~ required for the issuance of such bonds pursuant to this part.

(2) This part does ~~shall not be deemed to~~ repeal, rescind, or modify any other law ~~or laws~~ relating to the ~~said~~ State Board of Administration, the ~~said~~ Department of Transportation, or the Division of Bond Finance of the State Board of Administration, but supersedes any ~~shall be deemed to and shall supersede such~~ ~~other law that is or laws as~~ are inconsistent with the provisions of this part, including, but not limited to, s.



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215.821.

Section 74. Subsections (6) and (7) of section 369.317, Florida Statutes, are amended to read:

369.317 Wekiva Parkway.—

(6) The Central Florida ~~Orlando-Orange County~~ Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 259.041 on behalf of the Board of Trustees or chapter 373 on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less-than-fee simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre parcel located in Lake County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/-acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-



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party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Central Florida ~~Orlando-Orange County~~ Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road-construction-related impacts incurred by the Department of Transportation or Central Florida ~~Orlando-Orange County~~ Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

(a) Acquisition of the land described in this section is required to provide right-of-way for the Wekiva Parkway, a limited access roadway linking State Road 429 to Interstate 4, an essential component in meeting regional transportation needs to provide regional connectivity, improve safety, accommodate projected population and economic growth, and satisfy critical transportation requirements caused by increased traffic volume growth and travel demands.

(b) Acquisition of the lands described in this section is



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also required to protect the surface water and groundwater resources of Lake, Orange, and Seminole counties, otherwise known as the Wekiva Study Area, including recharge within the springshed that provides for the Wekiva River system. Protection of this area is crucial to the long term viability of the Wekiva River and springs and the central Florida region's water supply. Acquisition of the lands described in this section is also necessary to alleviate pressure from growth and development affecting the surface and groundwater resources within the recharge area.

(c) Lands acquired pursuant to this section that are needed for transportation facilities for the Wekiva Parkway shall be determined not necessary for conservation purposes pursuant to ss. 253.034(6) and 373.089(5) and shall be transferred to or retained by the Central Florida ~~Orlando-Orange County~~ Expressway Authority or the Department of Transportation upon reimbursement of the full purchase price and acquisition costs.

(7) The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Central Florida ~~Orlando-Orange County~~ Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities. Properties acquired with Florida Forever funds shall be in accordance with s. 259.041 or chapter 373. The Central Florida ~~Orlando-Orange County~~ Expressway Authority shall acquire land in accordance with this section of law to the extent funds are available from the various funding partners, but shall not be required nor assumed to fund the land acquisition beyond the



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agreement and funding provided by the various land acquisition entities.

Section 75. Subsection (1) of section 369.324, Florida Statutes, is amended to read:

369.324 Wekiva River Basin Commission.—

(1) The Wekiva River Basin Commission is created to monitor and ensure the implementation of the recommendations of the Wekiva River Basin Coordinating Committee for the Wekiva Study Area. The East Central Florida Regional Planning Council shall provide staff support to the commission with funding assistance from the Department of Economic Opportunity. The commission shall be comprised of a total of 18 ~~19~~ members appointed by the Governor, 9 of whom shall be voting members and 9 ~~10~~ shall be ad hoc nonvoting members. The voting members shall include:

(a) One member of each of the Boards of County Commissioners for Lake, Orange, and Seminole Counties.

(b) One municipal elected official to serve as a representative of the municipalities located within the Wekiva Study Area of Lake County.

(c) One municipal elected official to serve as a representative of the municipalities located within the Wekiva Study Area of Orange County.

(d) One municipal elected official to serve as a representative of the municipalities located within the Wekiva Study Area of Seminole County.

(e) One citizen representing an environmental or conservation organization, one citizen representing a local property owner, a land developer, or an agricultural entity, and one at-large citizen who shall serve as chair of the council.



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(f) The ad hoc nonvoting members shall include one representative from each of the following entities:

1. St. Johns River Management District.
2. Department of Economic Opportunity.
3. Department of Environmental Protection.
4. Department of Health.
5. Department of Agriculture and Consumer Services.
6. Fish and Wildlife Conservation Commission.
7. Department of Transportation.
8. MetroPlan Orlando.
9. Central Florida ~~Orlando-Orange County~~ Expressway

Authority.

~~10. Seminole County Expressway Authority.~~

Section 76. (1) Effective upon the completion of construction of the Poinciana Parkway, a limited access facility of approximately 9 miles in length in Osceola County with its northwestern terminus at the intersection of County Road 54 and US 17/US 92 and its southeastern terminus at the current intersection of Rhododendron and Cypress Parkway, described in the Osceola County Expressway Authority May 8, 2012, Master Plan, all powers, governance, and control of the Osceola County Expressway System, created pursuant to part V, chapter 348, Florida Statutes, is transferred to the Central Florida Expressway Authority, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of the Osceola County Expressway Authority are transferred to the Central Florida Expressway Authority. The effective date of such transfer shall be extended until completion of construction of such portions of the



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Southport Connector Expressway, the Northeast Connector Expressway, such portions of the Poinciana Parkway to connect to State Road 429, and the Osceola Parkway Extension, as each is described in the Osceola County Expressway Authority May 8, 2012, Master Plan, which are included in any design contract executed by the Osceola County Expressway Authority before July 1, 2019. Part V of chapter 348, Florida Statutes, consisting of ss. 348.9950-348.9961, is repealed on the same date that the Osceola County Expressway System is transferred to the Central Florida Expressway Authority.

(2) The Central Florida Expressway Authority shall also reimburse any and all obligations of any other governmental entities with respect to the Osceola County Expressway System, including any obligations of Osceola County with respect to operations and maintenance of the Osceola County Expressway System and any loan repayment obligations, including repayment obligations with respect to State Infrastructure Bank loans. Such reimbursement shall be made from revenues available for such purpose after payment of all amounts required:

(a) Otherwise by law;

(b) By the terms of any resolution authorizing the issuance of bonds by the authority, the Orlando-Orange County Expressway Authority, or the Osceola County Expressway Authority;

(c) By the terms of any resolution under which bonds are issued by Osceola County for the purpose of constructing improvements to the Osceola County Expressway System; and

(d) By the terms of the memorandum of understanding between the Orlando-Orange County Expressway Authority and the department as ratified by the board of the Orlando-Orange County



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Expressway Authority on February 22, 2012.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 3285 - 3287

and insert:

ss. 348.751 and 348.752, F.S.; renaming the Orlando-
Orange County Expressway System as the "Central
Florida Expressway System"; revising definitions;
making technical changes; amending s. 348.753, F.S.;
creating the Central Florida Expressway Authority;
providing for the transfer of governance and control,
legal rights and powers, responsibilities, terms, and
obligations to the authority; providing conditions for
the transfer; revising the composition of the
governing body of the authority; providing for
appointment of officers of the authority; revising
quorum and voting requirements; conforming terminology
and making technical changes; amending s. 348.754,
F.S.; providing that the area served by the authority
is within the geopolitical boundaries of Orange,
Seminole, Lake, and Osceola Counties; requiring the
authority to have prior consent from the Secretary of
the Department of Transportation to construct an
extension, addition, or improvement to the expressway
system in Lake County; extending, to 99 years from 40
years, the term of a lease or lease-purchase
agreement; limiting the authority's authority to enter
into a lease-purchase agreement; limiting the use of



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certain toll-revenues; providing exceptions; removing the requirement that the route of a project must be approved by a municipality before the right-of-way can be acquired; requiring that the authority encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities; removing the authority and criteria for an authority to waive payment and performance bonds for certain public works projects that are awarded pursuant to an economic development program; conforming terminology and making technical changes; amending ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S.; conforming terminology and making technical changes; amending s. 348.757, F.S.; providing that upon termination of the lease-purchase agreement of the former Orlando-Orange County Expressway System, title in fee simple to the system will be retained by the authority; conforming terminology and making technical changes; amending ss. 348.758, 348.759, 348.760, 348.761, 348.765, and 369.317, F.S.; conforming terminology and making technical changes; amending s. 369.324, F.S.; revising the membership of the Wekiva River Basin Commission; conforming terminology; providing criteria for the transfer of the Osceola County Expressway System to the Central Florida Expressway Authority; providing for the repeal of part V of ch. 348, F.S., when the Osceola County Expressway System is transferred to the Central Florida Expressway Authority; requiring the



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1202 Central Florida Expressway Authority to reimburse
1203 other governmental entities for obligations related to
1204 the Osceola County Expressway System; providing for
1205 reimbursement after payment of other obligations;
1206 amending s. 373.4137, F.S.;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 1132

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development, Community Affairs Committee, and Senator Brandes

SUBJECT: Department of Transportation

DATE: April 11, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Eichin	TR	Fav/7 amendments
2. Anderson	Yeatman	CA	Fav/CS
3. Price	Martin	ATD	Fav/CS
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

CS/CS/SB 1132 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT or department) and various transportation issues.

The bill contains several issues that will impact state revenues, most of which have an indeterminate or negligible fiscal impact. Please see Section V.

The bill:

- Extends the Florida Transportation Commission's oversight of expressway and bridge authorities to regional transportation finance authorities created under a new ch. 345, F.S., and repeals provisions relating to the Florida Statewide Passenger Rail Commission.
- Establishes the FDOT as the agency responsible for administering the small county dredging program and sunsets the program on July 1, 2018.
- Provides funding for space transportation projects from the State Transportation Trust Fund (STTF).

- Authorizes the FDOT to fund up to 100 percent of the cost of strategic airport investment projects under specified conditions.
- Prohibits the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements.
- Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way.
- Amends the process that the FDOT must follow relating to proposals to enter into a lease of the FDOT property for joint public-private development or commercial development.
- Revises provisions relating to the uses of fees generated from certain tolls to include the design and construction of a fire station; revises provisions relating to the transfer of certain excess revenues; and removes authority of a water management district to issue bonds or notes which pledge excess toll revenues.
- Revises provisions relating to metropolitan planning organization (MPO) designation to conform language to federal law, provides a cap on the number of voting members of an MPO re-designated as specified, provides that certain authorities or agencies in metropolitan areas may be provided voting membership on the MPO, and makes editorial changes to eliminate redundancy and provide clarity.
- Authorizes Enterprise Florida, Inc., to be a consultant to the FDOT for consideration of expenditures associated with and contracts for economic development transportation projects and revises the requirements for those project contracts between the FDOT and a governmental entity.
- Repeals the Transportation Corporation Act and other obsolete provisions related to the Act.
- Includes projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank.
- Expands eligibility of intercity bus companies to compete for federal and state program funding.
- Revises the types of eligible projects and criteria of the Intermodal Development Program.
- Creates the Florida Regional Transportation Finance Authority Act authorizing counties to form a regional tollway authority that can construct, maintain, and operate transportation projects in a region of the state.
- Renames the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority and revises related provisions.
- Creates chapter 345, F.S., to authorize the formation of regional transportation finance authorities.
- Creates the Santa Rosa-Escambia Regional Transportation Finance Authority and the Suncoast Regional Transportation Finance Authority.
- Provides for the transfer of the governance and control of the Mid-Bay Bridge Authority System to the Northwest Florida Regional Transportation Finance Authority.
- Renames the Orlando-Orange County Expressway Authority as the Central Florida Expressway Authority and revises related provisions.
- Transfers all powers, governance, and control of the Osceola County Expressway System to the Central Florida Expressway Authority and repeals part V of ch. 348, F.S., on the same date that the Osceola County Expressway System is transferred.
- Revises provisions relating to mitigation of the environmental impacts of transportation projects.

- Requires public information systems located on water management district property to be approved by the FDOT and the Federal Highway Administration if approval is required by federal law.
- Prohibits the use of public block grant funds to pursue or promote the levy of new or additional taxes through public referenda.
- Repeals obsolete language, clarifies ambiguous language, and makes editorial, grammatical, and conforming changes.
- Provides an effective date.

This bill amends the following sections of the Florida Statutes: 20.23, 110.205, 311.22, 316.545, 331.360, 334.044, 335.06, 337.11, 337.14, 337.168, 337.25, 337.251, 338.161, 338.165, 338.26, 339.175, 339.2821, 339.55, 341.031, 341.053, 343.80, 343.805, 343.81, 343.82, 343.83, 343.835, 343.84, 343.85, 343.875, 343.89, 343.922, 343.922, 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, 348.765, 369.317, 369.324, 373.4137, 373.618, and 341.052.

The bill repeals the following sections of the Florida Statutes: 11.45(3)(m), 316.530(3), 339.401, 339.402, 339.403, 339.404, 339.405, 339.406, 339.407, 339.408, 339.409, 339.410, 339.411, 339.412, 339.414, 339.415, 339.416, 339.417, 339.418, 339.419, 339.420, 339.421.

The bill creates the following sections of the Florida Statutes: 332.007(11), and chapter 345, consisting of the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, 345.0014, 345.0015, and 345.0016.

II. Present Situation:

Florida Transportation Corporation Act and Related Audit Authority

Sections 339.401 through 339.421, F.S., create the “Florida Transportation Corporation Act.” This act was created in 1988¹ to allow certain nonprofit corporations authorized by the FDOT to act on FDOT’s behalf in assisting with project planning and design, assembling right-of-way and financial support, and generally promoting projects included in the FDOT’s adopted five-year work program. The act contains various statutory provisions related to the formation, operation, and dissolution of these corporations.

Among the specific activities of transportation corporations authorized under the act are:

- Acquiring, holding, investing, and administering property and transferring title to the FDOT for project development;
- Performing preliminary and final alignment studies;
- Receiving contributions of land for right-of-way and case donations to be applied to the purchase of right-of-way or design and construction projects; and,
- Making official presentations to groups concerning the project and issuing press releases and promotional materials.

¹ s. 3, ch. 88-271, Laws of Florida.

Florida transportation corporations cannot issue bonds and are not empowered to enter into construction contracts or to undertake construction. They are enabled to otherwise borrow money or accept donations to help defray expenses or needs associated with the corporation or a particular transportation project.

According to the FDOT, after a limited number of inquiries immediately following passage of the act, the FDOT has received no further requests for information or other indications of interest in the act, and the provisions of the act have never been used. As a result, the Auditor General's authority to audit corporations acting on behalf of the FDOT in s. 11.45(3)(m), F.S., has never been exercised, and the provisions of Fla. Admin. Code Rule Chapter 14-35, which implement the act, have never been applied.

Overlapping Responsibility for Passenger Rail Systems

Florida Transportation Commission

The Florida Transportation Commission (FTC) has long been charged with periodically reviewing the status of the state transportation system, including rail and other component modes, and with recommending system improvements to the Governor and the Legislature. Beginning in 2007, the Legislature also directed the FTC in s. 20.23(2)(b)8., F.S., to:

Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, F.S.,² including any authority formed using the provisions of part I of ch. 348, F.S., and any authority formed under ch. 343, F.S., which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

The only publicly funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in ch. 343, F.S.

Florida Statewide Passenger Rail Commission (FSPRC)

In 2009, the Florida Legislature provided a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network.³ The Legislature created the Florida Rail Enterprise, modeled after the Florida Turnpike

² Chapter 343, F.S., entities include the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348, F.S., entities include the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349, F.S., establishes the Jacksonville Transportation Authority.

³ Chapter 2011-271, L.O.F.

Enterprise, to coordinate the development and operation of passenger rail services statewide, and established the FSPRC to monitor, advise, and review publicly-funded passenger rail systems.⁴

Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC in s. 20.23(3)(b)1., F.S., with the function of:

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapters 343, 349, or 163, F.S., if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

State Public Transportation and Modal Administrator

Recognizing the significant role played by freight mobility as an economic driver for the state, the FDOT recently created an Office of Freight, Logistics, and Passenger Operations, and the 2012 Legislature directed the FDOT to develop a Freight Mobility and Trade Plan to assist in making freight mobility investments that contribute to the economic growth of the state.⁵ As part of its focus on freight and intermodal issues, the FDOT requested approval from the Department of Management Services (DMS) to change the title of an existing Senior Management Service class position, from State Public Transportation and Modal Administrator, to State Freight and Logistics Administrator.⁶ The DMS approved the requested change on September 2, 2011.

Small County Dredging Program

The Small County Dredging Program was created by the Legislature in 2005 assist in financing certain dredging improvements at small ports in counties with a population of less than 300,000 persons based on the last official United States Census, but which were not eligible for existing Florida Seaport Transportation and Economic Development (FSTED) funding.⁷ Under the program, funding is authorized for dredging or deepening of channels, turning basins, or harbors

⁴ The first phase (31 miles) of a commuter rail project, SunRail, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

⁵ Chapter 2012-174, L.O.F.

⁶ Section 110.205(2)(j), F.S.

⁷ Section 311.22, F.S.

on a 25-percent local matching basis with any port authority⁸ that meets environmental permitting and other specified criteria. There are at least seven entities meeting the definition of “port authority” in counties with less than 300,000 population: the Panama City Port Authority; the Citrus County Port Authority; the Port St. Joe Port Authority; the Hernando County Port Authority; the Ocean, Highway, and Port Authority (Nassau County); the Putnam County Port Authority; and the St. Lucie County Port Authority.

The program was initially funded with a \$5 million appropriation to the State Transportation Trust Fund to provide a 50-percent state match. An additional \$9.2 million was provided in the 2006-2007 General Appropriations Acts to provide a 75-percent state match. No further funding has been provided to the program.

Wrecker Permits/Disabled Vehicles

Current s. 316.515(8), F.S., allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over legal weight, provided that the wrecker is operating under a special use permit. This provision was passed during the 1997 session. During the same session, s. 316.550(5), F.S., was passed to authorize the FDOT to issue such overweight permits.⁹ However, s. 316.530(3), F.S., (originally passed as s. 316.205(3) in 1976) which allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, was inadvertently overlooked and still remains in current law, despite the direct conflict with subsequently passed legislation.

As the 1997 changes rendered the provisions of s. 316.530(3), F.S., obsolete, the last-passed provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have been enforced since that time.

Commercial Motor Vehicles/Auxiliary Power Units

Section 756 of the Energy Policy Act of 2005, “Idle Reduction and Energy Conservation Deployment Program,” amended 23 U.S.C. 127(a)(12) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology (“auxiliary power units” or “APUs”)¹⁰ on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created by the 2010 Legislature to provide for a 400-pound reduction in the gross weight of commercial motor vehicles equipped with idling reduction technology when calculating a penalty for exceeding maximum weight limits. The reauthorized Federal-aid highway program, Moving Ahead for Progress in the 21st Century (MAP-21) further amended 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight of APUs.

⁸ Defined in s. 315.02(2), F.S., to mean any port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law.

⁹ These changes are consistent with federal law, specifically 23 U.S.C. 127(a) and 23 C.F.R. 658.17, which authorize states to permit nondivisible loads and vehicles (defined to include emergency response vehicles) exceeding maximum weight limits upon the issuance of special permits in accordance with state law.

¹⁰ An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during resting periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants, as well as noise).

Space Transportation Facilities

The FDOT and Space Florida are currently authorized to enter into a joint participation agreement to effectuate the provisions of ch. 331, F.S., and the FDOT is authorized to allocate funds for such purposes in its five-year work program. The FDOT is prohibited from funding the administrative or operational costs of Space Florida.

Space Florida is required to develop a spaceport master plan for expansion and modernization of space transportation facilities within defined spaceport territories, containing recommended projects, and is required to submit the plan to the FDOT. The FDOT may include the plan within the FDOT's five-year work program of qualifying aerospace discretionary capacity improvement projects and is authorized to participate in the capital cost of eligible spaceport discretionary capacity improvement projects, subject to the availability of appropriated funds. The plan is required to identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF. The FDOT's annual LBR must be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.¹¹

The FDOT Adopted Work Program included \$16 million for spaceport projects in both Fiscal Year 2011-2012 and Fiscal Year 2012-2013. The FDOT Final Tentative Work Program for Fiscal Years 2014-2018 includes \$20 million for Space Florida transportation projects in each of the five years.¹²

State Aviation Program

Section 332.007, F.S., requires the FDOT to prepare and continuously update an aviation and airport work program that separately identifies development projects and discretionary capacity improvement projects. Subject to the availability of appropriated funds, FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects,¹³ unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. The FDOT is also authorized, subject to the availability of appropriated funds in addition to aviation fuel tax revenues, to participate in the capital cost of eligible public airport and aviation discretionary capacity improvement projects,¹⁴ again at percentage rates that vary. The FDOT notes that the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that the FDOT does not have a similar investment initiative or authority for the Aviation Program.

¹¹ "Spaceport discretionary capacity improvement projects" is defined in s. 331.303(21), F.S., to mean capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.

¹² FDOT email, February 7, 2013, on file in the Senate Transportation Committee.

¹³ In short, defined in s. 332.004(4), F.S., as "...any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof..."

¹⁴ Defined in s. 332.004(5), F.S., as "...capacity improvements ... which enhance intercontinental capacity at [specified] airports...."

Toll Authorities/Lease-Purchase Agreements

In addition to the FDOT, various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of the FDOT), most, but not all, of the toll authorities are established under ch. 348, F.S., entitled "Expressway and Bridge Authorities." Various sections of ch. 348, F.S., provide the toll authorities the ability to enter into lease-purchase agreements with the FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities are authorized under ch. 343, F.S., to enter into lease-purchase agreements with the FDOT, and a bridge authority established by special act of the Legislature is similarly authorized. The FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

The FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows the FDOT to lend or pay a portion of the operation and maintenance (O&M) and capital costs of any revenue-producing transportation project located on the SHS or that is demonstrated to relieve traffic congestion on the SHS. The FDOT pays such costs using funds from the STTF.

In a typical lease-purchase agreement between the FDOT and a toll authority, the FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or the R&R) costs of the associated toll facility. Upon completion of the lease-purchase agreement, ownership of the facility would be transferred to the State and the FDOT would retain all revenues collected, as well as the O&M responsibility.

As required by existing agreements, the FDOT paid \$9.2 million in the O&M expenses in FY 2011-2012 and an additional \$32.8 million in the R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. These funds accrue to an authority's long-term debt owed to the FDOT. When the O&M and the R&R expenses are not reimbursed by the toll authority on a current basis, *e.g.*, monthly or annually, the STTF monetary advances are added to the authority's long-term debt due to the FDOT. As of June 30, 2012, debt owed to FDOT from various toll authorities for expenses paid totaled approximately \$419.7 million.

Roadside Enhancement and Maintenance Requirements

The FDOT is responsible for enhancing environment benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.¹⁵ The FDOT is required to purchase all plant materials from Florida commercial nursery stock on a uniform competitive basis. This provision conflicts with federal requirements that specify a state transportation department cannot require the use of materials produced in state or restrict the use of materials produced out of state.¹⁶ Failure to comply with federal requirements for purchases of plant material for roadside landscaping may subject the FDOT to a significant federal funds penalty, generally 10 percent of annual highway constructions funds.¹⁷

¹⁵ See s. 334.044(26), F.S.

¹⁶ See 23 C.F.R. s. 635.409.

¹⁷ See 23 U.S.C. s. 131(b).

Access to State Park Roads

Section 335.06, F.S., currently requires the FDOT to maintain any road that is part of the State Highway System and provides access to property within the state park system. Local governments are required to maintain roads that are part of the county road or city street system.

Vehicle Registration/FDOT Contractors

Section 320.02(1), F.S., provides that every owner or person in charge of a motor vehicle operated or driven on the roads of this state shall register the vehicle in this state, except as otherwise provided. Section 320.37, F.S., provides that the registration requirement (and license plate display requirements) does not apply to a motor vehicle owned by a nonresident if the nonresident has complied with the registration law of the foreign country, state, territory, or federal district of the owner's residence. However, s. 320.38, F.S., provides that if a nonresident accepts employment or engages in any trade, profession, or occupation in this state, the nonresident must register his or her motor vehicle in this state within 10 days after beginning such employment.

