

By the Committee on Transportation and Representative K.
Smith

1 A bill to be entitled
2 An act relating to transportation; amending s.
3 20.23, F.S.; providing reference to seaport
4 programs; providing for an organizational unit
5 to administer said programs; deleting reference
6 to the Office of Construction and including
7 reference to the Office of Highway Operations
8 within the Department of Transportation;
9 amending s. 206.46, F.S.; increasing a
10 percentage amount of revenues in the State
11 Transportation Trust Fund to be transferred to
12 the Right-of-Way Acquisition and Bridge
13 Construction Trust Fund annually; increasing
14 the dollar amount which may be so transferred;
15 creating s. 215.615, F.S.; providing for state
16 bonds for federal-aid highways construction;
17 creating s. 215.616, F.S.; providing for the
18 issuance of certain revenue bonds for
19 fixed-guideway transportation systems; creating
20 s. 311.06, F.S.; providing the seaport powers
21 and duties of the Department of Transportation;
22 creating s. 311.061, F.S.; providing the
23 seaport duties and responsibilities of the
24 Department of Transportation; amending s.
25 311.07, F.S.; revising the Florida Seaport
26 Transportation and Economic Development Program
27 within the Department of Transportation;
28 renaming the program the Florida Seaport
29 Development Program; providing for seaport
30 system plans; revising project eligibility
31 requirements; amending s. 311.09, F.S.;

1 revising the Florida Seaport Transportation and
2 Economic Development Council; renaming the
3 council the Florida Seaport Development
4 Council; deleting voting restrictions on agency
5 members of the council; revising the functions
6 of the Department of Transportation with
7 respect to the council; deleting a report
8 requirement; amending ss. 311.105 and 311.11,
9 F.S.; conforming references to the council;
10 creating s. 316.0815, F.S.; providing for a
11 duty to yield for public transit vehicles;
12 providing penalties; amending s. 316.302, F.S.;
13 revising obsolete dates and statutory
14 references with respect to commercial motor
15 vehicles; amending s. 316.3025, F.S.;
16 correcting a cross reference; amending s.
17 316.545, F.S.; providing a maximum penalty for
18 operating a commercial motor vehicle when the
19 registration or license plate has not been
20 expired for more than 90 days; amending s.
21 316.555, F.S.; providing for an exemption from
22 locally imposed weight limits under certain
23 circumstances; amending s. 320.0715, F.S.;
24 providing an exemption from the International
25 Registration Plan; amending s. 320.20, F.S.;
26 revising the uses and disposition of certain
27 license tax money; amending s. 334.035, F.S.;
28 revising language with respect to the purpose
29 of the Florida Transportation Code; amending s.
30 334.0445, F.S.; continuing the operation of the
31 model career service classification and

1 compensation plan within the Department of
2 Transportation for a certain time period;
3 amending s. 334.046, F.S.; revising Department
4 of Transportation program objectives; creating
5 s. 334.071, F.S.; providing for the legislative
6 designation of transportation facilities;
7 amending s. 334.351, F.S.; deleting language
8 with respect to the total amount of youth work
9 experience program contracts; amending s.
10 335.0415, F.S.; revising a date with respect to
11 public road jurisdiction; amending s. 335.093,
12 F.S.; authorizing the department to designate
13 public roads as scenic highways; amending s.
14 337.025, F.S.; increasing the annual cap on
15 transportation project contracts that use
16 innovative construction and financing
17 techniques; amending s. 337.11, F.S.; providing
18 for contracts without advertising and
19 competitive bids; repealing authority for owner
20 controlled insurance plans in the Department of
21 Transportation; amending s. 337.16, F.S.;
22 revising language with respect to contractors
23 who are delinquent with respect to contracts
24 with the department; amending s. 337.162, F.S.;
25 revising language with respect to professional
26 services; amending s. 337.18, F.S.; revising
27 language with respect to certain surety bonds;
28 providing for bonds payable to the department
29 rather than to the Governor; amending s.
30 337.185, F.S.; increasing claim limits with
31 respect to certain contractual claims governed

1 by the State Arbitration Board; revising
2 language with respect to hearings on certain
3 disputes; increasing certain fees; amending s.
4 337.19, F.S.; revising language with respect to
5 suits at law and in equity brought by or
6 against the department with respect to breach
7 of an express provision or an implied covenant
8 of a written agreement or a written directive
9 issued by the department pursuant to the
10 written agreement; providing for rights and
11 obligations; prohibiting liability under
12 certain circumstances; providing exceptions
13 with respect to liability; providing for
14 applicability; amending s. 337.25, F.S.;
15 authorizing the department to purchase, lease,
16 exchange, or otherwise acquire property
17 interests; amending s. 337.251, F.S.;
18 authorizing a fixed-guideway transportation
19 system operating within the department's
20 right-of-way to operate at any safe speed;
21 amending s. 337.403, F.S.; authorizing the
22 department to participate in the cost of
23 certain clearing and grubbing with respect to
24 utility improvement relocation; amending s.
25 337.408, F.S.; revising language with respect
26 to benches and transit shelters; amending s.
27 338.223, F.S.; revising language with respect
28 to proposed turnpike projects to provide that
29 certain requirements do not apply to hardship
30 and protective purchases by the department of
31 advance right-of-way; providing definitions;

1 amending s. 338.229, F.S.; providing additional
2 rights of the department with respect to
3 certain bondholders; amending s. 339.135, F.S.;
4 providing for allocation of certain new highway
5 funds; amending s. 339.155, F.S.; revising
6 language with respect to transportation
7 planning; amending s. 339.175, F.S.; revising
8 language with respect to metropolitan planning
9 organizations; amending s. 341.041, F.S.;
10 directing the department to create and maintain
11 a common self-retention insurance fund to
12 support public transit projects throughout the
13 state; amending s. 341.053, F.S.; providing for
14 development of an intermodal development plan;
15 providing legislative intent with respect to
16 applicability of the act to certain seaport
17 projects; amending s. 341.302, F.S.; revising
18 language with respect to the responsibilities
19 of the department concerning the rail program;
20 amending s. 373.4137, F.S.; revising language
21 with respect to mitigation requirements;
22 amending s. 479.01, F.S.; revising definitions;
23 amending s. 479.07, F.S.; revising language
24 with respect to sign permits; amending s.
25 479.15, F.S.; revising language with respect to
26 harmony of regulations with respect to signs;
27 amending s. 479.16, F.S.; revising language
28 with respect to signs for which permits are not
29 required; repealing ss. 341.3201-341.386, F.S.;
30 eliminating the Florida High-Speed Rail
31 Transportation Act; providing effective dates.

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

2

3 Section 1. Paragraph (b) of subsection (2) and
4 paragraphs (a), (d), and (m) of subsection (3) of section
5 20.23, Florida Statutes, 1998 Supplement, are amended to read:

6 20.23 Department of Transportation.--There is created
7 a Department of Transportation which shall be a decentralized
8 agency.

9 (2)

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

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

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

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

29 4. Monitor the financial status of the department on a
30 regular basis to assure that the department is managing

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1 revenue and bond proceeds responsibly and in accordance with
2 law and established policy.

