CHAPTER 2005-281

House Bill No. 1681

An act relating to transportation; creating s. 311.22, F.S.; establishing a program to provide matching funds for dredging projects in eligible counties; requiring that funds appropriated under the program be used for certain projects; requiring that the Florida Seaport Transportation and Economic Development Council adopt rules for evaluating the dredging projects; providing criteria for the rules; providing for a project-review process by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development; amending s. 332.007, F.S.; authorizing the Department of Transportation to fund certain eligible aviation planning projects to be performed by not-for-profit organizations representing a majority of public airports; amending s. 337.11, F.S.; adding written work orders to the type of documents covered by the department's contracting laws; specifying changes to surety bondholder's liability under certain circumstances; creating s. 337.195, F.S.; providing presumptions relating to liability in certain actions against the department; limiting liability, in certain circumstances, of contractors and engineers doing work for the department; amending s. 338.155, F.S.; providing that persons participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty are exempt from paying tolls; amending s. 339.175, F.S.; requiring metropolitan planning organizations to have recorded roll-votes and super-majority votes on certain plans; amending s. 339.64, F.S.; requiring the Florida Transportation Commission to include as part of its annual work program review an assessment of the department's progress on the Strategic Intermodal System; requiring an annual report to the Governor and the Legislature by a certain time period; directing the department to coordinate with federal, regional, and local entities for transportation planning that impacts military installations; requiring the Strategic Intermodal System Plan to include an assessment of the impacts of proposed projects on military installations; adding a military representative to the Governor's appointees to the Strategic Intermodal Transportation Advisory Council; deleting obsolete provisions; creating part IV of chapter 343, F.S., entitled "Northwest Florida Transportation Corridor Authority"; providing a short title; providing definitions; creating the Northwest Florida Transportation Corridor Authority encompassing Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla Counties; providing for a governing body of the authority; providing for membership, organization, purposes, and powers of the authority; requiring a master plan; providing for the U.S. 98 Corridor System; prohibiting tolls on certain existing highways and other transportation facilities within the corridor; providing for procurement; providing bond financing authority for improvements; providing for bonds of the authority; providing for fiscal agents; providing that the State Board of Administration may act as fiscal agent; providing for certain financial agreements; providing for the rights and remedies of bond-

holders; providing for a lease-purchase agreement with the department; authorizing the authority to appoint the department as its agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for public-private partnerships; providing covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges are enforceable by bondholders; providing for complete and additional statutory authority for the department and other state agencies; amending s. 337.251, F.S.; authorizing the department to adopt rules governing the leasing of property for joint public-private development; amending s. 337.406, F.S.; granting local governments authority to issue permits allowing limited temporary use of state transportation right-of-way; clarifying limited access facilities are not included in such authority; amending s. 339.55, F.S.; establishing a maximum limit on state-funded infrastructure bank loans to the State Transportation Trust Fund; amending s. 373.4137, F.S.; revising the requirements for projects intended to mitigate the adverse effects of transportation projects; removing the Department of Environmental Protection from the mitigation process; revising requirements for the Department of Transportation and the transportation authorities with respect to submitting plans and inventories; authorizing the use of current-year funds for future projects; revising the requirements for reconciling escrow accounts used to fund mitigation projects; authorizing payments to a water management district to fund the costs of future maintenance and monitoring; requiring specified lump-sum payments to be used for the mitigation costs of certain projects; authorizing a governing board of a water management district to approve the use of mitigation funds for certain future projects; requiring that mitigation plans be approved by the water management district rather than the Department of Environmental Protection; amending s. 380.06, F.S., relating to developments of regional impact; deleting a provision stating criteria for determining when a change to certain airports necessitates a review; directing the Department of Transportation to select and fund a consultant to perform a study of bicycle facilities on or connected to the State Highway System; requiring the results of the study to be presented to the Governor and the Legislature; providing for management of the study by the State Pedestrian and Bicycle Coordinator; providing for inclusion of certain elements in the study; requiring the study to include an implementation plan; providing an effective date.

