

By the Committee on Transportation; and Senator Sebesta

306-2270-03

1 A bill to be entitled
2 An act relating to transportation; amending ss.
3 20.23 and 110.205, F.S.; providing for the
4 reorganization of the Department of
5 Transportation; revising duties of the
6 assistant secretaries; providing for additional
7 offices; amending s. 255.20, F.S.; providing
8 for a presumption of prequalification for
9 certain contractors; amending s. 316.1001,
10 F.S.; providing for issuing citations for toll
11 violations by first class mail; providing that
12 mailing constitutes notification of such a
13 violation; amending s. 316.302, F.S.; revising
14 provisions for exemption from specified
15 notification requirements for commercial motor
16 vehicles carrying hazardous materials;
17 incorporating specified federal regulations;
18 updating regulations and rules applicable to
19 certain commercial motor vehicle owners and
20 drivers; specifying ownership identification
21 requirements for certain commercial motor
22 carriers; providing penalties for violation of
23 such requirements; providing for compliance
24 reviews; deleting obsolete references;
25 requirements for identifying commercial
26 vehicles; authorizing the department to conduct
27 compliance reviews; amending s. 316.3025, F.S.;
28 conforming references; providing for a civil
29 penalty to be assessed for additional specified
30 violations; providing penalties for commercial
31 trucks found to be operating following an

1 out-of-service order; amending s. 316.3026,
2 F.S.; providing for the Office of Motor Carrier
3 Compliance to enforce laws governing the
4 operating authority of motor carriers;
5 repealing s. 316.3027, F.S., relating to
6 identification requirements of commercial
7 vehicles; amending s. 316.515, F.S.; revising
8 length limitations for certain commercial
9 vehicles; amending s. 316.545, F.S.; providing
10 for placement of a lien on a vehicle for
11 failure to pay an out-of-service fine; deleting
12 obsolete provisions; authorizing weight
13 inspectors to detain a commercial vehicle under
14 certain circumstances; repealing s. 316.610(3),
15 F.S., relating to a commercial vehicle
16 inspection program within the department which
17 no longer exists; amending s. 316.640, F.S.;
18 providing for authorization of traffic accident
19 investigation officers; amending s. 316.650,
20 F.S.; authorizing the transfer of toll
21 violation citations via electronic means;
22 amending s. 316.70, F.S.; authorizing the
23 department to conduct compliance reviews of
24 nonpublic sector buses; amending s. 318.14,
25 F.S.; revising the time period for paying
26 certain civil penalties; amending s. 330.27,
27 F.S.; revising definitions; amending s. 330.29,
28 F.S.; revising duties of the Department of
29 Transportation with respect to the regulation
30 of airport sites and airports; requiring the
31 department to establish requirements for

1 airport site approval, licensure, and
2 registration; requiring the department to
3 establish and maintain a state aviation
4 facility data system; amending s. 330.30, F.S.;
5 revising provisions for airport site approval;
6 revising provisions for airport licensing;
7 providing for a private airport registration
8 process; specifying requirements for such
9 licensing and registration; deleting airport
10 license fees; providing for expiration and
11 revocation of such license or registration;
12 revising provisions for exemption from such
13 registration and licensing requirements;
14 exempting described areas and facilities from
15 such requirements; providing described private
16 airports the option to be inspected and
17 licensed by the department; amending s. 330.35,
18 F.S.; revising provisions for airport zoning
19 protection for public-use airports; amending s.
20 330.36, F.S.; providing for zoning requirements
21 governing the landing of seaplanes; amending s.
22 334.03, F.S.; defining "511 services" and
23 "interactive voice response"; amending s.
24 334.044, F.S.; expanding the powers and duties
25 of the department to include oversight of
26 traveler information systems; amending s.
27 334.14, F.S.; revising the qualifications
28 required for engineers employed by the
29 department; creating s. 334.60, F.S.; requiring
30 the department to be the lead agency in
31 establishing and coordinating a 511 traveler

1 information phone system; amending s. 336.467,
2 F.S.; authorizing the department to acquire
3 rights-of-way for other governmental entities;
4 amending s. 337.14, F.S.; clarifying the
5 contractor prequalification process;
6 prohibiting a construction contractor from
7 providing testing services; amending s. 337.18,
8 F.S.; clarifying that surety bonds issued in
9 favor of the department for construction and
10 maintenance projects over a specified amount
11 are governed by chapter 337, F.S.; removing
12 certain limitations on contractor incentive
13 payments; amending s. 338.165, F.S.;
14 authorizing the Division of Bond Finance to
15 issue bonds at the department's request for
16 certain facilities; amending s. 338.235, F.S.;
17 authorizing the turnpike authority to secure
18 products, business opportunities, and services
19 by competitive solicitation; creating s.
20 339.61, F.S.; providing legislative findings;
21 creating s. 339.62, F.S.; providing the
22 components of the Strategic Intermodal System;
23 creating s. 339.63, F.S.; designating system
24 facilities; creating s. 339.64, F.S.; providing
25 for the Strategic Intermodal System Plan;
26 creating s. 339.65, F.S.; creating the
27 Strategic Intermodal Transportation Advisory
28 Council; repealing s. 83 of ch. 2002-20, Laws
29 of Florida, as amended by s. 58 of ch.
30 2002-402, Laws of Florida, relating to grants
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1 for local governments; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 20.23, Florida Statutes, is amended
7 to read:

8 20.23 Department of Transportation.--There is created
9 a Department of Transportation which shall be a decentralized
10 agency.

11 (1)(a)~~1~~. The head of the Department of Transportation
12 is the Secretary of Transportation. The secretary shall be
13 appointed by the Governor from among three persons nominated
14 by the Florida Transportation Commission and shall be subject
15 to confirmation by the Senate. The secretary shall serve at
16 the pleasure of the Governor.

17 **(b)2**. The secretary shall be a proven, effective
18 administrator who by a combination of education and experience
19 shall clearly possess a broad knowledge of the administrative,
20 financial, and technical aspects of the development,
21 operation, and regulation of transportation systems and
22 facilities or comparable systems and facilities.

23 ~~(b)1. The secretary shall employ all personnel of the~~
24 ~~department. He or she shall implement all laws, rules,~~
25 ~~policies, and procedures applicable to the operation of the~~
26 ~~department and may not by his or her actions disregard or act~~
27 ~~in a manner contrary to any such policy. The secretary shall~~
28 ~~represent the department in its dealings with other state~~
29 ~~agencies, local governments, special districts, and the~~
30 ~~Federal Government. He or she shall have authority to sign~~
31 ~~and execute all documents and papers necessary to carry out~~

1 ~~his or her duties and the operations of the department. At~~
2 ~~each meeting of the Florida Transportation Commission, the~~
3 ~~secretary shall submit a report of major actions taken by him~~
4 ~~or her as official representative of the department.~~

5 ~~2. The secretary shall cause the annual department~~
6 ~~budget request, the Florida Transportation Plan, and the~~
7 ~~tentative work program to be prepared in accordance with all~~
8 ~~applicable laws and departmental policies and shall submit the~~
9 ~~budget, plan, and program to the Florida Transportation~~
10 ~~Commission. The commission shall perform an in-depth~~
11 ~~evaluation of the budget, plan, and program for compliance~~
12 ~~with all applicable laws and departmental policies. If the~~
13 ~~commission determines that the budget, plan, or program is not~~
14 ~~in compliance with all applicable laws and departmental~~
15 ~~policies, it shall report its findings and recommendations~~
16 ~~regarding such noncompliance to the Legislature and the~~
17 ~~Governor.~~

18 ~~(c)3.~~ (c) The secretary shall provide to the Florida
19 Transportation Commission or its staff, such assistance,
20 information, and documents as are requested by the commission
21 or its staff to enable the commission to fulfill its duties
22 and responsibilities.

23 ~~(d)(c)~~ (d) The secretary shall appoint two ~~three~~ assistant
24 secretaries who shall be directly responsible to the secretary
25 and who shall perform such duties ~~as are specified in this~~
26 ~~section and such other duties~~ as are assigned by the
27 secretary. The secretary may delegate to any assistant
28 secretary the authority to act in the absence of the
29 secretary. ~~The department has the authority to adopt rules~~
30 ~~necessary for the delegation of authority beyond the assistant~~
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1 ~~secretaries. The assistant secretaries shall serve at the~~
2 ~~pleasure of the secretary.~~

3 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and
4 the assistant secretaries shall be exempt from the provisions
5 of part III of chapter 110 and shall receive compensation
6 commensurate with their qualifications and competitive with
7 compensation for comparable responsibility in the private
8 sector. ~~When the salary of any assistant secretary exceeds~~
9 ~~the limits established in part III of chapter 110, the~~
10 ~~Governor shall approve said salary.~~

11 (2)(a)1. The Florida Transportation Commission is
12 hereby created and shall consist of nine members appointed by
13 the Governor subject to confirmation by the Senate. Members
14 of the commission shall serve terms of 4 years each.

15 2. Members shall be appointed in such a manner as to
16 equitably represent all geographic areas of the state. Each
17 member must be a registered voter and a citizen of the state.
18 Each member of the commission must also possess business
19 managerial experience in the private sector.

20 3. A member of the commission shall represent the
21 transportation needs of the state as a whole and may not
22 subordinate the needs of the state to those of any particular
23 area of the state.

24 4. The commission is assigned to the Office of the
25 Secretary of the Department of Transportation for
26 administrative and fiscal accountability purposes, but it
27 shall otherwise function independently of the control and
28 direction of the department.

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

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

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

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

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

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

26 6. Perform an in-depth evaluation of the factors
27 causing disruption of project schedules in the adopted work
28 program and recommend to the Legislature and the Governor
29 methods to eliminate or reduce the disruptive effects of these
30 factors.

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1 7. Recommend to the Governor and the Legislature
2 improvements to the department's organization in order to
3 streamline and optimize the efficiency of the department. In
4 reviewing the department's organization, the commission shall
5 determine if the current district organizational structure is
6 responsive to Florida's changing economic and demographic
7 development patterns. The initial report by the commission
8 must be delivered to the Governor and Legislature by December
9 15, 2000, and each year thereafter, as appropriate. The
10 commission may retain such experts as are reasonably necessary
11 to effectuate this subparagraph, and the department shall pay
12 the expenses of such experts.

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

16 1. The awarding of contracts.

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

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

23 4. The specific location of a transportation facility.

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

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

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

29 (d)1. The chair of the commission shall be selected by
30 the commission members and shall serve a 1-year term.

31

1 2. The commission shall hold a minimum of 4 regular
2 meetings annually, and other meetings may be called by the
3 chair upon giving at least 1 week's notice to all members and
4 the public pursuant to chapter 120. Other meetings may also be
5 held upon the written request of at least four other members
6 of the commission, with at least 1 week's notice of such
7 meeting being given to all members and the public by the chair
8 pursuant to chapter 120. Emergency meetings may be held
9 without notice upon the request of all members of the
10 commission. At each meeting of the commission, the secretary
11 or his or her designee shall submit a report of major actions
12 taken by him or her as the official representative of the
13 department.

14 3. A majority of the membership of the commission
15 constitutes a quorum at any meeting of the commission. An
16 action of the commission is not binding unless the action is
17 taken pursuant to an affirmative vote of a majority of the
18 members present, but not fewer than four members of the
19 commission at a meeting held pursuant to subparagraph 2., and
20 the vote is recorded in the minutes of that meeting.

21 4. The chair shall cause to be made a complete record
22 of the proceedings of the commission, which record shall be
23 open for public inspection.

24 (e) The meetings of the commission shall be held in
25 the central office of the department in Tallahassee unless the
26 chair determines that special circumstances warrant meeting at
27 another location.

28 (f) Members of the commission are entitled to per diem
29 and travel expenses pursuant to s. 112.061.

30 (g) A member of the commission may not have any
31 interest, direct or indirect, in any contract, franchise,

1 privilege, or other benefit granted or awarded by the
2 department during the term of his or her appointment and for 2
3 years after the termination of such appointment.

4 (h) The commission shall appoint an executive director
5 and assistant executive director, who shall serve under the
6 direction, supervision, and control of the commission. The
7 executive director, with the consent of the commission, shall
8 employ such staff as are necessary to perform adequately the
9 functions of the commission, within budgetary limitations.

10 All employees of the commission are exempt from part II of
11 chapter 110 and shall serve at the pleasure of the commission.
12 The salaries and benefits of all employees of the commission
13 shall be set in accordance with the Selected Exempt Service;
14 provided, however, that the commission shall have complete
15 authority for fixing the salary of the executive director and
16 assistant executive director.

17 (i) The commission shall develop a budget pursuant to
18 chapter 216. The budget is not subject to change by the
19 department, but such budget shall be submitted to the Governor
20 along with the budget of the department.

21 (3)(a) The central office shall establish departmental
22 policies, rules, procedures, and standards and shall monitor
23 the implementation of such policies, rules, procedures, and
24 standards in order to ensure uniform compliance and quality
25 performance by the districts and central office units that
26 implement transportation programs. Major transportation
27 policy initiatives or revisions shall be submitted to the
28 commission for review. ~~The central office monitoring function
29 shall be based on a plan that clearly specifies what areas
30 will be monitored, activities and criteria used to measure
31 compliance, and a feedback process that assures monitoring~~

1 ~~findings are reported and deficiencies corrected. The~~
2 ~~secretary is responsible for ensuring that a central office~~
3 ~~monitoring function is implemented, and that it functions~~
4 ~~properly. In conjunction with its monitoring function, the~~
5 ~~central office shall provide such training and administrative~~
6 ~~support to the districts as the department determines to be~~
7 ~~necessary to ensure that the department's programs are carried~~
8 ~~out in the most efficient and effective manner.~~

9 ~~(b) The resources necessary to ensure the efficiency,~~
10 ~~effectiveness, and quality of performance by the department of~~
11 ~~its statutory responsibilities shall be allocated to the~~
12 ~~central office.~~

13 ~~(b)(c) The secretary shall appoint an Assistant~~
14 ~~Secretary for Transportation Development and Operations and~~
15 ~~Policy, an Assistant Secretary for Transportation Support.~~
16 ~~Finance and Administration, and an Assistant Secretary for~~
17 ~~District Operations, each of whom shall serve at the pleasure~~
18 ~~of the secretary. The positions are responsible for~~
19 ~~developing, monitoring, and enforcing policy and managing~~
20 ~~major technical programs. The responsibilities and duties of~~
21 ~~these positions include, but are not limited to, the following~~
22 ~~functional areas:~~

23 ~~1. Assistant Secretary for Transportation Policy.~~

24 ~~a. Development of the Florida Transportation Plan and~~
25 ~~other policy planning;~~

26 ~~b. Development of statewide modal systems plans,~~
27 ~~including public transportation systems;~~

28 ~~c. Design of transportation facilities;~~

29 ~~d. Construction of transportation facilities;~~

30 ~~e. Acquisition and management of transportation~~
31 ~~rights-of-way; and~~

1 ~~f. Administration of motor carrier compliance and~~
2 ~~safety.~~
3 ~~2. Assistant Secretary for District Operations.==~~
4 ~~a. Administration of the eight districts; and~~
5 ~~b. Implementation of the decentralization of the~~
6 ~~department.~~
7 ~~3. Assistant Secretary for Finance and~~
8 ~~Administration.==~~
9 ~~a. Financial planning and management;~~
10 ~~b. Information systems;~~
11 ~~c. Accounting systems;~~
12 ~~d. Administrative functions; and~~
13 ~~e. Administration of toll operations.~~
14 ~~(d)1. Policy, program, or operations offices shall be~~
15 ~~established within the central office for the purposes of:~~
16 ~~a. Developing policy and procedures and monitoring~~
17 ~~performance to ensure compliance with these policies and~~
18 ~~procedures;~~
19 ~~b. Performing statewide activities which it is more~~
20 ~~cost-effective to perform in a central location;~~
21 ~~c. Assessing and ensuring the accuracy of information~~
22 ~~within the department's financial management information~~
23 ~~systems; and~~
24 ~~d. Performing other activities of a statewide nature.~~
25 (c)2. The following offices are established and shall
26 be headed by a manager, each of whom shall be appointed by and
27 serve at the pleasure of the secretary. The positions shall be
28 classified at a level equal to a division director:
29 1.a. The Office of Administration;
30 2.b. The Office of ~~Policy Planning and Environmental~~
31 Management;

- 1 3.e. The Office of Design;
2 4.d. The Office of Highway Operations;
3 5.e. The Office of Right-of-Way;
4 6.f. The Office of Toll Operations;
5 7.g. The Office of Information Systems; and
6 8.h. The Office of Motor Carrier Compliance;
7 9. The Office of Management and Budget;
8 10. The Office of Comptroller;
9 11. The Office of Construction;
10 12. The Office of Maintenance; and
11 13. The Office of Materials.