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

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

12 (3)(a) The central office shall establish departmental
13 policies, rules, procedures, and standards and shall monitor
14 the implementation of such policies, rules, procedures, and
15 standards in order to ensure uniform compliance and quality
16 performance by the districts and central office units that
17 implement transportation programs. The central office
18 monitoring function shall be based on a plan that clearly
19 specifies what areas will be monitored, activities and
20 criteria used to measure compliance, and a feedback process
21 that assures monitoring findings are reported and deficiencies
22 corrected. The secretary is responsible for ensuring that a
23 ~~the~~ central office monitoring function is implemented by
24 ~~October 1, 1990~~, and that it functions properly ~~thereafter~~.
25 In conjunction with its monitoring function, the central
26 office shall provide such training and administrative support
27 to the districts as the department determines to be necessary
28 to ensure that the department's programs are carried out in
29 the most efficient and effective manner.

30 (d)1. Policy, program, or operations offices shall be
31 established within the central office for the purposes of:

- 1 a. Developing policy and procedures and monitoring
2 performance to ensure compliance with these policies and
3 procedures;
- 4 b. Performing statewide activities which it is more
5 cost-effective to perform in a central location;
- 6 c. Assessing and ensuring the accuracy of information
7 within the department's financial management information
8 systems; and
- 9 d. Performing other activities of a statewide nature.
- 10 2. The following offices are established and shall be
11 headed by a manager, each of whom shall be appointed by and
12 serve at the pleasure of the secretary. The positions shall be
13 classified at a level equal to a division director:
- 14 a. The Office of Administration;
- 15 b. The Office of Policy Planning;
- 16 c. The Office of Design;
- 17 d. The Office of Highway Operations ~~Office of~~
18 ~~Construction~~;
- 19 e. The Office of Right-of-Way;
- 20 f. The Office of Toll Operations; and
- 21 g. The Office of Information Systems.
- 22 3. Other offices may be established in accordance with
23 s. 20.04(7)~~(6)~~. The heads of such offices are exempt from part
24 II of chapter 110. No office or organization shall be created
25 at a level equal to or higher than a division without specific
26 legislative authority.
- 27 (m) The secretary shall appoint a state public
28 transportation administrator who shall report to the Assistant
29 Secretary for Transportation Policy. The state public
30 transportation administrator's responsibilities shall include,
31 but are not limited to, the administration of statewide

1 transit, rail, seaport, intermodal development, and aviation
2 programs. This position shall be classified at a level equal
3 to a deputy assistant secretary. The department shall also
4 assign to the public transportation administrator an
5 organizational unit the primary function of which is to
6 administer the seaport ~~high-speed rail~~ program.

7 Section 2. Subsections (2) and (3) of section 206.46,
8 Florida Statutes, are amended to read:

9 206.46 State Transportation Trust Fund.--

10 (2) Notwithstanding any other provisions of law, from
11 the revenues deposited into the State Transportation Trust
12 Fund a maximum of 7 ~~6~~ percent in each fiscal year shall be
13 transferred into the Right-of-Way Acquisition and Bridge
14 Construction Trust Fund created in s. 215.605, as needed to
15 meet the requirements of the documents authorizing the bonds
16 issued or proposed to be issued under ss. 215.605 and 337.276
17 or at a minimum amount sufficient to pay for the debt service
18 coverage requirements of outstanding bonds. Notwithstanding
19 the 7 ~~6~~ percent annual transfer authorized in this subsection,
20 the annual amount transferred under this subsection shall not
21 exceed an amount necessary to provide the required debt
22 service coverage levels for a maximum debt service of not to
23 exceed \$135~~\$115~~ million. Such transfer shall be payable
24 primarily from the motor and diesel fuel taxes transferred to
25 the State Transportation Trust Fund from the Fuel Tax
26 Collection Trust Fund.

27 (3) Through fiscal year 1999-2000, a minimum of 14.3
28 percent of all state revenues deposited into the State
29 Transportation Trust Fund shall be committed annually by the
30 department for public transportation projects in accordance
31 with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and

1 chapter 343. Beginning in fiscal year 2000-2001, and each year
2 thereafter, a minimum of 15 percent of all state revenues
3 deposited into the State Transportation Trust Fund shall be
4 committed annually by the department for public transportation
5 projects in accordance with chapter 311, ss. 332.002-332.007,
6 ~~and chapter 341~~, and chapter 343.

7 Section 3. Section 215.615, Florida Statutes, is
8 created to read:

9 215.615 State bonds for federal-aid highways
10 construction.--

11 (1) Upon the request of the Department of
12 Transportation, the Division of Bond Finance is authorized
13 pursuant to s. 11, Art. VII of the State Constitution and the
14 State Bond Act to issue revenue bonds, for and on behalf of
15 the Department of Transportation, for the purpose of financing
16 or refinancing the construction, reconstruction, and
17 improvement of projects that are eligible to receive
18 federal-aid highway funds.

19 (2) Any bonds issued pursuant to this section shall be
20 payable primarily from a prior and superior claim on all
21 federal highway aid reimbursements received each year with
22 respect to federal-aid projects undertaken in accordance with
23 the provisions of Title 23 of the United States Code.

24 (3) The term of the bonds shall not exceed a term of
25 12 years. Prior to the issuance of bonds, the Department of
26 Transportation shall determine that annual debt service on all
27 bonds issued pursuant to this section does not exceed 10
28 percent of annual apportionments to the department for federal
29 highway aid in accordance with the provisions of Title 23 of
30 the United States Code.

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1 (4) The bonds issued under this section shall not
2 constitute a debt or general obligation of the state or a
3 pledge of the full faith and credit or taxing power of the
4 state. The bonds shall be secured by and are payable from the
5 revenues pledged in accordance with this section and the
6 resolution authorizing their issuance.

7 (5) The state does hereby covenant with the holders of
8 bonds issued under this section that it will not repeal,
9 impair, or amend this section in any manner which will
10 materially and adversely affect the rights of bondholders so
11 long as the bonds authorized by this section are outstanding
12 unless adequate provision has been made for the payment of
13 such bonds pursuant to the documents authorizing the issuance
14 of such bonds.

15 (6) Any complaint for such validation of bonds issued
16 pursuant to this section shall be filed in the circuit court
17 of the county where the seat of state government is situated,
18 the notice required to be published by s. 75.06 shall be
19 published only in the county where the complaint is filed, and
20 the complaint and order of the circuit court shall be served
21 only on the state attorney of the circuit in which the action
22 is pending.

23 Section 4. Section 215.616, Florida Statutes, is
24 created to read:

25 215.616 Issuance of revenue bonds authorized.--

26 (1) The issuance of revenue bonds by the Division of
27 Bond Finance, on behalf of the Department of Transportation,
28 pursuant to s. 11, Art. VII of the State Constitution is
29 hereby authorized, pursuant to the State Bond Act, to finance
30 or refinance fixed capital expenditures for fixed-guideway
31 transportation systems, as defined in s. 341.031, including

1 facilities appurtenant thereto, costs of issuance, and other
2 amounts relating to such financing or refinancing. Such
3 revenue bonds shall be matched on a 50-50 basis with funds
4 from sources other than revenues of the Department of
5 Transportation, in a manner acceptable to the Department of
6 Transportation.

