

By Senator Gruters

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1 A bill to be entitled
2 An act relating to the Florida Transportation
3 Commission; amending s. 20.23, F.S.; removing the
4 requirement that the Secretary of Transportation be
5 nominated by the Florida Transportation Commission;
6 removing the requirement that the secretary provide
7 assistance to the commission; deleting provisions
8 relating to the creation, membership, duties,
9 meetings, executive director and staff, and the budget
10 of the commission; deleting the requirement that the
11 commission review certain transportation policy
12 initiatives; repealing s. 334.045, F.S., relating to
13 transportation performance and productivity standards;
14 amending s. 334.048, F.S.; conforming provisions to
15 changes made by the act; amending s. 334.065, F.S.;
16 revising the membership and member approval of the
17 Center for Urban Transportation Research advisory
18 board; amending s. 339.135, F.S.; revising provisions
19 relating to the review and the evaluation of the
20 Department of Transportation's tentative work program;
21 amending s. 339.64, F.S.; conforming provisions to
22 changes made by the act; amending s. 348.0004, F.S.;
23 requiring the department to determine certain average
24 administrative costs for expressway authorities;
25 deleting commission rulemaking authority; amending s.
26 110.205, F.S.; conforming cross-references; providing
27 an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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30
31 Section 1. Paragraphs (a) and (c) of subsection (1),
32 subsection (2), and paragraph (a) of present subsection (3) of
33 section 20.23, Florida Statutes, are amended to read:

34 20.23 Department of Transportation.—There is created a
35 Department of Transportation which shall be a decentralized
36 agency.

37 (1) (a) The head of the Department of Transportation is the
38 Secretary of Transportation. The secretary shall be appointed by
39 the Governor ~~from among three persons nominated by the Florida~~
40 ~~Transportation Commission~~ and shall be subject to confirmation
41 by the Senate. The secretary shall serve at the pleasure of the
42 Governor.

43 ~~(c) The secretary shall provide to the Florida~~
44 ~~Transportation Commission or its staff, such assistance,~~
45 ~~information, and documents as are requested by the commission or~~
46 ~~its staff to enable the commission to fulfill its duties and~~
47 ~~responsibilities.~~

48 ~~(2) (a) 1. The Florida Transportation Commission is hereby~~
49 ~~created and shall consist of nine members appointed by the~~
50 ~~Governor subject to confirmation by the Senate. Members of the~~
51 ~~commission shall serve terms of 4 years each.~~

52 ~~2. Members shall be appointed in such a manner as to~~
53 ~~equitably represent all geographic areas of the state. Each~~
54 ~~member must be a registered voter and a citizen of the state.~~
55 ~~Each member of the commission must also possess business~~
56 ~~managerial experience in the private sector.~~

57 ~~3. A member of the commission shall represent the~~
58 ~~transportation needs of the state as a whole and may not~~

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59 ~~subordinate the needs of the state to those of any particular~~
60 ~~area of the state.~~

61 ~~4. The commission is assigned to the Office of the~~
62 ~~Secretary of the Department of Transportation for administrative~~
63 ~~and fiscal accountability purposes, but it shall otherwise~~
64 ~~function independently of the control and direction of the~~
65 ~~department.~~

66 ~~(b) The commission shall:~~

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

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

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

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

86 ~~5. Monitor on at least a quarterly basis, the efficiency,~~
87 ~~productivity, and management of the department using performance~~

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88 ~~and production standards developed by the commission pursuant to~~
89 ~~s. 334.045.~~

90 ~~6. Perform an in-depth evaluation of the factors causing~~
91 ~~disruption of project schedules in the adopted work program and~~
92 ~~recommend to the Governor and the Legislature methods to~~
93 ~~eliminate or reduce the disruptive effects of these factors.~~

94 ~~7. Recommend to the Governor and the Legislature~~
95 ~~improvements to the department's organization in order to~~
96 ~~streamline and optimize the efficiency of the department. In~~
97 ~~reviewing the department's organization, the commission shall~~
98 ~~determine if the current district organizational structure is~~
99 ~~responsive to this state's changing economic and demographic~~
100 ~~development patterns. The initial report by the commission must~~
101 ~~be delivered to the Governor and the Legislature by December 15,~~
102 ~~2000, and each year thereafter, as appropriate. The commission~~
103 ~~may retain experts as necessary to carry out this subparagraph,~~
104 ~~and the department shall pay the expenses of the experts.~~