12 ~~(d)3.~~ Other offices may be established in accordance
13 with s. 20.04(7). The heads of such offices are exempt from
14 part II of chapter 110. No office or organization shall be
15 created at a level equal to or higher than a division without
16 specific legislative authority.

17 ~~4.~~ During the construction of a major transportation
18 improvement project or as determined by the district
19 secretary, the department may provide assistance to a business
20 entity significantly impacted by the project if the entity is
21 a for-profit entity that has been in business for 3 years
22 prior to the beginning of construction and has direct or
23 shared access to the transportation project being constructed.
24 The assistance program shall be in the form of additional
25 guarantees to assist the impacted business entity in receiving
26 loans pursuant to Title 13 C.F.R. part 120. However, in no
27 instance shall the combined guarantees be greater than 90
28 percent of the loan. The department shall adopt rules to
29 implement this subparagraph.

30 ~~(e)~~ The Assistant Secretary for Finance and
31 Administration must possess a broad knowledge of the

1 ~~administrative, financial, and technical aspects of a complete~~
2 ~~cost-accounting system, budget preparation and management, and~~
3 ~~management information systems. The Assistant Secretary for~~
4 ~~Finance and Administration must be a proven, effective manager~~
5 ~~with specialized skills in financial planning and management.~~
6 ~~The Assistant Secretary for Finance and Administration shall~~
7 ~~ensure that financial information is processed in a timely,~~
8 ~~accurate, and complete manner.~~

9 ~~(f)1. Within the central office there is created an~~
10 ~~Office of Management and Budget. The head of the Office of~~
11 ~~Management and Budget is responsible to the Assistant~~
12 ~~Secretary for Finance and Administration and is exempt from~~
13 ~~part II of chapter 110.~~

14 ~~2. The functions of the Office of Management and~~
15 ~~Budget include, but are not limited to:~~

16 ~~a. Preparation of the work program;~~

17 ~~b. Preparation of the departmental budget; and~~

18 ~~c. Coordination of related policies and procedures.~~

19 ~~3. The Office of Management and Budget shall also be~~
20 ~~responsible for developing uniform implementation and~~
21 ~~monitoring procedures for all activities performed at the~~
22 ~~district level involving the budget and the work program.~~

23 ~~(e)(g)~~ The secretary shall ~~may~~ appoint an inspector
24 general pursuant to s. 20.055 who shall be directly
25 responsible to the secretary and shall serve at the pleasure
26 of the secretary.

27 ~~(h)1. The secretary shall appoint an inspector general~~
28 ~~pursuant to s. 20.055. The inspector general may be~~
29 ~~organizationally located within another unit of the department~~
30 ~~for administrative purposes, but shall function independently~~
31 ~~and be directly responsible to the secretary pursuant to s.~~

1 ~~20.055. The duties of the inspector general shall include, but~~
2 ~~are not restricted to, reviewing, evaluating, and reporting on~~
3 ~~the policies, plans, procedures, and accounting, financial,~~
4 ~~and other operations of the department and recommending~~
5 ~~changes for the improvement thereof, as well as performing~~
6 ~~audits of contracts and agreements between the department and~~
7 ~~private entities or other governmental entities. The inspector~~
8 ~~general shall give priority to reviewing major parts of the~~
9 ~~department's accounting system and central office monitoring~~
10 ~~function to determine whether such systems effectively ensure~~
11 ~~accountability and compliance with all laws, rules, policies,~~
12 ~~and procedures applicable to the operation of the department.~~
13 ~~The inspector general shall also give priority to assessing~~
14 ~~the department's management information systems as required by~~
15 ~~s. 282.318. The internal audit function shall use the~~
16 ~~necessary expertise, in particular, engineering, financial,~~
17 ~~and property appraising expertise, to independently evaluate~~
18 ~~the technical aspects of the department's operations. The~~
19 ~~inspector general shall have access at all times to any~~
20 ~~personnel, records, data, or other information of the~~
21 ~~department and shall determine the methods and procedures~~
22 ~~necessary to carry out his or her duties. The inspector~~
23 ~~general is responsible for audits of departmental operations~~
24 ~~and for audits of consultant contracts and agreements, and~~
25 ~~such audits shall be conducted in accordance with generally~~
26 ~~accepted governmental auditing standards. The inspector~~
27 ~~general shall annually perform a sufficient number of audits~~
28 ~~to determine the efficiency and effectiveness, as well as~~
29 ~~verify the accuracy of estimates and charges, of contracts~~
30 ~~executed by the department with private entities and other~~
31 ~~governmental entities. The inspector general has the sole~~

1 ~~responsibility for the contents of his or her reports, and a~~
2 ~~copy of each report containing his or her findings and~~
3 ~~recommendations shall be furnished directly to the secretary~~
4 ~~and the commission.~~

5 2. ~~In addition to the authority and responsibilities~~
6 ~~herein provided, the inspector general is required to report~~
7 ~~to the:~~

8 a. ~~Secretary whenever the inspector general makes a~~
9 ~~preliminary determination that particularly serious or~~
10 ~~flagrant problems, abuses, or deficiencies relating to the~~
11 ~~administration of programs and operations of the department~~
12 ~~have occurred. The secretary shall review and assess the~~
13 ~~correctness of the preliminary determination by the inspector~~
14 ~~general. If the preliminary determination is substantiated,~~
15 ~~the secretary shall submit such report to the appropriate~~
16 ~~committees of the Legislature within 7 calendar days, together~~
17 ~~with a report by the secretary containing any comments deemed~~
18 ~~appropriate. Nothing in this section shall be construed to~~
19 ~~authorize the public disclosure of information which is~~
20 ~~specifically prohibited from disclosure by any other provision~~
21 ~~of law.~~

22 b. ~~Transportation Commission and the Legislature any~~
23 ~~actions by the secretary that prohibit the inspector general~~
24 ~~from initiating, carrying out, or completing any audit after~~
25 ~~the inspector general has decided to initiate, carry out, or~~
26 ~~complete such audit. The secretary shall, within 30 days~~
27 ~~after transmission of the report, set forth in a statement to~~
28 ~~the Transportation Commission and the Legislature the reasons~~
29 ~~for his or her actions.~~

30 (i)1. ~~The secretary shall appoint a comptroller who is~~
31 ~~responsible to the Assistant Secretary for Finance and~~

1 ~~Administration. This position is exempt from part II of~~
2 ~~chapter 110.~~

3 ~~2. The comptroller is the chief financial officer of~~
4 ~~the department and must be a proven, effective administrator~~
5 ~~who by a combination of education and experience clearly~~
6 ~~possesses a broad knowledge of the administrative, financial,~~
7 ~~and technical aspects of a complex cost-accounting system.~~
8 ~~The comptroller must also have a working knowledge of~~
9 ~~generally accepted accounting principles. At a minimum, the~~
10 ~~comptroller must hold an active license to practice public~~
11 ~~accounting in Florida pursuant to chapter 473 or an active~~
12 ~~license to practice public accounting in any other state. In~~
13 ~~addition to the requirements of the Florida Fiscal Accounting~~
14 ~~Management Information System Act, the comptroller is~~
15 ~~responsible for the development, maintenance, and modification~~
16 ~~of an accounting system that will in a timely manner~~
17 ~~accurately reflect the revenues and expenditures of the~~
18 ~~department and that includes a cost-accounting system to~~
19 ~~properly identify, segregate, allocate, and report department~~
20 ~~costs. The comptroller shall supervise and direct preparation~~
21 ~~of a detailed 36-month forecast of cash and expenditures and~~
22 ~~is responsible for managing cash and determining cash~~
23 ~~requirements. The comptroller shall review all comparative~~
24 ~~cost studies that examine the cost-effectiveness and~~
25 ~~feasibility of contracting for services and operations~~
26 ~~performed by the department. The review must state that the~~
27 ~~study was prepared in accordance with generally accepted~~
28 ~~cost-accounting standards applied in a consistent manner using~~
29 ~~valid and accurate cost data.~~

30 ~~3. The department shall by rule or internal management~~
31 ~~memoranda as required by chapter 120 provide for the~~

1 ~~maintenance by the comptroller of financial records and~~
2 ~~accounts of the department as will afford a full and complete~~
3 ~~check against the improper payment of bills and provide a~~
4 ~~system for the prompt payment of the just obligations of the~~
5 ~~department, which records must at all times disclose:~~
6 ~~a. The several appropriations available for the use of~~
7 ~~the department;~~
8 ~~b. The specific amounts of each such appropriation~~
9 ~~budgeted by the department for each improvement or purpose;~~
10 ~~c. The apportionment or division of all such~~
11 ~~appropriations among the several counties and districts, when~~
12 ~~such apportionment or division is made;~~
13 ~~d. The amount or portion of each such apportionment~~
14 ~~against general contractual and other liabilities then~~
15 ~~created;~~
16 ~~e. The amount expended and still to be expended in~~
17 ~~connection with each contractual and other obligation of the~~
18 ~~department;~~
19 ~~f. The expense and operating costs of the various~~
20 ~~activities of the department;~~
21 ~~g. The receipts accruing to the department and the~~
22 ~~distribution thereof;~~
23 ~~h. The assets, investments, and liabilities of the~~
24 ~~department; and~~
25 ~~i. The cash requirements of the department for a~~
26 ~~36-month period.~~
27 ~~4. The comptroller shall maintain a separate account~~
28 ~~for each fund administered by the department.~~
29 ~~5. The comptroller shall perform such other related~~
30 ~~duties as designated by the department.~~
31

1 ~~(f)(j)~~ The secretary shall appoint a general counsel
2 who shall be ~~employed full time and shall be~~ directly
3 responsible to the secretary. The general counsel is
4 responsible for all legal matters of the department. The
5 department may employ as many attorneys as it deems necessary
6 to advise and represent the department in all transportation
7 matters.

8 ~~(g)(k)~~ The secretary shall appoint a state
9 transportation development administrator ~~planner who shall~~
10 ~~report to the Assistant Secretary for Transportation Policy.~~
11 ~~The state transportation planner's responsibilities shall~~
12 ~~include, but are not limited to, policy planning, systems~~
13 ~~planning, and transportation statistics.~~ This position shall
14 be classified at a level equal to a deputy assistant
15 secretary.

16 ~~(h)(l)~~ The secretary shall appoint a state
17 transportation operations administrator ~~highway engineer who~~
18 ~~shall report to the Assistant Secretary for Transportation~~
19 ~~Policy. The state highway engineer's responsibilities shall~~
20 ~~include, but are not limited to, design, construction, and~~
21 ~~maintenance of highway facilities; acquisition and management~~
22 ~~of transportation rights-of-way; traffic engineering; and~~
23 ~~materials testing.~~ This position shall be classified at a
24 level equal to a deputy assistant secretary.

25 ~~(i)(m)~~ The secretary shall appoint a state public
26 transportation and modal administrator ~~who shall report to the~~
27 ~~Assistant Secretary for Transportation Policy. The state~~
28 ~~public transportation administrator's responsibilities shall~~
29 ~~include, but are not limited to, the administration of~~
30 ~~statewide transit, rail, intermodal development, and aviation~~
31 ~~programs.~~ This position shall be classified at a level equal

1 to a deputy assistant secretary. ~~The department shall also~~
2 ~~assign to the public transportation administrator an~~
3 ~~organizational unit the primary function of which is to~~
4 ~~administer the high-speed rail program.~~

5 (4)(a) The operations of the department shall be
6 organized into seven districts, each headed by a district
7 secretary and a turnpike enterprise, headed by an executive
8 director. The district secretaries and the turnpike executive
9 director shall be registered professional engineers in
10 accordance with the provisions of chapter 471 or, in lieu of
11 professional engineer registration, a district secretary or
12 turnpike executive director may hold an advanced degree in an
13 appropriate related discipline, such as a Master of Business
14 Administration.~~The district secretaries shall report to the~~
15 ~~Assistant Secretary for District Operations.~~The headquarters
16 of the districts shall be located in Polk, Columbia,
17 Washington, Broward, Volusia, Dade, and Hillsborough Counties.
18 The headquarters of the turnpike enterprise shall be located
19 in Orange County. In order to provide for efficient operations
20 and to expedite the decisionmaking process, the department
21 shall provide for maximum decentralization to the districts.
22 ~~However, before making a decision to centralize or~~
23 ~~decentralize department operations, the department must first~~
24 ~~determine if the decision would be cost-effective and in the~~
25 ~~public's best interest. The department shall periodically~~
26 ~~evaluate such decisions to ensure that they are appropriate.~~

27 (b) ~~The primary responsibility for the implementation~~
28 ~~of the department's transportation programs shall be delegated~~
29 ~~by the secretary to the district secretaries, and sufficient~~
30 ~~authority shall be vested in each district to ensure adequate~~
31 ~~control of the resources commensurate with the delegated~~

1 ~~responsibility. Each district secretary shall also be~~
2 ~~accountable for ensuring their district's quality of~~
3 ~~performance and compliance with all laws, rules, policies, and~~
4 ~~procedures related to the operation of the department.~~

5 (b)(c) Each district secretary may appoint a district
6 director for transportation development, a district director
7 for transportation operations, and a district director for
8 transportation support or, until July 1, 2005, each district
9 secretary may appoint a district director for planning and
10 programming, a district director for production, and a
11 district director for operations, and a district director for
12 administration. These positions are exempt from part II of
13 chapter 110.

14 (c)(d) Within each district, offices shall be
15 established for managing major functional responsibilities of
16 the department. ~~The offices may include planning, design,~~
17 ~~construction, right-of-way, maintenance, and public~~
18 ~~transportation.~~ The heads of these offices shall be exempt
19 from part II of chapter 110.