7 (a) The Department of Transportation and any
8 participating commuter rail authority or regional
9 transportation authority established pursuant to chapter 343,
10 local governments, or local governments collectively by
11 interlocal agreement having jurisdiction of a fixed-guideway
12 transportation system may enter into an interlocal agreement
13 to promote the efficient and cost-effective financing or
14 refinancing of fixed-guideway transportation system projects
15 by revenue bonds issued pursuant to this subsection. The terms
16 of such interlocal agreements shall include provisions for the
17 Department of Transportation to request the issuance of the
18 bonds on behalf of the parties; provide that each party to the
19 agreement shall be contractually liable for an equal share of
20 funding an amount equal to the debt service requirements of
21 such bonds; and include any other terms, provisions, or
22 covenants necessary to the making of and full performance
23 under such interlocal agreement. Repayments made to the
24 Department of Transportation under any interlocal agreement
25 are not pledged to the repayment of bonds issued hereunder and
26 failure of the local governmental authority to make such
27 payment shall not affect the obligation of the Department of
28 Transportation to pay debt service on the bonds.

29 (b) Revenue bonds issued pursuant to this subsection
30 shall not constitute a general obligation of the state or a
31 pledge of the full faith and credit of the state. Bonds issued

1 pursuant to this section shall be payable from funds available
2 pursuant to s. 206.46(3), subject to annual appropriation. The
3 amount of revenues available for debt service shall never
4 exceed a maximum of 2 percent of all state revenues deposited
5 into the State Transportation Trust Fund.

6 (c) The projects to be financed or refinanced with the
7 proceeds of the revenue bonds issued hereunder are designated
8 as state fixed capital outlay projects for purposes of s.
9 11(d), Art. VII of the State Constitution and the specific
10 projects to be financed or refinanced shall be determined by
11 the Department of Transportation in accordance with state law
12 and appropriations from the State Transportation Trust Fund.
13 Each project to be financed with the proceeds of the bonds
14 issued pursuant to this subsection shall first be approved by
15 the Legislature by an act of general law.

16 (d) Any complaint for validation of bonds issued
17 pursuant to this section shall be filed in the circuit court
18 of the county where the seat of state government is situated,
19 the notice required to be published by s. 75.06 shall be
20 published only in the county where the complaint is filed, and
21 the complaint and order of the circuit court shall be served
22 only on the state attorney of the circuit in which the action
23 is pending.

24 (e) The state does hereby covenant with holders of
25 such revenue bonds or other instruments of indebtedness issued
26 hereunder that it will not repeal or impair or amend these
27 provisions in any manner which will materially adversely
28 affect the rights of such holders so long as bonds authorized
29 by this paragraph are outstanding unless adequate provision
30 has been made for the payment of such bonds pursuant to the
31 documents authorizing the issuance of such bonds.

1 (f) This subsection supersedes any inconsistent
2 provisions in existing law.

3
4 Notwithstanding anything in this subsection, the lien of
5 revenue bonds issued pursuant to this subsection on moneys
6 deposited into the State Transportation Trust Fund shall be
7 junior and subordinate to the lien on such moneys of bonds
8 issued pursuant to ss. 215.605, 215.615, and 320.20, and any
9 pledge of such moneys to pay operating and maintenance
10 expenses pursuant to s. 206.46(5) and chapter 348, all as are
11 in existence or as may be amended.

12 (2) To be eligible for participation, fixed-guideway
13 transportation system projects must comply with the major
14 capital investment policy guidelines and criteria established
15 by the Department of Transportation pursuant to chapter 341,
16 must be found to be consistent, to the maximum extent
17 feasible, with approved local government comprehensive plans
18 of the local governments in which such projects are located,
19 and must be included in the work program of the Department of
20 Transportation pursuant to the provisions of s. 339.135. The
21 Department of Transportation shall certify that the expected
22 useful life of the transportation improvements will equal or
23 exceed the maturity date of the debt to be issued.

24 Section 5. Section 311.06, Florida Statutes, is
25 created to read:

26 311.06 Seaports; powers and duties of the Department
27 of Transportation.--

28 (1) It shall be the duty, function, and responsibility
29 of the Department of Transportation to plan seaport systems in
30 this state. In carrying out this duty and responsibility, the
31 department may assist and advise, cooperate, and coordinate

1 with federal, state, local, or private organizations and
2 individuals in planning such systems of seaports.

3 (2) It shall be the duty, function, and responsibility
4 of the Department of Transportation to promote the further
5 development and improvement of seaports and to stimulate the
6 development of seaport commerce and seaport facilities. In
7 carrying out this duty and responsibility, the department may
8 advise and cooperate with municipalities, counties, regional
9 authorities, state agencies, appropriate federal agencies, and
10 interested private individuals and groups.

11 Section 6. Section 311.061, Florida Statutes, is
12 created to read:

13 311.061 Duties and responsibilities of the Department
14 of Transportation.--The Department of Transportation shall,
15 within the resources provided pursuant to chapter 216:

16 (1) Provide coordination and assistance for the
17 development of a viable seaport system in this state. To
18 support the system, a statewide seaport system plan shall be
19 developed and periodically updated which summarizes 5-year,
20 10-year, and 20-year seaport facility plans and seaport needs
21 within the state. The statewide seaport system plan shall be
22 consistent with the goals of the Florida Transportation Plan
23 developed pursuant to s. 339.155. The statewide seaport system
24 plan shall not preempt local seaport master plans adopted in
25 compliance with federal and state requirements.

26 (2) Advise and assist the Governor in all seaport
27 matters.

28 (3) Upon request, assist seaport sponsors, both
29 financially and technically, in seaport master planning.

30 (4) Participate in research and development programs
31 relating to seaports.

1 (5) Administer department participation in the seaport
2 program as provided for in this chapter.

3 (6) Encourage the maximum allocation of federal funds
4 to seaport projects in this state.

5 (7) Support the development of land located within the
6 boundaries of seaports for the purpose of industrial or other
7 uses compatible with seaport operations with the objective of
8 assisting seaports in this state to become fiscally
9 self-supporting. Such assistance may include providing state
10 moneys on a matching basis to seaports for capital
11 improvements, including, but not limited to, freight and
12 passenger facilities and equipment, and road and rail
13 transportation systems which are on seaport property.

14 Section 7. Section 311.07, Florida Statutes, is
15 amended to read:

16 311.07 Florida seaport ~~transportation and economic~~
17 ~~development~~ funding.--

18 (1) There is created the Florida Seaport
19 ~~Transportation and Economic~~ Development Program within the
20 Department of Transportation to finance port transportation or
21 port facilities projects that will improve the movement and
22 intermodal transportation of cargo or passengers in commerce
23 and trade and that will support the interests, purposes, and
24 requirements of ports located in this state.

25 (2) A minimum of \$8 million per year shall be made
26 available from the State Transportation Trust Fund to fund the
27 Florida Seaport ~~Transportation and Economic~~ Development
28 Program.