Section 337.11(13), F.S., requires each road or bridge construction or maintenance contract let by the FDOT to contain a provision requiring the contractor to provide proof to the FDOT, in the form of a notarized affidavit from the contractor, that all motor vehicles that he or she operates or causes to be operated in this state are registered in compliance with ch. 320, F.S.

Transportation Projects/Prequalification/Bidding

Section 337.14(1), F.S., requires that persons "...desiring to bid for the performance of any construction contract in excess of \$250,000 which the department proposes to let must first be certified by the department as qualified...." Section 337.14(2), F.S., provides: "Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than \$250,000." The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "...with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."

This language could be interpreted as being tied to a bid amount, *i.e.*, so long as the *bid* is not in excess of \$250,000, a person would not be required to first be certified prior to bidding. The FDOT's bid solicitation notices, however, currently advise: "A prequalified contractor must have a current certificate of qualification in accordance with Rule Chapter 14-22, F.A.C., on the date of the letting to bid on construction projects over \$250,000 as established by the Department's budget." Consequently, persons seeking to bid on construction contracts in excess of \$250,000 are currently required to be qualified on the date of the letting.

For comparison, revisions to s. 337.14(1), F.S., during the last legislative session with respect to financial statements submitted in connection with the performance of construction contracts of less than \$1 million expressly tied that submission to proposed budget estimates, rather than to the bid amount.

Public Records/Identities of Potential Bidders

Section 337.168(2), F.S., currently provides that a document revealing the identity of persons who have requested or obtained bid packages, plans, or specifications pertaining to any project to be let by the department is confidential and exempt from the provisions of s. 119.07(1), F.S., for the period which begins 2 working days prior to the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. The FDOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.¹⁸ The list is removed from the website two working days prior to the deadline for obtaining bid packages, plans, or specifications.

The Florida Transportation Builders' Association advises that small contractors need and rely on access to the identities of potential bidders that are not made exempt under s. 337.168(2), F.S., for the purpose of submitting sub-contract bids to general contractors for their use in preparing bids for the FDOT projects.

Disposal and Lease of Real and Personal Property

The FDOT is authorized to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in an FDOT designated rail or transportation corridor. The FDOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.¹⁹

The FDOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item, and the serial number assigned to each.²⁰ The FDOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility. If the property is not located within a transportation corridor or is not needed for a transportation facility, FDOT is authorized to dispose of the property.²¹ According to the FDOT, 85 percent of its currently-owned surplus property is valued at under \$50,000.

¹⁸ http://www.dot.state.fl.us/cc-admin/Letting_Project_Info.shtm: Retrieved March 1, 2013. To access a list, click on a letting date in the near future under "2013 Lettings" and then choose "Proposal Holders" under "Important Letting Documents."

¹⁹ Section 337.25(1), F.S.

²⁰ Section 337.25(2), F.S.

²¹ Section 337.25(3), F.S.

Sale of Property

The FDOT is authorized to sell any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.²² The FDOT is required to first offer the property (“first right of refusal”) to the local government in whose jurisdiction the property is located, with the following exceptions:

- If in the FDOT’s discretion, public sale would be inequitable, the sale of the property may be negotiated, at no less than fair market value as determined by an independent appraisal, with the owner holding title to abutting property.²³
- Property acquired for use as a borrow pit may be sold at no less than fair market value to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.²⁴
- Property acquired by a county or the FDOT using constitutional gas tax funds for right of way or borrow pit may be conveyed to a county without consideration if the property is no longer used or needed by the FDOT, and the county may sell the property on receipt of competitive bids.²⁵
- Property donated to the state for transportation purposes, on which a facility has not been constructed for at least 5 years, and for which no plans for construction of a facility have been prepared, and that is not located on a transportation corridor, may be re-conveyed to the original donor of the property by a governmental entity.²⁶
- Property which was originally acquired for persons displaced by transportation projects provided the state receives no less than its investment in the properties, or fair market value, whichever is lower. The FDOT may negotiate the sale of property as replacement housing only to persons actually displaced by a project. Dispositions to any other person must be for fair market value.²⁷

Once the FDOT determines the property is not needed for a transportation facility and has extended and received rejection of required first rights of refusal, FDOT is also authorized to:

- Negotiate the sale of property if its value is \$10,000 or less as determined by FDOT estimate;²⁸
- Sell the property to the highest bidder through “due advertisement” of receipt of sealed competitive bids or by public auction if its value exceeds \$10,000 as determined by the FDOT estimate;²⁹
- Determine the fair market value of property through appraisal conducted by an FDOT appraiser, if the FDOT begins the process for disposing of property on its own initiative,

²² Section 337.25(4), F.S.

²³ Section 337.25(4)(c), F.S.

²⁴ Section 337.25(4)(d), F.S.

²⁵ Section 337.25(4)(f), F.S.

²⁶ Section 337.25(4)(g), F.S.

²⁷ Section 337.25(4)(i), F.S.

²⁸ Section 337.25(4)(a), F.S.

²⁹ Section 337.25(4)(b), F.S.

either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction;³⁰

- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose;³¹ and
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the FDOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks.³²

Lease of Property

The FDOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:³³ the FDOT may negotiate a lease at the prevailing market value with the owner from whom the property was acquired, with the holders of leasehold estates existing at the time of the FDOT's acquisition, or, if public bidding would be inequitable, with the owner of privately owned abutting property, after reasonable notice to all other abutting property owners.³⁴ All other leases must be by competitive bid,³⁵ and limited to five years; however the FDOT may renegotiate a lease for an additional five year term without rebidding. Each lease must require that any improvements made to the property during the lease term be removed at the lessee's expense.³⁶ Property that is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity may be leased at no cost to a governmental entity or school board.³⁷ If property is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity, the property may be leased without consideration to a governmental entity or school board. The FDOT may enter into a long-term lease agreement without compensation with certain public ports for rail corridors used in the operation of a short-line railroad to the port.³⁸

The appraisals currently required under s. 337.25(4)(c) and (d), F.S., must be prepared in accordance with the FDOT guidelines and rules by an independent appraiser certified by the FDOT. When "due advertisement" is required, an advertisement in a newspaper of general circulation in the area of the improvements of not less than 14 calendar days prior to the date of the receipt of bids or the date on which a public auction is to be held satisfies the requirement.³⁹

Unsolicited Lease Proposals

Section 337.251, F.S., *Lease of property for joint public-private development and areas above or below department property*, authorizes the FDOT to request proposals for the lease of the FDOT

³⁰ Section 337.25(4)(e), F.S.

³¹ Section 337.25(4)(h), F.S.

³² Section 337.25(4)(j), F.S.

³³ Section 337.25(5), F.S.

³⁴ Section 337.25(5)(a), F.S.

³⁵ Section 337.25(5)(b), F.S.

³⁶ Section 337.25(5)(d), F.S.

³⁷ Section 337.25(5)(e), F.S.

³⁸ Section 337.25(5)(h), F.S.

³⁹ Section 337.25(8), F.S.

property for joint public-private development or commercial development. The FDOT may also receive and consider unsolicited proposals for such uses. If the FDOT receives an unsolicited proposal to negotiate a lease, the FDOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. The FDOT must also mail a copy of the notice to each local government in the affected area.

Any unsolicited lease proposal must be selected based on competitive bidding, and the FDOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of the FDOT by the lessee in lieu of direct revenue to the FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, the FDOT must determine that the property subject to the lease has a permanent transportation use related to the FDOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses, and is therefore not available for sale as surplus property.

Section 334.30, F.S., *Public-private transportation facilities*, authorizes the FDOT to lease certain toll facilities through public-private partnerships and also authorizes the FDOT to receive unsolicited proposals. That section directs the FDOT to establish by rule an application fee sufficient to pay the costs of evaluating a proposal. The FDOT is further authorized to engage the services of private consultants to assist in the evaluation.

Unlike s. 337.251, F.S., before approving a proposal, the FDOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the SHS; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by the FDOT; would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by the FDOT upon completion or termination of the agreement.⁴⁰ In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, the FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

If the FDOT receives an unsolicited proposal for a lease through a public-private partnership, the FDOT must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for two weeks stating that the FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The FDOT must also mail a copy of the notice to each local government in the affected area.

Toll Collection/Interoperable Facilities

During the 2012 Legislative Session, the Legislature passed both HB 599 and SB 1998, and both contained language relating to the FDOT authority to enter into agreements with public or

⁴⁰ The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

private transportation facility owners (whose systems become interoperable with the FDOT's systems) for the use of the FDOT systems to collect and enforce for the owner tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner's facility. The language, however, is not identical. Part of the last-passed version of the language contained in HB 599 is potentially ambiguous, leading to more than one possible interpretation, and part of needed language that passed in HB 599 was not included in SB 1998. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Beeline-East Expressway and Navarre Bridge

Section 338.165(4), F.S., authorizes the FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the FDOT's adopted work program. The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.⁴¹ The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Alligator Alley Excess Revenues

Section 338.26, F.S., provides that any excess revenues from Alligator Alley, after facility operation and maintenance, contractual obligations, reconstruction and restoration, and the development and operation of a fire station at mile marker 63,⁴² may be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

The FDOT advises that operation of the fire station is expected to begin in FY 2013-2014; and the FDOT finance plan, based on projections provided to the FDOT, contains the following funding for operation of the fire station:⁴³

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2018-19
\$1,200,000	\$1,242,000	\$1,285,470	\$1,330,461	\$1,377,028

With respect to transfers to the SFWMD, the FDOT and the SFWMD entered into a memorandum of understanding on June 30, 1997,⁴⁴ under which the FDOT agreed to a schedule of payments to the SFWMD totaling \$63,589,000. The FDOT expects to be able to meet its obligations under the current payment schedule by Fiscal Year 2016 as follows:⁴⁵

⁴¹ See s. 338.165(10), F.S.

⁴² The FDOT indicates that the fire station is currently under construction, and construction is funded by the FDOT. The FDOT notes that another fire station is located on the Alley in Broward County. Broward County provided the funding for construction of that station and provides the funding for its operation.

⁴³ The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

⁴⁴ On file in the Senate Transportation Committee.

⁴⁵ The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
\$4,400,000	\$5,000,000	\$8,000,000	\$7,064,000

The agreement further provides that prior to its expiration, the FDOT and the SFWMD will renegotiate the terms, conditions, and duration of the agreement, taking into account toll revenues from the Alley, future costs to operate and maintain the Alley, reconstruction and restoration activities of the Alley, the transportation funding needs of Broward and Collier counties pursuant to s. 338.165(2), F.S.,⁴⁶ and the continuing costs of the Everglades restoration projects.

Metropolitan Planning Organizations/Designation/Membership

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule (23 U.S.C. 134 and 23 C.F.R 450 Part C) require a metropolitan planning organization (MPO) to be designated for each urbanized area⁴⁷ or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for a MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Section 339.175(2)(a)2., F.S., currently provides that designation of an MPO be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the MPO jurisdiction, as defined by the United State Bureau of the Census, must be a party to such agreement. This language has been superseded by revisions to 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b), which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.⁴⁸ Re-designation of an MPO is required whenever the existing MPO proposes to make a substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general-purpose local government served by the MPO, and the State; or a

⁴⁶ That section requires that if a revenue-producing project is on the State Highway System, any remaining toll revenue after discharge of indebtedness related to such project must be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.

⁴⁷ An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.

⁴⁸ 23 C.F.R. 450.301(h) (2012).

substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under the MPO bylaws.⁴⁹

Current law does not authorize more than 19 members on an MPO in cases when the MPO is re-designated as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs, even if the membership is already at 19 members.

Economic Development Transportation Projects

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations. One such incentive exists in what is commonly referred to as the Road Fund, which is funded by the STTF and used to assist local government in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year. The Legislature in 2012 repealed s. 288.063, F.S., in which the Road Fund was statutorily placed, and created s. 339.2821, F.S. The revisions did not change the purpose of the Road Fund but simply moved oversight of the fund from the DEO to the FDOT.⁵⁰

The FDOT, in consultation with the DEO, is authorized under the new section to make and approve expenditures and contract with the appropriate government body for the direct costs of transportation projects. Current law specifies that as part of the contractual agreement between the FDOT and a governmental body, that the FDOT may only transfer funds on a quarterly basis, the governmental body must expend funds received in a timely manner, and the FDOT may only transfer funds after construction has begun on the facility of a business on whose behalf the award was made.

State-Funded Infrastructure Bank/Spaceports

Section 339.55, F.S., creates the state-funded infrastructure bank (SIB), which provides loans to government units and private entities to help fund transportation projects. The loans are repaid from revenues generated by the project, such as a toll road or other pledged resources. The repayments are then re-loaned to fund new transportation projects. A SIB loan may lend capital costs or provide credit enhancements for a transportation facility project on the SHS or for a project which provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals. Loans from the SIB may bear interest at or below market interest rates, as determined by the FDOT. Repayment of any SIB loan must begin no later than 5 years after the project has been complete or, in the case of a highway project, the facility has opened to traffic, whichever is later, and must be repaid in 30 years.

⁴⁹ 23 C.F.R. 450.301(k) (2012).

⁵⁰ Budget Committee Final Analysis of SB 1998:

<http://www.flsenate.gov/Session/Bill/2012/1998/Analyses/M6TO2qtoNCs60=PL=Y=PL=DT9BT2bnWNo=%7C11/Public/Bills/1900-1999/1998/Analysis/s1998z2.TEDAS.PDF>.

Intercity Bus Service/Funding Eligibility

The Federal Transit Administration's Intercity Bus Program (49 U.S.C. 5311(f)), is administered by the FDOT. Its purpose is to support and maintain intercity bus services, in order to preserve service through rural areas of the state. The FDOT provides matching funds as required by s. 339.135(4), F.S. Florida's statutory definition of "intercity bus service" is more restrictive than the federal definition, which limits the number of companies competing for funding.

Section 341.031(11), F.S., defines "intercity bus service" as regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains schedule information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Greyhound Bus Lines is currently the only private, for-profit company operating intercity bus services in Florida that meets the statutory definition to receive federal and state intercity bus program funding, as it is the only company in Florida that maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Intermodal Development Program

Section 341.053, F.S., was originally enacted in 1990 to create the Intermodal Development Program administered by the FDOT to provide for major capital investments in fixed-guideway transportation systems, access to seaports, airports and other transportation terminals, and to assist in the development of dedicated bus lanes. The Legislature in 1999 added direction to the FDOT to develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state.

Section 341.053(6), F.S., currently authorizes the FDOT to fund projects including major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports, airports, and other transportation terminals; construction of intermodal or multimodal terminals; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods.

Toll Facilities Revolving Trust Fund/Obsolete References

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.⁵¹ That section created the Toll Facilities Revolving Trust Fund, which was a loan program created to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike Enterprise. Two references to the now repealed trust fund remain in statute.

⁵¹ Ch. 2012-128, L.O.F.

Currently Established Toll Authorities

Aside from the FDOT and Florida's Turnpike Enterprise, a number of authorities exist in Florida that operate toll facilities and collect and reinvest toll revenues.⁵²

Miami-Dade Expressway Authority

The Miami-Dade Expressway Authority (MDX) governing body consists of 13 voting members. The Miami-Dade County Commission appoints seven members, the Governor appoints five members, and the FDOT district six secretary is the *ex-officio* member of the Board. Except for the secretary, all members must be residents of Miami-Dade County and each serves a four-year term and may be reappointed.⁵³

The MDX currently oversees, operates and maintains five tolled expressways constituting approximately 34 centerline-miles and 220 lane-miles of roadway in Miami-Dade County: Dolphin Expressway (SR 836); Airport Expressway (SR 112); Don Shula Expressway (SR 874); Gratigny Parkway (SR 924) and Snapper Creek Expressway (SR 878). MDX reported toll and fee revenue of \$121.9 million (net of \$2.8 million of allowance) in Fiscal Year (FY) 2011 based on 220 million transactions.⁵⁴ The FTC report indicates that approximately \$45.5 million in outstanding debt (\$6 million in loans from the now-repealed Toll Facilities Revolving Trust Fund and \$39.5 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.⁵⁵

Tampa-Hillsborough County Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA) governing body consists of seven members, four of which are appointed by the Governor and serve four-year terms. The City of Tampa mayor, a member of the Board of County Commissioners selected by the board, and the FDOT's district seven secretary are *ex-officio* members.⁵⁶

The THEA owns the four-lane Selmon Expressway, which is a 15-mile limited access toll road crossing the City of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The FTC report indicates that beginning in Fiscal Year 2001, the THEA has reimbursed the FDOT for annual O&M expenses pursuant to the adopted budget and that only renewal and replacement costs continue to be added to long-term debt. As of June 30, 2011, the THEA owes the FDOT approximately \$200.7 million for the O&M, renewal and replacement expense advances, and other FDOT loans.⁵⁷

⁵² The Mid-Bay Bridge Authority is also included among these authorities.

⁵³ s. 348.0003, F.S.

⁵⁴ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 22.

⁵⁵ Id.

⁵⁶ Section 348.52, F.S.

⁵⁷ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 73.

Tampa Bay Area Regional Transportation Authority

The Tampa Bay Area Regional Transportation Authority (TBARTA) is an agency of the state whose purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the seven-county Tampa Bay region.⁵⁸ The TBARTA's governing body consists of 16 members: one elected official appointed by the respective County Commissions from Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee and Sarasota counties; one member appointed by the West Central Florida Metropolitan Planning Organization Chairs Coordinating Committee who must be a chair of one of the six Metropolitan Planning Organizations in the region; two members who are the mayor or the mayor's designee of the largest municipality within the area served by the Pinellas Suncoast Transit Authority and the Hillsborough Area Transit Authority; one member who is the mayor or the mayor's designee of the largest municipality within Manatee or Sarasota County, providing that the membership rotates every two years; four members who are business representatives appointed by the Governor, each of whom must reside in one of the seven counties of the TBARTA; and one non-voting member who is the secretary of one of the FDOT districts within the seven-county area appointed by the FDOT secretary.⁵⁹

The TBARTA is not currently operating any facility. The FTC report indicates that "TBARTA is beginning to prioritize projects, develop financial strategies for implementation, coordinate the advancement of more detailed planning and environmental analysis for the prioritized projects, and continue public engagement and education efforts." The FTC report lists nine current TBARTA projects (evaluations and studies) funded by the FDOT.⁶⁰ The TBARTA also operates the TBARTA Commuter Services, which is a free, online ride-matching program enabling commuters to connect with each other to share rides and is engaging in additional activities, such as identifying opportunities for collaboration and consolidation with other entities in the region, strengthening existing partnerships and examining the potential for new ones, identify short-term solutions to traffic congestion, and continuing to look for process improvements and potential cost savings.⁶¹

The TBARTA and the FDOT entered into an agreement under which, in 2009, the FDOT advanced \$500,000 from a \$2 million appropriation to pay initial administrative expenses, and the 2009, 2010 and 2011 Legislatures re-appropriated unspent funds from the \$2 million to the TBARTA; however, the 2011 appropriation was vetoed by the Governor.

Northwest Florida Transportation Corridor Authority

The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. The NFTCA is also authorized to issue bonds.⁶² Eight voting members, one

⁵⁸ Section 343.922, F.S.

⁵⁹ Section 343.92, F.S.

⁶⁰ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 177.

⁶¹ Id. at 179.

⁶² Section 343.82, F.S.

each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties, are appointed by the Governor to serve four-year terms on the governing body. The FDOT's district three secretary serves as an *ex-officio*, non-voting member.⁶³

The NFTCA is not currently operating any facility. The FTC report indicates:

As part of the Master Plan update, NFTCA's general consultant (HDR) is conducting a business case analysis to help the Authority in selecting and planning transportation projects by assessing their respective economic benefits, developing an investment plan and proposing viable funding strategies. The business case analysis includes an extensive public outreach program involving regional planning councils in the eight-county geographic area covered by the NFTCA and a series of workshops involving other key stakeholders in the region.⁶⁴

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, and regional transportation planning.⁶⁵

Mid-Bay Bridge Authority

The 1986 Legislature created the Mid-Bay Bridge Authority⁶⁶ as the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating, and maintaining a bridge over the Choctawhatchee Bay. The Mid-Bay Bridge Authority operates the tolled, 3.6-mile long Mid-Bay Bridge across the Choctawhatchee Bay and approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. 98 east of Destin, is a link between Interstate 10 and U.S. 98 and provides a more direct route for tourists and residents between northern and southern Okaloosa and Walton Counties.⁶⁷

The FDOT, under the provisions of a lease-purchase agreement with the Mid-Bay Bridge Authority, maintains and operates the existing bridge and remits all of the tolls collected to the authority as lease payments. The term of the lease runs concurrently with the bonds issued by the Mid-Bay Bridge Authority, and when the bonds are matured and fully paid, the FDOT will own the bridge. As of June 30, 2012, the Mid-Bay Bridge Authority's long-term debt obligation to the FDOT for operations and maintenance pursuant to the existing agreement was \$9.5 million. In accordance with bond covenants, this liability is payable from excess toll revenues, after debt service obligations have been met.

The Florida Turnpike Enterprise provides toll plaza operations for the Mid-Bay Bridge Authority. For the fiscal year ending September 2012, toll revenues amounted to \$15,765,967. Earned investment income from Revenue and Reserve Funds of \$1,395,789, plus \$30,886 from

⁶³ Section 343.81, F.S.

⁶⁴ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 160.

⁶⁵ *Id.*

⁶⁶ Re-created by special act, ch. 2000-411.

⁶⁷ Senate Issue Brief 2012-208, *Cost Effectiveness of Regional Expressway and Bridge Authorities*, (September 2011).

SunPass collections, raised total revenue to \$17,192,642.⁶⁸ Florida law reflects no state entity charged with monitoring the efficiency, productivity, and management of the Mid-Bay Bridge Authority, unlike other regional transportation, expressway and bridge authorities.

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT district three secretary is an ex-officio member of the Board. Except for the secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.⁶⁹

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.⁷⁰ Florida's Turnpike Enterprise provides toll operations for the SRBBA, and the FDOT's district three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and O&M expenses, the costs of the O&M are recorded as debt owed to FDOT. The FTC report indicates that the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund, and the balance of these liabilities on June 30, 2011, was \$24.7 million.⁷¹

Orlando-Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four-year terms and may be reappointed. The Orange County mayor and the FDOT's district five secretary are the two ex-officio members of the Board.⁷²

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County: 22 miles of the Spessard L. Holland East-West Expressway (SR 408), 23 miles of the Martin Andersen Beachline Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414). OOCEA reported toll revenue of \$260 million in FY 2011 based on 296 million transactions.⁷³ The FTC report indicates that approximately \$270 million in outstanding debt (\$221 million in advances for O&M expenses, \$14 million in advances for completion of the East-West Expressway, and \$34.8 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.⁷⁴

⁶⁸ *Traffic Engineers' Annual Report for Fiscal Year 2012*, prepared by URS for Mid-Bay Bridge Authority: <http://www.mid-bay.com/pdfs/FY2012-Annual-Report.pdf>. Retrieved February 23, 2013.

⁶⁹ Section 348.967, F.S.

⁷⁰ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, pp. 57-58.

⁷¹ *Id.*

⁷² s. 348.753, F.S.

⁷³ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 38.

⁷⁴ *Id.* at 39.

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway and, pursuant to direction in SB 1998 (2012), the OOCEA will repay the FDOT for costs of operation and maintenance of the OOCEA system; the FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates as specified; and ownership of the system remains with the OOCEA.