20 (d)(e) The district director for the Fort Myers Urban
21 Office of the Department of Transportation is responsible for
22 developing the 5-year Transportation Plan for Charlotte,
23 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort
24 Myers Urban Office also is responsible for providing policy,
25 direction, local government coordination, and planning for
26 those counties.

27 (e)(f)1. The responsibility for the turnpike system
28 shall be delegated by the secretary to the executive director
29 of the turnpike enterprise, who shall serve at the pleasure of
30 the secretary. The executive director shall report directly to
31

1 the secretary, and the turnpike enterprise shall operate
2 pursuant to ss. 338.22-338.241.

3 2. To facilitate the most efficient and effective
4 management of the turnpike enterprise, including the use of
5 best business practices employed by the private sector, the
6 turnpike enterprise, except as provided in s. 287.055, shall
7 be exempt from departmental policies, procedures, and
8 standards, subject to the secretary having the authority to
9 apply any such policies, procedures, and standards to the
10 turnpike enterprise from time to time as deemed appropriate.

11 (5) Notwithstanding the provisions of s. 110.205, the
12 Department of Management Services is authorized to exempt
13 positions within the Department of Transportation which are
14 comparable to positions within the Senior Management Service
15 pursuant to s. 110.205(2)(j) or positions which are comparable
16 to positions in the Selected Exempt Service under s.
17 110.205(2)(m).

18 ~~(6) To facilitate the efficient and effective~~
19 ~~management of the department in a businesslike manner, the~~
20 ~~department shall develop a system for the submission of~~
21 ~~monthly management reports to the Florida Transportation~~
22 ~~Commission and secretary from the district secretaries. The~~
23 ~~commission and the secretary shall determine which reports are~~
24 ~~required to fulfill their respective responsibilities under~~
25 ~~this section. A copy of each such report shall be submitted~~
26 ~~monthly to the appropriations and transportation committees of~~
27 ~~the Senate and the House of Representatives. Recommendations~~
28 ~~made by the Auditor General in his or her audits of the~~
29 ~~department that relate to management practices, systems, or~~
30 ~~reports shall be implemented in a timely manner. However, if~~
31 ~~the department determines that one or more of the~~

1 ~~recommendations should be altered or should not be~~
2 ~~implemented, it shall provide a written explanation of such~~
3 ~~determination to the Legislative Auditing Committee within 6~~
4 ~~months after the date the recommendations were published.~~

5 (6)~~(7)~~ The department is authorized to contract with
6 local governmental entities and with the private sector if the
7 department first determines that:

8 (a) Consultants can do the work at less cost than
9 state employees;

10 (b) State employees can do the work at less cost, but
11 sufficient positions have not been approved by the Legislature
12 as requested in the department's most recent legislative
13 budget request;

14 (c) The work requires specialized expertise, and it
15 would not be economical for the state to acquire, and then
16 maintain, the expertise after the work is done;

17 (d) The workload is at a peak level, and it would not
18 be economical to acquire, and then keep, extra personnel after
19 the workload decreases; or

20 (e) The use of such entities is clearly in the
21 public's best interest.

22

23 Such contracts shall require compliance with applicable
24 federal and state laws, and clearly specify the product or
25 service to be provided.

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

28 110.205 Career service; exemptions.--

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

31

1 (j) The appointed secretaries, assistant secretaries,
2 deputy secretaries, and deputy assistant secretaries of all
3 departments; the executive directors, assistant executive
4 directors, deputy executive directors, and deputy assistant
5 executive directors of all departments; the directors of all
6 divisions and those positions determined by the department to
7 have managerial responsibilities comparable to such positions,
8 which positions include, but are not limited to, program
9 directors, assistant program directors, district
10 administrators, deputy district administrators, the Director
11 of Central Operations Services of the Department of Children
12 and Family Services, ~~and~~ the State Transportation Development
13 Administrator ~~Planner~~, the State Transportation Operations
14 Administrator ~~Highway Engineer, State Public Transportation~~
15 ~~Administrator~~, district secretaries, district directors of
16 transportation development, transportation operations,
17 transportation support, captains and majors of the Office of
18 Motor Carrier Compliance ~~planning and programming, production,~~
19 ~~and operations~~, and the managers of the offices specified in
20 s. 20.23(3)(c)~~(d)2.~~, of the Department of Transportation.
21 Unless otherwise fixed by law, the department shall set the
22 salary and benefits of these positions in accordance with the
23 rules of the Senior Management Service; and the county health
24 department directors and county health department
25 administrators of the Department of Health.

26 (m) All assistant division director, deputy division
27 director, and bureau chief positions in any department, and
28 those positions determined by the department to have
29 managerial responsibilities comparable to such positions,
30 which positions include, but are not limited to, positions in
31 the Department of Health, the Department of Children and

1 Family Services, and the Department of Corrections that are
2 assigned primary duties of serving as the superintendent or
3 assistant superintendent, or warden or assistant warden, of an
4 institution; positions in the Department of Corrections that
5 are assigned primary duties of serving as the circuit
6 administrator or deputy circuit administrator; positions in
7 the Department of Transportation that are assigned primary
8 duties of serving as regional toll managers and managers of
9 offices as defined in s. 20.23(3)(c)~~(d)~~³ and (4)(d);
10 positions in the Department of Environmental Protection that
11 are assigned the duty of an Environmental Administrator or
12 program administrator; and positions in the Department of
13 Health that are assigned the duties of Environmental
14 Administrator, Assistant County Health Department Director,
15 and County Health Department Financial Administrator. Unless
16 otherwise fixed by law, the department shall set the salary
17 and benefits of these positions in accordance with the rules
18 established for the Selected Exempt Service.

19 Section 3. Paragraphs (a), (b), (c), (d), (e), (f),
20 and (g) of subsection (1) of section 255.20, Florida Statutes,
21 are redesignated as paragraphs (c), (d), (e), (f), (g), (h),
22 and (i), respectively, and new paragraphs (a) and (b) are
23 added to that subsection, to read:

24 255.20 Local bids and contracts for public
25 construction works; specification of state-produced lumber.--

26 (1) A county, municipality, special district as
27 defined in chapter 189, or other political subdivision of the
28 state seeking to construct or improve a public building,
29 structure, or other public construction works must
30 competitively award to an appropriately licensed contractor
31 each project that is estimated in accordance with generally

1 | accepted cost-accounting principles to have total construction
2 | project costs of more than \$200,000. For electrical work,
3 | local government must competitively award to an appropriately
4 | licensed contractor each project that is estimated in
5 | accordance with generally accepted cost-accounting principles
6 | to have a cost of more than \$50,000. As used in this section,
7 | the term "competitively award" means to award contracts based
8 | on the submission of sealed bids, proposals submitted in
9 | response to a request for proposal, proposals submitted in
10 | response to a request for qualifications, or proposals
11 | submitted for competitive negotiation. This subsection
12 | expressly allows contracts for construction management
13 | services, design/build contracts, continuation contracts based
14 | on unit prices, and any other contract arrangement with a
15 | private sector contractor permitted by any applicable
16 | municipal or county ordinance, by district resolution, or by
17 | state law. For purposes of this section, construction costs
18 | include the cost of all labor, except inmate labor, and
19 | include the cost of equipment and materials to be used in the
20 | construction of the project. Subject to the provisions of
21 | subsection (3), the county, municipality, special district, or
22 | other political subdivision may establish, by municipal or
23 | county ordinance or special district resolution, procedures
24 | for conducting the bidding process.

25 | (a) Notwithstanding any other law to the contrary, a
26 | county, municipality, special district as defined in chapter
27 | 189, or other political subdivision of the state seeking to
28 | construct or improve bridges, roads, streets, highways, or
29 | railroads, and services incidental thereto, at costs in excess
30 | of \$250,000 may require that persons interested in performing
31 | work under contract first be certified or qualified to perform

1 such work. Any contractor may be considered ineligible to bid
2 by the governmental entity if the contractor is behind on
3 completing an approved progress schedule for the governmental
4 entity by 10 percent or more at the time of advertisement of
5 the work. Any contractor prequalified and considered eligible
6 by the Department of Transportation to bid to perform the type
7 of work described under the contract shall be presumed to be
8 qualified to perform the work described. The governmental
9 entity may provide an appeal process to overcome that
10 presumption with de novo review based on the record below to
11 the circuit court.

12 (b) With respect to contractors not prequalified with
13 the Department of Transportation, the governmental entity
14 shall publish prequalification criteria and procedures prior
15 to advertisement or notice of solicitation. Such publications
16 shall include notice of a public hearing for comment on such
17 criteria and procedures prior to adoption. The procedures
18 shall provide for an appeal process within the authority for
19 objections to the prequalification process with de novo review
20 based on the record below to the circuit court within 30 days.

21 Section 4. Subsections (2) and (4) of section
22 316.1001, Florida Statutes, are amended to read:

23 316.1001 Payment of toll on toll facilities required;
24 penalties.--

25 (2)(a) For the purpose of enforcing this section, any
26 governmental entity, as defined in s. 334.03, that owns or
27 operates a toll facility may, by rule or ordinance, authorize
28 a toll enforcement officer to issue a uniform traffic citation
29 for a violation of this section. Toll enforcement officer
30 means the designee of a governmental entity whose ~~sole~~
31 authority is to enforce the payment of tolls. The

1 governmental entity may designate toll enforcement officers
2 pursuant to s. 316.640(1).

3 (b) A citation issued under this subsection may be
4 issued by mailing the citation by first class mail, or by
5 certified mail, return receipt requested, to the address of
6 the registered owner of the motor vehicle involved in the
7 violation. Mailing the citation to this address constitutes
8 notification.In the case of joint ownership of a motor
9 vehicle, the traffic citation must be mailed to the first name
10 appearing on the registration, unless the first name appearing
11 on the registration is a business organization, in which case
12 the second name appearing on the registration may be used. A
13 citation issued under this paragraph must be mailed to the
14 registered owner of the motor vehicle involved in the
15 violation within 14 days after the date of issuance of the
16 violation. In addition to the citation, notification must be
17 sent to the registered owner of the motor vehicle involved in
18 the violation specifying remedies ~~the remedy~~ available under
19 ss. 318.14(12) and s. 318.18(7).

20 (c) The owner of the motor vehicle involved in the
21 violation is responsible and liable for payment of a citation
22 issued for failure to pay a toll, unless the owner can
23 establish the motor vehicle was, at the time of the violation,
24 in the care, custody, or control of another person. In order
25 to establish such facts, the owner of the motor vehicle is
26 required, within 14 days after the date of issuance of the
27 citation ~~notification of the alleged violation~~, to furnish to
28 the appropriate governmental entity an affidavit setting
29 forth:

30 1. The name, address, date of birth, and, if known,
31 the driver license number of the person who leased, rented, or

1 otherwise had the care, custody, or control of the motor
2 vehicle at the time of the alleged violation; or

3 2. If stolen, the police report indicating that the
4 vehicle was stolen at the time of the alleged violation.

5
6 Upon receipt of an affidavit the person designated as having
7 care, custody, and control of the motor vehicle at the time of
8 the violation may be issued a citation for failure to pay a
9 required toll. The affidavit shall be admissible in a
10 proceeding pursuant to this section for the purpose of
11 providing that the person identified in the affidavit was in
12 actual care, custody, or control of the motor vehicle.

13 (d) A written report of a toll enforcement officer or
14 photographic evidence that indicates that a required toll was
15 not paid is admissible in any proceeding to enforce this
16 section and raises a rebuttable presumption that the motor
17 vehicle named in the report or shown in the photographic
18 evidence was used in violation of this section.

19 (4) Any governmental entity may supply the department
20 with data that is machine readable by the department's
21 computer system, listing persons who have one ~~three~~ or more
22 outstanding violations of this section. Pursuant to s.
23 320.03(8), those persons may not be issued a license plate or
24 revalidation sticker for any motor vehicle.

25 Section 5. Paragraph (b) of subsection (1), paragraphs
26 (a), (b), (c), (d), (e), (f), and (j) of subsection (2), and
27 subsection (5) of section 316.302, Florida Statutes, are
28 amended to read:

29 316.302 Commercial motor vehicles; safety regulations;
30 transporters and shippers of hazardous materials;
31 enforcement.--

1 (1)

2 (b) Except as otherwise provided in this section, all
3 owners or drivers of commercial motor vehicles that are
4 engaged in intrastate commerce are subject to the rules and
5 regulations contained in 49 C.F.R. parts 382, 385, and
6 390-397, with the exception of 49 C.F.R. s. 390.5 as it
7 relates to the definition of bus, as such rules and
8 regulations existed on October 1, 2002 ~~2001~~.

9 (2)(a) A person who operates a commercial motor
10 vehicle solely in intrastate commerce not transporting any
11 hazardous material in amounts that require placarding pursuant
12 to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss.
13 391.11(b)(1) and 395.3(a) and (b).

14 (b) A person who operates a commercial motor vehicle
15 solely in intrastate commerce not transporting any hazardous
16 material in amounts that require placarding pursuant to 49
17 C.F.R. part 172 is exempt from 49 C.F.R. s. 395.3(a) and (b)
18 and may, after 8 hours' rest, and following the required
19 initial motor vehicle inspection, be permitted to drive any
20 part of the first 15 on-duty hours in any 24-hour period, but
21 may not be permitted to operate a commercial motor vehicle
22 after that until the requirement of another 8 hours' rest has
23 been fulfilled. The provisions of this paragraph do not apply
24 to drivers of public utility vehicles or authorized emergency
25 vehicles during periods of severe weather or other
26 emergencies.

27 (c) A person who operates a commercial motor vehicle
28 solely in intrastate commerce not transporting any hazardous
29 material in amounts that require placarding pursuant to 49
30 C.F.R. part 172 may not be on duty more than 72 hours in any
31 period of 7 consecutive days, but carriers operating every day

1 | in a week may permit drivers to remain on duty for a total of
2 | not more than 84 hours in any period of 8 consecutive days;
3 | however, 24 consecutive hours off duty shall constitute the
4 | end of any such period of 7 or 8 consecutive days. This weekly
5 | limit does not apply to a person who operates a commercial
6 | motor vehicle solely within this state while transporting,
7 | during harvest periods, any unprocessed agricultural products
8 | that are subject to seasonal harvesting from place of harvest
9 | to the first place of processing or storage or from place of
10 | harvest directly to market. Upon request of the Department of
11 | Transportation, motor carriers shall furnish time records or
12 | other written verification to that department so that the
13 | Department of Transportation can determine compliance with
14 | this subsection. These time records must be furnished to the
15 | Department of Transportation within 10 days after receipt of
16 | that department's request. Falsification of such information
17 | is subject to a civil penalty not to exceed \$100. The
18 | provisions of this paragraph do not apply to drivers of public
19 | utility vehicles or authorized emergency vehicles during
20 | periods of severe weather or other emergencies.

21 | (d) A person who operates a commercial motor vehicle
22 | solely in intrastate commerce not transporting any hazardous
23 | material in amounts that require placarding pursuant to 49
24 | C.F.R. part 172 within a 200 air-mile radius of the location
25 | where the vehicle is based need not comply with 49 C.F.R. s.
26 | 395.8, except that time records shall be maintained as
27 | prescribed in 49 C.F.R. s. 395.1(e)(5).