105 ~~8. Monitor the efficiency, productivity, and management of~~
106 ~~the authorities created under chapters 348 and 349, including~~
107 ~~any authority formed using part I of chapter 348; the Mid-Bay~~
108 ~~Bridge Authority re-created pursuant to chapter 2000-411, Laws~~
109 ~~of Florida; and any authority formed under chapter 343. The~~
110 ~~commission shall also conduct periodic reviews of each~~
111 ~~authority's operations and budget, acquisition of property,~~
112 ~~management of revenue and bond proceeds, and compliance with~~
113 ~~applicable laws and generally accepted accounting principles.~~

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

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117 ~~1. The awarding of contracts.~~

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

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

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

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

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

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

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

132 ~~2. The commission shall hold a minimum of 4 regular~~
133 ~~meetings annually, and other meetings may be called by the chair~~
134 ~~upon giving at least 1 week's notice to all members and the~~
135 ~~public pursuant to chapter 120. Other meetings may also be held~~
136 ~~upon the written request of at least four other members of the~~
137 ~~commission, with at least 1 week's notice of such meeting being~~
138 ~~given to all members and the public by the chair pursuant to~~
139 ~~chapter 120. Emergency meetings may be held without notice upon~~
140 ~~the request of all members of the commission. At each meeting of~~
141 ~~the commission, the secretary or his or her designee shall~~
142 ~~submit a report of major actions taken by him or her as the~~
143 ~~official representative of the department.~~

144 ~~3. A majority of the membership of the commission~~
145 ~~constitutes a quorum at any meeting of the commission. An action~~

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146 ~~of the commission is not binding unless the action is taken~~
147 ~~pursuant to an affirmative vote of a majority of the members~~
148 ~~present, but not fewer than four members of the commission at a~~
149 ~~meeting held pursuant to subparagraph 2., and the vote is~~
150 ~~recorded in the minutes of that meeting.~~

151 ~~4. The chair shall cause to be made a complete record of~~
152 ~~the proceedings of the commission, which record shall be open~~
153 ~~for public inspection.~~

154 ~~(e) The meetings of the commission shall be held in the~~
155 ~~central office of the department in Tallahassee unless the chair~~
156 ~~determines that special circumstances warrant meeting at another~~
157 ~~location.~~

158 ~~(f) Members of the commission are entitled to per diem and~~
159 ~~travel expenses pursuant to s. 112.061.~~

160 ~~(g) A member of the commission may not have any interest,~~
161 ~~direct or indirect, in any contract, franchise, privilege, or~~
162 ~~other benefit granted or awarded by the department during the~~
163 ~~term of his or her appointment and for 2 years after the~~
164 ~~termination of such appointment.~~

165 ~~(h) The commission shall appoint an executive director and~~
166 ~~assistant executive director, who shall serve under the~~
167 ~~direction, supervision, and control of the commission. The~~
168 ~~executive director, with the consent of the commission, shall~~
169 ~~employ such staff as are necessary to perform adequately the~~
170 ~~functions of the commission, within budgetary limitations. All~~
171 ~~employees of the commission are exempt from part II of chapter~~
172 ~~110 and shall serve at the pleasure of the commission. The~~
173 ~~salaries and benefits of all employees of the commission shall~~
174 ~~be set in accordance with the Selected Exempt Service; provided,~~

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175 ~~however, that the commission shall have complete authority for~~
176 ~~fixing the salary of the executive director and assistant~~
177 ~~executive director.~~

178 ~~(i) The commission shall develop a budget pursuant to~~
179 ~~chapter 216. The budget is not subject to change by the~~
180 ~~department, but such budget shall be submitted to the Governor~~
181 ~~along with the budget of the department.~~

182 ~~(2)(3)(a) The central office shall establish departmental~~
183 ~~policies, rules, procedures, and standards and shall monitor the~~
184 ~~implementation of such policies, rules, procedures, and~~
185 ~~standards in order to ensure uniform compliance and quality~~
186 ~~performance by the districts and central office units that~~
187 ~~implement transportation programs. Major transportation policy~~
188 ~~initiatives or revisions shall be submitted to the commission~~
189 ~~for review.~~

190 Section 2. Section 334.045, Florida Statutes, is repealed.

191 Section 3. Subsection (1) of section 334.048, Florida
192 Statutes, is amended to read:

193 334.048 Legislative intent with respect to department
194 management accountability and monitoring systems.—The department
195 shall implement the following accountability and monitoring
196 systems to evaluate whether the department's goals are being
197 accomplished efficiently and cost-effectively, and ensure
198 compliance with all laws, rules, policies, and procedures
199 related to the department's operations:

200 ~~(1) The Transportation Commission shall monitor those~~
201 ~~aspects of the department's operations as assigned in s. 20.23.~~

202
203 Such systems are herein established to quickly identify and

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204 resolve problems, to hold responsible parties accountable, and
205 to ensure that all costs to the taxpayer are recovered.

