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2014

1 A bill to be entitled  
2 An act relating to the Department of Transportation;  
3 amending s. 20.23, F.S.; revising provisions relating  
4 to functions of the Florida Transportation Commission  
5 to add certain monitoring of the Mid-Bay Bridge  
6 Authority; repealing provisions for the Florida  
7 Statewide Passenger Rail Commission; amending s.  
8 316.0076, F.S.; prohibiting the use of cameras at  
9 certain locations to enforce the Florida Uniform  
10 Traffic Control Law; amending s. 316.0083, F.S.;  
11 revising provisions for enforcement by a traffic  
12 infraction enforcement officer of specified provisions  
13 requiring vehicular traffic facing a steady red signal  
14 to stop; reducing the penalty for notices of  
15 violations; restricting issuance by such officer of  
16 notices and citations to violations at certain  
17 locations; revising penalties and distribution of  
18 penalties collected; authorizing counties and  
19 municipalities to impose a surcharge for certain  
20 purposes; providing procedures and requirements for  
21 imposing the local surcharge; providing for the  
22 distribution and use of funds collected from the local  
23 surcharge; requiring counties and municipalities to  
24 make certain reports; revising limits on amounts that  
25 may be assessed for certain costs; amending s.  
26 316.0776, F.S.; revising provisions authorizing the

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27 use of traffic infraction detectors; revising  
28 provisions for implementation of a traffic infraction  
29 detector program; amending s. 318.18, F.S.; conforming  
30 penalty provisions; conforming provisions for  
31 assessment of county and municipal costs; amending s.  
32 335.10, F.S.; prohibiting charges for public parking  
33 in certain parking spaces; amending s. 337.25, F.S.;  
34 revising provisions for disposition of property by the  
35 department; authorizing the department to contract for  
36 auction services for conveyance of property; revising  
37 requirements for an inventory of property; amending s.  
38 337.251, F.S.; revising provisions for lease of  
39 property; requiring the department to publish a notice  
40 of receipt of a proposal for lease of particular  
41 department property and accept other proposals;  
42 revising notice procedures; requiring the department  
43 to establish by rule an application fee for lease  
44 proposals; authorizing the department to engage the  
45 services of private consultants to assist in  
46 evaluating proposals; requiring the department to make  
47 specified determinations before approving a proposed  
48 lease; amending s. 338.161, F.S.; revising provisions  
49 for the department to enter into agreements for  
50 certain purposes with public or private transportation  
51 facility owners whose systems become interoperable  
52 with the department's systems; amending s. 373.4137,

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53 F.S.; providing legislative intent that environmental  
54 mitigation be implemented in a manner that promotes  
55 efficiency, timeliness, and cost-effectiveness in  
56 project delivery; revising the criteria of the  
57 environmental impact inventory; revising the criteria  
58 for mitigation of projected impacts identified in the  
59 environmental impact inventory; requiring the  
60 Department of Transportation to include funding for  
61 environmental mitigation for its projects in its work  
62 program; revising the process and criteria for the  
63 payment by the department or participating  
64 transportation authorities of mitigation implemented  
65 by water management districts or the Department of  
66 Environmental Protection; revising the requirements  
67 for the payment to a water management district or the  
68 Department of Environmental Protection of the costs of  
69 mitigation planning and implementation of the  
70 mitigation required by a permit; revising the payment  
71 criteria for preparing and implementing mitigation  
72 plans adopted by water management districts for  
73 transportation impacts based on the environmental  
74 impact inventory; adding federal requirements for the  
75 development of a mitigation plan; providing for  
76 transportation projects in the environmental  
77 mitigation plan for which mitigation has not been  
78 specified; revising a water management district's

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responsibilities relating to a mitigation plan;  
amending s. 2 of ch. 85-364, Laws of Florida, as  
amended by ch. 95-382, Laws of Florida, relating to  
the Department of Transportation; authorizing tolls  
from the Pinellas Bayway to be used for maintenance  
costs; removing certain projects from the flow of  
funds; amending s. 110.205, F.S.; conforming cross-  
references; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 20.23,  
Florida Statutes, are amended to read:

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

(2)

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

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

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

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

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

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

121        6. Perform an in-depth evaluation of the factors causing  
122 disruption of project schedules in the adopted work program and  
123 recommend to the Legislature and the Governor methods to  
124 eliminate or reduce the disruptive effects of these factors.

125        7. Recommend to the Governor and the Legislature  
126 improvements to the department's organization in order to  
127 streamline and optimize the efficiency of the department. In  
128 reviewing the department's organization, the commission shall  
129 determine if the current district organizational structure is  
130 responsive to Florida's changing economic and demographic

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development patterns. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The commission may retain such experts as are reasonably necessary to effectuate this subparagraph, and the department shall pay the expenses of such experts.

8. Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, including any authority formed using the provisions of part I of chapter 348; the Mid-Bay Bridge Authority created pursuant to chapter 2000-411, Laws of Florida; and any authority formed under chapter 343 ~~which is not monitored under subsection (3)~~. The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

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

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

~~a. Three members shall be appointed by the Governor, one of whom must have a background in the area of environmental concerns, one of whom must have a legislative background, and one of whom must have a general business background.~~

~~b. Three members shall be appointed by the President of the Senate, one of whom must have a background in civil~~

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157 ~~engineering, one of whom must have a background in~~  
158 ~~transportation construction, and one of whom must have a general~~  
159 ~~business background.~~

160 ~~e. Three members shall be appointed by the Speaker of the~~  
161 ~~House of Representatives, one of whom must have a legal~~  
162 ~~background, one of whom must have a background in financial~~  
163 ~~matters, and one of whom must have a general business~~  
164 ~~background.~~

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

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

176 ~~4. The commission shall elect one of its members as chair~~  
177 ~~of the commission. The chair shall hold office at the will of~~  
178 ~~the commission. Five members of the commission shall constitute~~  
179 ~~a quorum, and the vote of five members shall be necessary for~~  
180 ~~any action taken by the commission. The commission may meet upon~~  
181 ~~the constitution of a quorum. A vacancy in the commission does~~  
182 ~~not impair the right of a quorum to exercise all rights and~~

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183 ~~perform all duties of the commission.~~

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

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

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

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



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209       ~~3. Evaluating passenger rail policies and providing advice~~  
210 ~~and recommendations to the Legislature on passenger rail~~  
211 ~~operations in the state.~~

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

216           ~~1. The awarding of contracts.~~

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

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

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

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

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

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

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

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235 | ~~The department shall provide administrative support and service~~  
 236 | ~~to the commission.~~

237 |       Section 2.   Section 316.0076, Florida Statutes, is amended  
 238 | to read:

239 |       316.0076   Regulation and use of cameras.—Regulation of the  
 240 | use of cameras for enforcing the provisions of this chapter is  
 241 | expressly preempted to the state. Notwithstanding any other  
 242 | provision of law, a county or municipality may not use cameras  
 243 | for enforcing this chapter at any traffic control signal device  
 244 | location that did not have an active traffic infraction detector  
 245 | installed before July 1, 2014. The regulation of the use of  
 246 | cameras for enforcing the provisions of this chapter is not  
 247 | required to comply with provisions of chapter 493.