28 | (e) A person who operates a commercial motor vehicle
29 | solely in intrastate commerce is exempt from subsection (1)
30 | while transporting agricultural products, including
31 | horticultural or forestry products, from farm or harvest place

1 to the first place of processing or storage, or from farm or
2 harvest place directly to market. However, such person must
3 comply with 49 C.F.R. parts 382, 392, and 393, and with 49
4 C.F.R. ss. 396.3(a)(1) and 396.9. A vehicle or combination of
5 vehicles operated pursuant to this paragraph having a gross
6 vehicle weight of 26,001 pounds or more or having three or
7 more axles on the power unit, regardless of weight, must
8 display the name of the vehicle owner or motor carrier and the
9 municipality or town where the vehicle is based on each side
10 of the power unit in letters that contrast with the background
11 and that are readable from a distance of 50 feet. A person who
12 violates this vehicle identification requirement may be
13 assessed a penalty as provided in s. 316.3025(3)(a).

14 (f) A person who operates a commercial motor vehicle
15 having a declared gross vehicle weight of less than 26,000
16 pounds solely in intrastate commerce and who is not
17 transporting hazardous materials in amounts that require
18 placarding pursuant to 49 C.F.R. part 172, or who is
19 transporting petroleum products as defined in s. 376.301(31),
20 is exempt from subsection (1). However, such person must
21 comply with 49 C.F.R. parts 382, 392, and 393, and with 49
22 C.F.R. ss. 396.3(a)(1) and 396.9.

23 (j) A person who is otherwise qualified as a driver
24 under 49 C.F.R. part 391, ~~and~~ who operates a commercial motor
25 vehicle in intrastate commerce only, and who does not
26 transport hazardous materials in amounts that require
27 placarding pursuant to 49 C.F.R. part 172, ~~is shall be~~ exempt
28 from the requirements of 49 C.F.R. part 391, subpart E, ss.
29 391.41(b)(3) and 391.43(e), relating to diabetes.

30 (5) The Department of Transportation may adopt and
31 revise rules to assure the safe operation of commercial motor

1 vehicles. The Department of Transportation may enter into
2 cooperative agreements as provided in 49 C.F.R. part 388.
3 Department of Transportation personnel may conduct motor
4 carrier and shipper compliance reviews ~~terminal audits only~~
5 for the purpose of determining compliance with this section ~~49~~
6 ~~C.F.R. parts 171, 172, 173, 177, 178, 180, 382, 391, 393,~~
7 ~~396, and 397; 49 C.F.R. s. 395.1(e)(5); and s. 627.7415.~~

8 Section 6. Section 316.3025, Florida Statutes, is
9 amended to read:

10 316.3025 Penalties.--

11 (1) A commercial motor vehicle that is found to be
12 operating in such an unsafe condition as to be declared
13 out-of-service or a driver declared out-of-service or removed
14 from driving status pursuant to the North American Standard
15 ~~Uniform~~ Out-of-Service Criteria must be repaired or returned
16 to driving status before being returned to service.

17 (2) Any person who owns, operates, or causes or
18 permits a commercial motor vehicle that has been declared
19 out-of-service pursuant to the North American Standard ~~Uniform~~
20 Out-of-Service Criteria to be driven before the completion of
21 required repairs is subject to the imposition of a penalty as
22 provided in 49 C.F.R. s. 383.53, in addition to any other
23 penalties imposed against him or her. Any person who operates
24 a commercial motor vehicle while he or she is declared
25 out-of-service or removed from driving status pursuant to the
26 North American Standard ~~Uniform~~ Out-of-Service Criteria, or
27 who causes or permits such out-of-service driver to operate a
28 commercial motor vehicle, is subject to the imposition of a
29 penalty as provided in 49 C.F.R. s. 383.53, in addition to any
30 other penalties imposed against the person.

31

- 1 (3)(a) A civil penalty of \$50 may be assessed for a
2 violation of the identification requirements of 49 C.F.R. s.
3 390.21 or s. 316.302(2)(e).
- 4 (b) A civil penalty of \$100 may be assessed for:
5 1. Each violation of the North American Uniform Driver
6 Out-of-Service Criteria;
7 2. A violation of s. 316.302(2)(b) or (c); ~~or~~
8 3. A violation of 49 C.F.R. s. 392.60; ~~or~~
9 4. A violation of the North American Standard Vehicle
10 Out-of-Service Criteria resulting from an inspection of a
11 commercial motor vehicle involved in a crash.
- 12 (c) A civil penalty of \$250 may be assessed for:
13 1. A violation of the placarding requirements of 49
14 C.F.R. parts 171-179;
15 2. A violation of the shipping paper requirements of
16 49 C.F.R. parts 171-179;
17 3. A violation of 49 C.F.R. s. 392.10;
18 4. A violation of 49 C.F.R. s. 397.5;
19 5. A violation of 49 C.F.R. s. 397.7;
20 6. A violation of 49 C.F.R. s. 397.13; or
21 7. A violation of 49 C.F.R. s. 397.15.
- 22 (d) A civil penalty of \$500 may be assessed for:
23 1. Each violation of the North American Standard
24 Hazardous Materials Out-of-Service Criteria;
25 2. Each violation of 49 C.F.R. s. 390.19, for failure
26 of an interstate or intrastate motor carrier to register;
27 3. Each violation of 49 C.F.R. s. 392.9a, for failure
28 of an interstate motor carrier to obtain operating authority;
29 or
30 4. Each violation of 49 C.F.R. s. 392.9a, for
31 operating beyond the scope of an interstate motor carrier's

1 operating authority.~~each violation of the North American~~
2 ~~Uniform Hazardous Materials Out-of-Service Criteria.~~

3 (e) A civil penalty not to exceed \$5,000 in the
4 aggregate may be assessed for violations found in the conduct
5 of compliance reviews ~~terminal audits~~ pursuant to s.
6 316.302(5). A civil penalty not to exceed \$25,000 in the
7 aggregate may be assessed for violations found in a follow-up
8 compliance review conducted within a 24-month period. A civil
9 penalty not to exceed \$25,000 in the aggregate may be assessed
10 and the motor carrier may be enjoined pursuant to s. 316.3026
11 if violations are found after a second follow-up compliance
12 review within 12 months after the first follow-up compliance
13 review. Motor carriers found to be operating without insurance
14 required by s. 627.7415 may be enjoined as provided in s.
15 316.3026.

16 (4) A vehicle operated by an interstate motor carrier
17 found to be in violation of 49 C.F.R. s. 392.9a may be placed
18 out of service for the carrier's failure to obtain operating
19 authority or operating beyond the scope of its operating
20 authority.

21 ~~(5)~~(4) Whenever any person or motor carrier as defined
22 in chapter 320 violates the provisions of this section and
23 becomes indebted to the state because of such violation and
24 refuses to pay the appropriate penalty, in addition to the
25 provisions of s. 316.3026, such ~~the~~ penalty becomes a lien
26 upon the property including the motor vehicles of such person
27 or motor carrier and may be foreclosed by the state in a civil
28 action in any court of this state. It shall be presumed that
29 the owner of the motor vehicle is liable for the sum, and the
30 vehicle may be detained or impounded until the penalty is
31 paid.

1 ~~(6)(5)(a)~~ Any officer or agent collecting the
2 penalties imposed pursuant to this section shall give to the
3 owner, motor carrier, or driver of the vehicle an official
4 receipt for all penalties collected from him or her. Only an
5 officer or agent of the Department of Transportation is
6 authorized to collect the penalty provided by this section.
7 Such officer or agent shall cooperate with the owner or driver
8 of the motor vehicle so as not to unduly delay the vehicle.

9 (b) All penalties imposed and collected under this
10 section ~~by any state agency having jurisdiction~~ shall be paid
11 to the Treasurer, who shall credit the total amount collected
12 to the State Transportation Trust Fund for use in repairing
13 and maintaining the roads of this state.

14 ~~(7)(6)~~ Any person aggrieved by the imposition of a
15 civil penalty pursuant to this section may apply to the
16 Commercial Motor Vehicle Review Board for a modification,
17 cancellation, or revocation of the penalty. The Commercial
18 Motor Vehicle Review Board may modify, cancel, revoke, or
19 sustain such penalty.

20 Section 7. Section 316.3026, Florida Statutes, is
21 amended to read:

22 316.3026 Unlawful operation of motor carriers ~~may be~~
23 ~~enjoined.--~~

24 (1) The Office of Motor Carrier Compliance of the
25 Department of Transportation may issue out-of-service orders
26 to motor carriers, as defined in s. 320.01(33), who have after
27 proper notice failed to pay any penalty or fine assessed by
28 the department, or its agent, against any owner or motor
29 carrier for violations of state law, refused to submit to a
30 compliance review and provide records pursuant to s.
31 316.302(5) or s. 316.70, or violated safety regulations

1 pursuant to s. 316.302 or insurance requirements found in s.
2 627.7415. Such out-of-service orders shall have the effect of
3 prohibiting the operations of any motor vehicles owned,
4 leased, or otherwise operated by the motor carrier upon the
5 roadways of this state, until such time as the violations have
6 been corrected or penalties have been paid. Out-of-service
7 orders issued under this section must be approved by the
8 Secretary of Transportation or his or her designee. An
9 administrative hearing pursuant to s. 120.569 shall be
10 afforded to motor carriers subject to such orders.

11 (2) Any motor carrier enjoined or prohibited from
12 operating by an out-of-service order by this state, any other
13 state, or the Federal Motor Carrier Safety Administration may
14 not operate on the roadways of this state until the motor
15 carrier has been authorized to resume operations by the
16 originating enforcement jurisdiction. Commercial motor
17 vehicles owned or operated by any motor carrier prohibited
18 from operation found on the roadways of this state shall be
19 placed out of service by law enforcement officers of the
20 Department of Transportation, and the motor carrier assessed a
21 \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in
22 addition to any other penalties imposed on the driver or other
23 responsible person. Any person who knowingly drives, operates,
24 or causes to be operated any commercial motor vehicle in
25 violation of an out-of-service order issued by the department
26 in accordance with this section commits a felony of the third
27 degree, punishable as provided in s. 775.082(3)(d). Any costs
28 associated with the impoundment or storage of such vehicles
29 are the responsibility of the motor carrier. Vehicle
30 out-of-service orders may be rescinded when the department

31

1 receives proof of authorization for the motor carrier to
2 resume operation.

3 (3) In addition to the sanctions found in subsections
4 (1) and (2), the Department of Transportation may petition the
5 circuit courts of this state to enjoin any motor carrier from
6 operating when it fails to comply with out-of-service orders
7 issued by a competent authority within or outside this state.
8 ~~Any motor carrier which operates a commercial motor vehicle~~
9 ~~upon the highways of this state in violation of the provisions~~
10 ~~of this chapter may be enjoined by the courts of this state~~
11 ~~from any such violation. Such injunctive proceeding may be~~
12 ~~instituted by the Department of Transportation.~~

13 Section 8. Section 316.3027, Florida Statutes, is
14 repealed.

15 Section 9. Paragraph (b) of subsection (3) of section
16 316.515, Florida Statutes, is amended to read:

17 316.515 Maximum width, height, length.--

18 (3) LENGTH LIMITATION.--Except as otherwise provided
19 in this section, length limitations apply solely to a
20 semitrailer or trailer, and not to a truck tractor or to the
21 overall length of a combination of vehicles. No combination
22 of commercial motor vehicles coupled together and operating on
23 the public roads may consist of more than one truck tractor
24 and two trailing units. Unless otherwise specifically provided
25 for in this section, a combination of vehicles not qualifying
26 as commercial motor vehicles may consist of no more than two
27 units coupled together; such nonqualifying combination of
28 vehicles may not exceed a total length of 65 feet, inclusive
29 of the load carried thereon, but exclusive of safety and
30 energy conservation devices approved by the department for use
31 on vehicles using public roads. Notwithstanding any other

1 provision of this section, a truck tractor-semitrailer
2 combination engaged in the transportation of automobiles or
3 boats may transport motor vehicles or boats on part of the
4 power unit; and, except as may otherwise be mandated under
5 federal law, an automobile or boat transporter semitrailer may
6 not exceed 50 feet in length, exclusive of the load; however,
7 the load may extend up to an additional 6 feet beyond the rear
8 of the trailer. The 50-foot length limitation does not apply
9 to non-stinger-steered automobile or boat transporters that
10 are 65 feet or less in overall length, exclusive of the load
11 carried thereon, or to stinger-steered automobile or boat
12 transporters that are 75 feet or less in overall length,
13 exclusive of the load carried thereon. For purposes of this
14 subsection, a "stinger-steered automobile or boat transporter"
15 is an automobile or boat transporter configured as a
16 semitrailer combination wherein the fifth wheel is located on
17 a drop frame located behind and below the rearmost axle of the
18 power unit. Notwithstanding paragraphs (a) and (b), any
19 straight truck or truck tractor-semitrailer combination
20 engaged in the transportation of horticultural trees may allow
21 the load to extend up to an additional 10 feet beyond the rear
22 of the vehicle, provided said trees are resting against a
23 retaining bar mounted above the truck bed so that the root
24 balls of the trees rest on the floor and to the front of the
25 truck bed and the tops of the trees extend up over and to the
26 rear of the truck bed, and provided the overhanging portion of
27 the load is covered with protective fabric.

28 (b) Semitrailers.--

29 1. A semitrailer operating in a truck
30 tractor-semitrailer combination may not exceed 48 feet in
31 extreme overall outside dimension, measured from the front of

1 the unit to the rear of the unit and the load carried thereon,
2 exclusive of safety and energy conservation devices approved
3 by the department for use on vehicles using public roads,
4 unless it complies with subparagraph 2. A semitrailer which
5 exceeds 48 feet in length and is used to transport divisible
6 loads may operate in this state only if issued a permit under
7 s. 316.550 and if such trailer meets the requirements of this
8 chapter relating to vehicle equipment and safety. Except for
9 highways on the tandem trailer truck highway network, public
10 roads deemed unsafe for longer semitrailer vehicles or those
11 roads on which such longer vehicles are determined not to be
12 in the interest of public convenience shall, in conformance
13 with s. 316.006, be restricted by the Department of
14 Transportation or by the local authority to use by
15 semitrailers not exceeding a length of 48 feet, inclusive of
16 the load carried thereon but exclusive of safety and energy
17 conservation devices approved by the department for use on
18 vehicles using public roads. Truck tractor-semitrailer
19 combinations shall be afforded reasonable access to terminals;
20 facilities for food, fuel, repairs, and rest; and points of
21 loading and unloading.

22 2. A semitrailer which is more than 48 feet but not
23 more than 53 feet in extreme overall outside dimension, as
24 measured pursuant to subparagraph 1., may operate on public
25 roads, except roads on the State Highway System which are
26 restricted by the Department of Transportation or other roads
27 restricted by local authorities, if:

28 a. The distance between the kingpin or other peg that
29 ~~which~~ locks into the fifth wheel of a truck tractor and the
30 center of the rear axle or rear group of axles does not exceed
31 41 feet, or, in the case of a semitrailer used exclusively or

1 primarily to transport vehicles in connection with motorsports
2 competition events, the distance does not exceed 46 feet from
3 the kingpin to the center of the rear axles; and

4 b. It is equipped with a substantial rear-end
5 underride protection device meeting the requirements of 49
6 C.F.R. s. 393.86, "Rear End Protection."