Osceola County Expressway Authority

Created in 2010, the Osceola County Expressway Authority (OCX) governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. The FDOT's district five secretary serves as an *ex-officio*, non-voting member.⁷⁵

The OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.⁷⁶

Wekiva River Basin Commission

The Wekiva River Basin Commission is charged with monitoring and ensuring the implementation of the recommendations of the Wekiva river Basin Coordinating Committee for the Wekiva Study Area. The commission is comprised of 19 voting members, 9 of whom are voting members, and nine of whom are ad hoc nonvoting members. A representative of the previously repealed Seminole County Expressway Authority remains in statute as an ad hoc nonvoting member.

Environmental Mitigation for Transportation Projects

Pursuant to s. 373.4137, F.S., the FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to the Water Management Districts (WMD) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the Department of Environmental Protection (DEP). The ability to exclude a project from the mitigation plan is provided to the FDOT, a participating transportation authority, or a WMD.

In 2012, HB 599 modified s. 373.413, F.S., to reflect that adverse impacts may be offset by the use of mitigation banks or the payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory that is created by the FDOT and reflects habitats that would be adversely impacted by transportation projects listed in the next three years of the FDOT's tentative work program. The FDOT provides funding in its work program to the DEP or the WMDs for its mitigation requirements. To fund the programs, the

⁷⁵ Section 348.9952, F.S.

⁷⁶ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.

statute directs the FDOT and the authorities to pay \$75,000 per impacted acre, adjusted by a calculation using the Consumer Product Index (CPI).⁷⁷

Pursuant to s. 373.4137, F.S., mitigation plans developed by the WMDs must consider water resource needs and focus on activities in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. The WMDs must also consider the purchase of credits from public and private mitigation banks if the purchase provides equal benefit to water resources and is the most cost effective option. Before transportation projects are added to the WMDs mitigation plans, the FDOT must consider if using mitigation bank credits will be more cost-effective and efficient. The WMD mitigation plans are updated annually to reflect the most recent FDOT work program and transportation authority project list and may be amended throughout the year. The mitigation plans are submitted to the governing board of the WMD or its designee for approval, and to the DEP for final approval.⁷⁸

The FDOT and the participating expressway authorities are required to transfer funds each year to pay for mitigation of the projected impact acreage resulting from projects identified in the inventory. The projected impact acreage and costs are reconciled quarterly with the actual impact acreage, and the costs and balances are adjusted.⁷⁹

Section 373.4137, F.S., provides for exclusion of specific transportation projects from the mitigation plan at the discretion of the FDOT, participating transportation authorities, and the WMDs.

Public Information Systems

Pursuant to s. 373.618, F.S., public information systems may be located on WMD property, provided certain terms and conditions are met. The systems must display messages to the general public concerning water management services, activities, events, watering restrictions, severe weather reports, amber alerts, and other essential public information. The law prohibits the use of WMDs funds to acquire, develop, construct, operate, or manage a public information system. Commercial messages are to be paid for by private sponsors.

Section 479.02, F.S., requires the FDOT to regulate the size, height, lighting, and spacing of signs on the interstate highway system in accordance with state and federal regulations. A permit and annual fee are required by any individual that proposes to erect, operate, use, or maintain any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system. Certain signs do not require a permit as long as the signs are in compliance with the provisions in s. 479.11(4)-(8), F.S.

Section 479.16, F.S., specifies that signs owned by a municipality or county that contain messages related to any commercial enterprise, a commercial sponsor of an event, personal messages, or political messages, are not considered information regarding government services.

⁷⁷ See s. 373.4137 F.S.

⁷⁸ *Id.*

⁷⁹ *Id.*

The FDOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a “controlled area.”⁸⁰

Expenditures by Local Governments

Under current law, a county, municipality, school district, or other political subdivision of the state, and any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of the state, or a person acting on such entity’s behalf, is prohibited from spending or authorizing expenditure of any moneys under the jurisdiction or control of such entity for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state questions, that is subject to a vote of the electors. The prohibition does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information, nor does it preclude an elected official of the local government from expressing an opinion on any issue.

III. Effect of Proposed Changes:

Section 1 repeals s. 11.45(3)(m), F.S., which contains the Auditor General’s power to audit transportation corporations authorized under the Florida Transportation Corporation Act, in connection with sections 21 through 40 of the bill, which repeal the never-used act. This change will also enable the repeal of an unused administrative rule.

Section 2 amends s. 20.23, F.S., to require the FTC to monitor the efficiency, productivity, and management of regional transportation finance authorities created under a new ch. 345, F.S., and to repeal the Florida Statewide Passenger Rail Commission. Overlapping oversight of publicly-funded passenger rail systems is eliminated and remains solely with the FTC.

Section 3 amends s. 110.205(2), F.S., to change the title of the FDOT’s State Public Transportation and Modal Administrator to State Freight and Logistics Administrator.

Section 4 amends s. 311.22, F.S., relating to small county dredging projects, to establish FDOT, rather than FSTED, as the agency responsible for administering any additional funding for dredging projects in counties having a population of fewer than 300,000 according to the last official census and sunsets the program on July 1, 2018.

Section 5 repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit.

Section 6 amends s. 316.545(3)(c), F.S., to increase from 400 to 550 pounds the authorized maximum gross vehicle weight to compensate for the additional weight of auxiliary power units (or idle-reduction technology) installed on commercial motor vehicles, as authorized by recent federal law.

⁸⁰ “Controlled area” means 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system outside an urban area. See s. 479.01, F.S.

Section 7 amends s. 331.360, F.S., to require Space Florida to develop a spaceport system plan which contains recommendations for projects that meet current and future commercial, national and state space transportation requirements; and to submit the plan to the FDOT which may include portions of the system plan in the department's 5 year work program.

Beginning in Fiscal Year 2013-2014, the FDOT is authorized to make available from the STTF a minimum of \$15 million annually from funds dedicated to public transportation projects⁸¹ to fund space transportation projects. Project specific criteria must be provided by Space Florida to demonstrate that the project includes transportation and aerospace benefits. The FDOT may fund up to 50 percent of eligible project costs.

FDOT is authorized to fund up to 100 percent of eligible costs if the project provides important access and on-spaceport capacity improvements, capital improvements which will position the state to maximize opportunities of a sustainable and world-leading aerospace industry, meets state goals of an integrated intermodal transportation system, and demonstrates the feasibility of available matching funds.

Section 8 creates s. 332.007(11), F.S., to authorize the FDOT to fund, at up to 100 percent of the project's cost, strategic airport investment projects which provide important access and on-airport capacity improvements, capital improvements which will position the state to maximize opportunities in international trade, logistics, and the aviation industry, meet state goals of an integrated intermodal transportation system, and demonstrate the feasibility of available matching funds.

Section 9 amends s. 334.044(16), F.S., to prohibit the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2013. These provisions have no effect on the existing lease-purchase agreements. This section of the bill also amends subsection (26) of s. 334.044, F.S., to provide that the FDOT purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation. This revision will ensure compliance with federal regulation and avoid a potential federal funds penalty.

Section 10 amends s. 335.06, F.S., to allow but not require the FDOT to improve and maintain a road that is part of a county road system or city street system. If the FDOT does not maintain a county or city road that provides access to the state park system, the road must be maintained by the appropriate county or municipality.

Section 11 amends s. 337.11(13), F.S., to require each road or bridge construction contract or maintenance contract let by FDOT to require all motor vehicles operated by the contractor in this state to be registered in compliance with ch. 320, F.S., eliminating the requirement of proof to the FDOT in the form a notarized affidavit from the contractor.

⁸¹ Section 206.46(3), F.S.

Section 12 amends s. 337.14(1), F.S., to clarify that any person desiring to bid for the performance of any construction contract *with a proposed budget estimate* in excess of \$250,000 must first be certified as qualified prior to bidding in accordance with Rule Chapter 14-22, F.A.C. No change in current practice results, the revisions simply provide internal statute consistency and consistency between statute and rule.

Section 13 amends s. 337.168(2), F.S., to clarify an existing public records exemption by which the identity of a person who has requested or obtained from FDOT, a bid package, plan, or specifications pertaining to any project to be let by FDOT remains a public record until two days prior to the deadline for obtaining the materials.

Section 14 amends s. 337.25, F.S., to revise the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way and to authorize the FDOT to contract for auction services used in the conveyance of real or personal property or leasehold interests and to authorize such contracts to allow the contractor to retain a portion of the proceeds as compensation.

The FDOT is authorized to “convey”, rather than “sell” land, buildings, or other real or personal property after determining the property isn’t needed for a transportation facility and to dispose of property through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the department’s best interest. Due advertisement is required for property valued at more than \$10,000, and no property may be sold at less than fair market value except as specified. The department is authorized, rather than required, to afford a right of first refusal to a political subdivision, or local government in which the parcel is located, except in conveyances when the property has been donated to the state for transportation purposes and a facility has not been constructed for at least 5 years, the property was originally required for replacement housing for persons displaced by transportation projects, or property which the FDOT has determined a sale to anyone other than the abutting land owner would be inequitable.

The FDOT is prohibited from conveying a leasehold interest at a price less than the department’s current estimate of value and specifies that a lease may be created through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the best interest by the department. A lease shall not be for a period of more than 5 years, however, the department may extend the lease for an additional 5 years without rebidding.

The department is required to publish a notice when a proposal to lease property has been received, stating that a proposal has been received and that FDOT will accept other proposals for 120 days after the date of publication for lease of the property. The FDOT is authorized to establish, by rule, an application fee for the submission of the proposals.

The FDOT’s estimate of value must be prepared in accordance with department procedures, guidelines, and rules for valuation of real property. If the value of the property exceeds \$50,000, the sale or lease must be negotiated at a price not less than the estimated value determined by the department.

This section does not modify the eminent domain requirements of s. 73.013, F.S.

Section 15 amends s. 337.251(2), F.S., to require a newspaper publication of 120 days for lease proposals, when the FDOT wishes to consider an unsolicited proposal for a lease of particular property. The FDOT is authorized to establish by rule an application fee for the submission of proposals, sufficient to pay the anticipated costs of evaluating the proposals. Further, the FDOT is required, prior to approval of any proposal, to determine that the proposed lease is in the public's best interest and meets specified criteria.

Section 16 amends s. 338.161(5), F.S., to replace the potentially ambiguous language regarding agreements for use of the FDOT toll collection systems that passed in HB 599 and SB 1998 during the 2012 Legislative Session, thereby avoiding any confusion that might result from ambiguous language or from statutory construction rules.

Section 17 amends s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

Section 18 amends s. 338.26(3) and (4), F.S., to remove the obligations of Alligator Alley excess toll revenues to operate and maintain the fire station at mile marker 63, and limits the transfer of annual excess revenue to SFWMD to that which is agreed upon in the June 30, 1997 memorandum of understanding. The SFWMD's authority to issue bonds or notes which pledge the excess toll revenues from the transfer is eliminated.

Section 19 amends s. 339.175, F.S., to revise provisions relating to designation of MPOs to conform to changed federal terminology, and to provide that the voting membership of an MPO re-designated as a result of the expansion of an MPO to include a new urbanized area, or the consolidation of two or more MPOs, may consist of no more than 25 members.

Section 20 amends s. 339.2821, F.S., to include Enterprise Florida, Inc., as an FDOT consultant in making and approving economic development transportation project contracts. Provides authority for the FDOT to terminate a grant award if construction of the transportation project does not begin within four years after the date of the initial grant award; and expands the type of authorized transportation facility projects to include spaceports.

Sections 21-40 repeals ss. 339.401 through 339.421, the never-used Transportation Corporation Act, in connection with the related audit authority repeal in section 1 of the bill.

Section 41 amends s. 339.55, F.S., to include projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank.

Section 42 amends s. 341.031(11), F.S., to expand eligibility for intercity bus companies to compete for federal and state program funding by removing from the definition of "intercity bus service" the requirements that the carrier maintain schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Section 43 amends s. 341.053, F.S., to expand the Intermodal Development Program to include access to spaceports, and to further define the activities of the program to include planning and funding the construction of airport, spaceport, seaport, transit and rail projects that facilitate the intermodal or multimodal movement of people and goods.

Projects included in the Intermodal Development Program must support statewide goals as specified in the Florida Transportation Plan, the Strategic Intermodal System Plan, the Freight Mobility and Trade Plan, or other appropriate department modal plan. Eligible projects are expanded to include: planning studies; major capital investments in freight facilities and systems that provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between spaceports and intermodal logistics centers; and construction of intermodal or multimodal terminals, including projects on airports, spaceports, intermodal logistics centers or seaports which assist in the movement or transfer of people or goods.

Section 44 amends s. 343.80, F.S., to revise the short title of part III of ch. 343, F.S., from the Northwest Florida Transportation Corridor Authority Law to the Northwest Florida Regional Transportation Finance Authority Law.

Section 45 amends s. 343.805, F.S., to define the “Northwest Florida Regional Transportation Finance authority System” or “system” to mean any and all expressways and appurtenant facilities thereto owned by the authority, including, but not limited to, all approaches, roads, bridges, and avenues of access for said expressway or expressways.

Section 46 amends s. 343.81, F.S., to rename the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority. The bill also revises the composition of the governing board of the authority from eight to five voting members, with two members from Okaloosa County and one each from Walton, Bay, and Gulf Counties. Escambia, Santa Rosa, Franklin, and Walton Counties are removed from voting membership. The bill also revises quorum requirements for the governing board, providing that three, rather than five, members constitutes a quorum, and the vote of at least three members, rather than five, is necessary for any action taken by the authority. Authorization to establish technical advisory committees and related provisions are repealed. Note: the Santa Rosa-Escambia Regional Transportation Finance Authority serving Escambia and Santa Rosa Counties is created in section 55 of the bill, as is the Suncoast Regional Transportation Finance Authority, serving Citrus, Levy, Marion, and Alachua Counties.

Section 47 amends s. 343.82, F.S., granting the NWFTFA the right to acquire, hold, construct, improve, maintain, operate, own and lease in the capacity of lessor, the Northwest Florida Regional Transportation Finance Authority System, thereby expanding the authority’s responsibility beyond the U.S. 98 corridor. The bill also removes direction to the current Corridor Authority to develop and annually update a specified corridor master plan, to undertake projects contained in the plan, and to request funding and technical assistance from the FDOT from specified sources. Further, the bill authorizes the NWFTFA to dispose of any property which the authority and the FDOT determine is not needed for the system. In addition, the bill conforms terminology by removing references limiting the authority to activities along the U.S. 98 corridor and eliminating reference to the Santa Rosa Sound

Section 48 amends s. 343.83, F.S., to change a reference to the Northwest Florida Transportation Corridor Authority to the Northwest Florida Regional Transportation Finance Authority.

Section 49 amends s. 343.835, F.S., to conform terminology by removing references to U.S. 98 corridor improvements. The bill also revises a reference to facilities “constructed” by the authority to those “owned or provided” by the authority, which is also a conforming change. in connection with the provisions of section 50 of the bill.

Section 50 amends s. 343.84, F.S., to provide that the FDOT is the agent of the authority for the purpose of constructing system improvements; and to alternatively allow the authority, with the FDOT’s consent and approval, to appoint a local agency certified by the FDOT as the authority’s agent to administer federal aid projects in accordance with federal law. The bill requires the FDOT to act as the agent of the authority for purposes of operating and maintaining the system and requires the authority to reimburse the FDOT for the costs incurred from system revenues. The bill specifies that the authority remains obligated as principal to operate and maintain its system, and except as otherwise provided by the existing lease-purchase agreement between the FDOT and the Mid-Bay Bridge Authority in connection with its issuance of bonds, the authority’s bondholders do not have a right to compel the FDOT to operate and maintain the system. The Mid-Bay Bridge Authority is transferred to the Northwest Florida Regional Transportation Finance Authority in section 56 of the bill. The bill also directs the authority to establish and collect tolls and other charges for the authority’s facilities as specified.

Section 51 amends s. 343.85, F.S., to conform terminology.

Section 52 amends s. 343.875, F.S., to repeal the current Corridor Authority’s power to receive or solicit proposals and enter into public-private partnership agreements and related provisions.

Section 53 amends s. 343.89, F.S., to conform terminology.

Section 54 amends s. 343.922(4), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 55 creates ch. 345, F.S., to authorize the formation of regional transportation finance authorities, consisting of sections 345.0001 – 345.0016, F.S., and creates as agencies of the state, the following authorities:

- the Santa Rosa-Escambia Regional Transportation Finance Authority serving Escambia and Santa Rosa counties, and
- the Suncoast Regional Transportation Finance Authority serving Citrus, Levy, Marion, and Alachua counties.

This section authorizes a county, or two or more contiguous counties, to form a regional transportation finance authority for the purposes of financing, constructing, maintaining, and operating transportation projects in a region of this state, if approved by the Legislature and the county commission of each county that will be part of the authority, and specifies that there be only one authority created and operating within the area served by the authority. Other provisions include:

- The governance and powers and duties of the authority;
- The authority to issue bonds and provide for the rights and remedies of bondholders;
- Naming the FDOT as the agent of each authority for the purpose of performing all phases of a project, including constructing improvements and extensions to the system; and for the purpose of operating and maintaining the system;
- Reimbursement to the FDOT for costs incurred for operating and maintaining the system from system revenues; and
- Exemption from certain taxation for an authority.

Section 56 transfers to the Northwest Florida Regional Transportation Finance Authority the governance and control of the Mid-Bay Bridge Authority, including the assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the Mid-Bay Bridge Authority, including the bridge system operated by the authority. Activities relating to the Mid-Bay Bridge will be monitored under the Transportation Commission's existing oversight over entities created pursuant to ch. 343, F.S.

Section 57 amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Section 58 amends s. 348.752, F.S., to define:

- "Central Florida Expressway Authority" (CFX) to mean the body politic and corporate and agency of the state;
- "Central Florida Expressway System," to mean a transportation facility, expressway, or appurtenant facility, and
- "Transportation facilities" to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

Research reveals no language elsewhere in ch. 348, F.S., that would include in any definition or in any other provision under current law the "administrative and other office space" of an expressway authority. This definition presumably would allow CFX to finance or even bond expenses for administrative and other office space.

This section of the bill also deletes the definitions of "city" and "county," revises various definitions to conform terminology to the renaming, and makes various other editorial and grammatical changes.

Section 59 amends s. 348.753, F.S., in which the OOCEA is created, to replace the OOCEA and:

- Create the Central Florida Expressway Authority (CFX), effective July 1, 2014;

- Require that CFX assume the governance and control of the OOCEA System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property;
- Transfer any rights in such property and other OOCEA legal rights to CFX; and
- Provide that the powers, responsibilities, and obligations of the OOCEA shall succeed to and be assumed by CFX on July 1, 2014.

The bill also provides for eleven members of the CFX governing board as follows:

- Three members appointed by the chairs of the boards of county commissioners of Seminole, Lake, and Osceola Counties, which members may be a commission member or chair;
- Xix citizen members appointed by the Governor, two of which must be Orange County citizens; one member each of which must be a citizen of Seminole, Lake, and Osceola Counties; and one member which may be a citizen of any of the identified counties;
- The tenth member must be the City of Orlando Mayor; and
- The executive director of the Turnpike Enterprise serves as a nonvoting advisor to the governing board of the authority.

The Governor's appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. A person who is an officer or employee of a municipality or county may not be an appointed member, except as otherwise provided.

In addition, the bill provides for election of CFX officers, provides quorum and voting requirements, makes editorial and grammatical changes, and conforms terminology to the renaming.

Section 60 amends s. 348.754, F.S., setting forth purposes and powers, to:

- Provide, with specified exception, that the CFX area served is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Include in the authority to construct the Central Florida Expressway System rapid transit, trams, fixed guideways, thoroughfares, and boulevards.
- Prohibit CFX, without the prior consent of the FDOT secretary, from constructing an extension, addition, or improvement to the expressway system in Lake County, to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the FDOT.
- Authorize CFX to enter into leases, as lessee or lessor, for terms not exceeding 99 years, rather than the 40 years to which the OOCEA is currently limited, to facilitate projects that will require leases of a longer term. For example, stakeholders involved in the All Aboard Florida passenger rail project desire a longer term.
- Authorize CFX to enter into lease-purchase agreements with the FDOT for terms not exceeding 99 years, or until any bonds secured by a pledge of rentals pursuant to the agreement and any refunding pursuant to the agreement are fully paid, whichever is longer.
- Deem CFX a party to the existing lease-purchase agreement with the FDOT.

- Prohibit CFX from entering into other lease-purchase agreements with the FDOT or from amending the existing agreement in a manner that expands or increases the FDOT's obligations unless the FDOT determines the agreement or amendment is necessary to permit the refunding of bonds issued before July 1, 2012.
- Prohibit use of toll revenues from an increase in the toll rates charged on July 1, 2014, to construct or expand a different facility absent a two-thirds majority vote of the members, with specified exceptions.
- Authorize use of revenues of the expressway system within the right-of-way of the system for certain purposes, if the expenditures are consistent with the MPO's adopted long-range plan and notwithstanding s. 338.165, F.S., relating to continuation of tolls.
- Provide that specified bonds must mature not more than 40 years after their issue date.
- Authorize CFX to construct, operate, and maintain transportation facilities (in addition to roads, bridges, avenues of access, thoroughfares, and boulevards, and electronic toll payment systems on such roads and bridges, etc., outside the boundaries of Seminole, Lake, and Osceola Counties (in addition to Orange County) with the consent of the county within whose jurisdiction the activities occur.
- Remove the municipal governing board approval of a project route currently required before acquisition of right-of-way for an OOCEA project within the boundaries of Orange County.
- Require CFX to encourage the inclusion of local-, small-, minority-, and women-owned business in its procurement and contracting opportunities.
- Authorize CFX, within the right-of-way of the system, to finance or refinance the planning, design, construction, extension, maintenance, etc., of an intermodal facility or facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system.
- Remove provisions authorizing the OOCEA to waive payment and performance bonds on certain construction contracts and related small business provisions.
- Make editorial and grammatical changes and conform terminology to the renaming.

Sections 61-67 amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 68 amends s. 348.757, F.S., relating to lease-purchase agreements with the FDOT, to insert references to the *former* OOCEA system, make editorial changes, and conform terminology to the renaming.

Sections 69-74 amend ss. 348.758, 348.759, 348.760, 348.761, 348.765, and 369.317, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; complete and additional authority, and Wekiva Parkway, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 75 amends s. 369.324, F.S., to reduce the membership of the Wekiva River Basin Commission from 19 to 18 members appointed by the Governor, nine of whom remain as voting members, and reducing from ten to nine the number of ad hoc nonvoting members, removing the representative from the previously repealed Seminole County Expressway Authority.

Section 76, effective upon the completion of construction of the Poinciana Parkway, transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX, with specified extension of the transfer date until completion of certain projects. This section of the bill also repeals part V, ch. 348, F.S., consisting of ss. 348.9950 – 348.9961, F.S., on the same date that the Osceola County Expressway System is transferred to CFX. This section also requires CFX to reimburse other governmental entities for obligations related to the Osceola County Expressway System.

Section 77 amends s. 373.4137, F.S., to provide that mitigation take place in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness. The bill requires the following for the development of environmental impact inventories for transportation projects proposed by the FDOT or a transportation authority:

- The FDOT must submit an environmental impact inventory of habitat impacts and the anticipated amount of mitigation needed to offset the impacts to the WMDs by July 1, and may include in the inventory the habitat impacts and the anticipated amount of mitigation needed for future projects; and
- The environmental impact inventory must include the proposed amount of mitigation needed based on the Uniform Mitigation Assessment Method (UMAM) and identification of the proposed mitigation option.

The bill requires FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account state and federal requirements, maintenance, and liability.

The bill allows FDOT to implement the mitigation option identified in the environmental impact inventory by:

- Purchasing credits for current and future use directly from a mitigation bank;
- Purchasing mitigation services through the WMDs or the DEP;
- Conducting its own mitigation; or
- Using other mitigation options that meet state and federal requirements.