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

Section 1. Section 311.22, Florida Statutes, is created to read:

311.22 Additional authorization for funding certain dredging projects.—

(1) The Florida Seaport Transportation and Economic Development Council shall establish a program to fund dredging projects in counties having a population of fewer than 300,000 according to the last official

census. Funds made available under this program may be used to fund approved projects for the dredging or deepening of channels, turning basins, or harbors on a 50-50 matching basis with any port authority, as such term is defined in s. 315.02(2), which complies with the permitting requirements in part IV of chapter 373 and the local financial management and reporting provisions of part III of chapter 218.

(2) The council shall adopt rules for evaluating the projects that may be funded pursuant to this section. The rules must provide criteria for evaluating the economic benefit of the project. The rules must include the creation of an administrative review process by the council which is similar to the process described in s. 311.09(5)-(12), and provide for a review by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development of all projects submitted for funding under this section.

Section 2. Subsection (10) is added to section 332.007, Florida Statutes, to read:

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

(10) The department may also fund eligible projects performed by not-for-profit organizations that represent a majority of public airports in this state. Eligible projects may include activities associated with aviation master planning, professional education, safety and security planning, enhancing economic development and efficiency at airports in this state, or other planning efforts to improve the viability of airports in this state.

Section 3. Subsection (8) of section 337.11, Florida Statutes, is amended to read:

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

(8)(a) The department shall permit the use of written supplemental agreements, written work orders pursuant to a contingency pay item or contingency supplemental agreement, and written change orders to any contract entered into by the department. Any supplemental agreement shall be reduced to written contract form~~, approved by the contractor's surety,~~ and executed by the contractor and the department. Any supplemental agreement modifying any item in the original contract must be approved by the head of the department, or his or her designee, and executed by the appropriate person designated by him or her. Any surety issuing a bond under s. 337.18 shall be fully liable under such surety bond to the full extent of any modified contract amount up to and including 25 percent over the original contract amount and without regard to the fact that the surety was not aware of or did not approve such modifications. However, if modifications of the original contract amount cumulatively result in modifications of the contract amount in excess of 25 percent of the original contract amount, the

surety's approval shall be required to bind the surety under the bond on that portion in excess of 25 percent of the original contract amount.

(b) Supplemental agreements and written work orders pursuant to a contingency pay item or contingency supplemental agreement shall be used to clarify the plans and specifications of a contract; ~~to provide for major quantity differences which result in the contractor's work effort exceeding the original contract amount by more than 5 percent;~~ to provide for unforeseen work, grade changes, or alterations in plans which could not reasonably have been contemplated or foreseen in the original plans and specifications; to change the limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to settle contract claims; and to make the project functionally operational in accordance with the intent of the original contract. Supplemental agreements may be used to expand the physical limits of a project only to the extent necessary to make the project functionally operational in accordance with the intent of the original contract. The cost of any such agreement extending the physical limits of a project shall not exceed $100,000 or 10 percent of the original contract price, whichever is greater.

(c) Written change orders may be issued by the department and accepted by the contractor covering minor changes in the plans, specifications, or quantities of work within the scope of a contract, when prices for the items of work affected are previously established in the contract, but in no event may such change orders extend the physical limits of the work.

(d) For the purpose of this section, the term "physical limits" means the length or width of any project and specifically includes drainage facilities not running parallel to the project. The length and width of temporary connections affected by such supplemental agreements shall be established in accordance with current engineering practice.

(e) Upon completion and final inspection of the contract work, the department may accept the improvement if it is in substantial compliance with the plans, specifications, special provisions, proposals, and contract and if a proper adjustment in the contract price is made.

(f) Any supplemental agreement or change order in violation of this section is null and void and unenforceable for payment.

Section 4. Section 337.195, Florida Statutes, is created to read:

337.195 Limits on liability.—

(1) In a civil action for the death of or injury to a person, or for damage to property, against the Department of Transportation or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the driver of one of the vehicles was under the influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, or illegally under the influence of any substance controlled under chapter 893 to the extent that her or his normal faculties were

impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole proximate cause of his or her own death, injury, or damage. This presumption can be overcome if the gross negligence or intentional misconduct of the Department of Transportation, or of its agents, consultants, or contractors, was a proximate cause of the driver's death, injury, or damage.

(2) A contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the Department of Transportation is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.