7 Section 10. Subsections (5), (6), and (10) of section
8 316.545, Florida Statutes, are amended to read:

9 316.545 Weight and load unlawful; special fuel and
10 motor fuel tax enforcement; inspection; penalty; review.--

11 (5) Whenever any person violates the provisions of
12 this chapter and becomes indebted to the state because of such
13 violation in the amounts aforesaid and refuses to pay said
14 penalty, in addition to the provisions of s. 316.3026, such
15 penalty shall become a lien upon the motor vehicle, and the
16 same may be foreclosed by the state in a court of equity. It
17 shall be presumed that the owner of the motor vehicle is
18 liable for the sum. Any person, firm, or corporation claiming
19 an interest in the seized motor vehicle may, at any time after
20 the lien of the state attaches to the motor vehicle, obtain
21 possession of the seized vehicle by filing a good and
22 sufficient forthcoming bond with the officer having possession
23 of the vehicle, payable to the Governor of the state in twice
24 the amount of the state's lien, with a corporate surety duly
25 authorized to transact business in this state as surety,
26 conditioned to have the motor vehicle or combination of
27 vehicles forthcoming to abide the result of any suit for the
28 foreclosure of such lien. It shall be presumed that the owner
29 of the motor vehicle is liable for the penalty imposed under
30 this section. Upon the posting of such bond with the officer
31 making the seizure, the vehicle shall be released and the bond

1 shall be forwarded to the Department of Transportation for
2 safekeeping. The lien of the state against the motor vehicle
3 aforesaid shall be foreclosed in equity, and the ordinary
4 rules of court relative to proceedings in equity shall
5 control. If it appears that the seized vehicle has been
6 released to the defendant upon his or her forthcoming bond,
7 the state shall take judgment of foreclosure against the
8 property itself, and judgment against the defendant and the
9 sureties on the bond for the amount of the lien, including
10 cost of proceedings. After the rendition of the decree, the
11 state may, at its option, proceed to sue out execution against
12 the defendant and his or her sureties for the amount recovered
13 as aforesaid or direct the sale of the vehicle under
14 foreclosure.

15 (6) Any officer or agent collecting the penalties
16 herein imposed shall ~~give to the owner or driver of the~~
17 ~~vehicle an official receipt for all penalties collected.~~ Such
18 ~~officers or agents of the state departments shall~~ cooperate
19 with the owners or drivers of motor vehicles so as not to
20 delay unduly the vehicles. All penalties imposed and collected
21 under this section by any state agency having jurisdiction
22 shall be paid to the Treasurer, who shall credit the total
23 amount thereof to the State Transportation Trust Fund, which
24 shall be used to repair and maintain the roads of this state
25 and to enforce this section.

26 (10) The Department of Transportation may employ
27 weight inspectors to operate its fixed-scale facilities.
28 Weight inspectors on duty at a fixed-scale facility are
29 authorized to enforce the laws governing commercial motor
30 vehicle weight, registration, size, and load and to assess and
31 collect civil penalties for violations of said laws. A weight

1 inspector may detain a commercial motor vehicle that has an
2 obvious safety defect critical to the continued safe operation
3 of the vehicle or that is operating in violation of an
4 out-of-service order as reported on the federal Safety and
5 Fitness Electronic Records database. The weight inspector may
6 immediately summon a law enforcement officer of the Department
7 of Transportation, or other law enforcement officer authorized
8 by s. 316.640 to enforce the traffic laws of this state, to
9 take appropriate enforcement action. The vehicle shall be
10 released if the defect is repaired prior to the arrival of a
11 law enforcement officer.Weight inspectors shall not be
12 classified as law enforcement officers subject to
13 certification requirements of chapter 943, and are not
14 authorized to carry weapons or make arrests. Any person who
15 obstructs, opposes, or resists a weight inspector in the
16 performance of the duties herein prescribed shall be guilty of
17 an offense as described in subsection (1) for obstructing,
18 opposing, or resisting a law enforcement officer.

19 Section 11. Subsection (3) of section 316.610, Florida
20 Statutes, is repealed.

21 Section 12. Paragraph (a) of subsection (1) of section
22 316.640, Florida Statutes, is amended to read:

23 316.640 Enforcement.--The enforcement of the traffic
24 laws of this state is vested as follows:

25 (1) STATE.--

26 (a)1.

27 a. The Division of Florida Highway Patrol of the
28 Department of Highway Safety and Motor Vehicles, the Division
29 of Law Enforcement of the Fish and Wildlife Conservation
30 Commission, the Division of Law Enforcement of the Department
31 of Environmental Protection, and law enforcement officers of

1 the Department of Transportation each have authority to
2 enforce all of the traffic laws of this state on all the
3 streets and highways thereof and elsewhere throughout the
4 state wherever the public has a right to travel by motor
5 vehicle. ~~The Division of the Florida Highway Patrol may employ
6 as a traffic accident investigation officer any individual who
7 successfully completes instruction in traffic accident
8 investigation and court presentation through the Selective
9 Traffic Enforcement Program as approved by the Criminal
10 Justice Standards and Training Commission and funded through
11 the National Highway Traffic Safety Administration or a
12 similar program approved by the commission, but who does not
13 necessarily meet the uniform minimum standards established by
14 the commission for law enforcement officers or auxiliary law
15 enforcement officers under chapter 943. Any such traffic
16 accident investigation officer who makes an investigation at
17 the scene of a traffic accident may issue traffic citations,
18 based upon personal investigation, when he or she has
19 reasonable and probable grounds to believe that a person who
20 was involved in the accident committed an offense under this
21 chapter, chapter 319, chapter 320, or chapter 322 in
22 connection with the accident. This paragraph does not permit
23 the carrying of firearms or other weapons, nor do such
24 officers have arrest authority.~~

25 b. University police officers shall have authority to
26 enforce all of the traffic laws of this state when such
27 violations occur on or about any property or facilities that
28 are under the guidance, supervision, regulation, or control of
29 a state university, a direct-support organization of such
30 state university, or any other organization controlled by the
31 state university or a direct-support organization of the state

1 university, except that traffic laws may be enforced
2 off-campus when hot pursuit originates on or adjacent to any
3 such property or facilities.

4 c. Community college police officers shall have the
5 authority to enforce all the traffic laws of this state only
6 when such violations occur on any property or facilities that
7 are under the guidance, supervision, regulation, or control of
8 the community college system.

9 d. Police officers employed by an airport authority
10 shall have the authority to enforce all of the traffic laws of
11 this state only when such violations occur on any property or
12 facilities that are owned or operated by an airport authority.

13 (I) An airport authority may employ as a parking
14 enforcement specialist any individual who successfully
15 completes a training program established and approved by the
16 Criminal Justice Standards and Training Commission for parking
17 enforcement specialists but who does not otherwise meet the
18 uniform minimum standards established by the commission for
19 law enforcement officers or auxiliary or part-time officers
20 under s. 943.12. Nothing in this sub-sub-subparagraph shall be
21 construed to permit the carrying of firearms or other weapons,
22 nor shall such parking enforcement specialist have arrest
23 authority.

24 (II) A parking enforcement specialist employed by an
25 airport authority is authorized to enforce all state, county,
26 and municipal laws and ordinances governing parking only when
27 such violations are on property or facilities owned or
28 operated by the airport authority employing the specialist, by
29 appropriate state, county, or municipal traffic citation.

30
31

1 e. The Office of Agricultural Law Enforcement of the
2 Department of Agriculture and Consumer Services shall have the
3 authority to enforce traffic laws of this state.

4 f. School safety officers shall have the authority to
5 enforce all of the traffic laws of this state when such
6 violations occur on or about any property or facilities which
7 are under the guidance, supervision, regulation, or control of
8 the district school board.

9 2. An agency of the state as described in subparagraph
10 1. is prohibited from establishing a traffic citation quota. A
11 violation of this subparagraph is not subject to the penalties
12 provided in chapter 318.

13 3. Any disciplinary action taken or performance
14 evaluation conducted by an agency of the state as described in
15 subparagraph 1. of a law enforcement officer's traffic
16 enforcement activity must be in accordance with written
17 work-performance standards. Such standards must be approved by
18 the agency and any collective bargaining unit representing
19 such law enforcement officer. A violation of this subparagraph
20 is not subject to the penalties provided in chapter 318.

21 4. The Division of the Florida Highway Patrol may
22 employ as a traffic accident investigation officer any
23 individual who successfully completes instruction in traffic
24 accident investigation and court presentation through the
25 Selective Traffic Enforcement Program as approved by the
26 Criminal Justice Standards and Training Commission and funded
27 through the National Highway Traffic Safety Administration or
28 a similar program approved by the commission, but who does not
29 necessarily meet the uniform minimum standards established by
30 the commission for law enforcement officers or auxiliary law
31 enforcement officers under chapter 943. Any such traffic

1 accident investigation officer who makes an investigation at
2 the scene of a traffic accident may issue traffic citations,
3 based upon personal investigation, when he or she has
4 reasonable and probable grounds to believe that a person who
5 was involved in the accident committed an offense under this
6 chapter, chapter 319, chapter 320, or chapter 322 in
7 connection with the accident. This subparagraph does not
8 permit the officer to carry firearms or other weapons and such
9 an officer does not have authority to make arrests.

10 Section 13. Subsection (3) of section 316.650, Florida
11 Statutes, is amended to read:

12 316.650 Traffic citations.--

13 (3)(a) Except for a traffic citation issued pursuant
14 to s. 316.1001, each ~~Every~~ traffic enforcement officer, upon
15 issuing a traffic citation to an alleged violator of any
16 provision of the motor vehicle laws of this state or of any
17 traffic ordinance of any city or town, shall deposit the
18 original and one copy of such traffic citation or, in the case
19 of a traffic enforcement agency which has an automated
20 citation issuance system, shall provide an electronic
21 facsimile with a court having jurisdiction over the alleged
22 offense or with its traffic violations bureau within 5 days
23 after issuance to the violator.

24 (b) If a traffic citation is issued pursuant to s.
25 316.1001, a traffic enforcement officer may deposit the
26 original and one copy of such traffic citation or, in the case
27 of a traffic enforcement agency that has an automated citation
28 system, may provide an electronic facsimile with a court
29 having jurisdiction over the alleged offense or with its
30 traffic violations bureau within 45 days after the date of
31 issuance of the citation to the violator.

1 Section 14. Subsection (2) of section 316.70, Florida
2 Statutes, is amended to read:

3 316.70 Nonpublic sector buses; safety rules.--

4 (2) Department of Transportation personnel may conduct
5 compliance reviews for the purpose of determining compliance
6 with this section. A civil penalty not to exceed \$5,000 in the
7 aggregate may be assessed against any person who violates any
8 provision of this section or who violates any rule or order of
9 the Department of Transportation. A civil penalty not to
10 exceed \$25,000 in the aggregate may be assessed for violations
11 found in a follow-up compliance review conducted within a
12 24-month period. A civil penalty not to exceed \$25,000 in the
13 aggregate may be assessed and the motor carrier may be
14 enjoined pursuant to s. 316.3026 if violations are found after
15 a second follow-up compliance review within 12 months after
16 the first follow-up compliance review. Motor carriers found to
17 be operating without insurance coverage required by s. 627.742
18 or 49 C.F.R. part 387 may be enjoined as provided in s.
19 316.3026.~~The Department of Transportation may assess a civil~~
20 ~~penalty of up to \$5,000 per infraction against any person who~~
21 ~~violates any provision of this section or who violates any~~
22 ~~rule or order of the department.~~

23 Section 15. Subsection (4) of section 318.14, Florida
24 Statutes, is amended, and subsection (12) is added to that
25 section, to read:

26 318.14 Noncriminal traffic infractions; exception;
27 procedures.--

28 (4) Except as provided in subsection (12),any person
29 charged with a noncriminal infraction under this section who
30 does not elect to appear shall pay the civil penalty and
31 delinquent fee, if applicable, either by mail or in person,

1 within 30 days after the date of issuance of ~~receiving~~ the
2 citation. If the person cited follows the above procedure, he
3 or she shall be deemed to have admitted the infraction and to
4 have waived his or her right to a hearing on the issue of
5 commission of the infraction. Such admission shall not be
6 used as evidence in any other proceedings. Any person who is
7 cited for a violation of s. 320.0605 or s. 322.15(1), or
8 subject to a penalty under s. 320.07(3)(a) or (b) or s.
9 322.065, and who makes an election under this subsection shall
10 submit proof of compliance with the applicable section to the
11 clerk of the court. For the purposes of this subsection, proof
12 of compliance consists of a valid driver's license or a valid
13 registration certificate.

14 (12) Any person cited for a violation of s. 316.1001
15 may, in lieu of making an election as set forth in subsection
16 (4) or s. 318.18(7), elect to pay his or her fine directly to
17 the governmental entity that issued the citation, within 30
18 days after the date of issuance of the citation. Any person
19 cited for a violation of s. 316.1001 who does not elect to pay
20 the fine directly to the governmental entity that issued the
21 citation as described in this section shall have an additional
22 45 days after the date of the issuance of the citation in
23 which to pay the civil penalty and delinquent fee, if
24 applicable, as provided in s. 318.18(7), either by mail or in
25 person, in accordance with subsection (4).

26 Section 16. Effective October 1, 2003, section 330.27,
27 Florida Statutes, is amended to read:

28 330.27 Definitions, when used in ss. 330.29-330.36,
29 330.38, 330.39.--

30 (1) "Aircraft" means a powered or unpowered machine or
31 device capable of atmospheric flight ~~any motor vehicle or~~

1 ~~contrivance now known, or hereafter invented, which is used or~~
2 ~~designed for navigation of or flight in the air, except a~~
3 ~~parachute or other such device contrivance designed for such~~
4 ~~navigation but~~ used primarily as safety equipment.

5 (2) "Airport" means an ~~any~~ area of land or water, ~~or~~
6 ~~any manmade object or facility located thereon, which is used~~
7 for, ~~or intended to be used for,~~ use, ~~for the~~ landing and
8 takeoff of aircraft, including ~~and any~~ appurtenant areas,
9 ~~which are used, or intended for use, for airport buildings, or~~
10 ~~other airport facilities, or rights-of-way~~ necessary to
11 facilitate such use or intended use, ~~together with all airport~~
12 ~~buildings and facilities located thereon.~~

13 (3) ~~"Airport hazard" means any structure, object of~~
14 ~~natural growth, or use of land which obstructs the airspace~~
15 ~~required for the flight of aircraft in landing or taking off~~
16 ~~at an airport or which is otherwise hazardous to such landing~~
17 ~~or taking off.~~

18 (4) ~~"Aviation" means the science and art of flight and~~
19 ~~includes, but is not limited to, transportation by aircraft;~~
20 ~~the operation, construction, repair, or maintenance of~~
21 ~~aircraft, aircraft power plants, and accessories, including~~
22 ~~the repair, packing, and maintenance of parachutes; the~~
23 ~~design, establishment, construction, extension, operation,~~
24 ~~improvement, repair, or maintenance of airports or other air~~
25 ~~navigation facilities; and instruction in flying or ground~~
26 ~~subjects pertaining thereto.~~

27 (3)(5) "Department" means the Department of
28 Transportation.

29 (4)(6) "Limited airport" means any ~~an~~ airport,
30 ~~publicly or privately owned,~~ limited exclusively to the
31

1 specific conditions stated on the site approval order or
2 license.