The bill requires funding for the identified mitigation option in the inventory to be included in FDOT's work program under s. 339.135, F.S., and requires the amount programmed each year to correspond to an estimated cost of \$150,000 per mitigation credit, multiplied by the projected number of credits identified in the inventory. The estimated cost per credit will be adjusted every two years by FDOT based on the average cost per UMAM credit.

The bill specifies that for mitigation implemented by the WMDs or the DEP, the amount paid each year must be based on mitigation services provided by the WMD or the DEP pursuant to an

approved WMD mitigation plan. The WMDs or the DEP may request payment no sooner than 30 days before the date the funds are needed.

The bill requires that each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The programming of funds must be adjusted to reflect the mitigation as permitted.

FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements, if the:

- WMD excludes a project from an approved WMD mitigation plan;
- WMD cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or
- Proposed mitigation does not meet state and federal requirements.

The bill specifies that the WMD or the DEP, as appropriate, has continuing responsibility for the mitigation project upon final payment for mitigation and FDOT's or the participating transportation authority's obligation is satisfied.

The bill requires each WMD or the DEP to invoice the FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory, beginning with the March 2014 WMD plans. If the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD must exclude that purchase from the mitigation plan and the FDOT must purchase the bank credits.

The bill requires that for mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or the DEP is required to invoice FDOT at \$75,000 per acre multiplied by the projected acres of impact. The cost per acre must be adjusted by a calculation using the CPI.

The WMD must maintain records of the costs incurred including:

- Planning;
- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

The bill requires the funds identified in the FDOT's work program or participating transportation authorities' escrow accounts, for preparing and implementing the mitigation plans, adopted by the WMDs on or before March 1, 2013, to correspond to \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to FDOT or the participating transportation authority. This provision expires June 30, 2014.

The bill requires each WMD to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation. The WMD plan must identify the site where the WMD will mitigate, the scope of the mitigation activities at each mitigation site, and the functional gain at each mitigation site as determined using UMAM. The mitigation plan must be submitted to the WMD's governing board for review and approval. The bill requires that the WMD provide a copy of the draft mitigation plan to the DEP at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP. The bill also requires the plan to describe how the mitigation offsets the impacts of each transportation project and provide a schedule for the mitigation services.

Section 78 amends s. 373.618, F.S., to provide that a public information system located on WMD property that is subject to the Highway Beautification Act of 1965 must be approved by the FDOT and the Federal Highway Administration, if such approval is required by federal law.

Section 79 amends s. 341.052, F.S., relating to the public transit block grant program, to prohibit a public transit provider from using public transit block grant funds to pursue or promote the levy of new or additional taxes through public referenda. It also reduces the amount of a provider's grant to the extent that a public transit provider so uses other public funds and defines the term "public funds" for purposes of the prohibition.

Section 80 provides that the bill takes effect upon becoming law, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 6 The increased allowable weight of APUs decreases the potential fine for a commercial motor vehicle overweight violation by no more than \$7.50.

Section 9

Motor fuel tax funds paid by citizens and businesses in a particular locality may be at less risk of diversion to a different area of the state in a manner contrary to the statutory allocation for those funds if the funds were expended by FDOT through its normal work program process, rather than through a lease-purchase agreement.

Section 15

Those wishing to submit proposals for lease of FDOT property that FDOT wishes to consider will be subject to an application fee sufficient to pay the anticipated cost of evaluating the proposal, to be established by FDOT rule. Opportunities for private consultant contracts with FDOT are authorized.

Section 42

Revision of the definition of “intercity bus service” allows companies other than Greyhound Bus Lines to compete for federal and state program funds.

C. Government Sector Impact:

Section 1

The FTC will incur additional expenditures associated with monitoring the regional transportation finance authorities. These expenses are expected to be absorbed within existing resources. However, the FTC notes that, depending on the number of authorities eventually established, additional FTE(s) may be needed to effectively conduct its responsibility.

Section 5

Removing the obsolete language regarding wrecker permits will avoid any negative impact to the state from a potential federal funds penalty for failure to comply with federal commercial motor vehicle requirements, as giving effect to the obsolete provisions would render the state noncompliant with federal law.

Section 6

The increased allowable weight of APUs decreases a potential fine by no more than \$7.50.

Section 15

The FDOT's costs associated with evaluating lease proposals pursuant to s. 337.251, F.S., would presumably be covered by the application fee the FDOT is required to establish by rule, particularly if the fee includes the cost of private consultants the FDOT is authorized to engage to assist in its evaluations.

Section 18

The obligations of Alligator Alley toll revenues to operate a local fire station and of the FDOT to transfer excess toll revenues to the Everglades Restoration Fund beyond that which is agreed to in the Memorandum of Understanding between the FDOT and the SFWMD, are removed. A positive fiscal impact to the state is expected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Transportation, Tourism, and Economic Development Appropriations Committee on April 11, 2013:

The proposed committee substitute:

- Removes all language relating to the following issues previously contained in the bill:
 - Bus benches in state road rights-of-way,
 - Local government noise mitigation regulations,
 - Aviation fuel tax revisions,
 - Natural gas fuel taxation, and
 - The FDOT's authority to undertake ancillary development in state-owned rail corridors.
- Adds the following new issues to the bill:
 - Renames and reconfigures the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority and revises related provisions;
 - Renames and reconfigures the Orlando-Orange County Expressway Authority as the Central Florida Expressway Authority and revises related provisions, including extending the allowed term of leases from 40 to 99 years;
 - Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way;
 - Prohibits the expenditure of public transit block grant funds to pursue or promote the levy of new or additional taxes through public referenda.

- Revises provisions relation to environmental mitigation for transportation projects, state park road maintenance, water management district public information systems, and the FDOT purchase of plant materials for roadside enhancement and maintenance;
 - Authorizes the FDOT to administer the small county dredging program and sunsets the program on July 1, 2018;
 - Repeals the Florida Transportation Corporation Act and related audit authority; and
- Makes technical and conforming changes.

CS by Community Affairs on March 20, 2013:

The committee substitute:

- Removes reference to the Mid-Bay Bridge Authority and inserts a reference to the new ch. 345, F.S., in s. 20.23, F.S. The bill also transfers the Mid-Bay Bridge Authority to the Okaloosa-Bay Regional Tollway Authority, which is governed by the provisions of the new ch. 345, F.S. The reference to the new ch. 345, F.S., subjects the Okaloosa-Bay Regional Tollway Authority, and any other regional tollway authority created in the bill or subsequently created under provisions in the new ch. 345, F.S., to oversight and monitoring by the Florida Transportation Commission, as are various other expressway, road and bridge, and regional transportation authorities. The amendment also strikes a phrase referencing subsection (3), which subsection establishes the Florida Statewide Passenger Rail Commission, as the bill also repeals the Florida Statewide Passenger Rail Commission.
- Provides that the \$15 million minimum annual funding authorized to be made available from the State Transportation Trust Fund for space transportation projects shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3), F.S.
- Removes from the bill provisions for the “Spaceport Investment Program,” which required allocation of \$5 million annually, for up to 30 years, for the purpose of funding any spaceport project identified in the FDOT’s Adopted Work Program; and authorized the revenues to be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or other forms of indebtedness issued by Space Florida, or used to purchase credit support to permit such borrowings.
- Removes from the bill authorization for installation of parking meters or other time-limit devices within the right-of-way limits of a state road if permitted by the FDOT; removes direction requiring each county and municipality to promptly remit to the FDOT 50 percent of the revenue generated from the fees collected by a parking meter or other time-limit device installed or already existing within the right-of-way limits of a state road under the FDOT’s jurisdiction; and removes the requirements that funds received by the FDOT to be deposited into the STTF and used in accordance with s. 339.08, F.S.
- Adds to the bill the provisions of CS/SB 579, establishing a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminating the current decal program for vehicles powered by alternative fuels, and repealing the Local Alternative Fuel User Fee Clearing Trust Fund.

- Adds to the bill the revised bus bench and bus shelter language shifting liability from the cities and counties to the private owner installers of bus benches and bus shelters within the right-of-way of the SHS.
- Makes technical changes.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Brandes

578-02811A-13

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1 A bill to be entitled
 2 An act relating to the Department of Transportation;
 3 amending s. 20.23, F.S.; requiring the Transportation
 4 Commission to also monitor ch. 345, F.S., relating to
 5 the Florida Regional Tollway Authority; deleting
 6 provisions relating to the Florida Statewide Passenger
 7 Rail Commission; amending s. 110.205, F.S.; changing
 8 to the State Freight and Logistics Administrator from
 9 the State Public Transportation and Modal
 10 Administrator, which is an exempt position not covered
 11 under career service; creating s. 163.3176, F.S.;
 12 providing legislative intent; requiring that a local
 13 government ensure that noise compatible land-use
 14 planning is used in its jurisdiction; providing
 15 guidelines; providing for the sharing of related costs
 16 of construction if a local government does not comply
 17 with the noise mitigation requirements; requiring that
 18 local governments consult with the Department of
 19 Transportation and the Department of Economic
 20 Opportunity in the formulation of noise mitigation
 21 requirements; amending s. 206.86, F.S.; deleting
 22 definitions for the terms "alternative fuel" and
 23 "natural gasoline"; amending s. 206.87, F.S.;
 24 conforming a cross-reference; repealing s. 206.877,
 25 F.S., relating to the annual decal fee program for
 26 motor vehicles powered by alternative fuels; repealing
 27 s. 206.89, F.S., relating to the requirements for
 28 alternative fuel retailer licenses; amending s.
 29 206.91, F.S.; making grammatical and technical

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30 changes; providing a directive to the Division of Law
 31 Revision and Information; amending s. 206.9825, F.S.;
 32 revising the criteria that certain air carriers must
 33 meet to qualify for an exemption to the aviation fuel
 34 tax; providing remedies for failure by an air carrier
 35 to meet the standards; authorizing terminal suppliers
 36 and wholesalers to receive a credit, or apply, for a
 37 refund of aviation fuel tax previously paid;
 38 conforming terminology; authorizing the Department of
 39 Revenue to adopt rules; creating s. 206.9951, F.S.;
 40 providing definitions; creating s. 206.9952, F.S.;
 41 establishing requirements for natural gas fuel
 42 retailer licenses; providing penalties for certain
 43 licensure violations; creating s. 206.9955, F.S.;
 44 providing calculations for a motor fuel equivalent
 45 gallon; providing for the levy of the natural gas fuel
 46 tax; authorizing the Department of Revenue to adopt
 47 rules; creating s. 206.996, F.S.; establishing
 48 requirements for monthly reports of natural gas fuel
 49 retailers; providing that reports are made under the
 50 penalties of perjury; allowing natural gas fuel
 51 retailers to seek a deduction of the tax levied under
 52 specified conditions; creating s. 206.9965, F.S.;
 53 providing exemptions and refunds from the natural gas
 54 fuel tax; transferring, renumbering, and amending
 55 s.206.879, F.S.; revising provisions relating to the
 56 State Alternative Fuel User Fee Clearing Trust Fund;
 57 terminating the Local Alternative Fuel User Fee
 58 Clearing Trust Fund within the Department of Revenue;

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59 prescribing procedures for the termination of the
 60 trust fund; creating s. 206.998, F.S.; providing for
 61 the applicability of specified sections of parts I and
 62 II of ch. 206, F.S.; amending s. 212.055, F.S.;
 63 conforming a cross-reference; amending s. 212.08,
 64 F.S.; providing an exemption from taxes for natural
 65 gas fuel under certain circumstances; repealing s.
 66 316.530(3), F.S., relating to load limits for certain
 67 towed vehicles; amending s. 316.545, F.S.; increasing
 68 the weight amount used for penalty calculations;
 69 conforming terminology; amending s. 331.360, F.S.;
 70 reordering provisions; providing for a spaceport
 71 system plan; providing funding for space
 72 transportation projects from the State Transportation
 73 Trust Fund; requiring Space Florida to provide the
 74 Department of Transportation with specific project
 75 information and to demonstrate transportation and
 76 aerospace benefits; specifying the information to be
 77 provided; providing funding criteria; providing
 78 criteria for the Spaceport Investment Program;
 79 providing for funding; amending s. 332.007, F.S.;
 80 authorizing the Department of Transportation to fund
 81 strategic airport investments; providing criteria;
 82 amending s. 334.044, F.S.; prohibiting the department
 83 from entering into a lease-purchase agreement with
 84 certain transportation authorities after a specified
 85 time; amending s. 337.11, F.S.; removing the
 86 requirement that a contractor provide a notarized
 87 affidavit as proof of registration; amending s.

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88 337.14, F.S.; revising the criteria for bidding
 89 certain construction contracts to require a proposed
 90 budget estimate if a contract is more than a specified
 91 amount; amending s. 337.168, F.S.; providing that a
 92 document that reveals the identity of a person who has
 93 requested or received certain information before a
 94 certain time is a public record; amending s. 337.251,
 95 F.S.; revising criteria for leasing particular
 96 department property; increasing the time the
 97 department must accept proposals for lease after a
 98 notice is published; authorizing the department to
 99 establish an application fee by rule; providing
 100 criteria for the fee; providing criteria that the
 101 lease must meet; amending s. 337.408, F.S.; providing
 102 that persons who install a transit shelter or bus
 103 bench on certain right-of-ways are responsible for
 104 ensuring that the bench or transit shelter complies
 105 with applicable laws and rules; providing for the
 106 disposition of a bench or transit shelter that is not
 107 in compliance with applicable laws or rules; requiring
 108 owners of a bench or transit shelter to provide the
 109 department with a written inventory of locations;
 110 requiring the owner of a bench or transit shelter to
 111 maintain a liability insurance policy naming the
 112 department as an additional insured; specifying
 113 requirements for the policy; providing criteria for
 114 notice of modification, cancellation, or nonrenewal of
 115 an insurance policy; providing exceptions; requiring
 116 each county or municipality to remit certain revenue

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117 to the department; amending s. 338.161, F.S.;

118 authorizing the department to enter into agreements

119 with owners of public or private transportation

120 facilities rather than entities that use the

121 department's electronic toll collection and video

122 billing systems to collect certain charges; amending

123 s. 338.165, F.S.; removing the Beeline-East Expressway

124 and the Navarre Bridge from the list of facilities

125 that have toll revenues to secure their bonds;

126 amending s. 338.26, F.S.; revising the uses of fees

127 that are generated from tolls to include the design

128 and construction of a fire station that may be used by

129 certain local governments in accordance with a

130 specified memorandum; removing authority of a district

131 to issue bonds or notes; amending s. 339.175, F.S.;

132 revising the criteria that qualify a local government

133 for participation in a metropolitan planning

134 organization; revising the criteria to determine

135 voting membership of a metropolitan planning

136 organization; providing that each metropolitan

137 planning organization shall review its membership and

138 reapportion it as necessary; providing criteria;

139 removing the requirement that the Governor review and

140 apportion the voting membership among the various

141 governmental entities within the metropolitan planning

142 area; amending s. 339.2821, F.S.; authorizing

143 Enterprise Florida, Inc., to be a consultant to the

144 Department of Transportation for consideration of

145 expenditures associated with and contracts for

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146 transportation projects; revising the requirements for

147 economic development transportation project contracts

148 between the department and a governmental entity;

149 amending s. 339.55, F.S.; adding spaceports to the

150 list of facility types for which the state-funded

151 infrastructure bank may lend capital costs or provide

152 credit enhancements; amending s. 341.031, F.S.;

153 revising the definition of the term "intercity bus

154 service"; amending s. 341.053, F.S.; revising the

155 types of eligible projects and criteria of the

156 intermodal development program; amending s. 341.302,

157 F.S.; authorizing the Department of Transportation to

158 undertake ancillary development for appropriate

159 revenue sources to be used for state-owned rail

160 corridors; amending ss. 343.82 and 343.922, F.S.;

161 removing reference to advances from the Toll

162 Facilities Revolving Trust Fund as a source of funding

163 for certain projects by an authority; creating ch.

164 345, F.S., relating to the Florida Regional Tollway

165 Authority; creating s. 345.0001, F.S.; providing a

166 short title; creating s. 345.0002, F.S.; providing

167 definitions; creating s. 345.0003, F.S.; authorizing

168 counties to form a regional tollway authority that can

169 construct, maintain, or operate transportation

170 projects in a region of the state; providing for

171 governance of the authority; creating s. 345.0004,

172 F.S.; providing for the powers and duties of a

173 regional tollway authority; limiting an authority's

174 power with respect to an existing system; prohibiting

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175 an authority from pledging the credit or taxing power
 176 of the state or any political subdivision or agency of
 177 the state; requiring that an authority comply with
 178 certain reporting and documentation requirements;
 179 creating s. 345.0005, F.S.; authorizing the authority
 180 to issue bonds; providing that the issued bonds must
 181 meet certain requirements; providing that the
 182 resolution that authorizes the issuance of bonds meet
 183 certain requirements; authorizing an authority to
 184 enter into security agreements for issued bonds with a
 185 bank or trust company; providing that the issued bonds
 186 are negotiable instruments and have certain qualities;
 187 providing that a resolution authorizing the issuance
 188 of bonds and pledging of revenues of the system must
 189 contain certain requirements; prohibiting the use or
 190 pledge of state funds to pay principal or interest of
 191 an authority's bonds; creating s. 345.0006, F.S.;
 192 providing for the rights and remedies granted to
 193 certain bondholders; providing the actions a trustee
 194 may take on behalf of the bondholders; providing for
 195 the appointment of a receiver; providing for the
 196 authority of the receiver; providing limitations to
 197 the receiver's authority; creating s. 345.0007, F.S.;
 198 providing that the Department of Transportation is the
 199 agent of each authority for specified purposes;
 200 providing for the administration and management of
 201 projects by the department; providing limits on the
 202 department as an agent; providing for the fiscal
 203 responsibilities of the authority; creating s.

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204 345.0008, F.S.; authorizing the department to provide
 205 for or commit its resources for an authority project
 206 or system, if approved by the Legislature; providing
 207 for payment of expenses incurred by the department on
 208 behalf of an authority; requiring the department to
 209 receive a share of the revenue from the authority;
 210 providing calculations for disbursement of revenues;
 211 creating s. 345.0009, F.S.; authorizing the authority
 212 to acquire private or public property and property
 213 rights for a project or plan; authorizing the
 214 authority to exercise the right of eminent domain;
 215 providing for the rights and liabilities and remedial
 216 actions relating to property acquired for a
 217 transportation project or corridor; creating s.
 218 345.0010, F.S.; providing for contracts between
 219 governmental entities and an authority; creating s.
 220 345.0011, F.S.; providing that the state will not
 221 limit or alter the vested rights of a bondholder with
 222 regard to any issued bonds or rights relating to the
 223 bonds under certain conditions; creating s. 345.0012,
 224 F.S.; relieving the authority from the obligation of
 225 paying certain taxes or assessments for property
 226 acquired or used for certain public purposes or for
 227 revenues received relating to the issuance of bonds;
 228 providing exceptions; creating s. 345.0013, F.S.;
 229 providing that the bonds or obligations issued are
 230 legal investments of specified entities; creating s.
 231 345.0014, F.S.; providing applicability; creating s.
 232 345.0015, F.S.; creating the Northwest Florida

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233 Regional Tollway Authority; creating s. 345.0016,
 234 F.S.; creating the Okaloosa-Bay Regional Tollway
 235 Authority; creating s. 345.0017, F.S.; creating the
 236 Suncoast Regional Tollway Authority; providing for the
 237 transfer of the governance and control of the Mid-Bay
 238 Bridge Authority System to the Okaloosa-Bay Regional
 239 Tollway Authority; providing for the disposition of
 240 bonds, the protection of the bondholders, the effect
 241 on the rights and obligations under a contract or the
 242 bonds, and the revenues associated with the bonds;
 243 providing an effective date.

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

246
 247 Section 1. Paragraph (b) of subsection (2) and subsection
 248 (3) of section 20.23, Florida Statutes, are amended, and present
 249 subsections (4) through (7) of that subsection are renumbered as
 250 subsections (3) through (6), to read:

251 20.23 Department of Transportation.—There is created a
 252 Department of Transportation which shall be a decentralized
 253 agency.

254 (2)

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

256 1. Recommend major transportation policies for the
 257 Governor's approval, and assure that approved policies and any
 258 revisions ~~thereto~~ are properly executed.

259 2. Periodically review the status of the state
 260 transportation system including highway, transit, rail, seaport,
 261 intermodal development, and aviation components of the system

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262 and recommend improvements therein to the Governor and the
 263 Legislature.

264 3. Perform an in-depth evaluation of the annual department
 265 budget request, the Florida Transportation Plan, and the
 266 tentative work program for compliance with all applicable laws
 267 and established departmental policies. Except as specifically
 268 provided in s. 339.135(4)(c)2., (d), and (f), the commission may
 269 not consider individual construction projects, but shall
 270 consider methods of accomplishing the goals of the department in
 271 the most effective, efficient, and businesslike manner.

272 4. Monitor the financial status of the department on a
 273 regular basis to assure that the department is managing revenue
 274 and bond proceeds responsibly and in accordance with law and
 275 established policy.

276 5. Monitor on at least a quarterly basis, the efficiency,
 277 productivity, and management of the department, using
 278 performance and production standards developed by the commission
 279 pursuant to s. 334.045.

280 6. Perform an in-depth evaluation of the factors causing
 281 disruption of project schedules in the adopted work program and
 282 recommend to the Legislature and the Governor methods to
 283 eliminate or reduce the disruptive effects of these factors.

284 7. Recommend to the Governor and the Legislature
 285 improvements to the department's organization in order to
 286 streamline and optimize the efficiency of the department. In
 287 reviewing the department's organization, the commission shall
 288 determine if the current district organizational structure is
 289 responsive to Florida's changing economic and demographic
 development patterns. The initial report by the commission must

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291 be delivered to the Governor and Legislature by December 15,
 292 2000, and each year thereafter, as appropriate. The commission
 293 may retain ~~such~~ experts that ~~as~~ are reasonably necessary to
 294 effectuate this subparagraph, and the department shall pay the
 295 expenses of the ~~such~~ experts.

296 8. Monitor the efficiency, productivity, and management of
 297 the authorities created under chapters 345, 348, and 349,
 298 including any authority formed using the provisions of part I of
 299 chapter 348, and any authority formed under chapter 343 ~~which is~~
 300 ~~not monitored under subsection (3)~~. The commission shall also
 301 conduct periodic reviews of each authority's operations and
 302 budget, acquisition of property, management of revenue and bond
 303 proceeds, and compliance with applicable laws and generally
 304 accepted accounting principles.

