

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending ss. 311.07 and 311.09, F.S.; revising the
4 minimum amount of funds that the department must
5 request for the Florida Seaport Transportation and
6 Economic Development Program; amending s. 316.003,
7 F.S.; defining the term "port-of-entry" for purposes
8 of the Florida Uniform Traffic Control Law; amending
9 s. 316.545, F.S.; providing fines for certain
10 commercial motor vehicles that obtain a specified
11 temporary registration permit; amending s. 334.044,
12 F.S.; authorizing the department to assume certain
13 responsibilities of the United States Department of
14 Transportation with respect to highway projects within
15 the state; authorizing the department to enter into
16 certain agreements related to the federal surface
17 transportation project delivery program under
18 specified federal law; authorizing the department to
19 adopt rules and relevant federal environmental
20 standards; providing a limited waiver of sovereign
21 immunity to civil suit in federal court; amending s.
22 334.30, F.S.; revising requirements for the
23 development and approval of a proposal to finance or
24 refinance a transportation project; authorizing the
25 Division of Bond Finance of the State Board of
26 Administration to make certain recommendations to the

27 Governor; creating s. 337.027, F.S., relating to
 28 highway project contracts; authorizing the department
 29 to establish a program that would assist small
 30 businesses; defining the term "small business";
 31 authorizing the department to adopt rules; amending s.
 32 338.165, F.S.; removing certain facilities from a list
 33 of facilities whose toll revenues may be used to
 34 secure bonds; amending s. 338.231, F.S., relating to
 35 the turnpike system; revising the length of time that
 36 a prepaid toll account must be inactive before
 37 reverting to unclaimed property; creating s. 339.0809,
 38 F.S.; establishing the Florida Department of
 39 Transportation Financing Corporation; providing for a
 40 board of directors; providing for membership and
 41 organization; providing powers and duties of the
 42 corporation; authorizing the corporation to borrow
 43 money; providing for effect of dissolution with
 44 respect to property owned by the corporation; amending
 45 s. 339.135, F.S.; revising requirements for amendments
 46 to the department's adopted work program to be
 47 submitted to the Legislative Budget Commission;
 48 providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Subsection (2) of section 311.07, Florida

53 Statutes, is amended to read:

54 311.07 Florida seaport transportation and economic
55 development funding.—

56 (2) A minimum of \$25 ~~\$15~~ million per year shall be made
57 available from the State Transportation Trust Fund to fund the
58 Florida Seaport Transportation and Economic Development Program.
59 The Florida Seaport Transportation and Economic Development
60 Council created in s. 311.09 shall develop guidelines for
61 project funding. Council staff, the Department of
62 Transportation, and the Department of Economic Opportunity shall
63 work in cooperation to review projects and allocate funds in
64 accordance with the schedule required for the Department of
65 Transportation to include these projects in the tentative work
66 program developed pursuant to s. 339.135(4).

67 Section 2. Subsection (9) of section 311.09, Florida
68 Statutes, is amended to read:

69 311.09 Florida Seaport Transportation and Economic
70 Development Council.—

71 (9) The Department of Transportation shall include at
72 least \$25 ~~no less than \$15~~ million per year in its annual
73 legislative budget request for the Florida Seaport
74 Transportation and Economic Development Program funded under s.
75 311.07. Such budget shall include funding for projects approved
76 by the council which have been determined by each agency to be
77 consistent. The department shall include the specific approved
78 Florida Seaport Transportation and Economic Development Program

79 projects to be funded under s. 311.07 during the ensuing fiscal
 80 year in the tentative work program developed pursuant to s.
 81 339.135(4). The total amount of funding to be allocated to
 82 Florida Seaport Transportation and Economic Development Program
 83 projects under s. 311.07 during the successive 4 fiscal years
 84 shall also be included in the tentative work program developed
 85 pursuant to s. 339.135(4). The council may submit to the
 86 department a list of approved projects that could be made
 87 production-ready within the next 2 years. The list shall be
 88 submitted by the department as part of the needs and project
 89 list prepared pursuant to s. 339.135(2)(b). However, the
 90 department shall, upon written request of the Florida Seaport
 91 Transportation and Economic Development Council, submit work
 92 program amendments pursuant to s. 339.135(7) to the Governor
 93 within 10 days after the later of the date the request is
 94 received by the department or the effective date of the
 95 amendment, termination, or closure of the applicable funding
 96 agreement between the department and the affected seaport, as
 97 required to release the funds from the existing commitment.
 98 Notwithstanding s. 339.135(7)(c), any work program amendment to
 99 transfer prior year funds from one approved seaport project to
 100 another seaport project is subject to the procedures in s.
 101 339.135(7)(d). Notwithstanding any provision of law to the
 102 contrary, the department may transfer unexpended budget between
 103 the seaport projects as identified in the approved work program
 104 amendments.