248 |       Section 3.   Paragraphs (a) and (b) of subsection (1) and  
 249 | paragraph (e) of subsection (5) of section 316.0083, Florida  
 250 | Statutes, are amended to read:

251 |       316.0083   Mark Wandall Traffic Safety Program;  
 252 | administration; report.—

253 |       (1)(a)   For purposes of administering this section, the  
 254 | department, a county, or a municipality may authorize a traffic  
 255 | infraction enforcement officer under s. 316.640 to issue a  
 256 | traffic citation for a violation of s. 316.074(1) or s.  
 257 | 316.075(1)(c)1. A notice of violation and a traffic citation may  
 258 | not be issued for failure to stop at a red light if the driver  
 259 | is making a right-hand turn in a careful and prudent manner at  
 260 | an intersection where right-hand turns are permissible. A notice

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261 of violation and a traffic citation may not be issued under this  
262 section if the driver of the vehicle came to a complete stop  
263 after crossing the stop line and before turning right if  
264 permissible at a red light, but failed to stop before crossing  
265 over the stop line or other point at which a stop is required. A  
266 notice of violation and a traffic citation may only be issued by  
267 a county or municipality under this section for violations at  
268 intersections that had an active traffic infraction detector  
269 installed before July 1, 2014. This paragraph does not prohibit  
270 a review of information from a traffic infraction detector by an  
271 authorized employee or agent of the department, a county, or a  
272 municipality before issuance of the traffic citation by the  
273 traffic infraction enforcement officer. This paragraph does not  
274 prohibit the department, a county, or a municipality from  
275 issuing notification as provided in paragraph (b) to the  
276 registered owner of the motor vehicle involved in the violation  
277 of s. 316.074(1) or s. 316.075(1)(c)1.

278 (b)1.a. Within 30 days after a violation, notification  
279 must be sent to the registered owner of the motor vehicle  
280 involved in the violation specifying the remedies available  
281 under s. 318.14 and that the violator must pay the penalty of  
282 \$83 ~~\$158~~ to the department, county, or municipality, or furnish  
283 an affidavit in accordance with paragraph (d), or request a  
284 hearing within 60 days following the date of the notification in  
285 order to avoid the issuance of a traffic citation. The  
286 notification must be sent by first-class mail. The mailing of

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287 the notice of violation constitutes notification.

288       b. Included with the notification to the registered owner  
289 of the motor vehicle involved in the infraction must be a notice  
290 that the owner has the right to review the photographic or  
291 electronic images or the streaming video evidence that  
292 constitutes a rebuttable presumption against the owner of the  
293 vehicle. The notice must state the time and place or Internet  
294 location where the evidence may be examined and observed.

295       c. Notwithstanding any other provision of law, a person  
296 who receives a notice of violation under this section may  
297 request a hearing within 60 days following the notification of  
298 violation or pay the penalty pursuant to the notice of  
299 violation, but a payment or fee may not be required before the  
300 hearing requested by the person. The notice of violation must be  
301 accompanied by, or direct the person to a website that provides,  
302 information on the person's right to request a hearing and on  
303 all court costs related thereto and a form to request a hearing.  
304 As used in this sub-subparagraph, the term "person" includes a  
305 natural person, registered owner or coowner of a motor vehicle,  
306 or person identified on an affidavit as having care, custody, or  
307 control of the motor vehicle at the time of the violation.

308       d. If the registered owner or coowner of the motor  
309 vehicle, or the person designated as having care, custody, or  
310 control of the motor vehicle at the time of the violation, or an  
311 authorized representative of the owner, coowner, or designated  
312 person, initiates a proceeding to challenge the violation

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313 pursuant to this paragraph, such person waives any challenge or  
314 dispute as to the delivery of the notice of violation.

315 2. Penalties assessed and collected by the department,  
316 county, or municipality authorized to collect the funds provided  
317 for in this paragraph, ~~less the amount retained by the county or~~  
318 ~~municipality pursuant to subparagraph 3.,~~ shall be paid to the  
319 Department of Revenue weekly. Payment by the department, county,  
320 or municipality to the state shall be made by means of  
321 electronic funds transfers. In addition to the payment, summary  
322 detail of the penalties remitted shall be reported to the  
323 Department of Revenue.

324 3. Penalties to be assessed and collected by the  
325 department, county, or municipality are as follows:

326 a. Eighty-three ~~One hundred fifty-eight~~ dollars for a  
327 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
328 failed to stop at a traffic signal if enforcement is by the  
329 department's traffic infraction enforcement officer. Seventy One  
330 ~~hundred~~ dollars shall be remitted to the Department of Revenue  
331 for deposit into the General Revenue Fund, \$10 shall be remitted  
332 to the Department of Revenue for deposit into the Department of  
333 Health Emergency Medical Services Trust Fund, and \$3 shall be  
334 remitted to the Department of Revenue for deposit into the Brain  
335 and Spinal Cord Injury Trust Fund, ~~and \$45 shall be distributed~~  
336 ~~to the municipality in which the violation occurred, or, if the~~  
337 ~~violation occurred in an unincorporated area, to the county in~~  
338 ~~which the violation occurred.~~ Funds deposited into the

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Department of Health Emergency Medical Services Trust Fund under this sub-subparagraph shall be distributed as provided in s. 395.4036(1). Proceeds of the infractions in the Brain and Spinal Cord Injury Trust Fund shall be distributed quarterly to the Miami Project to Cure Paralysis and used for brain and spinal cord research.

b. Eighty-three ~~One hundred fifty-eight~~ dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver failed to stop at a traffic signal if enforcement is by a county or municipal traffic infraction enforcement officer. Seventy dollars shall be remitted by the county or municipality to the Department of Revenue for deposit into the General Revenue Fund, \$10 shall be remitted to the Department of Revenue for deposit into the Department of Health Emergency Medical Services Trust Fund, and \$3 shall be remitted to the Department of Revenue for deposit into the Brain and Spinal Cord Injury Trust Fund, ~~and \$75 shall be retained by the county or municipality enforcing the ordinance enacted pursuant to this section.~~ Funds deposited into the Department of Health Emergency Medical Services Trust Fund under this sub-subparagraph shall be distributed as provided in s. 395.4036(1). Proceeds of the infractions in the Brain and Spinal Cord Injury Trust Fund shall be distributed quarterly to the Miami Project to Cure Paralysis and used for brain and spinal cord research.

4. A county or municipality, by majority vote of the governing board of the respective county or municipality, may

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365 impose a surcharge for violations of s. 316.074(1) or s.  
366 316.075(1)(c)1. which occur at any intersection that had an  
367 active traffic infraction detector installed before July 1,  
368 2014, for the sole purpose of funding administrative costs and  
369 contractual agreements with manufacturers and vendors of traffic  
370 infraction detectors. The surcharge must be authorized by an  
371 ordinance requiring public hearings.