3 ~~(7) "Operation of aircraft" or "operate aircraft"~~
4 ~~means the use, navigation, or piloting of aircraft in the~~
5 ~~airspace over this state or upon any airport within this~~
6 ~~state.~~

7 ~~(8) "Political subdivision" means any county,~~
8 ~~municipality, district, port or aviation commission or~~
9 ~~authority, or similar entity authorized to establish or~~
10 ~~operate an airport in this state.~~

11 (5)(9) "Private airport" means an airport, publicly or
12 privately owned, which is not open or available for use by the
13 public, used primarily by the licensee but may be made which
14 is available to others for use by invitation of the owner or
15 manager licensee. ~~Services may be provided if authorized by~~
16 ~~the department.~~

17 (6)(10) "Public airport" means an airport, publicly or
18 privately owned, which ~~meets minimum safety and service~~
19 ~~standards~~ and is open for use by the public.

20 (7)(11) "Temporary airport" means any an airport,
21 ~~publicly or privately owned,~~ that will be used for a period of
22 less than 30 ~~90~~ days with no more than 10 operations per day.

23 (8)(12) "Ultralight aircraft" means any
24 ~~heavier than air, motorized~~ aircraft meeting which meets the
25 ~~criteria for maximum weight, fuel capacity, and airspeed~~
26 ~~established for such aircraft by the Federal Aviation~~
27 ~~Administration under Part 103 of the Federal Aviation~~
28 ~~Regulations.~~

29 Section 17. Effective October 1, 2003, section 330.29,
30 Florida Statutes, is amended to read:

31

1 330.29 Administration and enforcement; rules;
2 requirements ~~standards~~ for airport sites and airports.--It is
3 the duty of the department to:

4 (1) Administer and enforce the provisions of this
5 chapter.

6 (2) Establish requirements for airport site approval,
7 licensure, and registration ~~minimum standards for airport~~
8 ~~sites and airports under its licensing jurisdiction.~~

9 (3) Establish and maintain a state aviation facility
10 data system to facilitate licensing and registration of all
11 airports.

12 ~~(4)(3)~~ Adopt rules pursuant to ss. 120.536(1) and
13 120.54 to implement the provisions of this chapter.

14 Section 18. Effective October 1, 2003, section 330.30,
15 Florida Statutes, is amended to read:

16 330.30 Approval of airport sites; registration and
17 licensure ~~licensing~~ of airports; ~~fees~~.--

18 (1) SITE APPROVALS; REQUIREMENTS, ~~FEES~~, EFFECTIVE
19 PERIOD, REVOCATION.--

20 (a) Except as provided in subsection (3), the owner or
21 lessee of any proposed airport shall, prior to site ~~the~~
22 ~~acquisition of the site~~ or ~~prior to the~~ construction or
23 establishment of the proposed airport, obtain approval of the
24 airport site from the department. Applications for approval of
25 a site ~~and for an original license~~ shall be jointly made in ~~on~~
26 a form and manner prescribed by the department ~~and shall be~~
27 ~~accompanied by a site approval fee of \$100.~~ The department,
28 ~~after inspection of the airport site,~~ shall grant the site
29 approval if it is satisfied:

30 1. That the site has ~~is~~ adequate area allocated for
31 the airport as proposed. ~~airport;~~

1 2. That the proposed airport, ~~if constructed or~~
2 ~~established,~~ will conform to licensing or registration
3 requirements ~~minimum standards of safety~~ and will comply with
4 the applicable local government land development regulations
5 or county or municipal zoning requirements.†

6 3. That all affected nearby airports, local
7 governments municipalities, and property owners have been
8 notified and any comments submitted by them have been given
9 adequate consideration.†~~and~~

10 4. That safe air-traffic patterns can be established
11 ~~worked out~~ for the proposed airport with ~~and for~~ all existing
12 airports and approved airport sites in its vicinity.

13 (b) Site approval shall be granted for public airports
14 only after a favorable department inspection of the proposed
15 site.

16 (c) Site approval shall be granted for private
17 airports only after receipt of documentation in a form and
18 manner the department deems necessary to satisfy the
19 conditions in paragraph (a).

20 (d)(b) Site approval may be granted subject to any
21 reasonable conditions ~~which~~ the department deems ~~may deem~~
22 necessary to protect the public health, safety, or welfare.

23 (e) Such Approval shall remain valid ~~in effect~~ for a
24 ~~period of 2 years after the date of~~ issue ~~issuance of the site~~
25 ~~approval order,~~ unless ~~sooner~~ revoked by the department or
26 ~~unless, prior to the expiration of the 2-year period,~~ a public
27 airport license is issued or private airport registration
28 completed for an airport located on the approved site has been
29 issued pursuant to subsection (2) prior to the expiration
30 date.

31

1 (f) The department may extend a site approval ~~may be~~
2 ~~extended for subsequent periods of 2 years per extension for a~~
3 ~~maximum of 2 years upon good cause shown by the owner or~~
4 ~~lessee of the airport site.~~

5 (g)(c) The department may revoke a site ~~such~~ approval
6 if it determines:

7 1. That ~~there has been an abandonment of the site~~ has
8 been abandoned as an airport site;

9 2. That ~~there has been a failure within a reasonable~~
10 ~~time to develop~~ the site has not been developed as an airport
11 within a reasonable time period or development does not to
12 comply with the conditions of the site approval;

13 3. That, except as required for in-flight emergencies,
14 ~~the operation of aircraft~~ have operated ~~of a nonemergency~~
15 ~~nature has occurred on the site; or~~

16 4. That, ~~because of changed physical or legal~~
17 ~~conditions or circumstances,~~ the site is no longer usable for
18 the aviation purposes due to physical or legal changes in
19 conditions that were the subject of the ~~for which the approval~~
20 ~~was granted.~~

21 (2) LICENSES AND REGISTRATIONS; REQUIREMENTS, FEES,
22 RENEWAL, REVOCATION.--

23 (a) Except as provided in subsection (3), the owner or
24 lessee of any an airport in this state shall have either a
25 public airport must obtain a license or private airport
26 registration prior to the operation of aircraft to or from the
27 facility on the airport. An Application for a such license or
28 registration shall be made in on a form and manner prescribed
29 by the department ~~and shall be accomplished jointly with an~~
30 ~~application for site approval.~~ Upon granting site approval;
31 ~~making a favorable final airport inspection report indicating~~

1 ~~compliance with all license requirements, and receiving the~~
2 ~~appropriate license fee, the department shall issue a license~~
3 ~~to the applicant, subject to any reasonable conditions that~~
4 ~~the department may deem necessary to protect the public~~
5 ~~health, safety, or welfare.~~

6 1. For a public airport, the department shall issue a
7 license after a final airport inspection finds the facility to
8 be in compliance with all requirements for the license. The
9 license may be subject to any reasonable conditions that the
10 department may deem necessary to protect the public health,
11 safety, or welfare.

12 2. For a private airport, the department shall provide
13 controlled electronic access to the state aviation facility
14 data system to permit the applicant to complete the
15 registration process. Registration shall be completed upon
16 self-certification by the registrant of operational and
17 configuration data deemed necessary by the department.

18 (b) The department ~~may is authorized to~~ license a
19 public ~~an~~ airport that does not meet ~~all of the minimum~~
20 standards only if it determines that such exception is
21 justified by unusual circumstances or is in the interest of
22 public convenience and does not endanger the public health,
23 safety, or welfare. Such a license shall bear the designation
24 "special" and shall state the conditions subject to which the
25 license is granted.

26 (c) The department may license a public airport or a
27 private airport may register ~~authorize a site~~ as a temporary
28 airport provided if it finds, after inspection of the site,
29 that the airport will not endanger the public health, safety,
30 or welfare and the airport meets the temporary airport
31 requirements established by the department. A temporary

1 airport license or registration shall be valid for less ~~Such~~
2 ~~authorization shall expire not later than 30~~ 90 days after
3 issuance and is not renewable.

4 ~~(d) The license fees for the four categories of~~
5 ~~airport licenses are:~~

- 6 1. ~~Public airport: \$100.~~
- 7 2. ~~Private airport: \$70.~~
- 8 3. ~~Limited airport: \$50.~~
- 9 4. ~~Temporary airport: \$25.~~

10
11 ~~Airports owned or operated by the state, a county, or a~~
12 ~~municipality and emergency helistops operated by licensed~~
13 ~~hospitals are required to be licensed but are exempt from the~~
14 ~~payment of site approval fees and annual license fees.~~

15 ~~(d)(e)~~1. Each public airport license shall ~~will~~ expire
16 no later than 1 year after the effective date of the license,
17 except that the expiration date of a license may be adjusted
18 to provide a maximum license period of 18 months to facilitate
19 airport inspections, recognize seasonal airport operations, or
20 improve administrative efficiency. ~~If the expiration date for~~
21 ~~a public airport is adjusted, the appropriate license fee~~
22 ~~shall be determined by prorating the annual fee based on the~~
23 ~~length of the adjusted license period.~~

24 2. Registration ~~The license period for private~~ all
25 airports shall remain valid provided specific elements of
26 airport data, established by the department, are periodically
27 recertified by the airport registrant. The ability to
28 recertify private airport registration data shall be available
29 at all times by electronic submittal. A private airport
30 registration that has not been recertified in the 24-month
31 period following the last certification shall expire, unless

1 the registration period has been adjusted by the department
2 for purposes of informing private airport owners of their
3 registration responsibilities or promoting administrative
4 efficiency. The expiration date of the current registration
5 period will be clearly identifiable from the state aviation
6 facility data system ~~other than public airports will be set by~~
7 ~~the department, but shall not exceed a period of 5 years. In~~
8 ~~determining the license period for such airports, the~~
9 ~~department shall consider the number of based aircraft, the~~
10 ~~airport location relative to adjacent land uses and other~~
11 ~~airports, and any other factors deemed by the department to be~~
12 ~~critical to airport operation and safety.~~

13 3. The effective date and expiration date shall be
14 shown on public airport licenses ~~stated on the face of the~~
15 ~~license.~~ Upon receiving an application for renewal of an
16 airport ~~a license in~~ on a form and manner prescribed by the
17 department and receiving, ~~making~~ a favorable inspection report
18 indicating compliance with all applicable requirements and
19 conditions, ~~and receiving the appropriate annual license fee,~~
20 the department shall renew the license, subject to any
21 conditions deemed necessary to protect the public health,
22 safety, or welfare.

23 4. The department may require a new site approval for
24 any ~~an~~ airport if the license or registration ~~of the airport~~
25 ~~has expired not been renewed by the expiration date.~~

26 5. If the renewal application for a public airport
27 license has ~~and fees have~~ not been received by the department
28 or no private airport registration recertification has been
29 accomplished within 15 days after the date of expiration ~~of~~
30 ~~the license,~~ the department may revoke ~~close~~ the airport
31 license or registration.

1 ~~(e)(f)~~ The department may revoke, or refuse to allow
2 or issue, any airport registration or recertification, or any
3 license or license renewal thereof, or refuse to issue a
4 renewal, if it determines:

5 1. That the site ~~there~~ has been abandoned as an
6 ~~abandonment of the airport as such;~~

7 2. That the airport does not ~~there has been a failure~~
8 ~~to~~ comply with the conditions of the license, license or
9 renewal, or site approval thereof; or

10 3. That, ~~because of changed physical or legal~~
11 ~~conditions or circumstances,~~ the airport has become either
12 unsafe or unusable for flight operation due to physical or
13 legal changes in conditions that were the subject of approval
14 ~~the aeronautical purposes for which the license or renewal was~~
15 ~~issued.~~

16 (3) EXEMPTIONS.--The provisions of this section do not
17 apply to:

18 (a) An airport owned or operated by the United States.

19 (b) An ultralight aircraft landing area, ~~except that~~
20 ~~any public ultralight airport~~ located more than within 5
21 nautical miles from a ~~of another~~ public airport or military
22 airport, except or any ultralight landing area with more than
23 10 ultralight aircraft operating at ~~from~~ the site ~~is subject~~
24 ~~to the provisions of this section.~~

25 (c) A helistop used solely in conjunction with a
26 construction project undertaken pursuant to the performance of
27 a state contract if the purpose of the helicopter operations
28 at the site is to expedite construction.

29 ~~(d) An airport under the jurisdiction or control of a~~
30 ~~county or municipal aviation authority or a county or~~
31 ~~municipal port authority or the Florida Space Authority;~~

1 ~~however, the department shall license any such airport if such~~
2 ~~authority does not elect to exercise its exemption under this~~
3 ~~subsection.~~

4 (d)~~(e)~~ A helistop used by mosquito control or
5 emergency services, not to include areas where permanent
6 facilities are installed, such as hospital landing sites.

7 (e)~~(f)~~ An airport which meets the criteria of s.
8 330.27~~(7)~~(11) used exclusively for aerial application or
9 spraying of crops on a seasonal basis, not to include any
10 licensed airport where permanent crop aerial application or
11 spraying facilities are installed, if the period of operation
12 does not exceed 30 days per calendar year. Such proposed
13 airports, which will be located within 3 miles of existing
14 airports or approved airport sites, shall establish ~~work out~~
15 safe air-traffic patterns with such existing airports or
16 approved airport sites, by memorandums of understanding, or by
17 letters of agreement between the parties representing the
18 airports or sites.

19 (f) Any body of water used for the takeoff and landing
20 of aircraft, including any land, building, structure, or any
21 other contrivance that facilitates private use or intended
22 private use.

23 (4) EXCEPTIONS.--Private airports with 10 or more
24 based aircraft may request to be inspected and licensed by the
25 department. Private airports licensed according to this
26 subsection shall be considered private airports as defined in
27 s. 330.27(5) in all other respects.

28 Section 19. Effective October 1, 2003, section 330.35,
29 Florida Statutes, is amended to read:

30 330.35 Airport zoning, ~~approach zone~~ protection.--

31

1 (1) Nothing in ss. 330.29-330.36, 330.38, and 330.39
2 shall be construed to limit any right, power, or authority of
3 the state or a political subdivision to regulate airport
4 hazards by zoning.

5 (2) Airports licensed for ~~general~~ public use under the
6 provisions of s. 330.30 are eligible for airport zoning
7 ~~approach zone~~ protection, ~~and the procedure shall be the same~~
8 as ~~is~~ prescribed in chapter 333.

9 (3) The department is granted all powers conferred
10 upon political subdivisions of this state by chapter 333 to
11 regulate airport hazards at state-owned public airports. The
12 procedure shall be to form a joint zoning board with the
13 political subdivision of the state in which the state-owned
14 public airport is located as prescribed in chapter 333.

15 Section 20. Effective October 1, 2003, subsection (2)
16 of section 330.36, Florida Statutes, is amended to read:

17 330.36 Prohibition against county or municipal
18 licensing of airports; regulation of seaplane landings.--

19 (2) Upon adoption of zoning requirements in compliance
20 with subsection (1), a municipality may prohibit or otherwise
21 regulate, for specified public health and safety purposes, the
22 landing of seaplanes in and upon any public waters of the
23 state which are located within the limits or jurisdiction of,
24 or bordering on, the municipality.