(a) The limitation on liability contained in this subsection does not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage or death was the contractor's failure to perform, update or comply with the maintenance of traffic safety plan as required by the contract documents.

(b) Nothing in this subsection shall be interpreted or construed as relieving the contractor of any obligation to provide the Department of Transportation with written notice of any apparent error or omission in the contract documents.

(c) Nothing in this subsection shall be interpreted or construed to alter or affect any claim of the Department of Transportation against such contractor.

(d) This subsection does not affect any claim of any entity against such contractor, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.

(3) In all cases involving personal injury, property damage, or death, a person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be presumed to have prepared such engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the Department of Transportation's design standards material to the condition or defect that was the proximate cause of the person injury, property damage, or death. This presumption can be overcome only upon a showing of the person's or entity's gross negligence in the preparation of the engineering plans and shall not be interpreted or construed to alter or affect any claim of the Department of Transportation against such person or entity. The limitation on liability contained in this subsection shall not apply to any hidden or undiscoverable condition created by the engineer. This subsection does not

affect any claim of any entity against such engineer or engineering firm, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.

(4) In any civil action for death, injury, or damages against the Department of Transportation or its agents, consultants, engineers or contractors for work performed on a highway, road, street, bridge, or other transportation facility, if the department, its agents, consultants, engineers, or contractors are immune from liability pursuant to this section or are not parties to the litigation, they may not be named on the jury verdict form or be found to be at fault or responsible for the injury, death, or damage that gave rise to the damages.

Section 5. Subsection (1) of section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions.—

(1) No persons are permitted to use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. Any law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. The secretary, or the secretary's designee, may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. The failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation pursuant to s. 318.18. The department is authorized to adopt rules relating to guaranteed toll accounts.

Section 6. Subsection (12) is added to section 339.175, Florida Statutes, to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the

prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63.

(12) VOTING REQUIREMENTS.—Each long-range transportation plan required pursuant to subsection (6); each annually updated Transportation Improvement Program required under subsection (7), and each amendment that affects projects in the first 3 years of such plans and programs, must be approved by each M.P.O. on a recorded roll call vote of the membership present.

Section 7. Section 339.64, Florida Statutes, is amended to read:

339.64 Strategic Intermodal System Plan.—

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

(2) In association with the continued development of the ~~initial~~ Strategic Intermodal System Plan ~~and other transportation plans~~, the Florida Transportation Commission, as part of its work program review process, shall conduct an annual assessment of the progress that the department and its transportation partners have made in realizing the goals of economic development, improved mobility, and increased intermodal connectivity ~~need for an improved philosophical approach to regional and intermodal input in the planning for and governing~~ of the Strategic Intermodal System ~~and other transportation systems~~. The Florida Transportation Commission shall coordinate with the department, the Statewide Intermodal Transportation Advisory Council, and other appropriate entities when developing this assessment. The Florida Transportation Commission shall deliver a report to the Governor and Legislature no later than 14 days after the regular session begins ~~by December 15, 2003~~, with recommendations as necessary to fully implement the Strategic Intermodal System.

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

(b) The department also shall coordinate with federal, regional, and local partners the planning for the Strategic Highway Network and the Strategic Rail Corridor Network transportation facilities that either are included in the Strategic Intermodal System or that provide a direct connection between military installations and the Strategic Intermodal System. In addition, the department shall coordinate with regional and local partners to determine whether the road and other transportation infrastructure that connects military installations to the Strategic Intermodal System, the Strategic Highway Network, or the Strategic Rail Corridor is regionally significant and should be included in the Strategic Intermodal System Plan.

(4) The Strategic Intermodal System Plan shall include the following:

(a) A needs assessment.

(b) A project prioritization process.

(c) A map of facilities designated as Strategic Intermodal System facilities; ~~and~~ facilities that are emerging in importance that are likely to become part of the system in the future; and planned facilities that will meet the established criteria.

(d) A finance plan based on reasonable projections of anticipated revenues, including both 10-year and 20-year cost-feasible components.

(e) An assessment of the impacts of proposed improvements to Strategic Intermodal System corridors on military installations that are either located directly on the Strategic Intermodal System or located on the Strategic Highway Network or Strategic Rail Corridor Network.