105 Section 3. Subsection (94) is added to section 316.003,
 106 Florida Statutes, to read:

107 316.003 Definitions.—The following words and phrases, when
 108 used in this chapter, shall have the meanings respectively
 109 ascribed to them in this section, except where the context
 110 otherwise requires:

111 (94) PORT-OF-ENTRY.—A designated location at which drivers
 112 of commercial motor vehicles are allowed to purchase temporary
 113 registration permits necessary to operate lawfully within the
 114 state. The locations and the designated routes to such locations
 115 shall be determined by the Department of Transportation.

116 Section 4. Paragraph (b) of subsection (2) of section
 117 316.545, Florida Statutes, is amended to read:

118 316.545 Weight and load unlawful; special fuel and motor
 119 fuel tax enforcement; inspection; penalty; review.—

120 (2)

121 (b) The officer or inspector shall inspect the license
 122 plate or registration certificate of the commercial vehicle, as
 123 defined in s. 316.003(66), to determine if its gross weight is
 124 in compliance with the declared gross vehicle weight. If its
 125 gross weight exceeds the declared weight, the penalty shall be 5
 126 cents per pound on the difference between such weights. In those
 127 cases when the commercial vehicle, as defined in s. 316.003(66),
 128 is being operated over the highways of the state with an expired
 129 registration or with no registration from this or any other
 130 jurisdiction or is not registered under the applicable

131 provisions of chapter 320, the penalty herein shall apply on the
 132 basis of 5 cents per pound on that scaled weight which exceeds
 133 35,000 pounds on laden truck tractor-semitrailer combinations or
 134 tandem trailer truck combinations, 10,000 pounds on laden
 135 straight trucks or straight truck-trailer combinations, or
 136 10,000 pounds on any unladen commercial motor vehicle. A driver
 137 of a commercial motor vehicle entering the state at a designated
 138 port-of-entry location, as defined in s. 316.003, or operating
 139 on designated routes to a port-of-entry location, who obtains a
 140 temporary registration permit shall be assessed a penalty
 141 limited to the difference between its gross weight and the
 142 declared gross vehicle weight at 5 cents per pound. If the
 143 license plate or registration has not been expired for more than
 144 90 days, the penalty imposed under this paragraph may not exceed
 145 \$1,000. In the case of special mobile equipment as defined in s.
 146 316.003(48), which qualifies for the license tax provided for in
 147 s. 320.08(5)(b), being operated on the highways of the state
 148 with an expired registration or otherwise not properly
 149 registered under the applicable provisions of chapter 320, a
 150 penalty of \$75 shall apply in addition to any other penalty
 151 which may apply in accordance with this chapter. A vehicle found
 152 in violation of this section may be detained until the owner or
 153 operator produces evidence that the vehicle has been properly
 154 registered. Any costs incurred by the retention of the vehicle
 155 shall be the sole responsibility of the owner. A person who has
 156 been assessed a penalty pursuant to this paragraph for failure

157 to have a valid vehicle registration certificate pursuant to the
 158 provisions of chapter 320 is not subject to the delinquent fee
 159 authorized in s. 320.07 if such person obtains a valid
 160 registration certificate within 10 working days after such
 161 penalty was assessed.

162 Section 5. Subsection (34) is added to section 334.044,
 163 Florida Statutes, to read:

164 334.044 Powers and duties of the department; ~~powers and~~
 165 ~~duties.~~—The department shall have the following general powers
 166 and duties:

167 (34) To assume the responsibilities of the United States
 168 Department of Transportation with respect to highway projects
 169 within the state under the National Environmental Policy Act of
 170 1969, 42 U.S.C. ss. 4321 et seq., and with respect to related
 171 responsibilities for environmental review, consultation, or
 172 other action required under any federal environmental law
 173 pertaining to review or approval of a highway project within the
 174 state. The department may assume responsibilities under 23
 175 U.S.C. s. 327 and enter into one or more agreements, including
 176 memoranda of understanding, with the United States Secretary of
 177 Transportation related to the federal surface transportation
 178 project delivery program for the delivery of highway projects,
 179 as provided by 23 U.S.C. s. 327. The department may adopt rules
 180 to implement this subsection and may adopt relevant federal
 181 environmental standards as the standards for this state for a
 182 program described in this subsection. Sovereign immunity from

183 civil suit in federal court is waived consistent with 23 U.S.C.
 184 s. 327 and limited to the compliance, discharge, or enforcement
 185 of a responsibility assumed by the department under this
 186 subsection.