29 (3)(a) Program funds shall be used to fund approved
30 projects on a 50-50 matching basis with any of the deepwater
31 ports, as listed in s. 403.021(9)(b), which is governed by a

1 public body or any other deepwater port which is governed by a
2 public body and which complies with the water quality
3 provisions of s. 403.061, the comprehensive master plan
4 requirements of s. 163.3178(2)(k), the local financial
5 management and reporting provisions of part III of chapter
6 218, and the auditing provisions of s. 11.45(3)(a)4. Program
7 funds also may be used by the Department of Transportation to
8 develop trade forecast data to prepare 5-year, 10-year, and
9 20-year statewide seaport system plans or to determine
10 economic benefit of proposed seaport projects ~~Seaport~~
11 ~~Transportation and Economic Development Council to develop~~
12 ~~with the Florida Trade Data Center such trade data information~~
13 ~~products which will assist Florida's seaports and~~
14 ~~international trade.~~

15 (b) Projects eligible for funding by grants under the
16 program are limited to the following port facilities or port
17 transportation projects:

18 1. Transportation facilities within the jurisdiction
19 of the port.

20 2. The dredging or deepening of channels, turning
21 basins, or harbors.

22 3. The construction or rehabilitation of wharves,
23 docks, structures, jetties, piers, storage facilities, cruise
24 terminals, automated people mover systems, or any facilities
25 necessary or useful in connection with any of the foregoing
26 which accommodates freight movement and storage capacity or
27 cruise capacity.

28 4. The acquisition of container cranes or other
29 mechanized equipment used in the movement of cargo or
30 passengers in international commerce.

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1 5. The acquisition of land to be used for port
2 purposes.

3 6. The acquisition, improvement, enlargement, or
4 extension of existing port facilities which accommodates
5 freight movement and storage capacity or cruise capacity.

6 7. Information systems which provide for modernization
7 or automation of seaport functions.

8 ~~8.7.~~ Environmental protection projects which are
9 necessary because of requirements imposed by a state agency as
10 a condition of a permit or other form of state approval; which
11 are necessary for environmental mitigation required as a
12 condition of a state, federal, or local environmental permit;
13 which are necessary for the acquisition of spoil disposal
14 sites and improvements to existing and future spoil sites; or
15 which result from the funding of eligible projects listed
16 herein.

17 ~~8. Transportation facilities as defined in s.~~
18 ~~334.03(31) which are not otherwise part of the Department of~~
19 ~~Transportation's adopted work program.~~

20 9. Seaport intermodal access projects identified in
21 the 5-year Florida Seaport System Mission Plan as provided in
22 s. 311.09(3).

23 (c) To be eligible for consideration by the department
24 ~~council~~ pursuant to this section, a project must be consistent
25 with the port comprehensive master plan which is incorporated
26 as part of the approved local government comprehensive plan as
27 required by s. 163.3178(2)(k) or other provisions of the Local
28 Government Comprehensive Planning and Land Development
29 Regulation Act, part II of chapter 163.

30 (4) A port eligible for matching funds under the
31 program may receive a distribution of not more than \$7 million

1 during any 1 calendar year and a distribution of not more than
2 \$30 million during any 5-calendar-year period.

3 (5) Any port which receives funding under the program
4 shall institute procedures to ensure that jobs created as a
5 result of the state funding shall be subject to equal
6 opportunity hiring practices in the manner provided in s.
7 110.112.

8 (6) The Department of Transportation shall subject any
9 project that receives funds pursuant to this section and s.
10 320.20 to a final audit. The department may adopt rules and
11 perform such other acts as are necessary or convenient to
12 ensure that the final audits are conducted and that any
13 deficiency or questioned costs noted by the audit are
14 resolved.

15 Section 8. Section 311.09, Florida Statutes, is
16 amended to read:

17 311.09 Florida Seaport ~~Transportation and Economic~~
18 Development Council.--

19 (1) The Florida Seaport ~~Transportation and Economic~~
20 Development Council is created within the Department of
21 Transportation. The council consists of the following 17
22 members: the port director, or the port director's designee,
23 of each of the ports of Jacksonville, Port Canaveral, Fort
24 Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St.
25 Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
26 West, and Fernandina; the secretary of the Department of
27 Transportation or his or her designee ~~as an ex officio~~
28 ~~nonvoting member~~; the director of the Office of Tourism,
29 Trade, and Economic Development or his or her designee ~~as an~~
30 ~~ex officio nonvoting member~~; and the secretary of the
31

1 Department of Community Affairs or his or her designee ~~as an~~
2 ~~ex officio nonvoting member.~~

3 (2) The council shall adopt bylaws governing the
4 manner in which the business of the council will be conducted.
5 The bylaws shall specify the procedure by which the
6 chairperson of the council is elected.

7 (3) The Department of Transportation in cooperation
8 with the council shall prepare a 5-year Florida Seaport System
9 Mission Plan defining ~~the~~ goals and objectives ~~of the council~~
10 concerning the development of port facilities ~~and an~~
11 ~~intermodal transportation system~~ consistent with the goals of
12 the Florida Transportation Plan developed pursuant to s.
13 339.155. The Florida Seaport System Mission Plan shall include
14 specific recommendations for the ~~construction of~~
15 ~~transportation facilities connecting any port to another~~
16 ~~transportation mode and for the efficient, cost-effective~~
17 ~~development of transportation facilities or port facilities~~
18 for the purpose of enhancing international trade, promoting
19 cargo flow, increasing cruise passenger movements, increasing
20 port revenues, and providing economic benefits to the state.
21 The Department of Transportation in cooperation with the
22 council shall update the 5-year Florida Seaport System Mission
23 Plan annually and shall submit the plan no later than February
24 1 of each year to ~~the President of the Senate; the Speaker of~~
25 ~~the House of Representatives;~~ the Office of Tourism, Trade,
26 and Economic Development; ~~the Department of Transportation;~~
27 and the Department of Community Affairs. The council shall
28 develop programs, based on an examination of existing programs
29 in Florida and other states, for the training of minorities
30 and secondary school students in job skills associated with
31 employment opportunities in the maritime industry, ~~and report~~

1 ~~on progress and recommendations for further action to the~~
2 ~~President of the Senate and the Speaker of the House of~~
3 ~~Representatives annually, beginning no later than February 1,~~
4 ~~1991.~~

5 (4) The Department of Transportation in cooperation
6 with the council shall adopt rules for evaluating projects
7 which may be funded under s. 311.07. The rules shall provide
8 criteria for evaluating the economic benefit of the project,
9 measured by the potential for the proposed project to increase
10 cargo flow, cruise passenger movement, international commerce,
11 port revenues, and the number of jobs for the port's local
12 community.

13 (5) The Department of Transportation in cooperation
14 with the council shall review and approve or disapprove each
15 project eligible to be funded pursuant to the Florida Seaport
16 ~~Transportation and Economic~~ Development Program. The
17 Department of Transportation in cooperation with the council
18 shall annually submit to ~~the Secretary of Transportation~~ the
19 director of the Office of Tourism, Trade, and Economic
20 Development and the Secretary of Community Affairs a list of
21 projects which have been approved ~~by the council~~. The list
22 shall specify the recommended funding level for each project;
23 and, if staged implementation of the project is appropriate,
24 the funding requirements for each stage shall be specified.

25 (6) The Department of Community Affairs shall review
26 the list of approved projects ~~approved by the council~~ to
27 determine consistency with approved local government
28 comprehensive plans of the units of local government in which
29 the port is located and consistency with the port master plan.
30 The Department of Community Affairs shall identify and notify
31 the council of those projects which are not consistent, to the

1 maximum extent feasible, with such comprehensive plans and
2 port master plans.

