A bill to be entitled
An act relating to the Florida Transportation Commission; amending s. 20.23, F.S.; removing the requirement that the Secretary of Transportation be nominated by the Florida Transportation Commission; removing the requirement that the secretary provide assistance to the commission; deleting provisions relating to the creation, membership, duties, meetings, executive director and staff, and the budget of the commission; deleting the requirement that the commission review certain transportation policy initiatives; repealing s. 334.045, F.S., relating to transportation performance and productivity standards; amending s. 334.048, F.S.; conforming provisions to changes made by the act; amending s. 334.065, F.S.; revising the membership and member approval of the Center for Urban Transportation Research advisory board; amending s. 339.135, F.S.; revising provisions relating to the review and the evaluation of the Department of Transportation’s tentative work program; amending s. 339.64, F.S.; conforming provisions to changes made by the act; amending s. 348.0004, F.S.; requiring the department to determine certain average administrative costs for expressway authorities; deleting commission rulemaking authority; amending s. 110.205, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Paragraphs (a) and (c) of subsection (1), subsection (2), and paragraph (a) of present subsection (3) of section 20.23, Florida Statutes, are amended to read:

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

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

(e) The secretary shall provide to the Florida Transportation Commission or its staff, such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

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

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

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

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

   (b) The commission shall:

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

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

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

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

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

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

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

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

(c) The commission or a member thereof may not enter into the day-to-day operation of the department or a monitored authority and is specifically prohibited from taking part in:
1. The awarding of contracts.

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

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

4. The specific location of a transportation facility.

5. The acquisition of rights-of-way.

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

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

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

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

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

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

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

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

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

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 110 and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided,
However, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

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

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

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

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

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

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

Such systems are herein established to quickly identify and
resolve problems, to hold responsible parties accountable, and to ensure that all costs to the taxpayer are recovered.

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

334.065 Center for Urban Transportation Research.—

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

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

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

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

(c)1. For purposes of this section, the board of county commissioners shall serve as the metropolitan planning
organization in those counties which are not located in a metropolitan planning organization and shall be involved in the development of the district work program to the same extent as a metropolitan planning organization.

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

3. Before submittal of the district work program to the central office, the district shall provide the affected metropolitan planning organization with written justification for any project proposed to be rescheduled or deleted from the district work program which project is part of the metropolitan planning organization’s transportation improvement program and is contained in the last 4 years of the previous adopted work program. By no later than 14 days after submittal of the district work program to the central office, the affected metropolitan planning organization may file an objection to such rescheduling or deletion. When an objection is filed with the
secretary, the rescheduling or deletion may not be included in
the district work program unless the inclusion of such
rescheduling or deletion is specifically approved by the
secretary. The Florida Transportation Commission shall include
such objections in its evaluation of the tentative work program
only when the secretary has approved the rescheduling or
deletion.

(d) Before Prior to the submission of the district work
program to the central office, each district office shall hold a
public hearing in at least one urbanized area in the district
and shall make a presentation at a meeting of each metropolitan
planning organization in the district to determine the necessity
of making any changes to projects included or to be included in
the district work program and to hear requests for new projects
to be added to, or existing projects to be deleted from, the
district work program. However, the district and metropolitan
planning organization shall minimize changes to, deletions from,
or adjustments to projects or project phases contained in the 4
common years of the previous adopted work program and the
district work program. The district shall provide the
metropolitan planning organization with a written explanation
for any project which is contained in the metropolitan planning
organization’s transportation improvement program and which is
not included in the district work program. The metropolitan
planning organization may request in writing to the appropriate
district secretary further consideration of any specific project
not included or not adequately addressed in the district work
program. The district secretary shall acknowledge and review all
such requests before prior to the submission of the district

CODING: Words strucken are deletions; words underlined are additions.
work program to the central office and shall forward a copy of such requests to the secretary and the Florida Transportation Commission. The commission shall include such requests in its evaluation of the tentative work program.

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

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

a. Conduct an in-depth evaluation of the tentative work program for compliance with applicable laws and departmental
b. Hear all questions, suggestions, or other comments offered by the public.

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

a. Financial soundness;

b. Stability;

c. Production capacity;

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

e. Compliance with approved local government comprehensive plans;

f. Objections and requests by metropolitan planning organizations;

g. Policy changes and effects thereof;

h. Identification of statewide or regional projects; and

i. Compliance with all other applicable laws.

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

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

339.64 Strategic Intermodal System Plan.—

(2) In association with the continued development of the
Strategic Intermodal System Plan, 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 of the Strategic Intermodal System. The Florida Transportation Commission shall coordinate with the department 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, with recommendations as necessary to fully implement the Strategic Intermodal System.

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

348.0004 Purposes and powers.—

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

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

1. Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any indebtedness outstanding on July 1,
2019, in any county as defined in s. 125.011(1):

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

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

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

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

2. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to
the extent surplus revenues exist, they may be used for purposes
enumerated in subsection (8), provided the expenditures are
consistent with the metropolitan planning organization’s adopted
long-range plan.

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

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

110.205 Career service; exemptions.—
(2) EXEMPT POSITIONS.—The exempt positions that are not
covered by this part include the following:

(j) The appointed secretaries and the State Surgeon
General, assistant secretaries, deputy secretaries, and deputy
assistant secretaries of all departments; the executive
directors, assistant executive directors, deputy executive
directors, and deputy assistant executive directors of all
departments; the directors of all divisions and those positions
determined by the department to have managerial responsibilities
comparable to such positions, which positions include, but are
not limited to, program directors, assistant program directors,
district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Families, the State Transportation Development Administrator, the State Public Transportation and Modal Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices of the Department of Transportation specified in s. 20.23(2)(b) and 20.23(3)(b). Unless otherwise fixed by law, the department shall set the salary and benefits of these positions and the positions of county health department directors and county health department administrators of the Department of Health in accordance with the rules of the Senior Management Service.

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

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

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

3. Positions in the Department of Transportation which are assigned primary duties of serving as regional toll managers and
465 managers of offices, as specified in s. 20.23(2)(b) and (3)(c)
466 s. 20.23(3)(b) and (4)(c).
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468 4. Positions in the Department of Environmental Protection
469 which are assigned the duty of an Environmental Administrator or
470 program administrator.
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472 5. Positions in the Department of Health which are assigned
473 the duties of Environmental Administrator, Assistant County
474 Health Department Director, and County Health Department
475 Financial Administrator.
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477 6. Positions in the Department of Highway Safety and Motor
478 Vehicles which are assigned primary duties of serving as
479 captains in the Florida Highway Patrol.
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481 Unless otherwise fixed by law, the department shall set the
482 salary and benefits of the positions listed in this paragraph in
483 accordance with the rules established for the Selected Exempt
484 Service.
485
486 Section 9. This act shall take effect July 1, 2019.