(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.—

(a) The Statewide Intermodal Transportation Advisory Council is created to advise and make recommendations to the Legislature and the department on policies, planning, and funding of intermodal transportation projects. The council's responsibilities shall include:

1. Advising the department on the policies, planning, and implementation of strategies related to intermodal transportation.

2. Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient and effective manner for the State of Florida.

(b) MEMBERSHIP.—Members of the Statewide Intermodal Transportation Advisory Council shall consist of the following:

1. Six ~~Five~~ intermodal industry representatives selected by the Governor as follows:

a. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.

b. One individual representing a fixed-route, local-government transit system.

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

d. One representative from a spaceport.

e. One representative from intermodal trucking companies.

f. One representative having command responsibilities of a major military installation.

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

a. One representative from major-line railroads.

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

c. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.

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

a. One representative from short-line railroads.

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

c. One representative from intermodal trucking companies. In no event may this representative be employed by the same company that employs the intermodal trucking company representative selected by the Governor.

(c) Initial appointments to the council must be made no later than 30 days after the effective date of this section.

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

2. The initial appointees, and all subsequent appointees, made by the Governor shall serve 2-year terms.

3. Vacancies on the council shall be filled in the same manner as the initial appointments.

(d) Each member of the council shall be allowed one vote. The council shall select a chair from among its membership. Meetings shall be held at

the call of the chair, but not less frequently than quarterly. The members of the council shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

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

Section 8. Part IV of chapter 343, Florida Statutes, consisting of sections 343.80, 343.805, 343.81, 343.82, 343.83, 343.835, 343.836, 343.837, 343.84, 343.85, 343.87, 343.875, 343.88, 343.881, 343.884, 343.885, and 343.89, is created to read:

PART IV

NORTHWEST FLORIDA TRANSPORTATION CORRIDOR AUTHORITY

343.80 Short title.—This part may be cited as the "Northwest Florida Transportation Corridor Authority Law."

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

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

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

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

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

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

(6) "Lease-purchase agreement" means the lease-purchase agreements that the authority is authorized pursuant to this part to enter into with the Department of Transportation.

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

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

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

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

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

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

343.81 Northwest Florida Transportation Corridor Authority.—

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

(2)(a) The governing body of the authority shall consist of eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla Counties, appointed by the Governor to a 4-year term. The appointees shall be residents of their respective counties. Upon the effective date of his or her appointment, or as soon thereafter as practicable, each appointed member of the authority shall enter upon his or her duties. Each appointed member shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. Any member of the authority shall be eligible for reappointment. Members of the authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

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

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

(b) Five members of the authority shall constitute a quorum, and the vote of at least five members shall be necessary for any action taken by the authority. A vacancy in the authority does not impair the right of a quorum

of the authority to exercise all of the rights and perform all of the duties of the authority.

(c) The authority shall meet at least quarterly but may meet more frequently upon the call of the chair. The authority should alternate the locations of its meetings among the seven counties.

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

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

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

343.82 Purposes and powers.—

(1) The primary purpose of the authority is to improve mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion.

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

(3)(a) The authority shall develop and adopt a corridor master plan no later than July 1, 2007. The goals and objectives of the master plan are to identify areas of the corridor where mobility, traffic safety, and efficient hurricane evacuation needs to be improved; evaluate the economic development potential of the corridor and consider strategies to develop that potential; develop methods of building partnerships with local governments, other

state and federal entities, the private-sector business community, and the public in support of corridor improvements; and to identify projects that will accomplish these goals and objectives.

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

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

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

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

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

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

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

(d) To acquire by donation or otherwise, purchase, hold, lease as lessee, and use any franchise, property, real, personal, or mixed, tangible or intangible, or any options thereof in its own name or in conjunction with others, or interest therein, necessary or desirable for carrying out the purposes of

the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

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

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

(g) To enter into and make leases.

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

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

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

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

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

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

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

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

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

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

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

obligations of the state or of any political subdivision or agency thereof, nor shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or interest on such obligations.