3 (7) The Department of Transportation shall ensure that
4 approved projects are consistent ~~review the list of projects~~
5 ~~approved by the council for consistency~~ with the Florida
6 Transportation Plan, the intermodal development program
7 pursuant to s. 341.053, and the department's adopted work
8 program. In evaluating the consistency of a project, the
9 department shall determine whether the transportation impact
10 of the proposed project is adequately handled by existing
11 state-owned transportation facilities or by the construction
12 of additional state-owned transportation facilities as
13 identified in the ~~Florida Transportation Plan and the~~
14 department's adopted work program. In reviewing for
15 consistency a transportation facility project as defined in s.
16 334.03(31) which is not otherwise part of the department's
17 work program, the department shall evaluate whether the
18 project is needed to provide for projected movement of cargo
19 or passengers from the port to a state transportation facility
20 or local road. If the project is needed to provide for
21 projected movement of cargo or passengers, the project shall
22 be approved for consistency as a consideration to facilitate
23 the economic development and growth of the state in a timely
24 manner. The Department of Transportation shall identify those
25 projects which are inconsistent with the Florida
26 Transportation Plan and the adopted work program and shall
27 notify the council of projects found to be inconsistent.

28 (8) The Office of Tourism, Trade, and Economic
29 Development, in consultation with Enterprise Florida, Inc.,
30 shall review the list of approved projects ~~approved by the~~
31 ~~council~~ to evaluate the economic benefit of the project and to

1 determine whether the project is consistent with the Florida
2 Seaport System ~~Mission~~ Plan. The Office of Tourism, Trade,
3 and Economic Development shall review the economic benefits of
4 each project based upon the rules adopted pursuant to
5 subsection (4). The Office of Tourism, Trade, and Economic
6 Development shall identify those projects which it has
7 determined do not offer an economic benefit to the state or
8 are not consistent with the Florida Seaport System ~~Mission~~
9 Plan and shall notify the council of its findings.

10 (9) The Department of Transportation in cooperation
11 with the council shall review the findings of the Department
12 of Community Affairs and ~~the~~ Office of Tourism, Trade, and
13 Economic Development; ~~and the Department of Transportation.~~
14 Projects found to be inconsistent pursuant to subsections (6),
15 (7), and (8) and projects which have been determined not to
16 offer an economic benefit to the state pursuant to subsection
17 (8) shall not be included in the list of projects to be
18 funded.

19 (10) The Department of Transportation shall include in
20 its annual legislative budget request a Florida Seaport
21 ~~Transportation and Economic~~ Development grant Program for
22 expenditure of funds of not less than \$8 million per year.
23 Such budget shall include funding for approved projects
24 ~~approved by the council~~ which have been determined by each
25 agency to be consistent and which have been determined by the
26 Office of Tourism, Trade, and Economic Development to be
27 economically beneficial. ~~The council may submit to the~~
28 ~~department a list of approved projects that could be made~~
29 ~~production ready within the next 2 years. The list shall be~~
30 ~~submitted as part of the needs and project list prepared~~
31 ~~pursuant to s. 339.135.~~

1 (11) The council shall meet at the call of its
2 chairperson, at the request of a majority of its membership,
3 or at such times as may be prescribed in its bylaws. However,
4 the council must meet at least semiannually. A majority of
5 voting members of the council constitutes a quorum for the
6 purpose of transacting the business of the council. All
7 members of the council are voting members ~~except for members~~
8 ~~representing the Department of Transportation; the Department~~
9 ~~of Community Affairs; and the Office of Tourism, Trade, and~~
10 ~~Economic Development.~~ A vote of the majority of the voting
11 members present is sufficient for any action of the council,
12 unless the bylaws of the council require a greater vote for a
13 particular action.

14 (12) Members of the council shall serve without
15 compensation but are entitled to receive reimbursement for per
16 diem and travel expenses as provided in s. 112.061. The
17 Department of Transportation ~~council~~ may elect to provide an
18 administrative staff to provide services to the council on
19 matters relating to the Florida Seaport ~~Transportation and~~
20 ~~Economic~~ Development Program and the council. The cost for
21 such administrative services shall be reimbursed ~~paid~~ by all
22 ports that receive funding from the Florida Seaport
23 ~~Transportation and Economic~~ Development Program, based upon a
24 pro rata formula measured by each recipient's share of the
25 funds as compared to the total funds disbursed to all
26 recipients during the year. The share of costs for
27 administrative services shall be paid in its total amount by
28 the recipient port upon execution by the port and the
29 Department of Transportation of a joint participation
30 agreement for each council-approved project, and such payment
31

1 is in addition to the matching funds required to be paid by
2 the recipient port.

3 Section 9. Subsection (1) of section 311.105, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 311.105 Florida Seaport Environmental Management
6 Committee; permitting; mitigation.--

7 (1)(a) There is created the Florida Seaport
8 Environmental Management Committee, which shall be under the
9 direction of the Florida Seaport ~~Transportation and Economic~~
10 Development Council.

11 (b) The committee shall consist of the following
12 members: the Secretary of Environmental Protection, or his or
13 her designee, as an ex officio, nonvoting member; a designee
14 from the United States Army Corps of Engineers, as an ex
15 officio, nonvoting member; a designee from the Florida Inland
16 Navigation District, as an ex officio, nonvoting member; the
17 Secretary of Community Affairs, or his or her designee, as an
18 ex officio, nonvoting member; and five or more port directors,
19 as voting members, appointed to the committee by the council
20 chair, who shall also designate one such member as committee
21 chair.

22 (c) The committee shall meet at the call of the chair
23 but must meet at least semiannually. A majority of the voting
24 members constitutes a quorum for the purpose of transacting
25 business of the committee, and a vote of the majority of the
26 voting members present is required for official action by the
27 committee.

28 (d) The committee shall provide a forum for discussion
29 of environmental issues, including, but not limited to, those
30 relating to maintenance dredging and dredged-material
31 management; environmental mitigation; air and water quality

1 permitting; and the maintenance of navigation channels, port
2 harbors, turning basins, harbor berths, and associated
3 facilities.

4 (e) The committee shall work closely with the
5 Department of Environmental Protection, United States Army
6 Corps of Engineers, and ports listed in s. 403.021(9)(b) to
7 ensure that suitable dredged material is deposited on
8 Florida's beaches to the extent the committee determines to be
9 economically feasible and consistent with beach restoration
10 and other beneficial uses criteria of the Department of
11 Environmental Protection.

12 Section 10. Subsection (1) of section 311.11, Florida
13 Statutes, is amended to read:

14 311.11 Seaport Employment Training Grant Program.--

15 (1) The Office of Tourism, Trade, and Economic
16 Development, in cooperation with the Florida Seaport
17 ~~Transportation and Economic~~ Development Council, shall
18 establish a Seaport Employment Training Grant Program within
19 the office. The office shall grant funds appropriated by the
20 Legislature to the program for the purpose of stimulating and
21 supporting seaport training and employment programs which will
22 seek to match state and local training programs with
23 identified job skills associated with employment opportunities
24 in the port, maritime, and transportation industries, and for
25 the purpose of providing such other training, educational, and
26 information services as required to stimulate jobs in the
27 described industries. Funds may be used for the purchase of
28 equipment to be used for training purposes, hiring
29 instructors, and any other purpose associated with the
30 training program. The office's contribution to any specific
31 training program may not exceed 50 percent of the total cost

1 of the program. Matching contributions may include services in
2 kind, including, but not limited to, training instructors,
3 equipment usage, and training facilities.