305 ~~(3) There is created the Florida Statewide Passenger Rail~~
 306 ~~Commission.~~

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

309 ~~a. Three members shall be appointed by the Governor, one of~~
 310 ~~whom must have a background in the area of environmental~~
 311 ~~concerns, one of whom must have a legislative background, and~~
 312 ~~one of whom must have a general business background.~~

313 ~~b. Three members shall be appointed by the President of the~~
 314 ~~Senate, one of whom must have a background in civil engineering,~~
 315 ~~one of whom must have a background in transportation~~
 316 ~~construction, and one of whom must have a general business~~
 317 ~~background.~~

318 ~~c. Three members shall be appointed by the Speaker of the~~
 319 ~~House of Representatives, one of whom must have a legal~~

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320 ~~background, one of whom must have a background in financial~~
 321 ~~matters, and one of whom must have a general business~~
 322 ~~background.~~

323 ~~2. The initial term of each member appointed by the~~
 324 ~~Governor shall be for 4 years. The initial term of each member~~
 325 ~~appointed by the President of the Senate shall be for 3 years.~~
 326 ~~The initial term of each member appointed by the Speaker of the~~
 327 ~~House of Representatives shall be for 2 years. Succeeding terms~~
 328 ~~for all members shall be for 4 years.~~

329 ~~3. A vacancy occurring during a term shall be filled by the~~
 330 ~~respective appointing authority in the same manner as the~~
 331 ~~original appointment and only for the balance of the unexpired~~
 332 ~~term. An appointment to fill a vacancy shall be made within 60~~
 333 ~~days after the occurrence of the vacancy.~~

334 ~~4. The commission shall elect one of its members as chair~~
 335 ~~of the commission. The chair shall hold office at the will of~~
 336 ~~the commission. Five members of the commission shall constitute~~
 337 ~~a quorum, and the vote of five members shall be necessary for~~
 338 ~~any action taken by the commission. The commission may meet upon~~
 339 ~~the constitution of a quorum. A vacancy in the commission does~~
 340 ~~not impair the right of a quorum to exercise all rights and~~
 341 ~~perform all duties of the commission.~~

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

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

346 ~~1. Monitoring the efficiency, productivity, and management~~
 347 ~~of all publicly funded passenger rail systems in the state,~~
 348 ~~including, but not limited to, any authority created under~~

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~~chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.~~

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

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

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

~~1. The awarding of contracts.~~

~~2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the commission may recommend to the secretary standards~~

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~~and policies governing the procedure for selection and prequalification of consultants and contractors.~~

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

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

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

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

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

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

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

110.205 Career service; exemptions.—

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

(j) The appointed secretaries and the State Surgeon General, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; the directors of all divisions and those positions determined by the department to have managerial responsibilities

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comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, the State Transportation Development Administrator, State Freight and Logistics ~~Public Transportation and Modal~~ Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices specified in s. 20.23(3)(b) ~~20.23(4)(b)~~, of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service; and the county health department directors and county health department administrators of the Department of Health.

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

1. Positions in the Department of Health and the Department of Children and Family Services that are assigned primary duties of serving as the superintendent or assistant superintendent of an institution.

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

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

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

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

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

Section 3. Section 163.3176, Florida Statutes, is created to read:

163.3176 Legislative findings; noise mitigation requirements in development plans for land abutting the right-of-way of a limited access facility; compliance required of local governments.-

(1) The Legislature finds that incompatible residential development of land adjacent to the rights-of-way of limited access facilities and the failure to provide protections related to noise abatement have not been in the best interest of the public welfare or the economic health of the state. The Legislature finds that the costs of transportation projects are significantly increased by the added expense of required noise

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465 abatement and by the delay of other potential and needed
 466 transportation projects. The Legislature finds that limited
 467 access facilities generate traffic noise due to the high speed
 468 and high volumes of vehicular traffic on these important
 469 highways. The Legislature finds that important state interests,
 470 including, but not limited to, the protection of future
 471 residential property owners, will be served by ensuring that
 472 local governments have land development ordinances that promote
 473 residential land-use planning and development that is noise
 474 compatible with adjacent limited access facilities, and by
 475 avoiding future noise abatement problems and the related state
 476 expense to provide noise mitigation for residential dwellings
 477 constructed after notice of a planned limited access facility is
 478 made public. Additionally, the Legislature finds that, with
 479 future potential population growth and the resulting need for
 480 future capacity improvements to limited access facilities, noise
 481 compatible residential land-use planning must take into
 482 consideration an evaluation of future impacts of traffic noise
 483 on proposed residential developments that are adjacent to
 484 limited access facilities.

485 (2) Each local government shall ensure that noise
 486 compatible land-use planning is used in its jurisdictions in the
 487 development of land for residential use which is adjacent to
 488 right-of-way acquired for a limited access facility. The
 489 measures must include the incorporation of federal and state
 490 noise mitigation standards and guidelines in all local
 491 government land development regulations and be reflected in and
 492 carried out in the local government comprehensive plans,
 493 amendments of adopted comprehensive plans, zoning plans,

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494 subdivision plat approvals, development permits, and building
 495 permits. Each local government shall ensure that residential
 496 development proposed adjacent to a limited access facility is
 497 planned and constructed in conformance with all noise mitigation
 498 standards, guidelines, and regulations. A local government shall
 499 share equally with the Department of Transportation all related
 500 costs of construction if the local government does not comply
 501 with this section and, as a result, the department is required
 502 to construct a noise wall or other noise mitigation in
 503 connection with a road improvement project.

504 (3) A local government shall consult with the Department of
 505 Economic Opportunity and the department, as needed, in the
 506 formulation and establishment of adequate noise mitigation
 507 requirements in the respective land development regulations as
 508 mandated in this section. A local government shall adopt land
 509 development regulations that are consistent with this section,
 510 as soon as practicable, but not later than July 1, 2014.

511 Section 4. Section 206.86, Florida Statutes, is amended to
 512 read:

513 206.86 Definitions.—As used in this part:

514 (1) "Diesel fuel" means all petroleum distillates commonly
 515 known as diesel #2, biodiesel, or any other product blended with
 516 diesel or any product placed into the storage supply tank of a
 517 diesel-powered motor vehicle.

518 (2) "Taxable diesel fuel" or "fuel" means any diesel fuel
 519 not held in bulk storage at a terminal ~~and~~ which has not been
 520 dyed for exempt use in accordance with Internal Revenue Code
 521 requirements.

522 (3) "User" includes any person who uses diesel fuels within

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this state for the propulsion of a motor vehicle on the public highways of this state, even though the motor is also used for a purpose other than the propulsion of the vehicle.

~~(4) "Alternative fuel" means any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.~~

~~(5) "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.~~

~~(4)(6)~~ "Removal" means any physical transfer of diesel fuel and any use of diesel fuel other than as a material in the production of diesel fuel.

~~(5)(7)~~ "Blender" means any person who ~~that~~ produces blended diesel fuel outside the bulk transfer/terminal system.

~~(6)(8)~~ "Colorless marker" means material that is not perceptible to the senses until the diesel fuel into which it is introduced is subjected to a scientific test.

~~(7)(9)~~ "Dyed diesel fuel" means diesel fuel that is dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service requirements for high sulfur diesel fuel or low sulfur diesel fuel.

~~(8)(10)~~ "Ultimate vendor" means a licensee that sells undyed diesel fuel to the United States or its departments or agencies in bulk lots of not less than 500 gallons in each

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delivery or to the user of the diesel fuel for use on a farm for farming purposes.

~~(9)(11)~~ "Local government user of diesel fuel" means any county, municipality, or school district licensed by the department to use untaxed diesel fuel in motor vehicles.

~~(10)(12)~~ "Mass transit system" means any licensed local transportation company providing local bus service that is open to the public and that travels regular routes.

~~(11)(13)~~ "Diesel fuel registrant" means anyone required by this chapter to be licensed to remit diesel fuel taxes, including, but not limited to, terminal suppliers, importers, local government users of diesel fuel, and mass transit systems.

~~(12)(14)~~ "Biodiesel" means any product made from nonpetroleum-based oils or fats which is suitable for use in diesel-powered engines. Biodiesel is also referred to as alkyl esters.

~~(13)(15)~~ "Biodiesel manufacturer" means those industrial plants, regardless of capacity, where organic products are used in the production of biodiesel. This includes businesses that process or blend organic products that are marketed as biodiesel.

Section 5. Paragraph (a) of subsection (1) of section 206.87, Florida Statutes, is amended to read:

206.87 Levy of tax.—

(1) (a) An excise tax of 4 cents per gallon is ~~hereby~~ imposed upon each net gallon of diesel fuel subject to the tax under subsection (2), ~~except alternative fuels which are subject to the fee imposed by s. 206.877.~~

Section 6. Section 206.877, Florida Statutes, is repealed.

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581 Section 7. Section 206.89, Florida Statutes, is repealed.

582 Section 8. Subsection (1) of section 206.91, Florida
583 Statutes, is amended to read:

584 206.91 Tax reports; computation and payment of tax.—

585 (1) For the purpose of determining the amount of taxes
586 imposed by s. 206.87, each diesel fuel registrant shall, not
587 later than the 20th day of each calendar month, mail to the
588 department, on forms prescribed by the department, monthly
589 reports that provide ~~which shall show such~~ information on
590 inventories, purchases, nontaxable disposals, and taxable sales
591 in gallons of diesel fuel ~~and alternative fuel~~, for the
592 preceding calendar month ~~as may be~~ required by the department.
593 However, if the 20th day falls on a Saturday, a Sunday, or a
594 federal or state legal holiday, returns shall be accepted if
595 postmarked on the next succeeding workday. The reports must
596 include, shall contain or be verified by, a written declaration
597 stating that they are ~~such report is~~ made under the penalties of
598 perjury. The diesel fuel registrant shall deduct from the amount
599 of taxes shown by the report to be payable an amount equivalent
600 to .67 percent of the taxes on diesel fuel imposed by s.
601 206.87(1)(a) and (e), which deduction is ~~hereby~~ allowed to the
602 diesel fuel registrant on account of services and expenses in
603 complying with the provisions of this part. The allowance on
604 taxable gallons of diesel fuel sold to persons licensed under
605 this chapter is not ~~shall not be~~ deductible unless the diesel
606 fuel registrant has allowed 50 percent of the allowance provided
607 by this section to a purchaser with a valid wholesaler or
608 terminal supplier license. This allowance is not ~~shall not be~~
609 deductible unless payment of the taxes is made on or before the

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610 20th day of the month as ~~herein~~ required in this subsection.

611 ~~Nothing in~~ This subsection does not ~~shall be construed to~~
612 authorize a deduction from the constitutional fuel tax or fuel
613 sales tax.

614 Section 9. Subsection (1) of section 206.9825, Florida
615 Statutes, is amended to read:

616 206.9825 Aviation fuel tax.—

617 (1)(a) Except as otherwise provided in this part, an excise
618 tax of 6.9 cents per gallon of aviation fuel is imposed upon
619 every gallon of aviation fuel sold in this state, or brought
620 into this state for use, upon which such tax has not been paid
621 or the payment thereof has not been lawfully assumed by some
622 person handling the same in this state. Fuel taxed pursuant to
623 this part shall not be subject to the taxes imposed by ss.
624 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

625 (b) Any ~~licensed wholesaler or terminal supplier that~~
626 ~~delivers aviation fuel to an air carrier that offers offering~~
627 ~~transcontinental jet service and that has, within the preceding~~
628 ~~5-year period from January 1 of the year the exemption is being~~
629 ~~applied for, increased its that, after January 1, 1996,~~
630 ~~increases the air carrier's~~ Florida workforce by more than 1,000
631 ~~1000~~ percent and by 250 or more full-time equivalent employee
632 positions as provided in reports that must be filed pursuant to
633 s. 443.163, may purchase receive a credit or refund as the
634 ~~ultimate vendor of the~~ aviation fuel exempt from for the 6.9
635 cents per gallon tax imposed by this part from terminal
636 suppliers and wholesalers, provided that the air carrier has no
637 facility for fueling highway vehicles from the tank in which the
638 aviation fuel is stored. To qualify for the exemption, an air

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639 carrier must submit a written request to the department stating
 640 that it meets the requirements of this paragraph. The exemption
 641 under this paragraph expires on December 31 of the year it was
 642 granted. The exemption is not allowed for any period before the
 643 effective date of the air carrier exemption letter issued by the
 644 department. To renew the exemption, the air carrier must submit
 645 a written request to the department stating that it meets the
 646 requirements of this paragraph. Terminal suppliers and
 647 wholesalers may receive a credit or may apply for a refund, as
 648 the ultimate vendor of the 6.9 cents per gallon aviation fuel
 649 tax previously paid, within 1 year after the date the right to
 650 the refund has accrued ~~excise tax previously paid, provided that~~
 651 ~~the air carrier has no facility for fueling highway vehicles~~
 652 ~~from the tank in which the aviation fuel is stored.~~ In
 653 calculating the new or additional Florida full-time equivalent
 654 employee positions, any full-time equivalent employee positions
 655 of parent or subsidiary corporations which existed before the
 656 preceding 5-year period from January 1 of the year the
 657 application for exemption or renewal is being applied for, may
 658 ~~January 1, 1996, shall~~ not be counted toward reaching the
 659 Florida employment increase thresholds. The refund allowed under
 660 this paragraph is in furtherance of the goals and policies of
 661 the State Comprehensive Plan set forth in s. 187.201(16) (a),
 662 (b)1., 2., (17) (a), (b)1., 4., (19) (a), (b)5., (21) (a), (b)1.,
 663 2., 4., 7., 9., and 12.

664 (c) If, during the 1-year period in which the exemption is
 665 in place before July 1, 2001, the air carrier fails to maintain
 666 the increase in its Florida workforce by more than 1,000 percent
 667 and by 250 or more full-time equivalent employees ~~number of~~

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668 ~~full time equivalent employee positions created or added to the~~
 669 ~~air carrier's Florida workforce falls below 250, the exemption~~
 670 granted pursuant to this section ~~does shall~~ not apply during the
 671 period in which the air carrier ~~was no longer qualified to~~
 672 ~~receive the exemption has fewer than the 250 additional~~
 673 ~~employees.~~

674 (d) The exemption taken by credit or refund pursuant to
 675 paragraph (b) ~~applies shall apply~~ only under the terms and
 676 conditions set forth in this paragraph ~~therein~~. If any part of
 677 ~~the that~~ paragraph is judicially declared to be unconstitutional
 678 or invalid, the validity of any provisions taxing aviation fuel
 679 ~~is shall~~ not ~~be~~ affected and all fuel exempted pursuant to
 680 paragraph (b) shall be subject to tax as if the exemption was
 681 never enacted. ~~Each Every~~ person who benefits ~~benefiting~~ from
 682 ~~the such~~ exemption ~~is shall be~~ liable for and must make payment
 683 of all taxes for which a credit or refund was granted.

684 (e) The department may adopt rules to administer this
 685 subsection.

686 Section 10. The Division of Law Revision and Information is
 687 requested to create part V of chapter 206, Florida Statutes,
 688 consisting of ss. 206.9951-206.998, entitled "NATURAL GAS FUEL."

689 Section 11. Section 206.9951, Florida Statutes, is created
 690 to read:

691 206.9951 Definitions.—As used in this part, the term:

692 (1) "Motor fuel equivalent gallon" means the volume of
 693 natural gas fuel it takes to equal the energy content of 1
 694 gallon of motor fuel.

695 (2) "Natural gas fuel" means any liquefied petroleum gas
 696 product, compressed natural gas product, or combination thereof

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used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. The term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.

(3) "Natural gas fuel retailer" means any person who sells natural gas fuel for use in a motor vehicle as defined in s. 206.01(23).

(4) "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.

(5) "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency; a federal agency; or a political subdivision of the state.

Section 12. Section 206.9952, Florida Statutes, is created to read:

206.9952 Application for license as a natural gas fuel retailer.—

(1) It is unlawful for any person to engage in business as a natural gas fuel retailer within this state unless he or she is the holder of a valid license issued by the department to engage in such business.

(2) A person who has facilities for placing natural gas fuel into the supply system of an internal combustion engine fueled by individual portable containers of 10 gallons or less

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is not required to be licensed as a natural gas fuel retailer, provided that the fuel is only used for exempt purposes.

(3) (a) Any person who acts as a natural gas retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of \$200 for each month of operation without a license. This paragraph expires December 31, 2018.

(b) Effective January 1, 2019, any person who acts as a natural gas fuel retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period.

(4) To procure a natural gas fuel retailer license, a person shall file an application and a bond with the department on a form prescribed by the department. The department may not issue a license upon the receipt of any application unless it is accompanied by a bond.

(5) When a natural gas fuel retailer license application is filed by a person whose previous license was canceled for cause by the department or the department believes that such application was not filed in good faith or is filed by another person as a subterfuge for the actual person in interest whose previous license has been canceled, the department may, if evidence warrants, refuse to issue a license for such an application.

(6) Upon the department's issuance of a natural gas fuel retailer license, such license remains in effect so long as the natural gas fuel retailer is in compliance with the requirements of this part.

(7) Such license may not be assigned and is valid only for

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the natural gas fuel retailer in whose name the license is issued. The license shall be displayed conspicuously by the natural gas fuel retailer in the principal place of business for which the license was issued.

(8) With the exception of a state or federal agency or a political subdivision licensed under this chapter, each person, as defined in this part, who operates as a natural gas fuel retailer shall report monthly to the department and pay a tax on all natural gas fuel purchases beginning January 1, 2019.

(9) The license application requires a license fee of \$5. Each license shall be renewed annually by submitting a reapplication and the license fee to the department. The license fee shall be paid to the department for deposit into the General Revenue Fund.

Section 13. Section 206.9955, Florida Statutes, is created to read:

206.9955 Levy of natural gas fuel tax.—

(1) The motor fuel equivalent gallon means the following for:

(a) Compressed natural gas gallon: 5.66 pounds, or per each 126.67 cubic feet.

(b) Liquefied natural gas gallon: 6.22 pounds.

(c) Liquefied petroleum gas gallon: 1.35 gallons.

(2) Effective January 1, 2019, the following taxes shall be imposed:

(a) An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.

(b) An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as

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the "ninth-cent fuel tax."

(c) An additional tax of 6 cents on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax."

(d) An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the "State Comprehensive Enhanced Transportation System Tax," at a rate determined pursuant to this paragraph. Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 7.1 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

(e)1. An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel for the privilege of selling natural gas fuel and is designated as the "fuel sales tax." Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is calculated by adjusting the initially established tax rate of 12.9 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

2. The department is authorized to adopt rules and publish forms to administer this paragraph.

(3) Unless otherwise provided by this chapter, the taxes

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specified in subsection (2) are imposed on natural gas fuel when it is placed into the fuel supply tank of a motor vehicle as defined in s. 206.01(23). The person liable for payment of the taxes imposed by this section is the person selling the fuel to the end user, for use in the fuel supply tank of a motor vehicle as defined in s. 206.01(23).

Section 14. Section 206.996, Florida Statutes, is created to read:

206.996 Monthly reports by natural gas fuel retailers; deductions.—

(1) For the purpose of determining the amount of taxes imposed by s. 206.9955, each natural gas fuel retailer shall file beginning February 2019, and each month thereafter, no later than the 20th day of each month, monthly reports electronically with the department showing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month. However, if the 20th day of the month falls on a Saturday, Sunday, or federal or state legal holiday, a return must be accepted if it is electronically filed on the next succeeding business day. The reports must include, or be verified by, a written declaration stating that such report is made under the penalties of perjury. The natural gas fuel retailer shall deduct from the amount of taxes shown by the report to be payable an amount equivalent to 0.67 percent of the taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e), which deduction is allowed to the natural gas fuel retailer to compensate it for services rendered and expenses incurred in complying with the requirements of this part. This allowance is not deductible unless payment of

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applicable taxes is made on or before the 20th day of the month. This subsection may not be construed as authorizing a deduction from the constitutional fuel tax or the fuel sales tax.

(2) Upon the electronic filing of the monthly report, each natural gas fuel retailer shall pay the department the full amount of natural gas fuel taxes for the preceding month at the rate provided in s. 206.9955, less the amount allowed the natural gas fuel retailer for services and expenses as provided in subsection (1).

(3) The department may authorize a quarterly return and payment of taxes when the taxes remitted by the natural gas fuel retailer for the preceding quarter did not exceed \$100, and the department may authorize a semiannual return and payment of taxes when the taxes remitted by the natural gas fuel retailer for the preceding 6 months did not exceed \$200.

(4) In addition to the allowance authorized by subsection (1), every natural gas fuel retailer is entitled to a deduction of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and (c), on account of services and expenses incurred due to compliance with the requirements of this part. This allowance may not be deductible unless payment of the tax is made on or before the 20th day of the month.

Section 15. Section 206.9965, Florida Statutes, is created to read:

206.9965 Exemptions and refunds; natural gas fuel retailers.—Natural gas fuel may be purchased from natural gas fuel retailers exempt from the tax imposed by this part when used or purchased for the following:

(1) Exclusive use by the United States or its departments

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or agencies. Exclusive use by the United States or its departments and agencies means the consumption by the United States or its departments or agencies of the natural gas fuel in a motor vehicle as defined in s. 206.01(23).

(2) Use for agricultural purposes as defined in s. 206.41(4)(c).

(3) Uses as provided in s. 206.874(3).

(4) Used to propel motor vehicles operated by state and local government agencies.

(5) Individual use resulting from residential refueling devices located at a person's primary residence.

(6) Purchases of natural gas fuel between licensed natural gas fuel retailers. A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer may take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller shall retain a copy of the purchaser's natural gas fuel retailer license.

Section 16. Section 206.879, Florida Statutes, is transferred and renumbered as section 206.997, Florida Statutes, and amended to read:

206.997 ~~206.879~~ State and local alternative fuel user fee clearing trust funds; distribution.—

~~(1)~~ Notwithstanding the provisions of s. 206.875, the revenues from the natural gas fuel tax imposed by s. 206.9955 ~~state alternative fuel fees imposed by s. 206.877~~ shall be deposited into the State Alternative Fuel User Fee Clearing

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Trust Fund, which is hereby created. After deducting the service charges provided in s. 215.20, the proceeds in this trust fund shall be distributed as follows: one-half of the proceeds in calendar year 2019 and one-fifth of the proceeds in calendar year 1991, one third of the proceeds in calendar year 1992, three sevenths of the proceeds in calendar year 1993, and one-half of the proceeds in each calendar year thereafter shall be transferred to the State Transportation Trust Fund; the remainder shall be distributed as follows: 50 percent shall be transferred to the State Board of Administration for distribution according to the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended; 25 percent shall be transferred to the Revenue Sharing Trust Fund for Municipalities; and the remaining 25 percent shall be distributed using the formula contained in s. 206.60(1).

~~(2) Notwithstanding the provisions of s. 206.875, the revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c) shall be deposited into The Local Alternative Fuel User Fee Clearing Trust Fund, which is hereby created. After deducting the service charges provided in s. 215.20, the proceeds in this trust fund shall be returned monthly to the appropriate county.~~

Section 17. (1) The Local Alternative Fuel User Fee Clearing Trust Fund within the Department of Revenue is terminated.

(2) The Department of Revenue shall pay any outstanding debts or obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from various state accounting systems

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929 using generally accepted accounting principles concerning
 930 warrants outstanding, assets, and liabilities.

931 Section 18. Section 206.998, Florida Statutes, is created
 932 to read:

933 206.998 Applicability of specified sections of parts I and
 934 II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,
 935 206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,
 936 206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
 937 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
 938 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,
 939 206.27, 206.28, 206.405, 206.406, 206.41, 206.413, 206.43,
 940 206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,
 941 206.608, and 206.61 of part I of this chapter and ss. 206.86,
 942 206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part
 943 II of this chapter shall, as far as lawful or practicable, be
 944 applicable to the tax levied and imposed and to the collection
 945 thereof as if fully set out in this part. However, any provision
 946 of any such section does not apply if it conflicts with any
 947 provision of this part.

948 Section 19. Paragraph (d) of subsection (2) of section
 949 212.055, Florida Statutes, is amended to read:

950 212.055 Discretionary sales surtaxes; legislative intent;
 951 authorization and use of proceeds.—It is the legislative intent
 952 that any authorization for imposition of a discretionary sales
 953 surtax shall be published in the Florida Statutes as a
 954 subsection of this section, irrespective of the duration of the
 955 levy. Each enactment shall specify the types of counties
 956 authorized to levy; the rate or rates which may be imposed; the
 957 maximum length of time the surtax may be imposed, if any; the

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958 procedure which must be followed to secure voter approval, if
 959 required; the purpose for which the proceeds may be expended;
 960 and such other requirements as the Legislature may provide.
 961 Taxable transactions and administrative procedures shall be as
 962 provided in s. 212.054.