372 a. Revenue collected from the surcharge under this  
373 subparagraph must be distributed quarterly to the manufacturer  
374 or vendor in accordance with each respective contractual  
375 agreement.

376 b. Surplus revenue from the surcharge under this  
377 subparagraph shall be remitted to the Department of Revenue for  
378 deposit into the General Revenue Fund.

379 c. Each county or municipality shall, no later than 30  
380 days after the end of each quarter, report in an electronic  
381 format to the Department of Revenue the amount of funds  
382 collected under this subparagraph during each quarter of the  
383 fiscal year. The Department of Revenue shall submit the report  
384 annually in an electronic format to the Governor, the President  
385 of the Senate, and the Speaker of the House of Representatives.

386 5.4- An individual may not receive a commission from any  
387 revenue collected from violations detected through the use of a  
388 traffic infraction detector. A manufacturer or vendor may not  
389 receive a fee or remuneration based upon the number of  
390 violations detected through the use of a traffic infraction

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391 detector.

392 (5) Procedures for a hearing under this section are as  
393 follows:

394 (e) At the conclusion of the hearing, the local hearing  
395 officer shall determine whether a violation under this section  
396 has occurred, in which case the hearing officer shall uphold or  
397 dismiss the violation. The local hearing officer shall issue a  
398 final administrative order including the determination and, if  
399 the notice of violation is upheld, require the petitioner to pay  
400 the penalty previously assessed under paragraph (1)(b), and may  
401 also require the petitioner to pay county or municipal costs,  
402 not to exceed the amount of the penalty assessed and collected  
403 by the county or municipality ~~\$250~~. The final administrative  
404 order shall be mailed to the petitioner by first-class mail.

405 Section 4. Section 316.0776, Florida Statutes, is amended  
406 to read:

407 316.0776 Traffic infraction detectors; placement and  
408 installation.—

409 (1) Traffic infraction detectors are allowed on state  
410 roads when permitted by the Department of Transportation and  
411 under placement and installation specifications developed by the  
412 Department of Transportation. Traffic infraction detectors are  
413 allowed on streets and highways under the jurisdiction of  
414 counties or municipalities in accordance with placement and  
415 installation specifications developed by the Department of  
416 Transportation, only if such traffic infraction detectors were



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417 installed and active before July 1, 2014.

418 (2)(a) If the department, county, or municipality installs  
419 a traffic infraction detector at an intersection, the  
420 department, county, or municipality shall notify the public that  
421 a traffic infraction device may be in use at that intersection  
422 and must specifically include notification of camera enforcement  
423 of violations concerning right turns. Such signage used to  
424 notify the public must meet the specifications for uniform  
425 signals and devices adopted by the Department of Transportation  
426 pursuant to s. 316.0745.

427 (b) If the department, ~~county, or municipality~~ begins a  
428 traffic infraction detector program in a county or municipality  
429 that has never conducted such a program, the ~~respective~~  
430 ~~department, county, or municipality~~ shall also make a public  
431 announcement and conduct a public awareness campaign of the  
432 proposed use of traffic infraction detectors at least 30 days  
433 before starting ~~commencing~~ the enforcement program.

434 Section 5. Subsections (15) and (22) of section 318.18,  
435 Florida Statutes, are amended to read:

436 318.18 Amount of penalties.—The penalties required for a  
437 noncriminal disposition pursuant to s. 318.14 or a criminal  
438 offense listed in s. 318.17 are as follows:

439 (15)(a)1. One hundred and fifty-eight dollars for a  
440 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
441 has failed to stop at a traffic signal and when enforced by a  
442 law enforcement officer. Sixty dollars shall be distributed as

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443 provided in s. 318.21, \$30 shall be distributed to the General  
444 Revenue Fund, \$3 shall be remitted to the Department of Revenue  
445 for deposit into the Brain and Spinal Cord Injury Trust Fund,  
446 and the remaining \$65 shall be remitted to the Department of  
447 Revenue for deposit into the Emergency Medical Services Trust  
448 Fund of the Department of Health.

449 2. Eighty-three ~~One hundred and fifty-eight~~ dollars for a  
450 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
451 has failed to stop at a traffic signal and when enforced by the  
452 department's traffic infraction enforcement officer. Seventy ~~One~~  
453 ~~hundred~~ dollars shall be remitted to the Department of Revenue  
454 for deposit into the General Revenue Fund, ~~\$45 shall be~~  
455 ~~distributed to the county for any violations occurring in any~~  
456 ~~unincorporated areas of the county or to the municipality for~~  
457 ~~any violations occurring in the incorporated boundaries of the~~  
458 ~~municipality in which the infraction occurred,~~ \$10 shall be  
459 remitted to the Department of Revenue for deposit into the  
460 Department of Health Emergency Medical Services Trust Fund for  
461 distribution as provided in s. 395.4036(1), and \$3 shall be  
462 remitted to the Department of Revenue for deposit into the Brain  
463 and Spinal Cord Injury Trust Fund.

464 3. Eighty-three ~~One hundred and fifty-eight~~ dollars for a  
465 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
466 has failed to stop at a traffic signal and when enforced by a  
467 county's or municipality's traffic infraction enforcement  
468 officer. Seventy dollars ~~Seventy-five dollars shall be~~

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469 ~~distributed to the county or municipality issuing the traffic~~  
470 ~~citation, \$70~~ shall be remitted to the Department of Revenue for  
471 deposit into the General Revenue Fund, \$10 shall be remitted to  
472 the Department of Revenue for deposit into the Department of  
473 Health Emergency Medical Services Trust Fund for distribution as  
474 provided in s. 395.4036(1), and \$3 shall be remitted to the  
475 Department of Revenue for deposit into the Brain and Spinal Cord  
476 Injury Trust Fund.

477 (b) Amounts deposited into the Brain and Spinal Cord  
478 Injury Trust Fund pursuant to this subsection shall be  
479 distributed quarterly to the Miami Project to Cure Paralysis and  
480 shall be used for brain and spinal cord research.

481 (c) If a person who is mailed a notice of violation or  
482 cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as  
483 enforced by a traffic infraction enforcement officer under s.  
484 316.0083, presents documentation from the appropriate  
485 governmental entity that the notice of violation or traffic  
486 citation was in error, the clerk of court or clerk to the local  
487 hearing officer may dismiss the case. The clerk of court or  
488 clerk to the local hearing officer may not charge for this  
489 service.

490 (d) An individual may not receive a commission or per-  
491 ticket fee from any revenue collected from violations detected  
492 through the use of a traffic infraction detector. A manufacturer  
493 or vendor may not receive a fee or remuneration based upon the  
494 number of violations detected through the use of a traffic

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495 | infraction detector.

496 |       (e) Funds deposited into the Department of Health  
497 | Emergency Medical Services Trust Fund under this subsection  
498 | shall be distributed as provided in s. 395.4036(1).

499 |       (22) In addition to the penalty prescribed under s.  
500 | 316.0083 for violations enforced under s. 316.0083 which are  
501 | upheld, the local hearing officer may also order the payment of  
502 | county or municipal costs, not to exceed the amount of the  
503 | penalty assessed and collected by the county or municipality  
504 | ~~\$250~~.