4 Section 11. Section 316.0815, Florida Statutes, is
5 created to read:

6 316.0815 Duty to yield to public transit vehicles.--

7 (1) The driver of a vehicle shall yield the
8 right-of-way to a publicly owned transit bus traveling in the
9 same direction which has signaled and is reentering the
10 traffic flow from a specifically designated pullout bay.

11 (2) This section does not relieve the driver of a
12 public transit vehicle from the duty to drive with due regard
13 for the safety of all persons using the roadway.

14 (3) A violation of this section is a noncriminal
15 traffic infraction, punishable as a moving violation as
16 provided in chapter 318.

17 Section 12. Paragraph (b) of subsection (1) and
18 paragraphs (e) and (f) of subsection (2) of section 316.302,
19 Florida Statutes, 1998 Supplement, are amended to read:

20 316.302 Commercial motor vehicles; safety regulations;
21 transporters and shippers of hazardous materials;
22 enforcement.--

23 (1)

24 (b) Except as otherwise provided in this section, all
25 owners or drivers of commercial motor vehicles that are
26 engaged in intrastate commerce are subject to the rules and
27 regulations contained in 49 C.F.R. parts 382, 385, and
28 390-397, with the exception of 49 C.F.R. s. 390.5 as it
29 relates to the definition of bus, as such rules and
30 regulations existed on March 1, 1999 ~~1997~~.

31 (2)

1 (e) A person who operates a commercial motor vehicle
2 solely in intrastate commerce is exempt from subsection (1)
3 while transporting agricultural products, including
4 horticultural or forestry products, from farm or harvest place
5 to the first place of processing or storage, or from farm or
6 harvest place directly to market. However, such person must
7 comply with 49 C.F.R. ~~part 391, subpart H~~ and parts 382, 392,
8 and 393, and with 49 C.F.R. ss. 396.3(a)(1) and s-396.9.

9 (f) A person who operates a commercial motor vehicle
10 having a declared gross vehicle weight of less than 26,000
11 pounds solely in intrastate commerce and who is not
12 transporting hazardous materials, or who is transporting
13 petroleum products as defined in s. 376.301(31)~~(29)~~, is exempt
14 from subsection (1). However, such person must comply with 49
15 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
16 396.3(a)(1) and s-396.9.

17 Section 13. Paragraph (c) of subsection (3) of section
18 316.3025, Florida Statutes, is amended to read:

19 316.3025 Penalties.--

20 (3)

21 (c) A civil penalty of \$250 may be assessed for:

22 1. A violation of the placarding requirements of 49
23 C.F.R. parts 171-179;

24 2. A violation of the shipping paper requirements of
25 49 C.F.R. parts 171-179;

26 3. A violation of 49 C.F.R. s. 392.10;

27 4. A violation of 49 C.F.R. s. 397.5 ~~395.5~~;

28 5. A violation of 49 C.F.R. s. 397.7;

29 6. A violation of 49 C.F.R. s. 397.13; or

30 7. A violation of 49 C.F.R. s. 397.15.

31

1 Section 14. Paragraph (b) of subsection (2) of section
2 316.545, Florida Statutes, is amended to read:

3 316.545 Weight and load unlawful; special fuel and
4 motor fuel tax enforcement; inspection; penalty; review.--

5 (2)

6 (b) The officer shall inspect the license plate or
7 registration certificate of the commercial vehicle, as defined
8 in s. 316.003(66), to determine if its gross weight is in
9 compliance with the declared gross vehicle weight. If its
10 gross weight exceeds the declared weight, the penalty shall be
11 5 cents per pound on the difference between such weights. In
12 those cases when the commercial vehicle, as defined in s.
13 316.003(66), is being operated over the highways of the state
14 with an expired registration or with no registration from this
15 or any other jurisdiction or is not registered under the
16 applicable provisions of chapter 320, the penalty herein shall
17 apply on the basis of 5 cents per pound on that scaled weight
18 which exceeds 35,000 pounds on laden truck tractor-semitrailer
19 combinations or tandem trailer truck combinations, 10,000
20 pounds on laden straight trucks or straight truck-trailer
21 combinations, or 10,000 pounds on any unladen commercial motor
22 vehicle. If the license plate or registration has not been
23 expired for more than 90 days, the penalty imposed under this
24 paragraph may not exceed \$1,000.In the case of special mobile
25 equipment as defined in s. 316.003(48), which qualifies for
26 the license tax provided for in s. 320.08(5)(b), being
27 operated on the highways of the state with an expired
28 registration or otherwise not properly registered under the
29 applicable provisions of chapter 320, a penalty of \$75 shall
30 apply in addition to any other penalty which may apply in
31 accordance with this chapter. A vehicle found in violation of

1 this section may be detained until the owner or operator
2 produces evidence that the vehicle has been properly
3 registered. Any costs incurred by the retention of the
4 vehicle shall be the sole responsibility of the owner. A
5 person who has been assessed a penalty pursuant to this
6 paragraph for failure to have a valid vehicle registration
7 certificate pursuant to the provisions of chapter 320 is not
8 subject to the delinquent fee authorized in s. 320.07 if such
9 person obtains a valid registration certificate within 10
10 working days after such penalty was assessed.

11 Section 15. Section 316.555, Florida Statutes, is
12 amended to read:

13 316.555 Weight, load, speed limits may be lowered;
14 condition precedent.--Anything in this chapter to the contrary
15 notwithstanding, the Department of Transportation with respect
16 to state roads, and local authorities with respect to highways
17 under their jurisdiction, may prescribe, by notice hereinafter
18 provided for, loads and weights and speed limits lower than
19 the limits prescribed in this chapter and other laws, whenever
20 in its or their judgment any road or part thereof or any
21 bridge or culvert shall, by reason of its design,
22 deterioration, rain, or other climatic or natural causes be
23 liable to be damaged or destroyed by motor vehicles, trailers,
24 or semitrailers, if the gross weight or speed limit thereof
25 shall exceed the limits prescribed in said notice. The
26 Department of Transportation or local authority may, by like
27 notice, regulate or prohibit, in whole or in part, the
28 operation of any specified class or size of motor vehicles,
29 trailers, or semitrailers on any highways or specified parts
30 thereof under its or their jurisdiction, whenever in its or
31 their judgment, such regulation or prohibition is necessary to

1 provide for the public safety and convenience on the highways,
2 or parts thereof, by reason of traffic density, intensive use
3 thereof by the traveling public, or other reasons of public
4 safety and convenience. The notice or the substance thereof
5 shall be posted at conspicuous places at terminals of all
6 intermediate crossroads and road junctions with the section of
7 highway to which the notice shall apply. After any such
8 notice has been posted, the operation of any motor vehicle or
9 combination contrary to its provisions shall constitute a
10 violation of this chapter. An exemption from any locally
11 imposed weight limit shall be granted by a local government to
12 vehicles transporting silvicultural and agricultural products
13 and to equipment used in connection with silvicultural and
14 agricultural site management when a county road offers the
15 only access into and out of the property. This exemption shall
16 not apply to any bridge or other structure which has weight
17 restrictions established for safety reasons. However, no
18 limitation shall be established by any county, municipal, or
19 other local authorities pursuant to the provisions of this
20 section that would interfere with or interrupt traffic as
21 authorized hereunder over state roads, including officially
22 established detours for such highways, including cases where
23 such traffic passes over roads, streets or thoroughfares
24 within the sole jurisdiction of the county, municipal or other
25 local authorities unless such limitations and further
26 restrictions have first been approved by the Department of
27 Transportation. With respect to county roads, except such as
28 are in use as state road detours, the respective county road
29 authorities shall have full power and authority to further
30 limit the weights of vehicles upon bridges and culverts upon
31 such public notice as they deem sufficient, and existing laws

1 applicable thereto shall not be affected by the terms of this
2 chapter.