206 Section 4. Subsection (3) of section 334.065, Florida
207 Statutes, is amended to read:

208 334.065 Center for Urban Transportation Research.—

209 (3) An advisory board shall be created to periodically and
210 objectively review and advise the center concerning its research
211 program. Except for projects mandated by law, state-funded base
212 projects shall not be undertaken without approval of the
213 advisory board. The membership of the board shall consist of
214 nine experts in transportation-related areas, including the
215 secretaries of the Florida Departments of Transportation and
216 Environmental Protection and, the executive director of the
217 Department of Economic Opportunity, or their designees, ~~and a~~
218 ~~member of the Florida Transportation Commission~~. The nomination
219 of the remaining members of the board shall be made to the
220 President of the University of South Florida by the College of
221 Engineering at the University of South Florida, and the
222 appointment of these members must be ~~reviewed and approved by~~
223 ~~the Florida Transportation Commission~~ and confirmed by the Board
224 of Governors.

225 Section 5. Paragraphs (c), (d), (f), (g), and (h) of
226 subsection (4) of section 339.135, Florida Statutes, are amended
227 to read:

228 339.135 Work program; legislative budget request;
229 definitions; preparation, adoption, execution, and amendment.—

230 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

231 (c)1. For purposes of this section, the board of county
232 commissioners shall serve as the metropolitan planning

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233 organization in those counties which are not located in a
234 metropolitan planning organization and shall be involved in the
235 development of the district work program to the same extent as a
236 metropolitan planning organization.

237 2. The district work program shall be developed
238 cooperatively from the outset with the various metropolitan
239 planning organizations of the state and include, to the maximum
240 extent feasible, the project priorities of metropolitan planning
241 organizations which have been submitted to the district by
242 October 1 of each year pursuant to s. 339.175(8)(b); however,
243 the department and a metropolitan planning organization may, in
244 writing, cooperatively agree to vary this submittal date. To
245 assist the metropolitan planning organizations in developing
246 their lists of project priorities, the district shall disclose
247 to each metropolitan planning organization any anticipated
248 changes in the allocation or programming of state and federal
249 funds which may affect the inclusion of metropolitan planning
250 organization project priorities in the district work program.

251 3. Before ~~Prior to~~ submittal of the district work program
252 to the central office, the district shall provide the affected
253 metropolitan planning organization with written justification
254 for any project proposed to be rescheduled or deleted from the
255 district work program which project is part of the metropolitan
256 planning organization's transportation improvement program and
257 is contained in the last 4 years of the previous adopted work
258 program. By no later than 14 days after submittal of the
259 district work program to the central office, the affected
260 metropolitan planning organization may file an objection to such
261 rescheduling or deletion. When an objection is filed with the

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262 secretary, the rescheduling or deletion may not be included in
263 the district work program unless the inclusion of such
264 rescheduling or deletion is specifically approved by the
265 secretary. ~~The Florida Transportation Commission shall include~~
266 ~~such objections in its evaluation of the tentative work program~~
267 ~~only when the secretary has approved the rescheduling or~~
268 ~~deletion.~~

269 (d) Before ~~Prior to~~ the submission of the district work
270 program to the central office, each district office shall hold a
271 public hearing in at least one urbanized area in the district
272 and shall make a presentation at a meeting of each metropolitan
273 planning organization in the district to determine the necessity
274 of making any changes to projects included or to be included in
275 the district work program and to hear requests for new projects
276 to be added to, or existing projects to be deleted from, the
277 district work program. However, the district and metropolitan
278 planning organization shall minimize changes to, deletions from,
279 or adjustments to projects or project phases contained in the 4
280 common years of the previous adopted work program and the
281 district work program. The district shall provide the
282 metropolitan planning organization with a written explanation
283 for any project which is contained in the metropolitan planning
284 organization's transportation improvement program and which is
285 not included in the district work program. The metropolitan
286 planning organization may request in writing to the appropriate
287 district secretary further consideration of any specific project
288 not included or not adequately addressed in the district work
289 program. The district secretary shall acknowledge and review all
290 such requests before ~~prior to~~ the submission of the district

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291 work program to the central office and shall forward a copy of
292 such requests to the secretary ~~and the Florida Transportation~~
293 ~~Commission. The commission shall include such requests in its~~
294 ~~evaluation of the tentative work program.~~