963 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

964 (d) The proceeds of the surtax authorized by this
 965 subsection and any accrued interest shall be expended by the
 966 school district, within the county and municipalities within the
 967 county, or, in the case of a negotiated joint county agreement,
 968 within another county, to finance, plan, and construct
 969 infrastructure; to acquire land for public recreation,
 970 conservation, or protection of natural resources; to provide
 971 loans, grants, or rebates to residential or commercial property
 972 owners who make energy efficiency improvements to their
 973 residential or commercial property, if a local government
 974 ordinance authorizing such use is approved by referendum; or to
 975 finance the closure of county-owned or municipally owned solid
 976 waste landfills that have been closed or are required to be
 977 closed by order of the Department of Environmental Protection.
 978 Any use of the proceeds or interest for purposes of landfill
 979 closure before July 1, 1993, is ratified. The proceeds and any
 980 interest may not be used for the operational expenses of
 981 infrastructure, except that a county that has a population of
 982 fewer than 75,000 and that is required to close a landfill may
 983 use the proceeds or interest for long-term maintenance costs
 984 associated with landfill closure. Counties, as defined in s.
 985 125.011, and charter counties may, in addition, use the proceeds
 986 or interest to retire or service indebtedness incurred for bonds

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issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation

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shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or

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energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into ~~in~~ a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 20. Subsection (4) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

(a) Also exempt are:

1. Water delivered to the purchaser through pipes or conduits or delivered for irrigation purposes. The sale of drinking water in bottles, cans, or other containers, including water that contains minerals or carbonation in its natural state or water to which minerals have been added at a water treatment

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facility regulated by the Department of Environmental Protection or the Department of Health, is exempt. This exemption does not apply to the sale of drinking water in bottles, cans, or other containers if carbonation or flavorings, except those added at a water treatment facility, have been added. Water that has been enhanced by the addition of minerals and that does not contain any added carbonation or flavorings is also exempt.

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and diesel fuel is taxable as provided in this chapter with the exception of fuel expressly exempt herein. Natural gas fuel as defined in s. 206.9951(2) is exempt from the tax imposed by this chapter when placed into the fuel supply system of a motor vehicle. Motor fuels and diesel fuels are taxable as provided in chapter 206, with the exception of those motor fuels and diesel fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce, which are taxable under this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. However, during the fiscal year in which the carrier begins its initial operations in this state, the carrier's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated

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miles in this state to anticipated total miles for that year, and subsequently, additional tax shall be paid on the motor fuel and diesel fuels, or a refund may be applied for, on the basis of the actual ratio of the carrier's railroad locomotives' or vessels' miles in this state to its total miles for that year. This ratio shall be applied each month to the total Florida purchases made in this state of motor and diesel fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. The basis for imposition of any discretionary surtax shall be set forth in s. 212.054. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. The transmission or wheeling of electricity.

(b) Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this paragraph have the same meanings ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this paragraph for the purpose of extending the tax imposed by this chapter is reasonable and just, and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

Section 21. Subsection (3) of section 316.530, Florida Statutes, is repealed.

Section 22. Subsection (3) of section 316.545, Florida Statutes, is amended to read:

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

(3) Any person who violates the overloading provisions of

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this chapter shall be conclusively presumed to have damaged the highways of this state by reason of such overloading, which damage is hereby fixed as follows:

(a) ~~If when~~ the excess weight is 200 pounds or less than the maximum ~~herein~~ provided by this chapter, the penalty is ~~shall be~~ \$10;

(b) Five cents per pound for each pound of weight in excess of the maximum ~~herein~~ provided in this chapter if when the excess weight exceeds 200 pounds. However, ~~if whenever~~ the gross weight of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight is ~~shall be~~ \$10;

(c) For a vehicle equipped with fully functional idle-reduction technology, any penalty shall be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 ~~400~~ pounds, whichever is less. The vehicle operator must present written certification of the weight of the idle-reduction technology and must demonstrate or certify that the idle-reduction technology is fully functional at all times. This calculation is not allowed for vehicles described in s. 316.535(6);

(d) An apportioned motor vehicle, as defined in s. 320.01, operating on the highways of this state without being properly licensed and registered shall be subject to the penalties as ~~herein~~ provided in this section; and

(e) Vehicles operating on the highways of this state from nonmember International Registration Plan jurisdictions which are not in compliance with the provisions of s. 316.605 shall be

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subject to the penalties as ~~herein~~ provided in this section.

Section 23. Section 331.360, Florida Statutes, is reordered and amended to read:

331.360 ~~Joint participation agreement or assistance,~~
Spaceport ~~system~~ master plan.-

~~(2)(1) It shall be the duty, function, and responsibility of~~ The department ~~shall of Transportation to~~ promote the further development and improvement of aerospace transportation facilities; to address intermodal requirements and impacts of the launch ranges, spaceports, and other space transportation facilities; to assist in the development of joint-use facilities and technology that support aviation and aerospace operations; to coordinate and cooperate in the development of spaceport infrastructure and related transportation facilities contained in the Strategic Intermodal System Plan; to encourage, where appropriate, the cooperation and integration of airports and spaceports in order to meet transportation-related needs; and to facilitate and promote cooperative efforts between federal and state government entities to improve space transportation capacity and efficiency. In carrying out this duty and responsibility, the department may assist and advise, cooperate with, and coordinate with federal, state, local, or private organizations and individuals. The department may administratively house its space transportation responsibilities within an existing division or office.

~~(3)(2)~~ Notwithstanding any other provision of law, the department ~~of Transportation~~ may enter into an a joint ~~participation~~ agreement with, or otherwise assist, Space Florida as necessary to effectuate the provisions of this chapter and

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may allocate funds for such purposes in its 5-year work program.

However, the department may not fund the administrative or operational costs of Space Florida.

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

(4)(a) Beginning in fiscal year 2013-2014, a minimum of \$15 million annually is authorized to be made available from the State Transportation Trust Fund to fund space transportation projects. The funds for this initiative shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3).

(b) Before executing an agreement, Space Florida must provide project-specific information to the department in order

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1219 to demonstrate that the project includes transportation and
 1220 aerospace benefits. The project-specific information must
 1221 include, but need not be limited to:
 1222 1. The description, characteristics, and scope of the
 1223 project.
 1224 2. The funding sources for and costs of the project.
 1225 3. The financing considerations that emphasize federal,
 1226 local, and private participation.
 1227 4. A financial feasibility and risk analysis, including a
 1228 description of the efforts to protect the state's investment and
 1229 to ensure that project goals are realized.
 1230 5. A demonstration that the project will encourage,
 1231 enhance, or create economic benefits for the state.
 1232 (c) The department may fund up to 50 percent of eligible
 1233 project costs. If the project meets the following criteria, the
 1234 department may fund up to 100 percent of eligible project costs.
 1235 The project must:
 1236 1. Provide important access and on-spaceport capacity
 1237 improvements;
 1238 2. Provide capital improvements to strategically position
 1239 the state to maximize opportunities in the aerospace industry or
 1240 foster growth and development of a sustainable and world-leading
 1241 aerospace industry in the state;
 1242 3. Meet state goals of an integrated intermodal
 1243 transportation system; and
 1244 4. Demonstrate the feasibility and availability of matching
 1245 funds through federal, local, or private partners ~~Subject to the~~
 1246 ~~availability of appropriated funds, the department may~~
 1247 ~~participate in the capital cost of eligible spaceport~~

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1248 ~~discretionary capacity improvement projects. The annual~~
 1249 ~~legislative budget request shall be based on the proposed~~
 1250 ~~funding requested for approved spaceport discretionary capacity~~
 1251 ~~improvement projects.~~
 1252 Section 24. Subsection (11) is added to section 332.007,
 1253 Florida Statutes, to read:
 1254 332.007 Administration and financing of aviation and
 1255 airport programs and projects; state plan.—
 1256 (11) The department may fund strategic airport investment
 1257 projects at up to 100 percent of the project's cost if all the
 1258 following criteria are met:
 1259 (a) Important access and on-airport capacity improvements
 1260 are provided.
 1261 (b) Capital improvements that strategically position the
 1262 state to maximize opportunities in international trade,
 1263 logistics, and the aviation industry are provided.
 1264 (c) Goals of an integrated intermodal transportation system
 1265 for the state are achieved.
 1266 (d) Feasibility and availability of matching funds through
 1267 federal, local, or private partners are demonstrated.
 1268 Section 25. Subsection (16) of section 334.044, Florida
 1269 Statutes, is amended to read:
 1270 334.044 Department; powers and duties.—The department shall
 1271 have the following general powers and duties:
 1272 (16) To plan, acquire, lease, construct, maintain, and
 1273 operate toll facilities; to authorize the issuance and refunding
 1274 of bonds; and to fix and collect tolls or other charges for
 1275 travel on any such facilities. Effective July 1, 2013, and
 1276 notwithstanding any other law to the contrary, the department

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1277 may not enter into a lease-purchase agreement with an expressway
 1278 authority, regional transportation authority, or other entity.
 1279 This provision does not invalidate a lease-purchase agreement
 1280 authorized under chapter 348 or chapter 2000-411, Laws of
 1281 Florida, and existing as of July 1, 2013, and does not limit the
 1282 department's authority under s. 334.30.

1283 Section 26. Subsection (13) of section 337.11, Florida
 1284 Statutes, is amended to read:

1285 337.11 Contracting authority of department; bids; emergency
 1286 repairs, supplemental agreements, and change orders; combined
 1287 design and construction contracts; progress payments; records;
 1288 requirements of vehicle registration.-

1289 (13) Each contract let by the department for the
 1290 performance of road or bridge construction or maintenance work
 1291 shall require ~~contain a provision requiring the contractor to~~
 1292 ~~provide proof to the department, in the form of a notarized~~
 1293 ~~affidavit from the contractor, that all motor vehicles that the~~
 1294 ~~contractor~~ he or she operates or causes to be operated in this
 1295 state to be ~~are~~ registered in compliance with chapter 320.

1296 Section 27. Subsection (1) of section 337.14, Florida
 1297 Statutes, is amended to read:

1298 337.14 Application for qualification; certificate of
 1299 qualification; restrictions; request for hearing.-

1300 (1) A ~~Any~~ person who desires ~~desiring~~ to bid for the
 1301 performance of any construction contract with a proposed budget
 1302 estimate in excess of \$250,000 which the department proposes to
 1303 let must first be certified by the department as qualified
 1304 pursuant to this section and rules of the department. The rules
 1305 of the department must ~~shall~~ address the qualification of a

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1306 person ~~persons~~ to bid on construction contracts with a proposed
 1307 budget estimate that is in excess of \$250,000 and must ~~shall~~
 1308 include requirements with respect to the equipment, past record,
 1309 experience, financial resources, and organizational personnel of
 1310 the applicant necessary to perform the specific class of work
 1311 for which the person seeks certification. The department may
 1312 limit the dollar amount of any contract upon which a person is
 1313 qualified to bid or the aggregate total dollar volume of
 1314 contracts such person may ~~is allowed to~~ have under contract at
 1315 any one time. Each applicant who seeks ~~seeking~~ qualification to
 1316 bid on construction contracts with a proposed budget estimate in
 1317 excess of \$250,000 must ~~shall~~ furnish the department a statement
 1318 under oath, on such forms as the department may prescribe,
 1319 setting forth detailed information as required on the
 1320 application. Each application for certification must ~~shall~~ be
 1321 accompanied by the latest annual financial statement of the
 1322 applicant completed within the last 12 months. If the
 1323 application or the annual financial statement shows the
 1324 financial condition of the applicant more than 4 months before
 1325 ~~prior to~~ the date on which the application is received by the
 1326 department, ~~then~~ an interim financial statement must be
 1327 submitted and be accompanied by an updated application. The
 1328 interim financial statement must cover the period from the end
 1329 date of the annual statement and must show the financial
 1330 condition of the applicant no more than 4 months before ~~prior to~~
 1331 the date the interim financial statement is received by the
 1332 department. However, upon request by the applicant, an
 1333 application and accompanying annual or interim financial
 1334 statement received by the department within 15 days after either

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1335 4-month period provided pursuant to ~~under~~ this subsection must
 1336 ~~shall~~ be considered timely. Each required annual or interim
 1337 financial statement must be audited and accompanied by the
 1338 opinion of a certified public accountant. An applicant desiring
 1339 to bid exclusively for the performance of construction contracts
 1340 with proposed budget estimates of less than \$1 million may
 1341 submit reviewed annual or reviewed interim financial statements
 1342 prepared by a certified public accountant. The information
 1343 required by this subsection is confidential and exempt from the
 1344 provisions of s. 119.07(1). The department shall act upon the
 1345 application for qualification within 30 days after the
 1346 department determines that the application is complete. The
 1347 department may waive the requirements of this subsection for
 1348 projects having a contract price of \$500,000 or less if the
 1349 department determines that the project is of a noncritical
 1350 nature and the waiver will not endanger public health, safety,
 1351 or property.

1352 Section 28. Subsection (2) of section 337.168, Florida
 1353 Statutes, is amended to read:

1354 337.168 Confidentiality of official estimates, identities
 1355 of potential bidders, and bid analysis and monitoring system.—

1356 (2) A document that reveals ~~revealing~~ the identity of a
 1357 ~~person who has~~ ~~persons who have~~ requested or obtained a bid
 1358 ~~package, plan~~ ~~packages, plans~~, or specifications pertaining to
 1359 any project to be let by the department is confidential and
 1360 exempt from the provisions of s. 119.07(1) for the period that
 1361 ~~which~~ begins 2 working days before ~~prior to~~ the deadline for
 1362 obtaining bid packages, plans, or specifications and ends with
 1363 the letting of the bid. A document that reveals the identity of

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1364 a person who has requested or obtained a bid package, plan, or
 1365 specifications pertaining to any project to be let by the
 1366 department before the 2 working days before the deadline for
 1367 obtaining bid packages, plans, or specifications remains a
 1368 public record subject to the provisions of s. 119.07(1).

1369 Section 29. Subsection (2) of section 337.251, Florida
 1370 Statutes, is amended to read:

1371 337.251 Lease of property for joint public-private
 1372 development and areas above or below department property.—

1373 (2) The department may request proposals for the lease of
 1374 such property or, if the department receives a proposal for ~~to~~
 1375 ~~negotiate~~ a lease of a particular department property that the
 1376 department desires to consider, the department must ~~it shall~~
 1377 publish a notice in a newspaper of general circulation at least
 1378 once a week for 2 weeks, stating that it has received the
 1379 proposal and will accept, for 120 ~~60~~ days after the date of
 1380 publication, other proposals for lease of the particular
 1381 property ~~use of the space~~. A copy of the notice must be mailed
 1382 to each local government in the affected area. The department
 1383 shall, by rule, establish an application fee for the submission
 1384 of proposals pursuant to this section. The fee must be
 1385 sufficient to pay the anticipated costs of evaluating the
 1386 proposals. The department may engage the services of private
 1387 consultants to assist in the evaluation. Before approval, the
 1388 department must determine that the proposed lease:

1389 (a) Is in the public's best interest;

1390 (b) Does not require state funds to be used; and

1391 (c) Has adequate safeguards in place to ensure that no
 1392 additional costs are borne and no service disruptions are

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experienced by the traveling public and residents of the state
in the event of default by the private lessee or upon
termination or expiration of the lease.

Section 30. Subsection (1) of section 337.408, Florida
Statutes, is amended to read:

337.408 Regulation of bus stops, benches, transit shelters,
street light poles, waste disposal receptacles, and modular news
racks within rights-of-way.—

(1)(a) Benches or transit shelters, including advertising
displayed on benches or transit shelters, may be installed
within the right-of-way limits of any municipal, county, or
state road, except a limited access highway, provided that the
~~such~~ benches or transit shelters are for the comfort or
convenience of the general public or are at designated stops on
official bus routes and provided that written authorization has
been given to a qualified private supplier of the such service
by the municipal government within whose incorporated limits the
~~such~~ benches or transit shelters are installed or by the county
government within whose unincorporated limits the such benches
or transit shelters are installed. A municipality or county may
authorize the installation, without public bid, of benches and
transit shelters together with advertising displayed thereon
within the right-of-way limits of the such roads. All
installations ~~must shall~~ be in compliance with all applicable
laws and rules, including, without limitation, the Americans
with Disabilities Act. A person who installs or has installed a
transit shelter or a bus bench ~~Municipalities and counties that~~
~~authorize or have authorized a bench or transit shelter to be~~
~~installed~~ within the right-of-way limits of any road on the

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State Highway System ~~is shall be~~ responsible for ensuring that
the bench or transit shelter complies with the all applicable
laws and rules, including, without limitation, the Americans
with Disabilities Act, or shall remove the bench or transit
shelter. The department ~~is not liable shall have no liability~~
for any claims, losses, costs, charges, expenses, damages,
liabilities, attorney fees, or court costs relating to the
installation, removal, or relocation of any benches or transit
shelters authorized by a municipality or county. If the
department determines that a bench or transit shelter
installation within the right-of-way limits of any road on the
State Highway System does not comply with the applicable laws
and rules, the owner of the bench or transit shelter shall
remove the bench or transit shelter or bring the bench or
shelter installation into compliance within 60 days after
receiving notice from the department. If the bench or transit
shelter is not removed, the department may, but is not required
to, remove the bench or transit shelter and assess the cost of
the removal against the owner of the bench or transit shelter.

(b) On or before December 31, 2013, each owner of a bench
or transit shelter installed at any location within the right-
of-way limits of any road on the State Highway System must
provide to the department a written inventory of the location of
each bench or transit shelter. On and after July 1, 2013, each
owner of a new bench or transit shelter that will be installed
within the right-of-way limits of any road on the State Highway
System shall identify, in writing, the location of the new
installation to the department before installing the bench or
transit shelter. On or after January 1, 2014, the department

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may, but is not required to, remove any unidentified bench or transit shelter within the right-of-way limits of any road on the State Highway System, and assess the cost of removal against the owner of the bench or transit shelter.

(c) On and after July 1, 2013 ~~2012~~, a municipality or county that authorizes a bench or transit shelter to be installed within the right-of-way limits of any road on the State Highway System must require the qualified private supplier, or any other person under contract to install the bench or transit shelter, to indemnify, defend, and hold harmless the department from any suits, actions, proceedings, claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, and court costs relating to the installation, removal, or relocation of such installations, and to maintain liability insurance in the minimum amount of \$1 million with supplemental liability insurance in the minimum amount of an additional \$4 million. Each insurance policy must name the department as an additional insured and a certificate of insurance shall be furnished to the department before the installation of any bench or transit shelter, and annually after the initial installation. The certificate of insurance must provide that the policy may not be modified, cancelled, or non-renewed without providing to the department and to the municipality or county written notice 45 days before the modification, cancellation, or non-renewal. Each insurance policy must specifically include coverage for any alleged violation of applicable law, including, but not limited to, the Americans with Disabilities Act. The requirements of this paragraph do not apply to transit shelters installed by public

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transit providers at designated stops on official transit routes
~~shall annually certify to the department in a notarized signed statement that this requirement has been met. The certification shall include the name and address of each person responsible for indemnifying the department for an authorized installation.~~

(d) Municipalities and counties that have authorized the installation of benches or transit shelters within the right-of-way limits of any road on the State Highway System must remove or relocate, or cause the removal or relocation of, the installation at no cost to the department within 60 days after written notice by the department that the installation is unreasonably interfering in any way with the convenient, safe, or continuous use of or the maintenance, improvement, extension, or expansion of the State Highway System road.

(e) Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding is ratified and affirmed. The ~~Such~~ benches or transit shelters may not interfere with right-of-way preservation and maintenance.

(f) Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system must ~~shall~~ be located so as to leave at least 36 inches of clearance for pedestrians and persons in wheelchairs. The ~~Such~~ clearance must ~~shall~~ be measured in a direction perpendicular to the centerline of the road.

Section 31. Subsection (5) of section 338.161, Florida Statutes, is amended to read:

338.161 Authority of department or toll agencies to

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advertise and promote electronic toll collection; expanded uses of electronic toll collection system; authority of department to collect tolls, fares, and fees for private and public entities.-

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

Section 32. Subsection (4) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.-

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the

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requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, ~~the Deeline East Expressway, the Navarre Bridge,~~ and the Pinellas Bayway to fund transportation projects located within the county or counties in which the revenue-producing project is located and contained in the adopted work program of the department.

Section 33. Subsections (3) and (4) of section 338.26, Florida Statutes, are amended to read:

338.26 Alligator Alley toll road.-

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

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undertaken pursuant to s. 373.4592 in the Everglades Trust Fund pursuant to s. 373.45926(4)(a). Any funds remaining in the Everglades Fund may be used for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects ~~must~~ shall be limited to:

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

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

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

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

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

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

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~~restoration activities in the Everglades Protection Area.~~

Section 34. Subsections (2) through (4) of section 339.175, Florida Statutes, are amended to read:
339.175 Metropolitan planning organization.—

(2) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. The M.P.O. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government that together represent ~~representing~~ at least 75 percent of the population, including the largest incorporated municipality, based on population, of the urbanized area; however, the unit of general purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as named defined by the United States Bureau of the Census, ~~must be a party to such agreement.~~

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

(b) Each M.P.O. designated in a manner prescribed by Title 23 of the United States Code shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the

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governmental entities designated by the Governor for membership on the M.P.O. Each M.P.O. shall be considered separate from the state or the governing body of a local government that is represented on the governing board of the M.P.O. or that is a signatory to the interlocal agreement creating the M.P.O. and shall have such powers and privileges that are provided under s. 163.01. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

(e) The governing body of the M.P.O. shall designate, at a

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minimum, a chair, vice chair, and agency clerk. The chair and vice chair shall be selected from among the member delegates comprising the governing board. The agency clerk shall be charged with the responsibility of preparing meeting minutes and maintaining agency records. The clerk shall be a member of the M.P.O. governing board, an employee of the M.P.O., or other natural person.

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

(3) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio ~~basis by the Governor~~, based on an agreement among the affected units of general-purpose local government and the Governor as required by federal rules and regulations. The voting membership of an M.P.O. that is redesignated after the effective date of this act as a result of the expansion of the M.P.O. to include a new urbanized area or the consolidation of two or more M.P.O.'s within a single urbanized area may consist of no more than 25 members. The Governor, in accordance with 23 U.S.C. s. 134, may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a 5-member county commission or an M.P.O. with 19 members

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located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose local governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida. As used in this section, the term "elected officials of a general-purpose local government" excludes ~~shall exclude~~ constitutional officers, including sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of the court, and similar types of officials. County commissioners shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

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

(c) Any other provision of this section to the contrary

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notwithstanding, a chartered county with a population of more than ~~over 1 million population~~ may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

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

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

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

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

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

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unincorporated portion of the county, and one of whom must be a school board member.