3 Section 16. Subsection (5) is added to section
4 320.0715, Florida Statutes, to read:

5 320.0715 International Registration Plan; motor
6 carrier services; permits; retention of records.--

7 (5) The provisions of this section do not apply to any
8 commercial motor vehicle domiciled in a foreign state that
9 enters this state solely for the purpose of bringing a
10 commercial vehicle in for repairs, or picking up a newly
11 purchased commercial vehicle, so long as the commercial motor
12 vehicle is operated by its owner and is not hauling a load.

13 Section 17. Section 320.20, Florida Statutes, is
14 amended to read:

15 320.20 Disposition of license tax moneys.--The revenue
16 derived from the registration of motor vehicles, including any
17 delinquent fees and excluding those revenues collected and
18 distributed under the provisions of s. 320.081, must be
19 distributed monthly, as collected, as follows:

20 (1) The first proceeds, to the extent necessary to
21 comply with the provisions of s. 18, Art. XII of the State
22 Constitution of 1885, as adopted by s. 9(d), Art. XII, 1968
23 revised constitution, and the additional provisions of s. 9(d)
24 and s. 236.602, must be deposited in the district Capital
25 Outlay and Debt Service School Trust Fund.

26 ~~(2) Twenty-five million dollars per year of such~~
27 ~~revenues must be deposited in the State Transportation Trust~~
28 ~~Fund, with priority use assigned to completion of the~~
29 ~~interstate highway system. However, any excess funds may be~~
30 ~~utilized for general transportation purposes, consistent with~~
31 ~~the Department of Transportation's legislatively approved~~

1 ~~objectives. Prior to such utilization, the department's~~
2 ~~comptroller shall certify that adequate funds are available to~~
3 ~~assure expeditious completion of the interstate highway system~~
4 ~~and to award all such contracts by 1990.~~

5 (2)~~(3)~~ Notwithstanding any other provision of law
6 except subsection (1)~~subsections (1) and (2)~~, on July 1,
7 1996, and annually thereafter, \$15 million shall be deposited
8 in the State Transportation Trust Fund solely for the purposes
9 of funding the Florida Seaport ~~Transportation and Economic~~
10 Development Program as provided for in chapter 311. Such
11 revenues shall be distributed on a 50-50 matching basis to any
12 port listed in s. 311.09(1) to be used for funding projects as
13 described in s. 311.07(3)(b). Such revenues may be assigned,
14 pledged, or set aside as a trust for the payment of principal
15 or interest on bonds, tax anticipation certificates, or any
16 other form of indebtedness issued by an individual port or
17 appropriate local government having jurisdiction thereof, or
18 collectively by interlocal agreement among any of the ports,
19 or used to purchase credit support to permit such borrowings.
20 However, such debt shall not constitute a general obligation
21 of the State of Florida. The state does hereby covenant with
22 holders of such revenue bonds or other instruments of
23 indebtedness issued hereunder that it will not repeal or
24 impair or amend in any manner which will materially and
25 adversely affect the rights of such holders so long as bonds
26 authorized by this section are outstanding. Any revenues
27 which are not pledged to the repayment of bonds as authorized
28 by this section may be utilized for purposes authorized under
29 the Florida Seaport ~~Transportation and Economic~~ Development
30 Program. This revenue source is in addition to any amounts
31 provided for and appropriated in accordance with s. 311.07.

1 The Florida Seaport ~~Transportation and Economic~~ Development
2 Council shall approve distribution of funds to ports for
3 projects which have been approved pursuant to s.
4 311.09(5)-(9). The council and the Department of
5 Transportation are authorized to perform such acts as are
6 required to facilitate and implement the provisions of this
7 subsection. To better enable the ports to cooperate to their
8 mutual advantage, the governing body of each port may exercise
9 powers provided to municipalities or counties in s.
10 163.01(7)(d) subject to the provisions of chapter 311 and
11 special acts, if any, pertaining to a port. The use of funds
12 provided pursuant to this subsection are limited to eligible
13 projects listed in this subsection. Income derived from a
14 project completed with the use of program funds, beyond
15 operating costs and debt service, shall be restricted to
16 further port capital improvements consistent with maritime
17 purposes and for no other purpose. Use of such income for
18 nonmaritime purposes is prohibited. The provisions of s.
19 311.07(4) do not apply to any funds received pursuant to this
20 subsection.

21 (3)~~(4)~~ Notwithstanding any other provision of law
22 except subsections (1) and~~(2)~~, and~~(3)~~, on July 1, 2001, and
23 annually thereafter, \$10 million shall be deposited in the
24 State Transportation Trust Fund solely for the purposes of
25 funding the Florida Seaport ~~Transportation and Economic~~
26 Development Program as provided in chapter 311 and for funding
27 ~~seaport~~ intermodal access projects of statewide significance
28 as provided in s. 341.053. The department is directed to
29 develop, by January 15, 2001, a seaport system plan for the
30 expansion and modernization of seaports, including
31 recommendations for use of the funds provided pursuant to this

1 subsection for additional bond financing of seaport and
2 intermodal access projects.~~Such revenues shall be distributed~~
3 ~~to any port listed in s. 311.09(1), to be used for funding~~
4 ~~projects as follows:~~

5 ~~(a) For any seaport intermodal access projects that~~
6 ~~are identified in the 1997-1998 Tentative Work Program of the~~
7 ~~Department of Transportation, up to the amounts needed to~~
8 ~~offset the funding requirements of this section; and~~

9 ~~(b) For seaport intermodal access projects as~~
10 ~~described in s. 341.053(5) that are identified in the 5-year~~
11 ~~Florida Seaport Mission Plan as provided in s. 311.09(3).~~
12 ~~Funding for such projects shall be on a matching basis as~~
13 ~~mutually determined by the Florida Seaport Transportation and~~
14 ~~Economic Development Council and the Department of~~
15 ~~Transportation, provided a minimum of 25 percent of total~~
16 ~~project funds shall come from any port funds, local funds,~~
17 ~~private funds, or specifically earmarked federal funds; or~~

18 ~~(c) On a 50-50 matching basis for projects as~~
19 ~~described in s. 311.07(3)(b).~~