187 Section 6. Subsection (13) is added to section 334.30,
 188 Florida Statutes, to read:

189 334.30 Public-private transportation facilities.—The
 190 Legislature finds and declares that there is a public need for
 191 the rapid construction of safe and efficient transportation
 192 facilities for the purpose of traveling within the state, and
 193 that it is in the public's interest to provide for the
 194 construction of additional safe, convenient, and economical
 195 transportation facilities.

196 (13) In connection with a proposal to finance or refinance
 197 a transportation facility pursuant to this section, the
 198 department shall consult with the Division of Bond Finance of
 199 the State Board of Administration. The department shall provide
 200 the division with the information necessary to provide timely
 201 consultation and recommendations. The Division of Bond Finance
 202 may make an independent recommendation to the Executive Office
 203 of the Governor.

204 Section 7. Section 337.027, Florida Statutes, is created
 205 to read:

206 337.027 Authority to implement a business development
 207 program.—

208 (1) The department may establish a program for highway

209 projects which would assist small businesses. The purpose of
 210 this program is to increase competition, lower prices, and
 211 provide increased support to meet the department's future work
 212 program. The program may include, but is not limited to, setting
 213 aside contracts, providing preference points for the use of
 214 small businesses, providing special assistance in bidding and
 215 contract completion, waiving bond requirements, and implementing
 216 other strategies that would increase competition.

217 (2) For purposes of this section, the term "small
 218 business" means a business with yearly average gross receipts of
 219 less than \$15 million for road and bridge contracts and less
 220 than \$6.5 million for professional and nonprofessional services
 221 contracts. A business' average gross receipts is determined by
 222 averaging its annual gross receipts over the last 3 years,
 223 including the receipts of any affiliate as defined in s.
 224 337.165.

225 (3) The department may adopt rules to implement this
 226 section.

227 Section 8. Subsection (4) of section 338.165, Florida
 228 Statutes, is amended to read:

229 338.165 Continuation of tolls.—

230 (4) Notwithstanding any other law to the contrary,
 231 pursuant to s. 11, Art. VII of the State Constitution, and
 232 subject to the requirements of subsection (2), the Department of
 233 Transportation may request the Division of Bond Finance to issue
 234 bonds secured by toll revenues collected on the Alligator Alley,

235 the Sunshine Skyway Bridge, ~~the Beeline East Expressway, the~~
 236 ~~Navarre Bridge,~~ and the Pinellas Bayway to fund transportation
 237 projects located within the county or counties in which the
 238 project is located and contained in the adopted work program of
 239 the department.

240 Section 9. Paragraph (c) of subsection (3) of section
 241 338.231, Florida Statutes, is amended to read:

242 338.231 Turnpike tolls, fixing; pledge of tolls and other
 243 revenues.—The department shall at all times fix, adjust, charge,
 244 and collect such tolls and amounts for the use of the turnpike
 245 system as are required in order to provide a fund sufficient
 246 with other revenues of the turnpike system to pay the cost of
 247 maintaining, improving, repairing, and operating such turnpike
 248 system; to pay the principal of and interest on all bonds issued
 249 to finance or refinance any portion of the turnpike system as
 250 the same become due and payable; and to create reserves for all
 251 such purposes.

252 (3)

253 (c) Notwithstanding any other provision of law to the
 254 contrary, any prepaid toll account of any kind which has
 255 remained inactive for 10 ~~3~~ years shall be presumed unclaimed and
 256 its disposition shall be handled by the Department of Financial
 257 Services in accordance with all applicable provisions of chapter
 258 717 relating to the disposition of unclaimed property, and the
 259 prepaid toll account shall be closed by the department.

260 Section 10. Section 339.0809, Florida Statutes, is created

261 to read:

262 339.0809 Florida Department of Transportation Financing
 263 Corporation.-

264 (1) The Florida Department of Transportation Financing
 265 Corporation is created as a nonprofit corporation for the
 266 purpose of financing or refinancing projects for the department
 267 as provided in subsection (4).