25 Section 21. Subsections (37) and (38) are added to
26 section 334.03, Florida Statutes, to read:

27 334.03 Definitions.--When used in the Florida
28 Transportation Code, the term:

29 (37) "511" or "511 services" means three-digit
30 telecommunications dialing to access interactive voice
31 response telephone traveler information services provided in

1 the state as defined by the Federal Communications Commission
2 in FCC Order No. 00-256, July 31, 2000.

3 (38) "Interactive voice response" means a software
4 application that accepts a combination of voice telephone
5 input and touch-tone keypad selection and provides appropriate
6 responses in the form of voice, fax, callback, e-mail, and
7 other media.

8 Section 22. Present subsection (31) of section
9 334.044, Florida Statutes, is redesignated as subsection (32),
10 and a new subsection (31) is added to that section, to read:

11 334.044 Department; powers and duties.--The department
12 shall have the following general powers and duties:

13 (31) To provide oversight of traveler information
14 systems that may include the provision of interactive voice
15 response telephone systems accessible via the 511 number as
16 assigned by the Federal Communications Commission for traveler
17 information services. The department shall ensure that uniform
18 standards and criteria for the collection and dissemination of
19 traveler information are applied using interactive voice
20 response systems.

21 Section 23. Section 334.14, Florida Statutes, is
22 amended to read:

23 334.14 Employees of department who are required to be
24 engineers.--Each employee performing engineering as defined in
25 chapter 471 shall be registered in accordance with the
26 provisions of chapter 471.

27 ~~(1) At a minimum, each of the following employees of~~
28 ~~the department must be a professional engineer registered~~
29 ~~under chapter 471:~~

30 ~~(a) The State Highway Engineer and the district~~
31 ~~secretary for each district, except that in lieu of~~

1 ~~engineering registration the district secretary for each~~
2 ~~district may hold an advanced degree in an appropriate related~~
3 ~~discipline such as a master of business administration.~~

4 ~~(b)1. The head of each office, or equivalent unit, of~~
5 ~~the department that is responsible for the design of~~
6 ~~transportation facilities.~~

7 ~~2. Any person who is employed or assigned by any such~~
8 ~~unit to be in responsible charge of an engineering project~~
9 ~~designed by the unit, regardless of whether such person is~~
10 ~~employed in the central office or in a field office.~~

11 ~~(c)1. The head of each office, or equivalent unit, of~~
12 ~~the department that is responsible for the construction of~~
13 ~~transportation facilities or materials testing.~~

14 ~~2. Any area or resident engineer who is in responsible~~
15 ~~charge of an engineering construction project.~~

16 ~~(d)1. The head of each office, or equivalent unit, of~~
17 ~~the department that is directly responsible for traffic~~
18 ~~operations or the maintenance of transportation facilities.~~

19 ~~2. The senior maintenance engineer assigned to a field~~
20 ~~office.~~

21 ~~3. The senior maintenance engineers in charge of the~~
22 ~~various area maintenance yards assigned to the field units.~~

23 ~~(2) As used in this section, the term "responsible~~
24 ~~charge" means the rendering of engineering judgment and~~
25 ~~decisions in the development of technical policy and programs~~
26 ~~or the direct control and personal supervision of work~~
27 ~~performed by himself or herself or by others over whom the~~
28 ~~person holds supervisory authority.~~

29 ~~(3) Any person holding the position of resident~~
30 ~~engineer of construction or senior maintenance engineer of a~~
31 ~~field unit on July 1, 1984, or the position of designer as~~

1 ~~identified in subparagraph (1)(b)2. on July 1, 1985, is not~~
2 ~~subject to the engineering registration requirement. However,~~
3 ~~when such person vacates his or her position, his or her~~
4 ~~replacement must comply with that requirement.~~

5 ~~(4) The department shall employ a district secretary~~
6 ~~for each transportation district whose duties shall be fixed~~
7 ~~by the department and who shall be responsible for the~~
8 ~~efficient operation and administration of that district.~~

9 ~~(5) In addition to the requirement for engineering~~
10 ~~registration in subsection (1), the department, in filling the~~
11 ~~positions described in this section, shall place emphasis on~~
12 ~~proven management ability and experience.~~

13 Section 24. Section 334.60, Florida Statutes, is
14 created to read:

15 334.60 511 traveler information system.--

16 (1) The department is the state's lead agency for
17 implementing 511 services and is the state's point of contact
18 for coordinating 511 services with telecommunications service
19 providers. The department shall:

20 (a) Implement and administer 511 services in the
21 state;

22 (b) Coordinate with other transportation authorities
23 in the state to provide multimodal traveler information
24 through 511 services and other means;

25 (c) Develop uniform standards and criteria for the
26 collection and dissemination of traveler information using the
27 511 number or other interactive voice response systems; and

28 (d) Enter into joint participation agreements or
29 contracts with highway authorities and public transit
30 districts to share the costs of implementing and administering
31 511 services in the state. The department may also enter into

1 other agreements or contracts with private firms relating to
2 the 511 services to offset the costs of implementing and
3 administering 511 services in the state.

4
5 The department shall adopt rules to administer the
6 coordination of 511 traveler information phone services in the
7 state.

8 Section 25. Section 336.467, Florida Statutes, is
9 amended to read:

10 336.467 County-state right-of-way acquisition
11 agreements.--A county or other governmental entity may enter
12 into an agreement with the department to provide for the
13 department to acquire rights-of-way for the county or other
14 governmental entity, ~~provided the highway project is to be~~
15 ~~funded by the 80-percent portion of the constitutional gas tax~~
16 ~~allocated to that county and requires the acquisition of at~~
17 ~~least 10 parcels of land, the total cost of which will equal~~
18 ~~or exceed \$100,000.~~

19 Section 26. Subsections (1), (4), and (7) of section
20 337.14, Florida Statutes, are amended to read:

21 337.14 Application for qualification; certificate of
22 qualification; restrictions; request for hearing.--

23 (1) Any person desiring to bid for the performance of
24 any construction contract in excess of \$250,000 which the
25 department proposes to let must first be certified by the
26 department as qualified pursuant to this section and rules of
27 the department. The rules of the department shall address the
28 qualification of persons to bid on construction contracts in
29 excess of \$250,000 and shall include requirements with respect
30 to the equipment, past record, experience, financial
31 resources, and organizational personnel of the applicant

1 necessary to perform the specific class of work for which the
2 person seeks certification. The department is authorized to
3 limit the dollar amount of any contract upon which a person is
4 qualified to bid or the aggregate total dollar volume of
5 contracts such person is allowed to have under contract at any
6 one time. Each applicant seeking qualification to bid on
7 construction contracts in excess of \$250,000 shall furnish the
8 department a statement under oath, on such forms as the
9 department may prescribe, setting forth detailed information
10 as required on the application. Each application for
11 certification shall be accompanied by the latest annual
12 financial statement of the applicant completed within the last
13 12 months. If the annual financial statement shows the
14 financial condition of the applicant more than 4 months prior
15 to the date on which the application is received by the
16 department, then an interim financial statement must also be
17 submitted. The interim financial statement must cover the
18 period from the end date of the annual statement and must show
19 the financial condition of the applicant no more than 4 months
20 prior to the date on which the application is received by the
21 department. Each required annual or interim financial
22 statement must be audited and accompanied by the opinion of a
23 certified public accountant or a public accountant approved by
24 the department. The information required by this subsection
25 is confidential and exempt from the provisions of s.
26 119.07(1). The department shall act upon the application for
27 qualification within 30 days after the department determines
28 that the application is complete ~~it is presented~~.

29 (4) If the applicant is found to possess the
30 prescribed qualifications, the department shall issue to him
31 or her a certificate of qualification that, unless thereafter

1 revoked by the department for good cause, will be valid for a
2 period of 18 months after the date of the applicant's
3 financial statement or such shorter period as the department
4 prescribes. Submission of an application shall not affect
5 expiration of the certificate of qualification.If the
6 department finds that an application is incomplete or contains
7 inadequate information or information that cannot be verified,
8 the department may request in writing that the applicant
9 provide the necessary information to complete the application
10 or provide the source from which any information in the
11 application may be verified. If the applicant fails to comply
12 with the initial written request within a reasonable period of
13 time as specified therein, the department shall request the
14 information a second time. If the applicant fails to comply
15 with the second request within a reasonable period of time as
16 specified therein, the application shall be denied.

17 (7) No "contractor" as defined in s. 337.165(1)(d) or
18 his or her "affiliate" as defined in s. 337.165(1)(a)
19 qualified with the department under this section may also
20 qualify under s. 287.055 or s. 337.105 to provide testing
21 services, construction, engineering, and inspection services
22 to the department. This limitation shall not apply to any
23 design-build prequalification under s. 337.11(7).

24 Section 27. Section 337.18, Florida Statutes, is
25 amended to read:

26 337.18 Surety bonds for construction or maintenance
27 contracts; requirement with respect to contract award; bond
28 requirements; defaults; damage assessments.--

29 (1)(a) A surety bond shall be required of the
30 successful bidder in an amount equal to the awarded contract
31 price. For a project for which the contract price is \$150,000

1 or less, the department may waive the requirement for all or a
2 portion of a surety bond if it determines the project is of a
3 noncritical nature and nonperformance will not endanger public
4 health, safety, or property. The department may require
5 alternate means of security if a surety bond is waived. The
6 surety on such bond shall be a surety company authorized to do
7 business in the state. All bonds shall be payable to the
8 department and conditioned for the prompt, faithful, and
9 efficient performance of the contract according to plans and
10 specifications and within the time period specified, and for
11 the prompt payment of all persons defined in s. 713.01
12 furnishing labor, material, equipment, and supplies for work
13 provided in the contract ~~therefor~~; however, whenever an
14 improvement, demolition, or removal contract price is \$25,000
15 or less, the security may, in the discretion of the bidder, be
16 in the form of a cashier's check, bank money order of any
17 state or national bank, certified check, or postal money
18 order. The department shall adopt rules to implement this
19 subsection. Such rules shall include provisions under which
20 the department shall refuse to accept bonds on contracts when
21 a surety wrongfully fails or refuses to settle or provide a
22 defense for claims or actions arising under a contract for
23 which the surety previously furnished a bond.

24 (b) Upon execution of the contract, and prior to
25 beginning any work under the contract, the contractor shall
26 record in the public records of the county where the
27 improvement is located the payment and performance bond
28 required under this section. A claimant shall have a right of
29 action against the contractor and surety for the amount due
30 him or her, including unpaid finance charges due under the

31

1 claimant's contract. Such action shall not involve the
2 department in any expense.

3 (c) A claimant, except a laborer, who is not in
4 privity with the contractor shall, before commencing or not
5 later than 90 days after commencing to furnish labor,
6 materials, or supplies for the prosecution of the work,
7 furnish the contractor with a notice that he or she intends to
8 look to the bond for protection. A claimant who is not in
9 privity with the contractor and who has not received payment
10 for his or her labor, materials, or supplies shall deliver to
11 the contractor and to the surety written notice of the
12 performance of the labor or delivery of the materials or
13 supplies and of the nonpayment. The notice of nonpayment may
14 be served at any time during the progress of the work or
15 thereafter but not before 45 days after the first furnishing
16 of labor, services, or materials, and not later than 90 days
17 after the final furnishing of the labor, services, or
18 materials by the claimant or, with respect to rental
19 equipment, not later than 90 days after the date that the
20 rental equipment was last on the job site available for use.
21 An action by a claimant, except a laborer, who is not in
22 privity with the contractor for the labor, materials, or
23 supplies may not be instituted against the contractor or the
24 surety unless both notices have been given. Notices required
25 or permitted under this section may be served in any manner
26 provided in s. 713.18.

27 (d) An action must be instituted by a claimant,
28 whether in privity with the contractor or not, against the
29 contractor or the surety on the payment bond or the payment
30 provisions of a combined payment and performance bond within
31 365 days after the final acceptance of the contract work by

1 the department. A claimant may not waive in advance his or her
2 right to bring an action under the bond against the surety. In
3 any action brought to enforce a claim against a payment bond
4 under this section, the prevailing party is entitled to
5 recover a reasonable fee for the services of his or her
6 attorney for trial and appeal or for arbitration, in an amount
7 to be determined by the court, which fee must be taxed as part
8 of the prevailing party's costs, as allowed in equitable
9 actions.

10 (e) When a contractor has furnished a payment bond
11 pursuant to this section, he or she may, when the department
12 makes any payment to the contractor, serve a written demand on
13 any claimant who is not in privity with the contractor for a
14 written statement under oath of his or her account showing the
15 nature of the labor or services performed to date, if any; the
16 materials furnished; the materials to be furnished, if known;
17 the amount paid on account to date; the amount due; and the
18 amount to become due, if known, as of the date of the
19 statement by the claimant. Any such demand to a claimant who
20 is not in privity with the contractor must be served on the
21 claimant at the address and to the attention of any person who
22 is designated to receive the demand in the notice to the
23 contractor served by the claimant. The failure or refusal to
24 furnish the statement does not deprive the claimant of his or
25 her rights under the bond if the demand is not served at the
26 address of the claimant or directed to the attention of the
27 person designated to receive the demand in the notice to
28 contractor. The failure to furnish the statement within 60
29 days after the demand, or the furnishing of a false or
30 fraudulent statement, deprives the claimant who fails to
31 furnish the statement, or who furnishes the false or

1 fraudulent statement, of his or her rights under the bond. If
2 the contractor serves more than one demand for statement of
3 account on a claimant and none of the information regarding
4 the account has changed since the claimant's last response to
5 a demand, the failure or refusal to furnish such statement
6 does not deprive the claimant of his or her rights under the
7 bond. The negligent inclusion or omission of any information
8 deprives the claimant of his or her rights under the bond to
9 the extent that the contractor can demonstrate prejudice from
10 such act or omission by the claimant. The failure to furnish a
11 response to a demand for statement of account does not affect
12 the validity of any claim on the bond being enforced in a
13 lawsuit filed before the date the demand for statement of
14 account is received by the claimant.

15 (f) The bonds provided for in this section are
16 statutory bonds. The provisions of s. 255.05 are not
17 applicable to bonds issued pursuant to this section.

18 (2) The department shall provide in its contracts for
19 the determination of default on the part of any contractor for
20 cause attributable to such contractor. The department shall
21 have no liability for anticipated profits for unfinished work
22 on a contract which has been determined to be in default.
23 Every contract let by the department for the performance of
24 work shall contain a provision for payment to the department
25 by the contractor of liquidated damages due to failure of the
26 contractor to complete the contract work within the time
27 stipulated in the contract or within such additional time as
28 may have been granted by the department. The contractual
29 provision shall include a reasonable estimate of the damages
30 that would be incurred by the department as a result of such
31 failure. The department shall establish a schedule of daily

1 liquidated damage charges, based on original contract amounts,
2 for construction contracts entered into by the department,
3 which schedule shall be incorporated by reference into the
4 contract. The department shall update the schedule of
5 liquidated damages at least once every 2 years, but no more
6 often than once a year. The schedule shall, at a minimum, be
7 based on the average construction, engineering, and inspection
8 costs experienced by the department on contracts over the 2
9 preceding fiscal years. The schedule shall also include
10 anticipated costs of project-related delays and inconveniences
11 to the department and traveling public. Anticipated costs may
12 include, but are not limited to, road user costs, a portion of
13 the projected revenues that will be lost due to failure to
14 timely open a project to revenue-producing traffic, costs
15 resulting from retaining detours for an extended time, and
16 other similar costs. Any such liquidated damages paid to the
17 department shall be deposited to the credit of the fund from
18 which payment for the work contracted was authorized.