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

343.835 Bonds of the authority.—

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

(b) Alternatively, the authority may issue its own bonds pursuant to this part at such times and in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its purposes; however, such bonds may not pledge the full faith and credit of the state. Bonds issued by the authority pursuant to this paragraph or paragraph (a), whether on original issuance or on refunding, shall be authorized by resolution of the members thereof, may be either term or serial bonds, and shall bear such date or dates, mature at such time or times, not exceeding 40 years after their respective dates, bear interest at such rate or rates, be payable semiannually, be in such denominations, be in such form, either coupon or fully registered, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority, including revenues from lease-purchase agreements. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, however, such bonds shall bear at least one signature that is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and have the seal of the authority affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(c) Bonds issued pursuant to paragraph (a) or paragraph (b) shall be sold at public sale in the manner provided by the State Bond Act. However, if the authority, by official action at a public meeting, determines that a negotiated sale of such bonds is in the best interest of the authority, the authority may negotiate the sale of such bonds with the underwriter designated by the authority and the Division of Bond Finance within the State Board of Administration with respect to bonds issued pursuant to paragraph (a) or solely the authority with respect to bonds issued pursuant to paragraph (b). The authority's determination to negotiate the sale of such bonds may be

based, in part, upon the written advice of the authority's financial adviser. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) The authority may issue bonds pursuant to paragraph (b) to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this chapter or on behalf of the authority pursuant to the State Bond Act.

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

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

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

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

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

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

(f) Limitations on the issuance of additional bonds.

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

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

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

or receipts of the authority. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or, as the authority authorizes, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of or lease-purchase agreement relating to U.S. 98 corridor improvements and the duties of the authority and others, including the department, with reference thereto.

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

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

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

(4) Any of the bonds issued pursuant to this part are, and are hereby declared to be, negotiable instruments and have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(5) Notwithstanding any of the provisions of this part, each project, building, or facility that has been financed by the issuance of bonds or other evidence of indebtedness under this part and any refinancing thereof are hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

343.836 Remedies of the bondholders.—

(1) The rights and the remedies in this section conferred upon or granted to the bondholders are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by a lease-purchase agreement, deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If the authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to the provisions of this part after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, or the department defaults in any payments under, or covenants made in, any lease-purchase agreement between the authority and the department, and such default continues for a period of 30 days, or if the authority or the department fails or refuses to comply with the provisions of this part or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding may appoint a trustee to represent such bondholders for the purposes hereof, if such holders of 25 percent in aggregate principal amount of the bonds then outstanding shall first give notice of their intention to appoint a trustee to the authority and to the department. Such notice shall be deemed to have been given if given in writing, deposited in a securely sealed postpaid wrapper, mailed at a regularly maintained United States post office box or station, and addressed, respectively, to the chair of the authority and to the secretary of the department at the principal office of the department.

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

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

(b) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and the department, including the right to require the department to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement, to require the department to carry out any other covenants and agreements with or for the benefit of the bondholders and to perform its and their duties under this part.

(c) Bring suit upon the bonds.

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

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

(3) Any trustee, when appointed as aforesaid or acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, may appoint a receiver who may enter upon and take possession of the system or the facilities or any part or parts thereof, the rates, fees, rentals, or other revenues, charges, or receipts from which are or may be applicable to the payment of the bonds so in default, and, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, operate and maintain the same for and on behalf of and in the name of the authority, the department, and the bondholders, and collect and receive all rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority or the department might do, and shall deposit all such moneys in a separate account and apply such moneys in such manner as the court shall direct. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any rates, fees, rentals, or other charges, revenues, or receipts derived from the system or the facilities or services or any part or parts thereof, including payments under any such lease-purchase agreement as aforesaid, which rates, fees, rentals, or other charges, revenues, or receipts may be applicable to the payment of the bonds so in default. Such trustee,

in addition to the foregoing, possesses all of the powers necessary for the exercise of any functions specifically set forth herein or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this part does not authorize any receiver appointed pursuant hereto for the purpose, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, of operating and maintaining the system or any facilities or part or parts thereof, to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this part to limit the powers of such receiver, subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department, to the operation and maintenance of the system or any facility or part or parts thereof, as the court may direct, in the name and for and on behalf of the authority, the department, and the bondholders. In any suit, action, or proceeding at law or in equity, a holder of bonds on the authority, a trustee, or any court may not compel or direct a receiver to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority. A receiver also may not be authorized to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority in any suit, action, or proceeding at law or in equity.