295 (f) The central office shall submit a preliminary copy of
296 the tentative work program to the Executive Office of the
297 Governor, the legislative appropriations committees, ~~the Florida~~
298 ~~Transportation Commission,~~ and the Department of Economic
299 Opportunity at least 14 days before ~~prior to~~ the convening of
300 the regular legislative session. Before ~~Prior to~~ the submission
301 of the tentative work program ~~statewide public hearing~~ required
302 by paragraph (g), the Department of Economic Opportunity shall
303 transmit to the department ~~Florida Transportation Commission~~ a
304 list of those projects and project phases contained in the
305 tentative work program which are identified as being
306 inconsistent with approved local government comprehensive plans.
307 For urbanized areas of metropolitan planning organizations, the
308 list may not contain any project or project phase that is
309 scheduled in a transportation improvement program unless such
310 inconsistency has been previously reported to the affected
311 metropolitan planning organization.

312 ~~(g)1. The Florida Transportation Commission shall conduct a~~
313 ~~statewide public hearing on the tentative work program and shall~~
314 ~~advertise the time, place, and purpose of the hearing in the~~
315 ~~Florida Administrative Register at least 7 days prior to the~~
316 ~~hearing. As part of the statewide public hearing, the commission~~
317 ~~shall, at a minimum:~~

318 a. ~~Conduct an in-depth evaluation of the tentative work~~
319 ~~program for compliance with applicable laws and departmental~~

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320 ~~policies; and~~

321 ~~b. Hear all questions, suggestions, or other comments~~
 322 ~~offered by the public.~~

323 ~~2. By no later than 14 days after the regular legislative~~
 324 ~~session begins, the commission shall submit to the Executive~~
 325 ~~Office of the Governor and the legislative appropriations~~
 326 ~~committees a report that evaluates the tentative work program~~
 327 ~~for:~~

328 ~~a. Financial soundness;~~

329 ~~b. Stability;~~

330 ~~c. Production capacity;~~

331 ~~d. Accomplishments, including compliance with program~~
 332 ~~objectives in s. 334.046;~~

333 ~~e. Compliance with approved local government comprehensive~~
 334 ~~plans;~~

335 ~~f. Objections and requests by metropolitan planning~~
 336 ~~organizations;~~

337 ~~g. Policy changes and effects thereof;~~

338 ~~h. Identification of statewide or regional projects; and~~

339 ~~i. Compliance with all other applicable laws.~~

340 ~~(g)(h) Following evaluation by the Florida Transportation~~
 341 ~~Commission,~~ The department shall submit the tentative work
 342 program to the Executive Office of the Governor and the
 343 legislative appropriations committees no later than 14 days
 344 after the regular legislative session begins.

345 Section 6. Subsection (2) of section 339.64, Florida
 346 Statutes, is amended to read:

347 339.64 Strategic Intermodal System Plan.—

348 ~~(2) In association with the continued development of the~~

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349 ~~Strategic Intermodal System Plan, the Florida Transportation~~
350 ~~Commission, as part of its work program review process, shall~~
351 ~~conduct an annual assessment of the progress that the department~~
352 ~~and its transportation partners have made in realizing the goals~~
353 ~~of economic development, improved mobility, and increased~~
354 ~~intermodal connectivity of the Strategic Intermodal System. The~~
355 ~~Florida Transportation Commission shall coordinate with the~~
356 ~~department and other appropriate entities when developing this~~
357 ~~assessment. The Florida Transportation Commission shall deliver~~
358 ~~a report to the Governor and Legislature no later than 14 days~~
359 ~~after the regular session begins, with recommendations as~~
360 ~~necessary to fully implement the Strategic Intermodal System.~~

361 Section 7. Paragraph (e) of subsection (2) of section
362 348.0004, Florida Statutes, is amended to read:

363 348.0004 Purposes and powers.—

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

368 (e) To fix, alter, charge, establish, and collect tolls,
369 rates, fees, rentals, and other charges for the services and
370 facilities system, which tolls, rates, fees, rentals, and other
371 charges must always be sufficient to comply with any covenants
372 made with the holders of any bonds issued pursuant to the
373 Florida Expressway Authority Act. However, such right and power
374 may be assigned or delegated by the authority to the department.