505 |       Section 6. Subsection (4) is added to section 335.10,  
506 | Florida Statutes, to read:

507 |       335.10 State Highway System; vehicle regulation;  
508 | prohibited use and traffic; liability for damage; parking.—

509 |       (4) No charge may be imposed for public parking within  
510 | designated parking spaces located within the right-of-way limits  
511 | of a road on the State Highway System.

512 |       Section 7. Section 337.25, Florida Statutes, is amended to  
513 | read:

514 |       337.25 Acquisition, lease, and disposal of real and  
515 | personal property.—

516 |       (1)(a) The department may purchase, lease, exchange, or  
517 | otherwise acquire any land, property interests, or buildings or  
518 | other improvements, including personal property within such  
519 | buildings or on such lands, necessary to secure or utilize  
520 | transportation rights-of-way for existing, proposed, or

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521 anticipated transportation facilities on the State Highway  
522 System, on the State Park Road System, in a rail corridor, or in  
523 a transportation corridor designated by the department. Such  
524 property shall be held in the name of the state.

525       (b) The department may accept donations of any land or  
526 buildings or other improvements, including personal property  
527 within such buildings or on such lands with or without such  
528 conditions, reservations, or reverter provisions as are  
529 acceptable to the department. Such donations may be used as  
530 transportation rights-of-way or to secure or utilize  
531 transportation rights-of-way for existing, proposed, or  
532 anticipated transportation facilities on the State Highway  
533 System, on the State Park Road System, or in a transportation  
534 corridor designated by the department.

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

544       (d) The department may contract pursuant to s. 287.055 for  
545 auction services used in the conveyance of real or personal  
546 property or the conveyance of leasehold interests under the

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547 provisions of subsections (4) and (5). The contract may allow  
548 for the contractor to retain a portion of the proceeds as  
549 compensation for its services.

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

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

570 (4) The department may convey ~~sell~~, in the name of the  
571 state, any land, building, or other property, real or personal,  
572 which was acquired under the provisions of subsection (1) and

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573 which the department has determined is not needed for the  
574 construction, operation, and maintenance of a transportation  
575 facility. ~~With the exception of any parcel governed by paragraph~~  
576 ~~(e), paragraph (d), paragraph (f), paragraph (g), or paragraph~~  
577 ~~(i), the department shall afford first right of refusal to the~~  
578 ~~local government in the jurisdiction of which the parcel is~~  
579 ~~situated.~~ When such a determination has been made, property may  
580 be disposed of through negotiation, sealed competitive bid,  
581 auction, or any other means that the department deems to be in  
582 its best interest, with due advertisement for property valued by  
583 the department at more than \$10,000. A sale may not occur at a  
584 price less than the department's current estimate of value  
585 except as provided in paragraphs (a)-(d). The department may  
586 afford the right of first refusal to the local government or  
587 other political subdivision in the jurisdiction in which the  
588 parcel is situated, except in conveyances transacted under  
589 paragraph (a), paragraph (c), or paragraph (e). ~~in the following~~  
590 ~~manner:~~

591 (a) If a the value of the property has been donated to the  
592 state for transportation purposes, the facility has not been  
593 constructed for a period of at least 5 years, no plans have been  
594 prepared for the construction of such facility, and the property  
595 is not located in a transportation corridor, the governmental  
596 entity may authorize reconveyance of the donated property  
597 without consideration to the original donor or the donor's  
598 heirs, successors, assigns, or representatives ~~is \$10,000 or~~

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599 ~~less as determined by department estimate, the department may~~  
600 ~~negotiate the sale.~~

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

608 (c) If the property was originally acquired specifically  
609 to provide replacement housing for persons displaced by  
610 transportation projects, the department may negotiate for the  
611 sale of such property as replacement housing. As compensation,  
612 the state shall receive no less than its investment in such  
613 properties or the department's current estimate of value,  
614 whichever is lower. It is expressly intended that this benefit  
615 be extended only to those persons actually displaced by such  
616 project. Disposition to any other person must be for no less  
617 than the department's current estimate of value, in the  
618 discretion of the department, public sale would be inequitable,  
619 properties may be sold by negotiation to the owner holding title  
620 to the property abutting the property to be sold, provided such  
621 sale is at a negotiated price not less than fair market value as  
622 determined by an independent appraisal, the cost of which shall  
623 be paid by the owner of the abutting land. If negotiations do  
624 not result in the sale of the property to the owner of the



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~~abutting land and the property is sold to someone else, the cost of the independent appraisal shall be borne by the purchaser, and the owner of the abutting land shall have the cost of the appraisal refunded to him or her. If, however, no purchase takes place, the owner of the abutting land shall forfeit the sum paid by him or her for the independent appraisal. If, due to action of the department, the property is removed from eligibility for sale, the cost of any appraisal prepared shall be refunded to the owner of the abutting land.~~

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

(e) If, in the discretion of the department, a sale to anyone other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the department's current estimate of value ~~the department begins~~

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651 ~~the process for disposing of the property on its own initiative,~~  
652 ~~either by negotiation under the provisions of paragraph (a),~~  
653 ~~paragraph (c), paragraph (d), or paragraph (i), or by receipt of~~  
654 ~~sealed competitive bids or public auction under the provisions~~  
655 ~~of paragraph (b) or paragraph (i), a department staff appraiser~~  
656 ~~may determine the fair market value of the property by an~~  
657 ~~appraisal.~~

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

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

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

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

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

(5) The department may convey a leasehold interest for commercial or other purposes, in the name of the state, to any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1). A lease may not occur at a price less than the department's current estimate of value. The department's estimate of value shall be prepared in accordance with department procedures, guidelines, and rules for valuation of real property, the cost of which shall be paid by the party seeking to lease the property.

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(a) All leases shall be entered into by negotiation,  
sealed competitive bid, auction, or any other means that the  
department deems to be in its best interest. ~~The department may~~  
~~negotiate such a lease at the prevailing market value with the~~  
~~owner from whom the property was acquired; with the holders of~~  
~~leasehold estates existing at the time of the department's~~  
~~acquisition; or, if public bidding would be inequitable, with~~  
~~the owner holding title to privately owned abutting property, if~~  
~~reasonable notice is provided to all other owners of abutting~~  
~~property.~~ The department may allow an outdoor advertising sign  
to remain on the property acquired, or be relocated on  
department property, and such sign shall not be considered a  
nonconforming sign pursuant to chapter 479.

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

(c) A ~~No~~ lease signed pursuant to paragraph (a) may not ~~or~~  
~~paragraph (b) shall~~ be for a period of more than 5 years;  
however, the department may renegotiate or extend such a lease  
for an additional term of 5 years as the department deems  
appropriate without rebidding.

(d) Each lease shall provide that unless otherwise  
directed by the lessor, any improvements made to the property

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during the term of the lease shall be removed at the lessee's expense.

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

(f) Paragraphs (c) and (e) ~~(d)~~ do not apply to leases entered into pursuant to s. 260.0161(3), except as provided in such a lease.