268 (2) The Florida Department of Transportation Financing
 269 Corporation shall be governed by a board of directors consisting
 270 of the director of the Office of Policy and Budget within the
 271 Executive Office of the Governor, the director of the Division
 272 of Bond Finance, and the Secretary of Transportation. The
 273 director of the Division of Bond Finance shall be the chief
 274 executive officer of the corporation and shall direct and
 275 supervise the administrative affairs of the corporation and
 276 shall control, direct, and supervise the operation of the
 277 corporation. The corporation shall have such other officers as
 278 may be determined by the board of directors.

279 (3) The Florida Department of Transportation Financing
 280 Corporation shall have all the powers of a corporate body under
 281 the laws of the state to the extent not inconsistent with or
 282 restricted by this section, including, but not limited to, the
 283 power to:

284 (a) Adopt, amend, and repeal bylaws.

285 (b) Sue and be sued.

286 (c) Adopt and use a common seal.

287 (d) Acquire, purchase, hold, lease, and convey such real
 288 and personal property as may be proper or expedient to carry out
 289 the purposes of the corporation and this section and to sell,
 290 lease, or otherwise dispose of such property.

291 (e) Elect or appoint and employ such other officers,
 292 agents, and employees as the corporation deems advisable to
 293 operate and manage the affairs of the corporation, which
 294 officers, agents, and employees may be officers or employees of
 295 the department and the state agencies represented on the board
 296 of directors of the corporation.

297 (f) Borrow money and issue notes, bonds, certificates of
 298 indebtedness, or other obligations or evidences of indebtedness
 299 necessary to finance or refinance projects as provided in
 300 subsection (4).

301 (g) Make and execute any and all contracts, trust
 302 agreements, and other instruments and agreements necessary or
 303 convenient to accomplish the purposes of the corporation and
 304 this section.

305 (h) Select, retain, and employ professionals, contractors,
 306 or agents, which may include the Division of Bond Finance, as
 307 necessary or convenient to enable or assist the corporation in
 308 carrying out the purposes of the corporation and this section.

309 (i) Take any action necessary or convenient to carry out
 310 the purposes of the corporation and this section and the powers
 311 provided in this section.

312 (4) The Florida Department of Transportation Financing

313 Corporation may enter into one or more service contracts with
 314 the department to provide services to the department in
 315 connection with projects approved in the department's work
 316 program, which approval specifically provides that the
 317 department may enter into a service contract for the project
 318 pursuant to this section. The department may enter into one or
 319 more such service contracts with the corporation and provide for
 320 payments under such contracts, subject to annual appropriation
 321 by the Legislature. The proceeds from such service contracts may
 322 be used for the corporation's administrative costs and expenses
 323 after payments under subsection (5). Each service contract may
 324 have a term of up to 35 years. In compliance with s. 287.0641
 325 and other applicable law, the obligations of the department
 326 under such service contracts do not constitute a general
 327 obligation of the state or a pledge of the full faith and credit
 328 or taxing power of the state, and such obligations are not an
 329 obligation of the State Board of Administration or entities for
 330 which it invests funds, other than the department as provided in
 331 this section, but are payable solely from amounts available in
 332 the State Transportation Trust Fund, subject to annual
 333 appropriation. In compliance with this subsection and s.
 334 287.0582, the service contract must expressly include the
 335 following statement: "The State of Florida's performance and
 336 obligation to pay under this contract is contingent upon an
 337 annual appropriation by the Legislature."
 338 (5) The Florida Department of Transportation Financing

339 Corporation may issue and incur notes, bonds, certificates of
 340 indebtedness, and other obligations or evidences of indebtedness
 341 payable from and secured by amounts payable to the corporation
 342 by the department under a service contract entered into under
 343 subsection (4) for the purpose of financing or refinancing
 344 projects approved as provided in subsection (4). The duration of
 345 any such note, bond, certificate of indebtedness, or other
 346 obligation or evidence of indebtedness may not exceed 30 annual
 347 maturities. The corporation may select its financing team and
 348 issue its obligations through competitive bidding or negotiated
 349 contracts, whichever is most cost-effective. Indebtedness of the
 350 corporation does not constitute a debt or obligation of the
 351 state or a pledge of the full faith and credit or taxing power
 352 of the state but is payable from and secured by payments made by
 353 the department under the service contract.

354 (6) The fulfillment of the purposes of the Florida
 355 Department of Transportation Financing Corporation promotes the
 356 health, safety, and general welfare of the people of the state
 357 and serves as essential governmental functions and a paramount
 358 public purpose.