19 (3) In addition to the provision for payment to the
20 department by the contractor of liquidated damages due to the
21 failure of the contractor to complete the project within the
22 time stipulated in the contract or within such additional time
23 as may have been granted by the department, the department may
24 also recover from the contractor amounts paid by the
25 department for damages suffered by third parties as a result
26 of the contractor's failure to complete the project within the
27 time stipulated in the contract or within such additional time
28 as may have been granted by the department, unless the failure
29 to timely complete the project was caused by the department's
30 act or omission. However, nothing herein shall create a cause
31 of action against the department, or against a contractor by

1 an abutting property owner or business entity, where none has
2 previously existed.

3 (4)(a) If the department determines and adequately
4 documents that the timely completion of any project will
5 provide a substantial benefit to the public health, safety, or
6 welfare; will limit the disruptive effect of construction on
7 the community; or is cost beneficial on a revenue-producing
8 project, the contract for such project may provide for an
9 incentive payment payable to the contractor for early
10 completion of the project or critical phases of the work and
11 for additional damages to be assessed against the contractor
12 for the completion of the project or critical phases of the
13 work in excess of the time specified. All contracts containing
14 such provisions shall be approved by the head of the
15 department or his or her designee. The amount of such
16 incentive payment or such additional damages shall be
17 established in the contract based on an analysis of the cost
18 savings to the traveling public or revenue projections for a
19 revenue-producing project ~~but shall not exceed \$10,000 per~~
20 ~~calendar day, except that for revenue-producing projects the~~
21 ~~amounts and periods of the incentive may be greater if an~~
22 ~~analysis indicates that additional revenues projected to be~~
23 ~~received upon completion of the project will exceed the cost~~
24 ~~of the incentive payments.~~ Any liquidated damages provided for
25 under subsection (2) and any additional damages provided for
26 under this subsection shall be payable to the department
27 because of the contractor's failure to complete the contract
28 work within the time stipulated in the contract or within such
29 additional time as may have been granted by the department.

30 (b) The department shall adopt rules to implement this
31 subsection. Such rules shall include procedures and criteria

1 for the selection of projects on which incentive payments and
2 additional damages may be provided for by contract.

3 (5) Such bonds shall be subject to the additional
4 obligation that the principal and surety executing the same
5 shall be liable to the state in a civil action instituted by
6 the department or any officer of the state authorized in such
7 cases, for double any amount in money or property the state
8 may lose or be overcharged or otherwise defrauded of, by
9 reason of any wrongful or criminal act, if any, of the
10 contractor, the contractor's agent, or employees.

11 Section 28. Subsection (3) of section 338.165, Florida
12 Statutes, is amended to read:

13 338.165 Continuation of tolls.--

14 (3) Notwithstanding any other law to the contrary,
15 pursuant to s. 11, Art. VII of the State Constitution, and
16 subject to the requirements of subsection (2), the Department
17 of Transportation may request the Division of Bond Finance to
18 issue bonds secured by toll revenues collected on the
19 Alligator Alley, Sunshine Skyway Bridge, Beeline-East
20 Expressway, and Pinellas Bayway to fund transportation
21 projects located within the county or counties in which the
22 facility is located and contained in the 1993-1994 Adopted
23 Work Program or in any subsequent adopted work program of the
24 department.

25 Section 29. Subsection (2) of section 338.235, Florida
26 Statutes, is amended to read:

27 338.235 Contracts with department for provision of
28 services on the turnpike system.--

29 (2) In order to secure high-quality products, business
30 opportunities, and services on the turnpike system, products,
31 business opportunities, and services authorized by s. 338.234

1 may be secured by competitive solicitation for turnpike
2 patrons, products and services authorized by s. 338.234(1) may
3 be secured through the request-for-proposal process. If the
4 department receives an unsolicited proposal for products,
5 business opportunities, or services that it wishes to
6 consider, it shall publish a notice in a newspaper of general
7 circulation at least once a week for 2 weeks, or may broadcast
8 such notice by electronic media for 2 weeks, stating that it
9 has received a proposal and will accept other proposals on the
10 same subject for 30 days after the date of publication.The
11 department may select offers that ~~the proposal and fee which~~
12 best satisfy the conditions of a quality service, business
13 opportunity, or ~~and product operation~~ for the turnpike system.
14 The factors to be used in evaluating proposals include, but
15 are not limited to:
16 (a) The financial capacity of the provider;
17 (b) The willingness to contribute toward the cost of
18 facility construction;
19 (c) The type and quality of the service or product
20 offered;
21 (d) The price structure of the service or product
22 offered;
23 (e) Management experience and capabilities;
24 (f) The national brand names offered;
25 (g) The originality of the concept and its
26 relationship to the turnpike system;
27 (h) The lease rate; and
28 (i) Other factors that the department may deem
29 pertinent.
30 Section 30. Section 339.61, Florida Statutes, is
31 created to read:

1 339.61 Florida Strategic Intermodal System;

2 legislative findings, declaration, and intent.--

3 (1) There is created the Florida Strategic Intermodal
4 System.

5 (2) The Legislature finds that increasing demands are
6 continuing to be placed on the state's transportation system
7 by a fast-growing economy, continued population growth, and
8 projected increases in freight movement, international trade,
9 and tourism. The Legislature also finds that the state's
10 growing regional and intercity economic centers will increase
11 the demand for interregional and intercity travel and that the
12 evolving service-based and information-based industries will
13 change the type of transportation system that both business
14 and industry demand, increasing the importance of speed and
15 reliability. The Legislature further finds Florida's
16 transportation system must be designed and operated in such a
17 way that preserves the abundance of natural and manmade
18 amenities that have been so critical to attracting new
19 residents, businesses, and tourists to Florida. Therefore, the
20 Legislature declares the development of a strategic intermodal
21 system, composed of facilities and services of statewide and
22 interregional significance, will efficiently serve the
23 mobility needs of Florida's citizens, businesses, and visitors
24 and will ensure Florida becomes a worldwide economic leader,
25 enhance economic prosperity and competitiveness, enrich
26 quality of life, and reflect responsible environmental
27 stewardship. To that end, it is the intent of the Legislature
28 that the Strategic Intermodal System consist of transportation
29 facilities of compelling state interest and that the limited
30 resources available for the implementation of statewide and

31

1 interregional transportation priorities be focused on that
2 system.

3 Section 31. Section 339.62, Florida Statutes, is
4 created to read:

5 339.62 System components.--The Strategic Intermodal
6 System shall consist of appropriate components of:

7 (1) The Florida Intrastate Highway System established
8 under to s. 338.001.

9 (2) The National Highway System.

10 (3) Airport, seaport, and spaceport facilities.

11 (4) Rail lines and rail facilities.

12 (5) Selected intermodal facilities; passenger and
13 freight terminals; and appropriate components of the State
14 Highway System, county road system, city street system, and
15 local public transit systems that serve as connections between
16 the components listed in subsections (1)-(4).

17 (6) Existing or planned corridors that serve a
18 statewide or interregional purpose.

19 Section 32. Section 339.63, Florida Statutes, is
20 created to read:

21 339.63 System facilities designated; additions and
22 deletions.--

23 (1) The initial Strategic Intermodal System shall
24 include all facilities that meet the criteria recommended by
25 the Strategic Intermodal Steering Committee in a report titled
26 "Steering Committee Final Report: Recommendation for
27 Designating Florida's Strategic Intermodal System" dated
28 December 2002.

29 (2) Subsequent to the initial designation of the
30 Strategic Intermodal System pursuant to subsection (1), the
31 Strategic Intermodal Advisory Council, as defined in s.

1 339.65, may make recommendations to the Secretary of
2 Transportation to periodically add facilities to or delete
3 facilities from the Strategic Intermodal System based upon
4 adopted criteria.

5 Section 33. Section 339.64, Florida Statutes, is
6 created to read:

7 339.64 Strategic Intermodal System Plan.--

8 (1) The department shall develop, in cooperation with
9 metropolitan planning organizations, regional planning
10 councils, local governments, and other transportation
11 providers, a Strategic Intermodal System Plan. The plan shall
12 be consistent with the Florida Transportation Plan developed
13 pursuant to s. 339.155 and shall be updated at least once
14 every 5 years, subsequent to updates of the Florida
15 Transportation Plan.

16 (2) During the development of the Strategic Intermodal
17 System Plan and the development of all subsequent updates, the
18 department shall provide metropolitan planning organizations,
19 regional planning councils, local governments, transportation
20 providers, affected public agencies, and citizens with an
21 opportunity to participate in and comment on the development
22 of the proposed plan or update.

23 (3) The Strategic Intermodal System Plan shall include
24 the following:

25 (a) A needs assessment.

26 (b) A project prioritization process.

27 (c) A map of facilities designated as Strategic
28 Intermodal System facilities and facilities that are emerging
29 in importance that are likely to be designated as part of the
30 system in the future.

31

1 (d) A finance plan based on projections of revenues
2 that can reasonably be expected. The finance plan shall
3 include both 10-year and 20-year cost-feasible components.

4 (4) The department shall submit the plan to the
5 Strategic Intermodal Advisory Council for review and to make
6 recommendations to the department.

7 Section 34. Section 339.65, Florida Statutes, is
8 created to read:

9 339.65 Strategic Intermodal Transportation Advisory
10 Council created; membership; responsibilities.--

11 (1) LEGISLATIVE FINDINGS AND PURPOSE.--The Legislature
12 finds that the geographic makeup and economic diversity of the
13 state present unique transportation challenges to citizens and
14 tourists traveling throughout the state; that all modes of
15 transportation play an important role in ensuring the
16 efficient and safe movement of people and goods throughout the
17 state; and that, if Florida is to remain a competitive and
18 safe location for international and domestic trade, the state
19 must ensure the continued viability of efficient and
20 cost-effective modes of transportation. It is the purpose of
21 this section to ensure transportation policy and specific
22 transportation projects are coordinated to stimulate Florida's
23 economy and allow for the safe, secure, and efficient movement
24 of people and goods throughout the state. The Legislature
25 recognizes that in order to accomplish this purpose it is
26 necessary to ensure individuals with expertise and
27 institutional knowledge as regards intermodal transportation
28 are involved in the development of this policy.

29 (2) DEFINITIONS.--As used in this section:

30 (a) "Intermodal modes of transportation" means
31 airports, spaceports, and seaports and rail, trucking, and

1 public transit transportation modes and transportation
2 connections between and among these modes, if applicable.

3 (b) "Intermodal transportation project" means any
4 project relating to an intermodal mode or modes of
5 transportation as defined in this section and as enumerated in
6 s. 341.053(6).

7 (c) "SITAC" means the Strategic Intermodal
8 Transportation Advisory Council.

9 (d) "Department" means the Department of
10 Transportation.

11 (3) STRATEGIC INTERMODAL TRANSPORTATION ADVISORY
12 COUNCIL.--The Strategic Intermodal Transportation Advisory
13 Council is created to advise and make recommendations to the
14 Legislature, the department, and federal transportation
15 agencies on strategic intermodal transportation policies if
16 authorized by the Legislature, and planning of intermodal
17 transportation projects in this state. The council's
18 responsibilities shall include, but are not limited to:

19 (a) Advising the department on the policies, planning
20 and implementation of the Strategic Intermodal System.

21 (b) Providing advice and recommendations to the
22 Legislature;

23 (c) Reviewing and providing recommendations to the
24 department on the Strategic Intermodal System Plan.

25 (d) Making, in consultation with the department,
26 recommendations to the President of the Senate and Speaker of
27 the House of Representatives by December 1, 2003, on the
28 following:

29 1. The creation, membership, and jurisdiction of
30 Regional Strategic Intermodal Transportation Advisory
31 Councils;

1 2. The Strategic Intermodal System project review
2 process, which process shall, at a minimum, be performed by
3 Regional Strategic Intermodal Transportation Advisory
4 Councils;

5 3. The Strategic Intermodal System project funding
6 criteria; and

7 4. The source of funding for Strategic Intermodal
8 System projects.

9 (4) MEMBERSHIP.--

10 (a) The members of the Strategic Intermodal
11 Transportation Advisory Council shall consist of the following
12 members:

13 1. Four intermodal industry representatives selected
14 by the Governor as follows:

15 a. Two representatives from airports involved in the
16 movement of freight and people from their airport facility to
17 another transportation mode. In no event may both of the
18 representatives be employed by the same entity.

19 b. One representative from a fixed-route,
20 local-government transit system.

21 c. One representative from an intercity bus company
22 providing regularly scheduled bus travel as determined by
23 federal regulations.

24 2. Three intermodal industry representatives selected
25 by the President of the Senate as follows:

26 a. One representative from short line railroads.

27 b. One representative from seaports listed in s.
28 311.09(1) from the Atlantic Coast.

29 c. One representative from intermodal trucking
30 companies.

31

1 3. Three intermodal industry representatives selected
2 by the Speaker of the House of Representatives as follows:

3 a. One representative from major line railroads.

4 b. One representative from seaports listed in s.
5 311.09(1) from the Gulf Coast.

6 c. One representative from intermodal trucking
7 companies. In no event may this representative be employed by
8 the same entity that employs the intermodal trucking company
9 representative selected by the President of the Senate.

10 (b)1. Initial appointments to the council must be made
11 no later than 30 days after the effective date of this
12 section.

13 2. The initial appointments made by the President of
14 the Senate and the Speaker of the House of Representatives
15 shall serve terms concurrent with those of the respective
16 appointing officer. Beginning January 15, 2005, and for all
17 subsequent appointments, council members appointed by the
18 President of the Senate and the Speaker of the House of
19 Representatives shall serve 2-year terms, concurrent with the
20 term of the respective appointing officer.

21 3. The initial appointees, and all subsequent
22 appointees, appointed by the Governor shall serve 2-year
23 terms.

24 4. Vacancies on the council shall be filled in the
25 same manner as the initial appointments.

26 (c) Each member of the council shall be allowed one
27 vote. The council shall select a chair from among its
28 membership. Meetings shall be held at the call of the chair,
29 but not less frequently than quarterly. The members of the
30 council are entitled to reimbursement for per diem and travel
31 expenses as provided in s. 112.061.

1 (d) The department shall provide administrative staff
2 support and shall ensure that council meetings are
3 electronically recorded. Such recordings and all documents
4 received, prepared for, or used by the council in conducting
5 its business shall be preserved pursuant to chapters 119 and
6 257.

7 Section 35. Section 83 of chapter 2002-20, Laws of
8 Florida, as amended by section 58 of chapter 2002-402, Laws of
9 Florida, is repealed.

10 Section 36. Except as otherwise expressly provided in
11 this act, this act shall take effect upon becoming a law.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 2658

16 The CS makes technical changes and clarifies commercial trucks
17 are required to comply with federal and state hazardous
18 material requirements only when carrying such materials in
19 amounts that require placarding pursuant to federal law. The
20 CS authorizes a person who is issued a citation for a toll
21 violation to pay the fine directly to the governmental entity
22 that issued the citation. The CS creates the Strategic
23 Intermodal Transportation Advisory Council and provides for
24 the powers and duties of the council.
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