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

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

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

(7) The department's estimate of value, as required in subsection (4), shall be prepared in accordance with department

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754 procedures, guidelines, and rules for valuation of real  
755 property. If the value of the property exceeds \$50,000 as  
756 determined by department estimate, the sale will be at a  
757 negotiated price of not less than fair market value as  
758 determined by an independent appraisal prepared in accordance  
759 with department procedures, guidelines, and rules for valuation  
760 of real property, the cost of which shall be paid by the party  
761 seeking the purchase of the property. If the estimated value is  
762 \$50,000 or less, the department may use a department staff  
763 appraiser or obtain an independent appraisal ~~required by~~  
764 ~~paragraphs (4)(c) and (d) shall be prepared in accordance with~~  
765 ~~department guidelines and rules by an independent appraiser who~~  
766 ~~has been certified by the department. If federal funds were used~~  
767 ~~in the acquisition of the property, the appraisal shall also be~~  
768 ~~subject to the approval of the Federal Highway Administration.~~

769 (8) A "due advertisement" under this section is an  
770 advertisement in a newspaper of general circulation in the area  
771 of the improvements of not less than 14 calendar days before  
772 ~~prior to~~ the date of the receipt of bids or the date on which a  
773 public auction is to be held.

774 (9) The department, with the approval of the Chief  
775 Financial Officer, may ~~is authorized to~~ disburse state funds for  
776 real estate closings in a manner consistent with good business  
777 practices and in a manner minimizing costs and risks to the  
778 state.

779 (10) The department may ~~is authorized to~~ purchase title

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insurance in those instances where it is determined that such insurance is necessary to protect the public's investment in property being acquired for transportation purposes. The department shall adopt procedures to be followed in making the determination to purchase title insurance for a particular parcel or group of parcels which, at a minimum, shall set forth criteria which the parcels shall ~~must~~ meet.

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

Section 8. Subsection (2) of section 337.251, Florida Statutes, is amended to read:

337.251 Lease of property for joint public-private development and areas above or below department property.—

(2) The department may request proposals for the lease of such property or, if the department receives a proposal for to ~~negotiate~~ a lease of particular department property that the department desires to consider, it shall publish a notice in a newspaper of general circulation at least once a week for 2 weeks, stating that it has received the proposal and will accept, for 120 ~~60~~ days after the date of publication, other proposals for lease of the particular property ~~use of the space~~. A copy of the notice must be mailed to each local government in the affected area. The department shall adopt rules establishing an application fee for the submission of proposals under this section. The fee must be limited to the amount needed to pay the anticipated costs of evaluating the proposals. The department

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may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed lease:

(a) Is in the public's best interest;

(b) Would not require state funds to be used; and

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

Section 9. Subsection (5) of section 338.161, Florida Statutes, is amended to read:

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

(5) If the department finds that it can increase nontoll revenues or add convenience or other value for its customers, and if a public or private transportation facility owner agrees that its facility will become interoperable with the department's electronic toll collection and video billing systems, the department may ~~is authorized to~~ enter into an agreement with the owner of such facility under which the department uses ~~private or public entities for the department's use of~~ its electronic toll collection and video billing systems to collect and enforce for the owner tolls, fares,



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832 administrative fees, and other applicable charges due ~~imposed~~ in  
833 connection with use of the owner's facility ~~transportation~~  
834 ~~facilities of the private or public entities that become~~  
835 ~~interoperable with the department's electronic toll collection~~  
836 ~~system~~. The department may modify its rules regarding toll  
837 collection procedures and the imposition of administrative  
838 charges to be applicable to toll facilities that are not part of  
839 the turnpike system or otherwise owned by the department. This  
840 subsection may not be construed to limit the authority of the  
841 department under any other provision of law or under any  
842 agreement entered into before ~~prior to~~ July 1, 2012.

843 Section 10. Section 373.4137, Florida Statutes, is amended  
844 to read:

845 373.4137 Mitigation requirements for specified  
846 transportation projects.—

847 (1) The Legislature finds that environmental mitigation  
848 for the impact of transportation projects proposed by the  
849 Department of Transportation or a transportation authority  
850 established pursuant to chapter 348 or chapter 349 can be more  
851 effectively achieved by regional, long-range mitigation planning  
852 rather than on a project-by-project basis. It is the intent of  
853 the Legislature that mitigation to offset the adverse effects of  
854 these transportation projects be funded by the Department of  
855 Transportation and be carried out by the use of mitigation banks  
856 and any other mitigation options that satisfy state and federal  
857 requirements in a manner that promotes efficiency, timeliness in

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858 project delivery, and cost-effectiveness.

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

863 (a) By July 1 of each year, the Department of  
864 Transportation, or a transportation authority established  
865 pursuant to chapter 348 or chapter 349 which chooses to  
866 participate in the program, shall submit to the water management  
867 districts a list of its projects in the adopted work program and  
868 an environmental impact inventory of habitat impacts and the  
869 anticipated amount of mitigation needed to offset impacts as  
870 described in paragraph (b). The environmental impact inventory  
871 must be based on ~~habitats addressed in~~ the rules adopted  
872 pursuant to this part, ~~and~~ s. 404 of the Clean Water Act, 33  
873 U.S.C. s. 1344, and the Department of Transportation's ~~which may~~  
874 ~~be impacted by its~~ plan of construction for transportation  
875 projects in the next 3 years of the tentative work program. The  
876 Department of Transportation or a transportation authority  
877 established pursuant to chapter 348 or chapter 349 may also  
878 include in its environmental impact inventory the habitat  
879 impacts and the anticipated amount of mitigation needed for ~~of~~  
880 any future transportation project. The Department of  
881 Transportation and each transportation authority established  
882 pursuant to chapter 348 or chapter 349 may fund any mitigation  
883 activities for future projects using current year funds.

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884 (b) The environmental impact inventory must ~~shall~~ include  
885 a description of ~~these~~ habitat impacts, including ~~their~~  
886 location, acreage, and type; the anticipated amount of  
887 mitigation needed based on the functional loss as determined  
888 through the uniform mitigation assessment method (UMAM) adopted  
889 by rule of the Department of Environmental Protection pursuant  
890 to s. 373.414(18); identification of the proposed mitigation  
891 option; state water quality classification of impacted wetlands  
892 and other surface waters; any other state or regional  
893 designations for these habitats; and a list of threatened  
894 species, endangered species, and species of special concern  
895 affected by the proposed project.

896 (c) Before projects are identified for inclusion in a  
897 water management district mitigation plan as described in  
898 subsection (4), the Department of Transportation must consider  
899 using credits from a permitted mitigation bank. The Department  
900 of Transportation must consider the availability of suitable and  
901 sufficient mitigation bank credits within the transportation  
902 project's area, the ability to satisfy commitments to regulatory  
903 and resource agencies, the availability of suitable and  
904 sufficient mitigation purchased or developed through this  
905 section, the ability to complete existing water management  
906 district or Department of Environmental Protection suitable  
907 mitigation sites initiated with Department of Transportation  
908 mitigation funds, and the ability to satisfy state and federal  
909 requirements including long-term maintenance and liability.