359 (7) The Florida Department of Transportation Financing
 360 Corporation is exempt from taxation and assessments on its
 361 income, property, and assets or revenues acquired, received, or
 362 used in the furtherance of the purposes provided in this
 363 chapter. The obligations of the corporation incurred under
 364 subsection (5) and the interest and income on such obligations

365 and all security agreements, letters of credit, liquidity
 366 facilities, or other obligations or instruments arising out of,
 367 entered into in connection with, or given to secure payment of
 368 such obligations are exempt from taxation; however, such
 369 exemption does not apply to any tax imposed under chapter 220 on
 370 the interest, income, or profits on debt obligations owned by
 371 corporations.

372 (8) The Florida Department of Transportation Financing
 373 Corporation may validate obligations to be incurred under
 374 subsection (5) and the validity and enforceability of any
 375 service contracts providing for payments pledged to the payment
 376 of such obligations by proceedings under chapter 75. The
 377 validation complaint may be filed only in the circuit court of
 378 the Second Judicial Circuit in and for Leon County. The notice
 379 required to be published by s. 75.06 must be published in Leon
 380 County, and the complaint and order of the circuit court may be
 381 served only on the State Attorney for the Second Judicial
 382 Circuit. Sections 75.04(2) and 75.06(2) do not apply to a
 383 complaint for validation filed under this subsection.

384 (9) The Florida Department of Transportation Financing
 385 Corporation is not a special district for purposes of chapter
 386 189 or a unit of local government for purposes of part III of
 387 chapter 218. Chapters 120 and 215, except the limitation on the
 388 interest rates provided by s. 215.84, which applies to
 389 obligations of the corporation issued pursuant to this section,
 390 and part I of chapter 287, except ss. 287.0582 and 287.0641, do

391 not apply to this section, the corporation, the service
 392 contracts entered into pursuant to this section, or debt
 393 obligations issued by the corporation as contemplated in this
 394 section.

395 (10) The benefits and earnings of the Florida Department
 396 of Transportation Financing Corporation may not inure to the
 397 benefit of any private person.

398 (11) Upon dissolution of the Florida Department of
 399 Transportation Financing Corporation, title to all property
 400 owned by the corporation shall revert to the state.

401 (12) The Florida Department of Transportation Financing
 402 Corporation may contract with the State Board of Administration
 403 to serve as a trustee with respect to debt obligations issued by
 404 the corporation as contemplated by this section; to hold,
 405 administer, and invest proceeds of such debt obligations and
 406 other funds of the corporation; and to perform other services
 407 required by the corporation. The State Board of Administration
 408 may perform such services and may contract with others to
 409 provide all or a part of such services and to recover its and
 410 such other costs and expenses thereof.

411 (13) The department may enter into a service contract in
 412 conjunction with the issuance of debt obligations as provided in
 413 this section which provides for periodic payments for debt
 414 service or other amounts payable with respect to debt
 415 obligations, plus any administrative expenses of the Florida
 416 Department of Transportation Financing Corporation.

417 Section 11. Paragraph (g) of subsection (7) of section
418 339.135, Florida Statutes, is amended, and paragraph (h) is
419 added to that subsection, to read:

420 339.135 Work program; legislative budget request;
421 definitions; preparation, adoption, execution, and amendment.—

422 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

423 (g) Any work program amendment which also requires the
424 transfer of fixed capital outlay appropriations between
425 categories within the department or the increase of an
426 appropriation category is subject to the approval of the
427 Legislative Budget Commission. ~~If a meeting of the Legislative
428 Budget Commission cannot be held within 30 days of the
429 department submitting an amendment to the Legislative Budget
430 Commission, then the chair and vice chair of the Legislative
431 Budget Commission may authorize such amendment to be approved
432 pursuant to the provisions of s. 216.177.~~

433 (h) Any work program amendment that also adds a new
434 project, or phase thereof, to the adopted work program in excess
435 of \$3 million is subject to approval by the Legislative Budget
436 Commission. Any work program amendment submitted under this
437 paragraph must include, as supplemental information, a list of
438 projects, or phases thereof, in the current 5-year adopted work
439 program which are eligible for the funds within the
440 appropriation category being used for the proposed amendment.
441 The department shall provide a narrative with the rationale for
442 not advancing an existing project, or phase thereof, in lieu of

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443 | the proposed amendment.

444 | Section 12. This act shall take effect July 1, 2016.