343.837 Lease-purchase agreement.—

(1) In order to effectuate the purposes of this part and as authorized by this part, the authority may enter into a lease-purchase agreement with the department relating to and covering the U.S. 98 Corridor System.

(2) Such lease-purchase agreement shall provide for the leasing of the system by the authority, as lessor, to the department, as lessee, shall prescribe the term of such lease and the rentals to be paid thereunder, and shall provide that, upon the completion of the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute to the system as then constituted shall be transferred in accordance with law by the authority to the state and the authority shall deliver to the department such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

(3) Such lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued for the purposes of this part, the completion, extension, improvement, operation, and maintenance of the system and the expenses and the cost of operation of the authority, the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities thereof, and the application of federal or state grants or aid which may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance of the system.

(4) The department as lessee under such lease-purchase agreement may pay as rentals thereunder any rates, fees, charges, funds, moneys, receipts,

or income accruing to the department from the operation of the system and may also pay as rentals any appropriations received by the department pursuant to any act of the Legislature heretofore or hereafter enacted; however, nothing in this section or in such lease-purchase agreement is intended to require, nor shall this part or such lease-purchase agreement require, the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.

(5) The department shall have power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of the corridor system, and any part of the cost of completing the corridor system to the extent that the proceeds of bonds issued are insufficient, from sources other than the revenues derived from the operation of the system.

(6) The U.S. 98 Corridor System shall be a part of the State Highway System as defined in s. 334.03, and the department may, upon the request of the authority, expend out of any funds available for that purpose, and use such of its engineering and other forces, as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies.

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

343.85 Acquisition of lands and property.—

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

removal, or disposal of junkyards and scrap metal processing facilities. The authority may condemn any material and property necessary for such purposes.

(2) The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(3) When the authority acquires property for a transportation facility or in a transportation corridor, the authority is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property, nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

343.87 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is hereby given and granted to any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual in or of the state to make and enter into contracts, leases, conveyances, partnerships, or other agreements with the authority within the provisions and purposes of this part. The authority may make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals for the purpose of carrying out the provisions of this part.

343.875 Public-private partnerships.—

(1) The authority may receive or solicit proposals and enter into agreements with private entities or consortia thereof, for the building, operation, ownership, or financing of transportation facilities within the jurisdiction of the authority. Before approval, the authority must determine that a proposed project:

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

(b) Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.

(c) Would have adequate safeguards to ensure that additional costs or service disruptions would not be realized by the traveling public and citizens of the state in the event of default or the cancellation of the agreement by the authority.

(2) The authority shall ensure that all reasonable costs to the state related to transportation facilities that are not part of the State Highway System are borne by the private entity. The authority also shall ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the

private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(4) Agreements entered into pursuant to this section may authorize the public-private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues shall be regulated by the authority to avoid unreasonable costs to users of the facility.

(5) Each public-private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the authority determines to be in the public's best interest.

(6) The authority may exercise any of its powers, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this section. The authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity for which it receives full or partial reimbursement for services rendered.

(7) Except as herein provided, this section is not intended to amend existing law by granting additional powers to or imposing further restrictions on the governmental entities with regard to regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(8) The authority may adopt rules to implement this section and shall, by rule, establish an application fee for the submission of unsolicited propos-

als under this section. The fee must be sufficient to pay the costs of evaluating the proposals.

343.88 Covenant of the state.—The state does hereby pledge to, and agrees with, any person, firm or corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to, and agree with, the United States that, if any federal agency constructs or contributes any funds for the completion, extension, or improvement of the system or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner which would be inconsistent with the continued maintenance and operation of the system or the completion, extension, or improvement thereof or which would be inconsistent with the due performance of any agreements between the authority and any such federal agency. The authority and the department shall continue to have and may exercise all powers herein granted so long as necessary or desirable for the carrying out of the purposes of this part and the purposes of the United States in the completion, extension, or improvement of the system or any part or portion thereof.