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

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936 ~~from the escrow account shall remain with the Department of~~  
937 ~~Transportation.~~

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

947 (c) For mitigation implemented by the water management  
948 district or the Department of Environmental Protection, as  
949 appropriate, the amount paid each year must be based on  
950 mitigation services provided by the water management districts  
951 or Department of Environmental Protection pursuant to an  
952 approved water management district plan, as described in  
953 subsection (4). ~~Except for current mitigation projects in the~~  
954 ~~monitoring and maintenance phase and except as allowed by~~  
955 ~~paragraph (d),~~ The water management districts or the Department  
956 of Environmental Protection, as appropriate, may request payment  
957 ~~a transfer of funds from an escrow account~~ no sooner than 30  
958 days before the date the funds are needed to pay for activities  
959 associated with development or implementation of permitted  
960 mitigation meeting the requirements pursuant to this part, 33  
961 U.S.C. s. 1344, and 33 C.F.R. part 332 in the approved

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962 mitigation plan described in subsection (4) for the current  
963 fiscal year, ~~including, but not limited to, design, engineering,~~  
964 ~~production, and staff support. Actual conceptual plan~~  
965 ~~preparation costs incurred before plan approval may be submitted~~  
966 ~~to the Department of Transportation or the appropriate~~  
967 ~~transportation authority each year with the plan. The conceptual~~  
968 ~~plan preparation costs of each water management district will be~~  
969 ~~paid from mitigation funds associated with the environmental~~  
970 ~~impact inventory for the current year. The amount transferred to~~  
971 ~~the escrow accounts each year by the Department of~~  
972 ~~Transportation and participating transportation authorities~~  
973 ~~established pursuant to chapter 348 or chapter 349 shall~~  
974 ~~correspond to a cost per acre of \$75,000 multiplied by the~~  
975 ~~projected acres of impact identified in the environmental impact~~  
976 ~~inventory described in subsection (2). However, the \$75,000 cost~~  
977 ~~per acre does not constitute an admission against interest by~~  
978 ~~the state or its subdivisions and is not admissible as evidence~~  
979 ~~of full compensation for any property acquired by eminent domain~~  
980 ~~or through inverse condemnation. Each July 1, the cost per acre~~  
981 ~~shall be adjusted by the percentage change in the average of the~~  
982 ~~Consumer Price Index issued by the United States Department of~~  
983 ~~Labor for the most recent 12-month period ending September 30,~~  
984 ~~compared to the base year average, which is the average for the~~  
985 ~~12-month period ending September 30, 1996. Each quarter, the~~  
986 ~~projected amount of mitigation must~~ acreage of impact ~~shall be~~  
987 ~~reconciled with the~~ actual amount of mitigation needed for

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988 ~~acreage of impact of~~ projects as permitted, including permit  
989 modifications, pursuant to this part and s. 404 of the Clean  
990 Water Act, 33 U.S.C. s. 1344. The subject year's programming  
991 ~~transfer~~ of funds shall be adjusted ~~accordingly~~ to reflect the  
992 mitigation ~~acreage of impacts~~ as permitted. If the water  
993 management district excludes a project from an approved water  
994 management district mitigation plan, if the water management  
995 district cannot timely permit a mitigation site to offset the  
996 impacts of a Department of Transportation project identified in  
997 the environmental impact inventory, or if the proposed  
998 mitigation does not meet state and federal requirements, the  
999 Department of Transportation may use the associated funds for  
1000 the purchase of mitigation bank credits or any other mitigation  
1001 option that satisfies state and federal requirements. The  
1002 ~~Department of Transportation and participating transportation~~  
1003 ~~authorities established pursuant to chapter 348 or chapter 349~~  
1004 ~~are authorized to transfer such funds from the escrow accounts~~  
1005 ~~to the water management districts to carry out the mitigation~~  
1006 ~~programs. Environmental mitigation funds that are identified for~~  
1007 ~~or maintained in an escrow account for the benefit of a water~~  
1008 ~~management district may be released if the associated~~  
1009 ~~transportation project is excluded in whole or part from the~~  
1010 ~~mitigation plan. For a mitigation project that is in the~~  
1011 ~~maintenance and monitoring phase, the water management district~~  
1012 ~~may request and receive a one-time payment based on the~~  
1013 ~~project's expected future maintenance and monitoring costs. Upon~~

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~~final disbursement of the final maintenance and monitoring payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied and the water management district or the Department of Environmental Protection, as appropriate, will have continuing responsibility for the mitigation project, the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under this section.~~

(d) Beginning with the March 2015 water management district mitigation plans ~~in the 2005-2006 fiscal year~~, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance, monitoring, and other costs necessary to meet requirements under this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation must purchase the bank credits. ~~be~~



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~~paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts.~~

(e) For mitigation activities occurring on existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds before July 1, 2013, the water management district or the Department of Environmental Protection shall invoice the Department of Transportation or a participating transportation authority at a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month

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1066 period ending September 30, 1996. When implementing the  
1067 mitigation activities necessary to offset the permitted impacts  
1068 as provided in the approved mitigation plan, the water  
1069 management district shall maintain records of the costs incurred  
1070 in implementing the mitigation. The records must include, but  
1071 are not limited to, costs for planning, land acquisition,  
1072 design, construction, staff support, long-term maintenance and  
1073 monitoring of the mitigation site, and other costs necessary to  
1074 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part  
1075 332.

1076 (f) For purposes of preparing and implementing the  
1077 mitigation plans to be adopted by the water management districts  
1078 on or before March 1, 2014, for impacts based on the July 1,  
1079 2013, environmental impact inventory, the funds identified in  
1080 the Department of Transportation's work program or participating  
1081 transportation authorities' escrow accounts must correspond to a  
1082 cost per acre of \$75,000 multiplied by the projected acres of  
1083 impact as identified in the environmental impact inventory. The  
1084 cost per acre shall be adjusted by the percentage change in the  
1085 average of the Consumer Price Index issued by the United States  
1086 Department of Labor for the most recent 12-month period ending  
1087 September 30, compared to the base year average, which is the  
1088 average for the 12-month period ending September 30, 1996.  
1089 Payment as provided under this paragraph is limited to those  
1090 mitigation activities that are identified in the first year of  
1091 the 2013 mitigation plan and for which the transportation

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1092 project is permitted and is in the Department of  
1093 Transportation's adopted work program, or equivalent for a  
1094 transportation authority. When implementing the mitigation  
1095 activities necessary to offset the permitted impacts as provided  
1096 in the approved mitigation plan, the water management district  
1097 shall maintain records of the costs incurred in implementing the  
1098 mitigation. The records must include, but are not limited to,  
1099 costs for planning, land acquisition, design, construction,  
1100 staff support, long-term maintenance and monitoring of the  
1101 mitigation site, and other costs necessary to meet the  
1102 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the  
1103 extent moneys paid to a water management district by the  
1104 Department of Transportation or a participating transportation  
1105 authority exceed the amount expended by the water management  
1106 districts in implementing the mitigation to offset the permitted  
1107 impacts, these funds must be refunded to the Department of  
1108 Transportation or participating transportation authority. This  
1109 paragraph expires June 30, 2015.