(4) APPORTIONMENT.—

(a) Each M.P.O. in the state shall review the composition of its membership in conjunction with the decennial census, as prepared by the United States Department of Commerce, Bureau of the Census, and, with the agreement of the affected units of general-purpose local government and the Governor, reapportion the membership as necessary to comply with subsection (3) ~~The Governor shall, with the agreement of the affected units of general purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area.~~

(b) At the request of a majority of the affected units of general-purpose local government comprising an M.P.O., the Governor and a majority of units of general-purpose local government serving on an M.P.O. shall cooperatively agree upon and prescribe who may serve as an alternate member and a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. The method ~~must shall~~ be set forth as a part of the interlocal agreement describing the M.P.O.'s membership or in the M.P.O.'s operating procedures and bylaws. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting advisers to the M.P.O. governing board. Additional nonvoting advisers may be appointed by the M.P.O. as deemed necessary; however, to the maximum extent feasible, each M.P.O. shall seek to appoint

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nonvoting representatives of various multimodal forms of transportation not otherwise represented by voting members of the M.P.O. An M.P.O. shall appoint nonvoting advisers representing major military installations located within the jurisdictional boundaries of the M.P.O. upon the request of the aforesaid major military installations and subject to the agreement of the M.P.O. All nonvoting advisers may attend and participate fully in governing board meetings but may not vote or be members of the governing board. ~~The Governor shall review the composition of the M.P.O. membership in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of the Census, and reapportion it as necessary to comply with subsection (3).~~

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

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1799 (d) ~~(e)~~ If a governmental entity fails to fill an assigned
 1800 appointment to an M.P.O. within 60 days after notification by
 1801 the Governor of its duty to appoint, that appointment must ~~shall~~
 1802 be made by the Governor from the eligible representatives of
 1803 that governmental entity.

1804 Section 35. Paragraph (a) of subsection (1) and subsections
 1805 (4) and (5) of section 339.2821, Florida Statutes, are amended
 1806 to read:

1807 339.2821 Economic development transportation projects.—

1808 (1)(a) The department, in consultation with the Department
 1809 of Economic Opportunity and Enterprise Florida, Inc., may make
 1810 and approve expenditures and contract with the appropriate
 1811 governmental body for the direct costs of transportation
 1812 projects. The Department of Economic Opportunity and the
 1813 Department of Environmental Protection may formally review and
 1814 comment on recommended transportation projects, although the
 1815 department has final approval authority for any project
 1816 authorized under this section.

1817 (4) A contract between the department and a governmental
 1818 body for a transportation project must:

1819 (a) Specify that the transportation project is for the
 1820 construction of a new or expanding business and specify the
 1821 number of full-time permanent jobs that will result from the
 1822 project.

1823 (b) Identify the governmental body and require that the
 1824 governmental body award the construction of the particular
 1825 transportation project to the lowest and best bidder in
 1826 accordance with applicable state and federal statutes or rules
 1827 unless the transportation project can be constructed using

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1828 existing local governmental employees within the contract period
 1829 specified by the department.

1830 (c) Require that the governmental body provide the
 1831 department with ~~quarterly~~ progress reports. Each ~~quarterly~~
 1832 progress report must contain:

1833 1. A narrative description of the work completed and
 1834 whether the work is proceeding according to the transportation
 1835 project schedule;

1836 2. A description of each change order executed by the
 1837 governmental body;

1838 3. A budget summary detailing planned expenditures compared
 1839 to actual expenditures; and

1840 4. The identity of each small or minority business used as
 1841 a contractor or subcontractor.

1842 (d) Require that the governmental body make and maintain
 1843 records in accordance with accepted governmental accounting
 1844 principles and practices for each progress payment made for work
 1845 performed in connection with the transportation project, each
 1846 change order executed by the governmental body, and each payment
 1847 made pursuant to a change order. The records are subject to
 1848 financial audit as required by law.

1849 (e) Require that the governmental body, upon completion and
 1850 acceptance of the transportation project, certify to the
 1851 department that the transportation project has been completed in
 1852 compliance with the terms and conditions of the contract between
 1853 the department and the governmental body and meets the minimum
 1854 construction standards established in accordance with s.
 1855 336.045.

1856 (f) Specify that ~~the department transfer~~ funds will not be

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transferred to the governmental body unless construction has begun on the facility of the ~~not more often than quarterly, upon receipt of a request for funds from the governmental body and consistent with the needs of the transportation project. The governmental body shall expend funds received from the department in a timely manner. The department may not transfer funds unless construction has begun on the facility of a~~ business on whose behalf the award was made. If construction of the transportation project does not begin within 4 years after the date of the initial grant award, the grant award is terminated ~~A contract totaling less than \$200,000 is exempt from the transfer requirement.~~

(g) Require that funds be used only on a transportation project that has been properly reviewed and approved in accordance with the criteria set forth in this section.

(h) Require that the governing board of the governmental body adopt a resolution accepting future maintenance and other attendant costs occurring after completion of the transportation project if the transportation project is constructed on a county or municipal system.

(5) For purposes of this section, Space Florida may serve as the governmental body or as the contracting agency for a ~~transportation~~ project within a spaceport territory as defined by s. 331.304.

Section 36. Paragraphs (a) and (c) of subsection (2) and paragraph (i) of subsection (7) of section 339.55, Florida Statutes, are amended to read:

339.55 State-funded infrastructure bank.—

(2) The bank may lend capital costs or provide credit

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enhancements for:

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

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

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

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

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

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

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

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

Section 37. Subsection (11) of section 341.031, Florida Statutes, is amended to read:

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

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

Section 38. Section 341.053, Florida Statutes, is amended to read:

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

(1) There is created within the Department of Transportation an Intermodal Development Program to provide for major capital investments in fixed-guideway transportation systems, access to seaports, airports, spaceports, and other

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transportation terminals, providing for the construction of intermodal or multimodal terminals; and to plan or fund construction of airport, spaceport, seaport, transit, and rail projects that ~~otherwise~~ facilitate the intermodal or multimodal movement of people and goods.

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

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

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

~~(c) Be developed in a manner that will assure maximum use of existing facilities and optimum integration and coordination of the various modes of transportation, including both government-owned and privately owned resources, in the most~~

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~~cost effective manner possible.~~

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

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

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

~~(6)~~ The department may ~~is authorized to~~ fund projects within the Intermodal Development Program, which are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the project is located. Projects that are eligible for funding under this program include planning studies, major capital investments in public rail and fixed-guideway transportation or freight facilities and systems which provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports, airports, spaceports, intermodal logistics centers, and other transportation terminals; construction of intermodal or multimodal terminals, including

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projects on airports, spaceports, intermodal logistics centers, or seaports which assist in the movement or transfer of people or goods; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods.

Section 39. Subsection (17) of section 341.302, Florida Statutes, is amended to read:

341.302 Rail program; duties and responsibilities of the department.—The department, in conjunction with other governmental entities, including the rail enterprise and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under federal law, the department shall:

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

(a) Assume obligations pursuant to the following:

1.a. The department may assume the obligation by contract to forever protect, defend, indemnify, and hold harmless the freight rail operator, or its successors, from whom the department has acquired a real property interest in the rail corridor, and that freight rail operator's officers, agents, and employees, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers and rail corridor invitees in the rail corridor, regardless of whether

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the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of such freight rail operator, its successors, or its officers, agents, and employees, or any other person or persons whomsoever; or

b. The department may assume the obligation by contract to forever protect, defend, indemnify, and hold harmless National Railroad Passenger Corporation, or its successors, and officers, agents, and employees of National Railroad Passenger Corporation, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers and rail corridor invitees in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of National Railroad Passenger Corporation, its successors, or its officers, agents, and employees, or any other person or persons whomsoever.

2. The assumption of liability of the department by contract pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may not in any instance exceed the following parameters of allocation of risk:

a. The department may be solely responsible for any loss, injury, or damage to commuter rail passengers, or rail corridor invitees, or trespassers, regardless of circumstances or cause, subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and 6.

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b.(I) In the event of a limited covered accident, the authority of the department to protect, defend, and indemnify the freight operator for all liability, cost, and expense, including punitive or exemplary damages, in excess of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident exists only if the freight operator agrees, with respect to the limited covered accident, to protect, defend, and indemnify the department for the amount of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident.

(II) In the event of a limited covered accident, the authority of the department to protect, defend, and indemnify National Railroad Passenger Corporation for all liability, cost, and expense, including punitive or exemplary damages, in excess of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident exists only if National Railroad Passenger Corporation agrees, with respect to the limited covered accident, to protect, defend, and indemnify the department for the amount of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident.

3. If ~~When~~ only one train is involved in an incident, the department may be solely responsible for any loss, injury, or damage if the train is a department train or other train pursuant to subparagraph 4., but only if:

a. If ~~When~~ an incident occurs with only a freight train

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involved, including incidents with trespassers or at grade crossings, the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees; or

b. ~~If when~~ an incident occurs with only a National Railroad Passenger Corporation train involved, including incidents with trespassers or at grade crossings, National Railroad Passenger Corporation is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees.

4. For the purposes of this subsection:

a. A ~~Any~~ train involved in an incident which that is not ~~neither~~ the department's train or ~~nor~~ the freight rail operator's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and the freight rail operator only, but only if the department and the freight rail operator share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a freight rail operator train, and the allocation as between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train does ~~shall~~ not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; or

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b. A ~~Any~~ train involved in an incident that is not ~~neither~~ the department's train or ~~nor~~ the National Railroad Passenger Corporation's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and National Railroad Passenger Corporation only, but only if the department and National Railroad Passenger Corporation share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a National Railroad Passenger Corporation train, and the allocation as between the department and National Railroad Passenger Corporation, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train does ~~shall~~ not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

5. ~~If when~~ more than one train is involved in an incident:

a. (I) If only a department train and freight rail operator's train, or only an other train as described in subparagraph 4.a. and a freight rail operator's train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, and rail corridor invitees, but only if the freight rail operator is responsible for its property and all of its people, and the department and the freight rail operator each share one-half responsibility as to trespassers or third parties

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2147 outside the rail corridor who incur loss, injury, or damage as a
2148 result of the incident; or

2149 (II) If only a department train and a National Railroad
2150 Passenger Corporation train, or only an other train as described
2151 in sub-subparagraph 4.b. and a National Railroad Passenger
2152 Corporation train, are involved in an incident, the department
2153 may be responsible for its property and all of its people, all
2154 commuter rail passengers, and rail corridor invitees, but only
2155 if National Railroad Passenger Corporation is responsible for
2156 its property and all of its people, all National Railroad
2157 Passenger Corporation's rail passengers, and the department and
2158 National Railroad Passenger Corporation each share one-half
2159 responsibility as to trespassers or third parties outside the
2160 rail corridor who incur loss, injury, or damage as a result of
2161 the incident.

2162 b.(I) If a department train, a freight rail operator train,
2163 and any other train are involved in an incident, the allocation
2164 of liability between the department and the freight rail
2165 operator, regardless of whether the other train is treated as a
2166 department train, shall remain one-half each as to third parties
2167 outside the rail corridor who incur loss, injury, or damage as a
2168 result of the incident; the involvement of any other train does
2169 ~~shall~~ not alter the sharing of equal responsibility as to third
2170 parties outside the rail corridor who incur loss, injury, or
2171 damage as a result of the incident; and, if the owner, operator,
2172 or insurer of the other train makes any payment to injured third
2173 parties outside the rail corridor who incur loss, injury, or
2174 damage as a result of the incident, the allocation of credit
2175 between the department and the freight rail operator as to such

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2176 payment does ~~shall~~ not in any case reduce the freight rail
2177 operator's third-party-sharing allocation of one-half under this
2178 paragraph to less than one-third of the total third party
2179 liability; or

2180 (II) If a department train, a National Railroad Passenger
2181 Corporation train, and any other train are involved in an
2182 incident, the allocation of liability between the department and
2183 National Railroad Passenger Corporation, regardless of whether
2184 the other train is treated as a department train, shall remain
2185 one-half each as to third parties outside the rail corridor who
2186 incur loss, injury, or damage as a result of the incident; the
2187 involvement of any other train does ~~shall~~ not alter the sharing
2188 of equal responsibility as to third parties outside the rail
2189 corridor who incur loss, injury, or damage as a result of the
2190 incident; and, if the owner, operator, or insurer of the other
2191 train makes any payment to injured third parties outside the
2192 rail corridor who incur loss, injury, or damage as a result of
2193 the incident, the allocation of credit between the department
2194 and National Railroad Passenger Corporation as to such payment
2195 does ~~shall~~ not in any case reduce National Railroad Passenger
2196 Corporation's third-party-sharing allocation of one-half under
2197 this sub-subparagraph to less than one-third of the total third
2198 party liability.

2199 6. Any such contractual duty to protect, defend, indemnify,
2200 and hold harmless such a freight rail operator or National
2201 Railroad Passenger Corporation shall expressly include a
2202 specific cap on the amount of the contractual duty, which amount
2203 may ~~shall~~ not exceed \$200 million without prior legislative
2204 approval, and the department to purchase liability insurance and

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establish a self-insurance retention fund in the amount of the specific cap established under this subparagraph, provided that:

a. ~~A No such~~ contractual duty ~~may not shall~~ in any case be effective ~~or not~~ otherwise extend the department's liability in scope and effect beyond the contractual liability insurance and self-insurance retention fund required pursuant to this paragraph; and

b. (I) The freight rail operator's compensation to the department for future use of the department's rail corridor shall include a monetary contribution to the cost of such liability coverage for the sole benefit of the freight rail operator.

(II) National Railroad Passenger Corporation's compensation to the department for future use of the department's rail corridor shall include a monetary contribution to the cost of such liability coverage for the sole benefit of National Railroad Passenger Corporation.

(b) Purchase liability insurance, which amount ~~may shall~~ not exceed \$200 million, and establish a self-insurance retention fund for the purpose of paying the deductible limit established in the insurance policies it may obtain, including coverage for the department, any freight rail operator as described in paragraph (a), National Railroad Passenger Corporation, commuter rail service providers, governmental entities, or any ancillary development, which self-insurance retention fund or deductible ~~may shall~~ not exceed \$10 million. The insureds shall pay a reasonable monetary contribution to the cost of such liability coverage for the sole benefit of the insured. Such insurance and self-insurance retention fund may

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provide coverage for all damages, including, but not limited to, compensatory, special, and exemplary, and be maintained to provide an adequate fund to cover claims and liabilities for loss, injury, or damage arising out of or connected with the ownership, operation, maintenance, and management of a rail corridor.

(c) Incur expenses for the purchase of advertisements, marketing, and promotional items.

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

~~Neither~~ The assumption by contract to protect, defend, indemnify, and hold harmless; the purchase of insurance; ~~or not~~ the establishment of a self-insurance retention fund ~~may not shall~~ be deemed to be a waiver of any defense of sovereign immunity for torts nor deemed to increase the limits of the department's or the governmental entity's liability for torts as provided in s. 768.28. The requirements of s. 287.022(1) ~~do shall~~ not apply to the purchase of any insurance under this subsection. The provisions of this subsection ~~shall~~ apply and inure fully as to any other governmental entity providing commuter rail service and constructing, operating, maintaining, or managing a rail corridor on publicly owned right-of-way under

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2263 contract by the governmental entity with the department or a
 2264 governmental entity designated by the department.
 2265 Notwithstanding any law to the contrary, procurement for the
 2266 construction, operation, maintenance, and management of any rail
 2267 corridor described in this subsection, whether by the
 2268 department, a governmental entity under contract with the
 2269 department, or a governmental entity designated by the
 2270 department, ~~must shall~~ be pursuant to s. 287.057 and ~~must shall~~
 2271 include, but not be limited to, criteria for the consideration
 2272 of qualifications, technical aspects of the proposal, and price.
 2273 Further, ~~a any such~~ contract for design-build shall be procured
 2274 pursuant to the criteria in s. 337.11(7).

2275 Section 40. Paragraph (d) of subsection (3) of section
 2276 343.82, Florida Statutes, is amended to read:

2277 343.82 Purposes and powers.—

2278 (3)

2279 (d) The authority may undertake projects or other
 2280 improvements in the master plan in phases as particular projects
 2281 or segments thereof become feasible, as determined by the
 2282 authority. In carrying out its purposes and powers, the
 2283 authority may request funding and technical assistance from the
 2284 department and appropriate federal and local agencies,
 2285 including, but not limited to, state infrastructure bank loans,
 2286 ~~advances from the Toll Facilities Revolving Trust Fund,~~ and from
 2287 any other sources.

2288 Section 41. Subsection (4) of section 343.922, Florida
 2289 Statutes, is amended to read:

2290 343.922 Powers and duties.—

2291 (4) The authority may undertake projects or other

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2292 improvements in the master plan in phases as particular projects
 2293 or segments become feasible, as determined by the authority. The
 2294 authority shall coordinate project planning, development, and
 2295 implementation with the applicable local governments. The
 2296 authority's projects that are transportation oriented shall be
 2297 consistent to the maximum extent feasible with the adopted local
 2298 government comprehensive plans at the time they are funded for
 2299 construction. Authority projects that are not transportation
 2300 oriented and meet the definition of development pursuant to s.
 2301 380.04 shall be consistent with the local comprehensive plans.
 2302 In carrying out its purposes and powers, the authority may
 2303 request funding and technical assistance from the department and
 2304 appropriate federal and local agencies, including, but not
 2305 limited to, state infrastructure bank loans, ~~advances from the~~
 2306 ~~Toll Facilities Revolving Trust Fund,~~ and funding and technical
 2307 assistance from any other source.

2308 Section 42. Chapter 345, Florida Statutes, consisting of
 2309 sections 345.0001, 345.0002, 345.0003, 345.0004, 345.0005,
 2310 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011,
 2311 345.0012, 345.0013, 345.0014, 345.0015, 345.0016, and 345.0017,
 2312 is created to read:

2313 345.0001 Short title.—This act may be cited as the "Florida
 2314 Regional Tollway Authority Act."

2315 345.0002 Definitions.—As used in this chapter, the term:

2316 (1) "Agency of the state" means the state and any
 2317 department of, or any corporation, agency, or instrumentality
 2318 heretofore or hereafter created, designated, or established by,
 2319 the state.

2320 (2) "Area served" means the geographical area of the

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counties for which an authority is established.

(3) "Authority" means a regional tollway authority, a body politic and corporate, and an agency of the state, established pursuant to the Florida Regional Tollway Authority Act.

(4) "Bonds" means the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in temporary or definitive form, which an authority may issue pursuant to this act.

(5) "Department" means the Department of Transportation of Florida and any successor thereto.

(6) "Division" means the Division of Bond Finance of the State Board of Administration.

(7) "Federal agency" means the United States, the President of the United States, and any department of, or any bureau, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(8) "Members" means the governing body of an authority, and the term "member" means one of the individuals constituting such governing body.

(9) "Regional system" or "system" means, generally, a modern tolled highway system of roads, bridges, causeways, and tunnels within any area of the authority, with access limited or unlimited as an authority may determine, and the buildings and structures and appurtenances and facilities related to the system, including all approaches, streets, roads, bridges, and avenues of access for the system.

(10) "Revenues" means the tolls, revenues, rates, fees, charges, receipts, rentals, contributions, and other income derived from or in connection with the operation or ownership of

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a regional system, including the proceeds of any use and occupancy insurance on any portion of the system but excluding state funds available to an authority and any other municipal or county funds available to an authority under an agreement with a municipality or county.

345.0003 Tollway authority; formation; membership.—

(1) A county, or two or more contiguous counties, may, after the approval of the Legislature, form a regional tollway authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state. An authority shall be governed in accordance with the provisions of this chapter. An authority may not be created without the approval of the Legislature and the approval of the county commission of each county that will be a part of the authority. An authority may not be created to serve a particular area of this state as provided by this subsection if a regional tollway authority has been created and is operating within all or a portion of the same area served pursuant to an act of the Legislature. Each authority shall be the only authority created and operating pursuant to this chapter within the area served by the authority.

(2) The governing body of an authority shall consist of a board of voting members as follows:

(a) The county commission of each county in the area served by the authority shall each appoint a member who must be a resident of the county from which he or she is appointed. If possible, the member must represent the business and civic interests of the community.

(b) The Governor shall appoint an equal number of members

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to the board as those appointed by the county commissions. The members appointed by the Governor must be residents of the area served by the authority.

(c) The secretary of the Department of Transportation shall appoint one of the district secretaries, or his or her designee, for the districts within which the area served by the authority is located.

(3) The term of office of each member shall be for 4 years or until his or her successor is appointed and qualified.

(4) A member may not hold an elected office.

(5) A vacancy occurring in the governing body before the expiration of the member's term shall be filled by the respective appointing authority in the same manner as the original appointment and only for the balance of the unexpired term.

(6) Each member, before entering upon his or her official duties, must take and subscribe to an oath before an official authorized by law to administer oaths that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the governing body of the authority and that he or she will not neglect any duties imposed upon him or her by this chapter.

(7) A member of an authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(8) The members of the authority shall designate one of its members as chair.

(9) The members of the authority shall serve without compensation, but shall be entitled to reimbursement for per

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diem and other expenses in accordance with s. 112.061 while in performance of their duties.

(10) A majority of the members of the authority constitutes a quorum, and resolutions enacted or adopted by a vote of a majority of the members present and voting at any meeting become effective without publication, posting, or any further action of the authority.

345.0004 Powers and duties.—

(1) (a) An authority created and established, or governed, by the Florida Regional Tollway Authority Act shall plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority.

(b) An authority may not exercise the powers in paragraph (a) with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity. If an authority acquires, purchases, or inherits an existing entity, the authority shall also inherit and assume all rights, assets, appropriations, privileges, and obligations of the existing entity.

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the purposes of this section, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.

(c) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

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2437 (d) To acquire, purchase, hold, lease as a lessee, and use
 2438 any property, real, personal, or mixed, tangible or intangible,
 2439 or any interest therein, necessary or desirable for carrying out
 2440 the purposes of the authority.

2441 (e) To sell, convey, exchange, lease, or otherwise dispose
 2442 of any real or personal property acquired by the authority,
 2443 including air rights.

2444 (f) To fix, alter, charge, establish, and collect rates,
 2445 fees, rentals, and other charges for the use of any system owned
 2446 or operated by the authority, which rates, fees, rentals, and
 2447 other charges must always be sufficient to comply with any
 2448 covenants made with the holders of any bonds issued pursuant to
 2449 this act; however, such right and power may be assigned or
 2450 delegated by the authority to the department.

2451 (g) To borrow money, make and issue negotiable notes,
 2452 bonds, refunding bonds, and other evidences of indebtedness or
 2453 obligations, in temporary or definitive form, for the purpose of
 2454 financing all or part of the improvement of the authority's
 2455 system and appurtenant facilities, including the approaches,
 2456 streets, roads, bridges, and avenues of access for the system
 2457 and for any other purpose authorized by this chapter, the bonds
 2458 to mature in not exceeding 30 years after the date of the
 2459 issuance thereof, and to secure the payment of such bonds or any
 2460 part thereof by a pledge of its revenues, rates, fees, rentals,
 2461 or other charges, including municipal or county funds received
 2462 by the authority pursuant to the terms of an agreement between
 2463 the authority and a municipality or county; and, in general, to
 2464 provide for the security of the bonds and the rights and
 2465 remedies of the holders of the bonds; however, municipal or

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2466 county funds may not be pledged for the construction of a
 2467 project for which a toll is to be charged unless the anticipated
 2468 tolls are reasonably estimated by the governing board of the
 2469 municipality or county, at the date of its resolution pledging
 2470 said funds, to be sufficient to cover the principal and interest
 2471 of such obligations during the period when the pledge of funds
 2472 is in effect.

2473 1. An authority shall reimburse a municipality or county
 2474 for sums expended from municipal or county funds used for the
 2475 payment of the bond obligations.

2476 2. If an authority determines to fund or refund any bonds
 2477 issued by the authority before the maturity of the bonds, the
 2478 proceeds of the funding or refunding bonds shall, pending the
 2479 prior redemption of the bonds to be funded or refunded, be
 2480 invested in direct obligations of the United States, and the
 2481 outstanding bonds may be funded or refunded by the issuance of
 2482 bonds pursuant to this chapter.

2483 (h) To make contracts of every name and nature, including,
 2484 but not limited to, partnerships providing for participation in
 2485 ownership and revenues, and to execute each instrument necessary
 2486 or convenient for the conduct of its business.