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

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

343.885 Pledges enforceable by bondholders.—It is the express intention of this part that any pledge to the authority by the department of rates, fees, revenues, or other funds as rentals, or any covenants or agreements relative thereto, is enforceable in any court of competent jurisdiction against the authority or directly against the department by any holder of bonds issued by the authority.

343.89 Complete and additional statutory authority.—

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

(2) This part does not repeal, rescind, or modify any other law relating to the State Board of Administration, the Department of Transportation, or the Division of Bond Finance within the State Board of Administration; however, this part supersedes such other laws as are inconsistent with its provisions, including, but not limited to, s. 215.821.

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

Section 9. Subsection (10) is added to section 337.251, Florida Statutes, to read:

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

(10) The department may adopt rules to administer the provisions of this section.

Section 10. Subsection (1) of section 337.406, Florida Statutes, is amended to read:

337.406 Unlawful use of state transportation facility right-of-way; penalties.—

(1) Except when leased as provided in s. 337.25(5) or otherwise authorized by the rules of the department, it is unlawful to make any use of the right-of-way of any state transportation facility, including appendages thereto, outside of an incorporated municipality in any manner that interferes with the safe and efficient movement of people and property from place to place on the transportation facility. Failure to prohibit the use of right-of-way in this manner will endanger the health, safety, and general welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane

changing and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities. Such prohibited uses include, but are not limited to, the free distribution or sale, or display or solicitation for free distribution or sale, of any merchandise, goods, property or services; the solicitation for charitable purposes; the servicing or repairing of any vehicle, except the rendering of emergency service; the storage of vehicles being serviced or repaired on abutting property or elsewhere; and the display of advertising of any sort, except that any portion of a state transportation facility may be used for an art festival, parade, fair, or other special event if permitted by the appropriate local governmental entity. Local government entities ~~Within incorporated municipalities, the local governmental entity~~ may issue permits of limited duration for the temporary use of the right-of-way of a state transportation facility for any of these prohibited uses if it is determined that the use will not interfere with the safe and efficient movement of traffic and the use will cause no danger to the public. The permitting authority granted in this subsection shall be exercised by the municipality within incorporated municipalities and by the county outside an incorporated municipality. Before a road on the State Highway System may be temporarily closed for a special event, the local governmental entity which permits the special event to take place must determine that the temporary closure of the road is necessary and must obtain the prior written approval for the temporary road closure from the department. Nothing in this subsection shall be construed to authorize such activities on any limited access highway ~~the Interstate Highway System~~. Local governmental entities may, within their respective jurisdictions, initiate enforcement action by the appropriate code enforcement authority or law enforcement authority for a violation of this section.

Section 11. Subsection (2) of section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.—

(2) The bank may lend capital costs or provide credit enhancements for a transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system or provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods. Loans from the bank may be subordinated to senior project debt that has an investment grade rating of "BBB" or higher. Notwithstanding any other provision of law, the total outstanding state-funded infrastructure bank loan repayments over the average term of the loan repayment period, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under s. 215.617 to be paid from the State Transportation Trust Fund, may not exceed 0.75 percent of the revenues deposited into the State Transportation Trust Fund.

Section 12. Section 373.4137, Florida Statutes, is amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by ~~the Department of Environmental Protection and~~ the water management districts, including the use of mitigation banks established pursuant to this part.

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

(a) By July ~~May~~ 1 of each year, the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall submit to ~~the Department of Environmental Protection and~~ the water management districts a copy of its adopted work program and an environmental impact inventory of habitats addressed in the rules adopted ~~tentatively,~~ pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts of any future transportation project ~~identified in the tentative work program~~. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3)(a) To fund development and implementation of the mitigation plan for the projected impacts identified in the environmental impact inventory described in subsection (2), the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account shall be maintained by the Department of Transportation for the benefit of ~~the Department of Environmental Protection and~~ the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 that chooses to participate in this program shall create an

escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of ~~the Department of Environmental Protection and~~ the water management districts. Any interest earnings from the escrow account shall remain with the authority.