1110 (4) Before March 1 of each year, each water management  
1111 district shall develop a mitigation plan to offset only the  
1112 impacts of transportation projects in the environmental impact  
1113 inventory for which a water management district is implementing  
1114 mitigation that meets the requirements of this section, 33  
1115 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management  
1116 district mitigation plan must be developed, in consultation with  
1117 the Department of Environmental Protection, the United States

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1118 Army Corps of Engineers, the Department of Transportation,  
1119 participating transportation authorities established pursuant to  
1120 chapter 348 or chapter 349, and other appropriate federal,  
1121 state, and local governments, and other interested parties,  
1122 including entities operating mitigation banks, ~~shall develop a~~  
1123 ~~plan for the primary purpose of complying with the mitigation~~  
1124 ~~requirements adopted pursuant to this part and 33 U.S.C. s.~~  
1125 ~~1344.~~ In developing such plans, the water management districts  
1126 shall use sound ecosystem management practices to address  
1127 significant water resource needs and consider ~~shall focus on~~  
1128 activities of the Department of Environmental Protection and the  
1129 water management districts, such as surface water improvement  
1130 and management (SWIM) projects and lands identified for  
1131 potential acquisition for preservation, restoration, or  
1132 enhancement, and the control of invasive and exotic plants in  
1133 wetlands and other surface waters, to the extent that the  
1134 activities comply with the mitigation requirements adopted under  
1135 this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The  
1136 water management district mitigation plan must identify each  
1137 site where the water management district will mitigate for a  
1138 transportation project. For each mitigation site, the water  
1139 management district shall provide the scope of the mitigation  
1140 services, provide the functional gain as determined through the  
1141 UMAM adopted by rule of the Department of Environmental  
1142 Protection pursuant to s. 373.414(18), describe how the  
1143 mitigation offsets the impacts of each transportation project as

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1144 permitted, and provide a schedule for the mitigation services.  
1145 The water management districts shall maintain records of costs  
1146 incurred and payments received for providing these services.  
1147 Records must include, but are not limited to, planning, land  
1148 acquisition, design, construction, staff support, long-term  
1149 maintenance and monitoring of the mitigation site, and other  
1150 costs necessary to meet the requirements of 33 U.S.C. s. 1344  
1151 and 33 C.F.R. part 332. To the extent moneys paid to a water  
1152 management district by the Department of Transportation or a  
1153 participating transportation authority exceed the amount  
1154 expended by the water management districts in providing the  
1155 mitigation services to offset the permitted transportation  
1156 project impacts, these moneys must be refunded to the Department  
1157 of Transportation or participating transportation authority. In  
1158 ~~determining the activities to be included in the plans, the~~  
1159 ~~districts shall consider the purchase of credits from public or~~  
1160 ~~private mitigation banks permitted under s. 373.4136 and~~  
1161 ~~associated federal authorization and shall include the purchase~~  
1162 ~~as a part of the mitigation plan when the purchase would offset~~  
1163 ~~the impact of the transportation project, provide equal benefits~~  
1164 ~~to the water resources than other mitigation options being~~  
1165 ~~considered, and provide the most cost-effective mitigation~~  
1166 ~~option.~~ The mitigation plan shall be submitted to the water  
1167 management district governing board, or its designee, for review  
1168 and approval. At least 14 days before approval by the governing  
1169 board, the water management district shall provide a copy of the

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1170 draft mitigation plan to the Department of Environmental  
1171 Protection and any person who has requested a copy. The  
1172 mitigation plan, after governing board approval, must be  
1173 submitted to the Department of Environmental Protection for  
1174 approval. The plan may not be implemented until it is submitted  
1175 to and approved, in part or in its entirety, by the Department  
1176 of Environmental Protection.

1177 ~~(a) For each transportation project with a funding request~~  
1178 ~~for the next fiscal year, the mitigation plan must include a~~  
1179 ~~brief explanation of why a mitigation bank was or was not chosen~~  
1180 ~~as a mitigation option, including an estimation of identifiable~~  
1181 ~~costs of the mitigation bank and nonbank options and other~~  
1182 ~~factors such as time saved, liability for success of the~~  
1183 ~~mitigation, and long term maintenance.~~

1184 (a)(b) Specific projects may be excluded from the  
1185 mitigation plan, in whole or in part, and are not subject to  
1186 this section upon the election of the Department of  
1187 Transportation, a transportation authority if applicable, or the  
1188 appropriate water management district. The Department of  
1189 Transportation or a participating transportation authority may  
1190 not exclude a transportation project from the mitigation plan  
1191 when mitigation is scheduled for implementation by the water  
1192 management district in the current fiscal year, except when the  
1193 transportation project is removed from the Department of  
1194 Transportation's work program or transportation authority  
1195 funding plan, the mitigation cannot be timely permitted to

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1196 offset the impacts of a Department of Transportation project  
1197 identified in the environmental impact inventory, or the  
1198 proposed mitigation does not meet state and federal  
1199 requirements. If a project is removed from the work program or  
1200 the mitigation plan, costs expended by the water management  
1201 district before removal are eligible for reimbursement by the  
1202 Department of Transportation or participating transportation  
1203 authority.

1204 (b)(e) When determining which projects to include in or  
1205 exclude from the mitigation plan, the Department of  
1206 Transportation shall investigate using credits from a permitted  
1207 mitigation bank before those projects are submitted for  
1208 inclusion in a water management district mitigation ~~the~~ plan.  
1209 The Department of Transportation shall exclude a project from  
1210 the mitigation plan if the investigation undertaken pursuant to  
1211 this paragraph results in the conclusion that the use of credits  
1212 from a permitted mitigation bank promotes efficiency, timeliness  
1213 in project delivery, cost-effectiveness, and transfer of  
1214 liability for success and long-term maintenance. The  
1215 ~~investigation shall consider the cost-effectiveness of~~  
1216 ~~mitigation bank credits, including, but not limited to, factors~~  
1217 ~~such as time saved, transfer of liability for success of the~~  
1218 ~~mitigation, and long-term maintenance.~~

1219 (5) The water management district shall ensure that  
1220 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33  
1221 C.F.R. part 332 are met for the impacts identified in the

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1222 environmental impact inventory for which the water management  
1223 district will implement mitigation described in subsection (2),  
1224 by implementation of the approved mitigation plan described in  
1225 subsection (4) to the extent funding is provided by the  
1226 Department of Transportation, or a transportation authority  
1227 established pursuant to chapter 348 or chapter 349, if  
1228 applicable. In developing and implementing the mitigation plan,  
1229 the water management district shall comply with federal  
1230 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33  
1231 C.F.R. part 332. During the federal permitting process, the  
1232 water management district may deviate from the approved  
1233 mitigation plan in order to comply with federal permitting  
1234 requirements upon notice and coordination with the Department of  
1235 Transportation or participating transportation authority.