2487 (i) Without limitation of the foregoing, to cooperate with,
 2488 to borrow money and accept grants from, and to enter into
 2489 contracts or other transactions with any federal agency, the
 2490 state, or any agency or any other public body of the state.

2491 (j) To employ an executive director, attorney, staff, and
 2492 consultants. Upon the request of an authority, the department
 2493 shall furnish the services of a department employee to act as
 2494 the executive director of the authority.

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2495 (k) To enter into joint development agreements.

2496 (l) To accept funds or other property from private
2497 donations.

2498 (m) To do all acts and things necessary or convenient for
2499 the conduct of its business and the general welfare of the
2500 authority, in order to carry out the powers granted to it by
2501 this act or any other law.

2502 (3) An authority does not have the power at any time or in
2503 any manner to pledge the credit or taxing power of the state or
2504 any political subdivision or agency thereof. Obligations of the
2505 authority may not be deemed to be obligations of the state or of
2506 any other political subdivision or agency thereof. The state or
2507 any political subdivision or agency thereof, except the
2508 authority, is not liable for the payment of the principal of or
2509 interest on such obligations.

2510 (4) An authority has no power, other than by consent of the
2511 affected county or an affected municipality, to enter into an
2512 agreement that would legally prohibit the construction of a road
2513 by the county or the municipality.

2514 (5) An authority formed pursuant to this chapter shall
2515 comply with the statutory requirements of general application
2516 which relate to the filing of a report or documentation required
2517 by law, including the requirements of ss. 189.4085, 189.415,
2518 189.417, and 189.418.

2519 345.0005 Bonds.—

2520 (1) (a) Bonds may be issued on behalf of an authority
2521 pursuant to the State Bond Act.

2522 (b) An authority may also issue bonds in such principal
2523 amount as is necessary, in the opinion of the authority, to

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2524 provide sufficient moneys for achieving its corporate purposes,
2525 including construction, reconstruction, improvement, extension,
2526 repair, maintenance and operation of the system, the cost of
2527 acquisition of all real property, interest on bonds during
2528 construction and for a reasonable period thereafter,
2529 establishment of reserves to secure bonds, and other
2530 expenditures of the authority incident, and necessary or
2531 convenient, to carry out its corporate purposes and powers.

2532 (2) (a) Bonds issued by an authority pursuant to paragraph
2533 (1) (a) or paragraph (1) (b) must be authorized by resolution of
2534 the members of the authority and must bear such date or dates;
2535 mature at such time or times, not exceeding 30 years after their
2536 respective dates; bear interest at such rate or rates, not
2537 exceeding the maximum rate fixed by general law for authorities;
2538 be in such denominations; be in such form, either coupon or
2539 fully registered; carry such registration, exchangeability and
2540 interchangeability privileges; be payable in such medium of
2541 payment and at such place or places; be subject to such terms of
2542 redemption; and be entitled to such priorities of lien on the
2543 revenues and other available moneys as such resolution or any
2544 resolution subsequent to the bonds' issuance may provide. The
2545 bonds must be executed by manual or facsimile signature by such
2546 officers as the authority shall determine, provided that such
2547 bonds bear at least one signature that is manually executed on
2548 the bond. The coupons attached to the bonds must bear the
2549 facsimile signature or signatures of the officer or officers as
2550 shall be designated by the authority. The bonds must have the
2551 seal of the authority affixed, imprinted, reproduced, or
2552 lithographed thereon.

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- 2553 (b) Bonds issued pursuant to paragraph (1) (a) or paragraph
 2554 (1) (b) must be sold at public sale in the same manner provided
 2555 in the State Bond Act. Pending the preparation of definitive
 2556 bonds, temporary bonds or interim certificates may be issued to
 2557 the purchaser or purchasers of such bonds and may contain such
 2558 terms and conditions as the authority may determine.
 2559 (3) A resolution that authorizes any bonds may contain
 2560 provisions that must be part of the contract with the holders of
 2561 the bonds, as to:
 2562 (a) The pledging of all or any part of the revenues,
 2563 available municipal or county funds, or other charges or
 2564 receipts of the authority derived from the regional system.
 2565 (b) The construction, reconstruction, improvement,
 2566 extension, repair, maintenance, and operation of the system, or
 2567 any part or parts of the system, and the duties and obligations
 2568 of the authority with reference thereto.
 2569 (c) Limitations on the purposes to which the proceeds of
 2570 the bonds, then or thereafter issued, or of any loan or grant by
 2571 any federal agency or the state or any political subdivision of
 2572 the state may be applied.
 2573 (d) The fixing, charging, establishing, revising,
 2574 increasing, reducing, and collecting of tolls, rates, fees,
 2575 rentals, or other charges for use of the services and facilities
 2576 of the system or any part of the system.
 2577 (e) The setting aside of reserves or of sinking funds and
 2578 the regulation and disposition of the reserves or sinking funds.
 2579 (f) Limitations on the issuance of additional bonds.
 2580 (g) The terms and provisions of any deed of trust or
 2581 indenture securing the bonds, or under which the bonds may be

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- 2582 issued.
 2583 (h) Any other or additional matters, of like or different
 2584 character, which in any way affect the security or protection of
 2585 the bonds.
 2586 (4) The authority may enter into any deeds of trust,
 2587 indentures, or other agreements with any bank or trust company
 2588 within or without the state, as security for such bonds, and
 2589 may, under such agreements, assign and pledge any of the
 2590 revenues and other available moneys, including any available
 2591 municipal or county funds, pursuant to the terms of this
 2592 chapter. The deed of trust, indenture, or other agreement may
 2593 contain provisions that are customary in such instruments or
 2594 that the authority may authorize, including, but without
 2595 limitation, provisions that:
 2596 (a) Pledge any part of the revenues or other moneys
 2597 lawfully available therefor.
 2598 (b) Apply funds and safeguard funds on hand or on deposit.
 2599 (c) Provide for the rights and remedies of the trustee and
 2600 the holders of the bonds.
 2601 (d) Provide for the terms and provisions of the bonds or
 2602 for resolutions authorizing the issuance of the bonds.
 2603 (e) Provide for any other or additional matters, of like or
 2604 different character, which affect the security or protection of
 2605 the bonds.
 2606 (5) Any bonds issued pursuant to this act are negotiable
 2607 instruments and have all the qualities and incidents of
 2608 negotiable instruments under the law merchant and the negotiable
 2609 instruments law of the state.
 2610 (6) A resolution that authorizes the issuance of authority

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bonds and pledges the revenues of the system must require that revenues of the system be periodically deposited into appropriate accounts in such sums as are sufficient to pay the costs of operation and maintenance of the system for the current fiscal year as set forth in the annual budget of the authority and to reimburse the department for any unreimbursed costs of operation and maintenance of the system from prior fiscal years before revenues of the system are deposited into accounts for the payment of interest or principal owing or that may become owing on such bonds.

(7) State funds may not be used or pledged to pay the principal or interest of any authority bonds, and all such bonds must contain a statement on their face to this effect.

345.0006 Remedies of bondholders.—

(1) The rights and the remedies granted to authority bondholders under this chapter are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or indenture providing for the issuance of bonds, or by any deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If an authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to this chapter after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, as provided in the resolution or indenture, and such default continues for 30 days, or in the event that the authority fails or refuses to comply with the provisions of this chapter or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds

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then outstanding shall be entitled as of right to the appointment of a trustee to represent such bondholders for the purposes of the default provided that the holders of 25 percent in aggregate principal amount of the bonds then outstanding first gave written notice of their intention to appoint a trustee, to the authority and to the department.

(2) The trustee, and any trustee under any deed of trust, indenture, or other agreement, may, and upon written request of the holders of 25 percent, or such other percentages specified in any deed of trust, indenture, or other agreement, in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in his, her, or its own name:

(a) By mandamus or other suit, action, or proceeding at law, or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues, and to require the authority to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this chapter.

(b) Bring suit upon the bonds.

(c) By action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders.

(d) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.

(3) A trustee, if appointed pursuant to this section or

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2669 acting under a deed of trust, indenture, or other agreement, and
 2670 whether or not all bonds have been declared due and payable,
 2671 shall be entitled as of right to the appointment of a receiver.
 2672 The receiver may enter upon and take possession of the system or
 2673 the facilities or any part or parts of the system, the revenues
 2674 and other pledged moneys, for and on behalf of and in the name
 2675 of, the authority and the bondholders. The receiver may collect
 2676 and receive all revenues and other pledged moneys in the same
 2677 manner as the authority might do. The receiver shall deposit all
 2678 such revenues and moneys in a separate account and apply all
 2679 such revenues and moneys remaining after allowance for payment
 2680 of all costs of operation and maintenance of the system in such
 2681 manner as the court directs. In a suit, action, or proceeding by
 2682 the trustee, the fees, counsel fees, and expenses of the
 2683 trustee, and said receiver, if any, and all costs and
 2684 disbursements allowed by the court must be a first charge on any
 2685 revenues after payment of the costs of operation and maintenance
 2686 of the system. The trustee also has all other powers necessary
 2687 or appropriate for the exercise of any functions specifically
 2688 set forth in this section or incident to the representation of
 2689 the bondholders in the enforcement and protection of their
 2690 rights.

2691 (4) This section or any other section of this chapter does
 2692 not authorize a receiver appointed pursuant to this section for
 2693 the purpose of operating and maintaining the system or any
 2694 facilities or parts thereof to sell, assign, mortgage, or
 2695 otherwise dispose of any of the assets belonging to the
 2696 authority. The powers of such receiver are limited to the
 2697 operation and maintenance of the system, or any facility or

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2698 parts thereof and to the collection and application of revenues
 2699 and other moneys due the authority, in the name and for and on
 2700 behalf of the authority and the bondholders. A holder of bonds
 2701 or any trustee does not have the right in any suit, action, or
 2702 proceeding, at law or in equity, to compel a receiver, or a
 2703 receiver may not be authorized or a court may not direct a
 2704 receiver to, sell, assign, mortgage, or otherwise dispose of any
 2705 assets of whatever kind or character belonging to the authority.

2706 345.0007 Department to construct, operate, and maintain
 2707 facilities.-

2708 (1) The department is the agent of each authority for the
 2709 purpose of performing all phases of a project, including, but
 2710 not limited to, constructing improvements and extensions to the
 2711 system. The division and the authority shall provide to the
 2712 department complete copies of the documents, agreements,
 2713 resolutions, contracts, and instruments that relate to the
 2714 project and shall request that the department perform the
 2715 construction work, including the planning, surveying, design,
 2716 and actual construction of the completion, extensions, and
 2717 improvements to the system. After the issuance of bonds to
 2718 finance construction of an improvement or addition to the
 2719 system, the division and the authority shall transfer to the
 2720 credit of an account of the department in the State Treasury the
 2721 necessary funds for construction. The department shall proceed
 2722 with construction and use the funds for the purpose authorized
 2723 and as otherwise provided by law for construction of roads and
 2724 bridges. An authority may alternatively, with the consent and
 2725 approval of the department, elect to appoint a local agency
 2726 certified by the department to administer federal aid projects

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in accordance with federal law as the authority's agent for the purpose of performing each phase of a project.

(2) Notwithstanding the provisions of subsection (1), the department is the agent of each authority for the purpose of operating and maintaining the system. The department shall operate and maintain the system, and the costs incurred by the department for operation and maintenance shall be reimbursed from revenues of the system. The appointment of the department as agent for each authority does not create an independent obligation of the department to operate and maintain a system. Each authority shall remain obligated as principal to operate and maintain its system, and an authority's bondholders do not have an independent right to compel the department to operate or maintain the authority's system.

(3) Each authority shall fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the authority's facilities, as otherwise provided in this chapter.

345.0008 Department contributions to authority projects.—

(1) The department may, at the request of an authority, provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of an authority project or system, subject to appropriation by the Legislature.

(2) The department may use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct feasibility studies pursuant to subsection (1).

(3) An obligation or expense incurred by the department under this section is a part of the cost of the authority project for which the obligation or expense was incurred. The

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department may require money contributed by the department under this section to be repaid from tolls of the project on which the money was spent, other revenue of the authority, or other sources of funds.

(4) The department shall receive from an authority a share of the authority's net revenues equal to the ratio of the department's total contributions to the authority under this section to the sum of: the department's total contributions under this section; contributions by any local government to the cost of revenue producing authority projects; and the sale proceeds of authority bonds after payment of costs of issuance. For the purpose of this subsection, net revenues are gross revenues of an authority after payment of debt service, administrative expenses, operations and maintenance expenses, and all reserves required to be established under any resolution under which authority bonds are issued.

345.0009 Acquisition of lands and property.—

(1) For the purposes of this chapter, an authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, condemnation by eminent domain proceedings, or transfer from another political subdivision of the state, as the authority may deem necessary for any of the purposes of this chapter, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility

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2785 facilities; for existing, proposed, or anticipated
 2786 transportation facilities on the system or in a transportation
 2787 corridor designated by the authority; or for the purposes of
 2788 screening, relocation, removal, or disposal of junkyards and
 2789 scrap metal processing facilities. Each authority shall also
 2790 have the power to condemn any material and property necessary
 2791 for such purposes.

2792 (2) An authority shall exercise the right of eminent domain
 2793 conferred under this section in the manner provided by law.

2794 (3) If an authority acquires property for a transportation
 2795 facility or in a transportation corridor, it is not subject to
 2796 any liability imposed by chapter 376 or chapter 403 for
 2797 preexisting soil or groundwater contamination due solely to its
 2798 ownership. This section does not affect the rights or
 2799 liabilities of any past or future owners of the acquired
 2800 property or affect the liability of any governmental entity for
 2801 the results of its actions which create or exacerbate a
 2802 pollution source. An authority and the Department of
 2803 Environmental Protection may enter into interagency agreements
 2804 for the performance, funding, and reimbursement of the
 2805 investigative and remedial acts necessary for property acquired
 2806 by the authority.

2807 345.0010 Cooperation with other units, boards, agencies,
 2808 and individuals.—A county, municipality, drainage district, road
 2809 and bridge district, school district, or any other political
 2810 subdivision, board, commission, or individual in, or of, the
 2811 state may make and enter into a contract, lease, conveyance,
 2812 partnership, or other agreement with an authority within the
 2813 provisions and purposes of this chapter. Each authority may make

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2814 and enter into contracts, leases, conveyances, partnerships, and
 2815 other agreements with any political subdivision, agency, or
 2816 instrumentality of the state and any federal agency,
 2817 corporation, and individual, to carry out the purposes of this
 2818 chapter.

2819 345.0011 Covenant of the state.—The state pledges to, and
 2820 agrees with, any person, firm, or corporation, or federal or
 2821 state agency subscribing to, or acquiring the bonds to be issued
 2822 by an authority for the purposes of this chapter that the state
 2823 will not limit or alter the rights vested by this chapter in the
 2824 authority and the department until all bonds at any time issued,
 2825 together with the interest thereon, are fully paid and
 2826 discharged insofar as the rights vested in the authority and the
 2827 department affect the rights of the holders of bonds issued
 2828 pursuant to this chapter. The state further pledges to, and
 2829 agrees with, the United States that if a federal agency
 2830 constructs or contributes any funds for the completion,
 2831 extension, or improvement of the system, or any parts of the
 2832 system, the state will not alter or limit the rights and powers
 2833 of the authority and the department in any manner that is
 2834 inconsistent with the continued maintenance and operation of the
 2835 system or the completion, extension, or improvement of the
 2836 system, or which would be inconsistent with the due performance
 2837 of any agreements between the authority and any such federal
 2838 agency, and the authority and the department shall continue to
 2839 have and may exercise all powers granted in this section, so
 2840 long as the powers are necessary or desirable to carry out the
 2841 purposes of this chapter and the purposes of the United States
 2842 in the completion, extension, or improvement of the system, or

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2843 any part of the system.

2844 345.0012 Exemption from taxation.—The authority created
 2845 under this chapter is for the benefit of the people of the
 2846 state, for the increase of their commerce and prosperity, and
 2847 for the improvement of their health and living conditions, and
 2848 because the authority will be performing essential governmental
 2849 functions pursuant to this chapter, the authority is not
 2850 required to pay any taxes or assessments of any kind or nature
 2851 whatsoever upon any property acquired or used by it for such
 2852 purposes, or upon any rates, fees, rentals, receipts, income, or
 2853 charges received by it, and the bonds issued by the authority,
 2854 their transfer and the income from their issuance, including any
 2855 profits made on the sale of the bonds, shall be free from
 2856 taxation by the state or by any political subdivision, taxing
 2857 agency, or instrumentality of the state. The exemption granted
 2858 by this section does not apply to any tax imposed by chapter 220
 2859 on interest, income, or profits on debt obligations owned by
 2860 corporations.

2861 345.0013 Eligibility for investments and security.—Any
 2862 bonds or other obligations issued pursuant to this chapter are
 2863 legal investments for banks, savings banks, trustees, executors,
 2864 administrators, and all other fiduciaries, and for all state,
 2865 municipal, and other public funds and are also securities
 2866 eligible for deposit as security for all state, municipal, or
 2867 other public funds, notwithstanding the provisions of any other
 2868 law to the contrary.

2869 345.0014 Applicability.—

2870 (1) The powers conferred by this chapter are in addition to
 2871 the powers conferred by other law and do not repeal the

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2872 provisions of any other general or special law or local
 2873 ordinance, but supplement such other laws in the exercise of the
 2874 powers provided in this chapter, and provide a complete method
 2875 for the exercise of the powers granted in this chapter. The
 2876 extension and improvement of a system, and the issuance of bonds
 2877 pursuant to this chapter to finance all or part of the cost
 2878 thereof, may be accomplished upon compliance with the provisions
 2879 of this chapter without regard to or necessity for compliance
 2880 with the provisions, limitations, or restrictions contained in
 2881 any other general, special, or local law, including, but not
 2882 limited to, s. 215.821, and approval of any bonds issued under
 2883 this act by the qualified electors or qualified electors who are
 2884 freeholders in the state or in any political subdivision of the
 2885 state is not required for the issuance of such bonds pursuant to
 2886 this chapter.

2887 (2) This act does not repeal, rescind, or modify any other
 2888 law or laws relating to the State Board of Administration, the
 2889 Department of Transportation, or the Division of Bond Finance of
 2890 the State Board of Administration, but supersedes any other law
 2891 that is inconsistent with the provisions of this chapter,
 2892 including, but not limited to, s. 215.821.

2893 345.0015 Northwest Florida Regional Tollway Authority.—

2894 (1) There is hereby created and established a body politic
 2895 and corporate, an agency of the state, to be known as the
 2896 Northwest Florida Regional Tollway Authority, hereinafter
 2897 referred to as the "authority."

2898 (2) The area served by the authority shall be Escambia and
 2899 Santa Rosa Counties.

2900 (3) The purposes and powers of the authority are as

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identified in the Florida Regional Tollway Authority Act for the area served by the authority, and the authority operates in the manner provided by the Florida Regional Tollway Authority Act.

345.0016 Okaloosa-Bay Regional Tollway Authority.-

(1) There is hereby created and established a body politic and corporate, an agency of the state, to be known as the Okaloosa-Bay Regional Tollway Authority, hereinafter referred to as the "authority."

(2) The area served by the authority shall be Okaloosa, Walton, and Bay Counties.

(3) The purposes and powers of the authority are as identified in the Florida Regional Tollway Authority Act for the area served by the authority, and the authority operates in the manner provided by the Florida Regional Tollway Authority Act.

345.0017 Suncoast Regional Tollway Authority.-

(1) There is hereby created and established a body politic and corporate, an agency of the state, to be known as the Suncoast Regional Tollway Authority, hereinafter referred to as the "authority."

(2) The area served by the authority shall be Citrus, Levy, Marion, and Alachua Counties.

(3) The purposes and powers of the authority are as identified in the Florida Regional Tollway Authority Act for the area served by the authority, and the authority operates in the manner provided by the Florida Regional Tollway Authority Act.

Section 43. Transfer to the Okaloosa-Bay Regional Tollway Authority.-The governance and control of the Mid-Bay Bridge Authority System, created pursuant to chapter 2000-411, Laws of Florida, is transferred to the Okaloosa-Bay Regional Tollway

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Authority.

(1) The assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the bridge authority, including the bridge system operated by the authority, are transferred to the regional tollway authority. All powers of the bridge authority shall succeed to the regional tollway authority, and the operations and maintenance of the bridge system shall be under the control of the regional tollway authority, pursuant to this section. Revenues collected on the bridge system may be considered regional tollway authority revenues, and the Mid-Bay Bridge may be considered part of the regional tollway authority system, if bonds of the bridge authority are not outstanding. The regional tollway authority also assumes all liability for bonds of the bridge authority pursuant to the provisions of subsection (2). The regional tollway authority may review other contracts, financial obligations, and contractual obligations and liabilities of the bridge authority and may assume legal liability for the obligations that are determined to be necessary for the continued operation of the bridge system.

(2) The transfer pursuant to this section is subject to the terms and covenants provided for the protection of the holders of the Mid-Bay Bridge Authority bonds in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds. Further, the transfer does not impair the terms of the contract between the bridge authority and the bondholders, does not act to the detriment of the bondholders, and does not diminish the security for the bonds. After the transfer, until the bonds of the bridge authority are fully

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2959 defeased or paid in full, the department shall operate and
 2960 maintain the bridge system and any other facilities of the
 2961 authority in accordance with the terms, conditions, and
 2962 covenants contained in the bond resolutions and lease-purchase
 2963 agreement securing the bonds of the bridge authority. The
 2964 Department of Transportation, as the agent of the regional
 2965 tollway authority, shall collect toll revenues and apply them to
 2966 the payment of debt service as provided in the bond resolution
 2967 securing the bonds. The regional tollway authority shall
 2968 expressly assume all obligations relating to the bonds to ensure
 2969 that the transfer will have no adverse impact on the security
 2970 for the bonds of the bridge authority. The transfer does not
 2971 make the obligation to pay the principal and interest on the
 2972 bonds a general liability of the regional tollway authority or
 2973 pledge the regional tollway authority system revenues to payment
 2974 of the bridge authority bonds. Revenues that are generated by
 2975 the bridge system and other facilities of the bridge authority
 2976 and that were pledged by the bridge authority to the payment of
 2977 the bonds remain subject to the pledge for the benefit of the
 2978 bondholders. The transfer does not modify or eliminate any prior
 2979 obligation of the Department of Transportation to pay certain
 2980 costs of the bridge system from sources other than revenues of
 2981 the bridge system. With regard to the bridge authority's current
 2982 long-term debt of \$16.1 million due to the department as of June
 2983 30, 2011, and to the extent permitted by the bond resolutions
 2984 and lease-purchase agreement securing the bonds, the regional
 2985 tollway authority shall make payment annually to the State
 2986 Transportation Trust Fund, for the purpose of repaying the
 2987 bridge authority's long-term debt due to the department, from

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2988 any bridge system revenues obtained under this section which
 2989 remain after the payment of the costs of operations,
 2990 maintenance, renewal, and replacement of the bridge system; the
 2991 payment of current debt service; and other payments required in
 2992 relation to the bonds. The regional tollway authority shall make
 2993 the annual payments, not to exceed \$1 million per year, to the
 2994 State Transportation Trust Fund until all remaining authority
 2995 long-term debt due to the department has been repaid.
 2996 (3) Any remaining toll revenue from the facilities of the
 2997 Mid-Bay Bridge Authority collected by the Okaloosa-Bay Regional
 2998 Tollway Authority after meeting the requirements of subsections
 2999 (1) and (2) shall be used for the construction, maintenance, or
 3000 improvement of any toll facility of the Okaloosa-Bay Regional
 3001 Tollway Authority within the county or counties in which the
 3002 revenue was collected.

3003 Section 44. Except as otherwise expressly provided in this
 3004 act, this act shall take effect upon becoming a law.

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