(c) Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d), the ~~Department of Environmental Protection or~~ water management districts may request a transfer of funds from an escrow account no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation or the appropriate transportation authority ~~and the Department of Environmental Protection by November 1 of~~ each year with the plan. The conceptual plan preparation costs of each water management district will be paid from mitigation funds associated with the environmental impact inventory for the current year ~~based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district~~. The amount transferred to the escrow accounts each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the environmental impact inventory described in subsection (2). However, the $75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions nor is the cost admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Each quarter ~~At the end of each year~~, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted accordingly to reflect the acreage of impacts as permitted ~~overtransfer or undertransfer of funds from the preceding year~~. The Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to ~~the Department of Environmental Protection and~~ the water management districts to carry out the mitigation programs. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. Upon disbursement of the final maintenance and monitoring payment, the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any inter-

est earned on these disbursed funds shall remain with the water management district and must be used as authorized under paragraph (4)(c).

(d) Beginning in the 2005-2006 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 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.

(4) Prior to March ~~December~~ 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, transportation authorities established pursuant to chapter 348 or chapter 349, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. ~~This plan shall also address significant invasive plant problems within wetlands and other surface waters.~~ In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects ~~waterbodies~~ and lands identified for potential acquisition for preservation, restoration or~~, and~~ enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be submitted to ~~preliminarily approved by~~ the water management district governing board, or its designee, ~~and shall be submitted to the secretary of the Department of Environmental Protection~~ for review and ~~final~~ approval. ~~The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569.~~ At least 14 ~~30~~ days prior to ~~preliminary~~ approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a

mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.

(b) Specific projects may be excluded from the mitigation plan, in whole or in part, and shall not be subject to this section upon the agreement of the Department of Transportation, or a transportation authority if applicable, ~~the Department of Environmental Protection,~~ and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process.~~, or the Department of Environmental Protection and~~ The water management district may choose to exclude a project in whole or in part if the district is ~~are~~ unable to identify mitigation that would offset ~~the~~ impacts of the project.

(c) Surface water improvement and management or invasive plant control projects undertaken using the $12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the $12 million is fully credited ~~up to and including fiscal year 2005-2006~~. When these projects are used as mitigation, the $12 million advance shall be reduced by $75,000 per acre of impact mitigated. ~~For any fiscal year through and including fiscal year 2005-2006,~~ To the extent the cost of developing and implementing the mitigation plans is less than the funds placed in the escrow account ~~amount transferred~~ pursuant to subsection (3), the difference shall be retained by the Department of Transportation and credited towards the $12 million advance until the Department of Transportation is fully refunded for this advance funding. After the $12 million advance funding is fully credited ~~Except as provided in this paragraph~~, any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters, SWIM projects, or other water-resource projects approved by the governing board of the water management district which may be appropriate to offset environmental impacts of future transportation projects. The water management districts may request these funds upon submittal of the final invoice for each road project.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the environmental impact inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if applicable, and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and

amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee ~~secretary of the Department of Environmental Protection~~ for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).

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

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

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

Section 13. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be

subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates. ~~However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.~~

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in commercial development by 50,000 square feet of gross floor area or of parking spaces provided for customers for 300 cars or a 5-percent increase of either of these, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

15. A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under sub-subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

Section 14. Bicycle system study.—Prior to October 1, 2005, the Department of Transportation shall perform a bicycle system study of bicycle facilities that are on or connected to the State Highway System. The results of the bicycle system study shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2005. The bicycle system study shall include paved bicycle lanes, bicycle trails, bicycle paths, and any route or facility designated specifically for bicycle traffic. The study shall be performed by a consultant selected and funded by the department and shall be managed by the department's State Pedestrian and Bicycle Coordinator. The study shall include:

(1) Review of department standards for bicycle lanes to determine if they meet the needs of the state's bicyclists.

(2) Identification of state highways with existing designated bicycle lanes.

(3) Identification of state highways with no designated bicycle lanes and any constraints to incorporating these facilities.

(4) Providing electronic mapping of those facilities identified in subsections (2) and (3).

(5) Identification of all bicycle facility needs on the State Highway System.

(6) Review and identification of possible funding sources for new or improved facilities.

(7) A proposed implementation plan that will identify the incorporation of bicycle facilities on those state highways programmed for rehabilitation or new construction in the department's 5-year work program. The proposed plan must include the costs associated within the work program to add these facilities.

Section 15. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2005.

Filed in Office Secretary of State June 20, 2005.