1236 (6) The water management district mitigation plans shall  
1237 be updated annually to reflect the most current Department of  
1238 Transportation work program and project list of a transportation  
1239 authority established pursuant to chapter 348 or chapter 349, if  
1240 applicable, and may be amended throughout the year to anticipate  
1241 schedule changes or additional projects which may arise. Before  
1242 amending the mitigation plan to include new projects, the  
1243 Department of Transportation shall consider mitigation banks and  
1244 other available mitigation options that meet state and federal  
1245 requirements. Each update and amendment of the mitigation plan  
1246 shall be submitted to the governing board of the water  
1247 management district or its designee for approval. However, such



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1248 approval shall not be applicable to a deviation as described in  
1249 subsection (5).

1250 (7) Upon approval by the governing board of the water  
1251 management district and the Department of Environmental  
1252 Protection ~~or its designee~~, the mitigation plan shall be deemed  
1253 to satisfy the mitigation requirements under this part for  
1254 impacts specifically identified in the environmental impact  
1255 inventory described in subsection (2) and any other mitigation  
1256 requirements imposed by local, regional, and state agencies for  
1257 these same impacts. The approval of the governing board of the  
1258 water management district and the Department of Environmental  
1259 Protection ~~or its designee~~ shall authorize the activities  
1260 proposed in the mitigation plan, and no other state, regional,  
1261 or local permit or approval shall be necessary.

1262 (8) This section shall not be construed to eliminate the  
1263 need for the Department of Transportation or a transportation  
1264 authority established pursuant to chapter 348 or chapter 349 to  
1265 comply with the requirement to implement practicable design  
1266 modifications, including realignment of transportation projects,  
1267 to reduce or eliminate the impacts of its transportation  
1268 projects on wetlands and other surface waters as required by  
1269 rules adopted pursuant to this part, or to diminish the  
1270 authority under this part to regulate other impacts, including  
1271 water quantity or water quality impacts, or impacts regulated  
1272 under this part that are not identified in the environmental  
1273 impact inventory described in subsection (2).

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

Section 11. Section 2 of chapter 85-364, Laws of Florida, as amended by chapter 95-382, Laws of Florida, is amended to read:

Section 2. All tolls collected shall first be used for the payment of annual operating and maintenance costs and second to discharge the current bond indebtedness related to the Pinellas Bayway. Thereafter, tolls collected shall be used to establish a reserve construction account to be used, together with interest earned thereon, by the department ~~for the construction of Blind Pass Road, State Road 699 improvements, and~~ for Phase II of the Pinellas Bayway improvements. ~~A portion of the tolls collected shall first be used specifically for the construction of the~~

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1300 ~~Blind Pass Road improvements, which improvements consist of~~  
1301 ~~widening to four lanes the Blind Pass Road, State Road 699, from~~  
1302 ~~75th Avenue north to the approach of the Blind Pass Bridge,~~  
1303 ~~including necessary right-of-way acquisition along said portion~~  
1304 ~~of Blind Pass Road, and intersection improvements at 75<sup>th</sup> Avenue~~  
1305 ~~and Blind Pass Road in Pinellas County. Said improvements shall~~  
1306 ~~be included in the department's current 5-year work program.~~  
1307 ~~Upon completion of the Blind Pass Road improvements, the tolls~~  
1308 ~~collected shall be used, together with interest earned thereon,~~  
1309 ~~by the department for Phase II of the Pinellas Bayway~~  
1310 ~~improvements, which improvements consists of widening to four~~  
1311 ~~lanes the Pinellas Bayway from State Road 679 west to Gulf~~  
1312 ~~Boulevard, including necessary approaches, bridges, and avenues~~  
1313 ~~of access. Upon completion of the Phase II improvements, the~~  
1314 ~~department shall continue to collect tolls on the Pinellas~~  
1315 ~~Bayway for purposes of reimbursing the department for all~~  
1316 ~~accrued maintenance costs for the Pinellas Bayway.~~

1317 Section 12. Paragraphs (j) and (m) of subsection (2) of  
1318 section 110.205, Florida Statutes, are amended to read:

1319 110.205 Career service; exemptions.—

1320 (2) EXEMPT POSITIONS.—The exempt positions that are not  
1321 covered by this part include the following:

1322 (j) The appointed secretaries and the State Surgeon  
1323 General, assistant secretaries, deputy secretaries, and deputy  
1324 assistant secretaries of all departments; the executive  
1325 directors, assistant executive directors, deputy executive

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1326 directors, and deputy assistant executive directors of all  
1327 departments; the directors of all divisions and those positions  
1328 determined by the department to have managerial responsibilities  
1329 comparable to such positions, which positions include, but are  
1330 not limited to, program directors, assistant program directors,  
1331 district administrators, deputy district administrators, the  
1332 Director of Central Operations Services of the Department of  
1333 Children and Family Services, the State Transportation  
1334 Development Administrator, State Public Transportation and Modal  
1335 Administrator, district secretaries, district directors of  
1336 transportation development, transportation operations,  
1337 transportation support, and the managers of the offices  
1338 specified in s. 20.23(3)(b) ~~s. 20.23(4)(b)~~, of the Department of  
1339 Transportation. Unless otherwise fixed by law, the department  
1340 shall set the salary and benefits of these positions in  
1341 accordance with the rules of the Senior Management Service; and  
1342 the county health department directors and county health  
1343 department administrators of the Department of Health.

1344 (m) All assistant division director, deputy division  
1345 director, and bureau chief positions in any department, and  
1346 those positions determined by the department to have managerial  
1347 responsibilities comparable to such positions, which include,  
1348 but are not limited to:

1349 1. Positions in the Department of Health and the  
1350 Department of Children and Family Services that are assigned  
1351 primary duties of serving as the superintendent or assistant

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1352 superintendent of an institution.

1353 2. Positions in the Department of Corrections that are  
1354 assigned primary duties of serving as the warden, assistant  
1355 warden, colonel, or major of an institution or that are assigned  
1356 primary duties of serving as the circuit administrator or deputy  
1357 circuit administrator.

1358 3. Positions in the Department of Transportation that are  
1359 assigned primary duties of serving as regional toll managers and  
1360 managers of offices, as defined in s. 20.23(3)(b) and (4)(c) ~~or~~  
1361 ~~20.23(4)(b) and (5)(c)~~.

1362 4. Positions in the Department of Environmental Protection  
1363 that are assigned the duty of an Environmental Administrator or  
1364 program administrator.

1365 5. Positions in the Department of Health that are assigned  
1366 the duties of Environmental Administrator, Assistant County  
1367 Health Department Director, and County Health Department  
1368 Financial Administrator.

1369 6. Positions in the Department of Highway Safety and Motor  
1370 Vehicles that are assigned primary duties of serving as captains  
1371 in the Florida Highway Patrol.

1372  
1373 Unless otherwise fixed by law, the department shall set the  
1374 salary and benefits of the positions listed in this paragraph in  
1375 accordance with the rules established for the Selected Exempt  
1376 Service.

1377 Section 13. This act shall take effect July 1, 2014.