375 1. Notwithstanding any other provision of law to the
376 contrary, but subject to any contractual requirements contained
377 in documents securing any indebtedness outstanding on July 1,

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378 2017, in any county as defined in s. 125.011(1):

379 a. The authority may not increase a toll unless the
380 increase is justified to the satisfaction of the authority by a
381 traffic and revenue study conducted by an independent third
382 party, except for an increase to the extent necessary to adjust
383 for inflation pursuant to the procedure for toll rate
384 adjustments provided in s. 338.165.

385 b. A toll increase must be approved by a two-thirds vote of
386 the expressway authority board.

387 c. The amount of toll revenues used for administrative
388 expenses by the authority may not be greater than 10 percent
389 above the annual state average of administrative costs
390 determined as provided in this sub-subparagraph. The department
391 ~~Florida Transportation Commission~~ shall determine the annual
392 state average of administrative costs based on the annual
393 administrative expenses of all the expressway authorities of
394 this state. For purposes of this sub-subparagraph,
395 administrative expenses include, but are not limited to,
396 employee salaries and benefits, small business outreach,
397 insurance, professional service contracts not directly related
398 to the operation and maintenance of the expressway system, and
399 other overhead costs. ~~The commission may adopt rules necessary~~
400 ~~for the implementation of this sub-subparagraph.~~

401 d. On transportation facilities constructed after July 1,
402 2017, there must be a distance of at least 5 miles between main
403 through-lane tolling points. The distance requirement of this
404 sub-subparagraph does not apply to entry and exit ramps.

405 2. Notwithstanding s. 338.165 or any other provision of law
406 to the contrary, in any county as defined in s. 125.011(1), to

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407 the extent surplus revenues exist, they may be used for purposes
408 enumerated in subsection (8), provided the expenditures are
409 consistent with the metropolitan planning organization's adopted
410 long-range plan.

411 3. Notwithstanding any other provision of law to the
412 contrary, but subject to any contractual requirements contained
413 in documents securing any outstanding indebtedness payable from
414 tolls, in any county as defined in s. 125.011(1), the board of
415 county commissioners may, by ordinance adopted on or before
416 September 30, 1999, alter or abolish existing tolls and
417 currently approved increases thereto if the board provides a
418 local source of funding to the county expressway system for
419 transportation in an amount sufficient to replace revenues
420 necessary to meet bond obligations secured by such tolls and
421 increases.

422 Section 8. Paragraphs (j) and (m) of subsection (2) of
423 section 110.205, Florida Statutes, are amended to read:

424 110.205 Career service; exemptions.—

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

427 (j) The appointed secretaries and the State Surgeon
428 General, assistant secretaries, deputy secretaries, and deputy
429 assistant secretaries of all departments; the executive
430 directors, assistant executive directors, deputy executive
431 directors, and deputy assistant executive directors of all
432 departments; the directors of all divisions and those positions
433 determined by the department to have managerial responsibilities
434 comparable to such positions, which positions include, but are
435 not limited to, program directors, assistant program directors,

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436 district administrators, deputy district administrators, the
437 Director of Central Operations Services of the Department of
438 Children and Families, the State Transportation Development
439 Administrator, the State Public Transportation and Modal
440 Administrator, district secretaries, district directors of
441 transportation development, transportation operations,
442 transportation support, and the managers of the offices of the
443 Department of Transportation specified in s. 20.23(2)(b) ~~s.~~
444 ~~20.23(3)(b)~~. Unless otherwise fixed by law, the department shall
445 set the salary and benefits of these positions and the positions
446 of county health department directors and county health
447 department administrators of the Department of Health in
448 accordance with the rules of the Senior Management Service.

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

454 1. Positions in the Department of Health and the Department
455 of Children and Families which are assigned primary duties of
456 serving as the superintendent or assistant superintendent of an
457 institution.

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

463 3. Positions in the Department of Transportation which are
464 assigned primary duties of serving as regional toll managers and

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465 managers of offices, as specified in s. 20.23(2)(b) and (3)(c)
466 ~~s. 20.23(3)(b) and (4)(c)~~.

467 4. Positions in the Department of Environmental Protection
468 which are assigned the duty of an Environmental Administrator or
469 program administrator.

470 5. Positions in the Department of Health which are assigned
471 the duties of Environmental Administrator, Assistant County
472 Health Department Director, and County Health Department
473 Financial Administrator.

474 6. Positions in the Department of Highway Safety and Motor
475 Vehicles which are assigned primary duties of serving as
476 captains in the Florida Highway Patrol.

477
478 Unless otherwise fixed by law, the department shall set the
479 salary and benefits of the positions listed in this paragraph in
480 accordance with the rules established for the Selected Exempt
481 Service.

482 Section 9. This act shall take effect July 1, 2019.