20
21 ~~Such revenues may be assigned, pledged, or set aside as a~~
22 ~~trust for the payment of principal or interest on bonds, tax~~
23 ~~anticipation certificates, or any other form of indebtedness~~
24 ~~issued by an individual port or appropriate local government~~
25 ~~having jurisdiction thereof, or collectively by interlocal~~
26 ~~agreement among any of the ports, or used to purchase credit~~
27 ~~support to permit such borrowings. However, such debt shall~~
28 ~~not constitute a general obligation of the state. This state~~
29 ~~does hereby covenant with holders of such revenue bonds or~~
30 ~~other instruments of indebtedness issued hereunder that it~~
31 ~~will not repeal or impair or amend this subsection in any~~

1 ~~manner which will materially and adversely affect the rights~~
2 ~~of holders so long as bonds authorized by this subsection are~~
3 ~~outstanding. Any revenues that are not pledged to the~~
4 ~~repayment of bonds as authorized by this section may be~~
5 ~~utilized for purposes authorized under the Florida Seaport~~
6 ~~Transportation and Economic Development Program. This revenue~~
7 ~~source is in addition to any amounts provided for and~~
8 ~~appropriated in accordance with s. 311.07 and subsection (3).~~
9 ~~The Florida Seaport Transportation and Economic Development~~
10 ~~Council shall approve distribution of funds to ports for~~
11 ~~projects that have been approved pursuant to s. 311.09(5)-(9),~~
12 ~~or for seaport intermodal access projects identified in the~~
13 ~~5-year Florida Seaport Mission Plan as provided in s.~~
14 ~~311.09(3) and mutually agreed upon by the FSTED Council and~~
15 ~~the Department of Transportation. All contracts for actual~~
16 ~~construction of projects authorized by this subsection must~~
17 ~~include a provision encouraging employment of WAGES~~
18 ~~participants. The goal for employment of WAGES participants~~
19 ~~is 25 percent of all new employees employed specifically for~~
20 ~~the project, unless the Department of Transportation and the~~
21 ~~Florida Seaport Transportation and Economic Development~~
22 ~~Council can demonstrate to the satisfaction of the Secretary~~
23 ~~of Labor and Employment Security that such a requirement would~~
24 ~~severely hamper the successful completion of the project. In~~
25 ~~such an instance, the Secretary of Labor and Employment~~
26 ~~Security shall establish an appropriate percentage of~~
27 ~~employees that must be WAGES participants. The council and the~~
28 ~~Department of Transportation are authorized to perform such~~
29 ~~acts as are required to facilitate and implement the~~
30 ~~provisions of this subsection. To better enable the ports to~~
31 ~~cooperate to their mutual advantage, the governing body of~~

1 ~~each port may exercise powers provided to municipalities or~~
2 ~~counties in s. 163.01(7)(d) subject to the provisions of~~
3 ~~chapter 311 and special acts, if any, pertaining to a port.~~
4 ~~The use of funds provided pursuant to this subsection is~~
5 ~~limited to eligible projects listed in this subsection. The~~
6 ~~provisions of s. 311.07(4) do not apply to any funds received~~
7 ~~pursuant to this subsection.~~

8 (4)~~(5)~~(a) Except as provided in paragraph (c), the
9 remainder of such revenues must be deposited in the State
10 Transportation Trust Fund.

11 (b) Beginning July 1, 1989, the State Comptroller each
12 month shall deposit in the State Transportation Trust Fund an
13 amount, drawn from other funds in the State Treasury which are
14 not immediately needed or are otherwise in excess of the
15 amount necessary to meet the requirements of the State
16 Treasury, which when added to such remaining revenues each
17 month will equal one-twelfth of the amount of the anticipated
18 annual revenues to be deposited in the State Transportation
19 Trust Fund under paragraph (a) as estimated by the most recent
20 revenue estimating conference held pursuant to s. 216.136(3).
21 The transfers required hereunder may be suspended by action of
22 the Administration Commission in the event of a significant
23 shortfall of state revenues.

24 (c) In any month in which the remaining revenues
25 derived from the registration of motor vehicles exceed
26 one-twelfth of those anticipated annual remaining revenues as
27 determined by the revenue estimating conference, the excess
28 shall be credited to those state funds in the State Treasury
29 from which the amount was originally drawn, up to the amount
30 which was deposited in the State Transportation Trust Fund
31 under paragraph (b). A final adjustment must be made in the

1 last months of a fiscal year so that the total revenue
2 deposited in the State Transportation Trust Fund each year
3 equals the amount derived from the registration of motor
4 vehicles, less the amount distributed under subsection (1).
5 For the purposes of this paragraph and paragraph (b), the term
6 "remaining revenues" means all revenues deposited into the
7 State Transportation Trust Fund under paragraph (a) and
8 subsections (2) and (3). In order that interest earnings
9 continue to accrue to the General Revenue Fund, the Department
10 of Transportation may not invest an amount equal to the
11 cumulative amount of funds deposited in the State
12 Transportation Trust Fund under paragraph (b) less funds
13 credited under this paragraph as computed on a monthly basis.
14 The amounts to be credited under this and the preceding
15 paragraph must be calculated and certified to the Comptroller
16 by the Executive Office of the Governor.

17 Section 18. Section 334.035, Florida Statutes, is
18 amended to read:

19 334.035 Purpose of transportation code.--The purpose
20 of the Florida Transportation Code is to establish the
21 responsibilities of the state, the counties, and the
22 municipalities in the planning and development of the
23 transportation systems serving the people of the state and to
24 assure the development of an integrated, balanced statewide
25 transportation system which enhances economic development
26 through promotion of international trade and interstate and
27 intrastate commerce. This code is necessary for the
28 protection of the public safety and general welfare and for
29 the preservation of all transportation facilities in the
30 state. The chapters in the code shall be considered
31 components of the total code, and the provisions therein,

1 unless expressly limited in scope, shall apply to all
2 chapters.

3 Section 19. Subsection (1) of section 334.0445,
4 Florida Statutes, 1998 Supplement, is amended to read:

5 334.0445 Model career service classification and
6 compensation plan.--

7 (1) Effective July 1, 1994, the Legislature grants to
8 the Department of Transportation in consultation with the
9 Department of Management Services, the Executive Office of the
10 Governor, legislative appropriations committees, legislative
11 personnel committees, and the affected certified bargaining
12 unions, the authority on a pilot basis to develop and
13 implement a model career service classification and
14 compensation system. Such system shall be developed for use by
15 all state agencies. Authorization for this program will be
16 through June 30, 2002 ~~for 3 fiscal years beginning July 1,~~
17 ~~1994, and ending June 30, 1997;~~ however, the department may
18 elect or be directed by the Legislature to return to the
19 current system at anytime during this period if the model
20 system does not meet the stated goals and objectives.

21 Section 20. Section 334.046, Florida Statutes, is
22 amended to read:

23 (Substantial rewording of section. See
24 s. 334.046, F.S., for present text.)

25 334.046 Department mission, goals, and objectives.--

26 (1) The mission of the Department of Transportation
27 shall be to provide a safe, interconnected statewide
28 transportation system for Florida's citizens and visitors that
29 ensures the mobility of people and freight, while enhancing
30 economic prosperity and sustaining the quality of our
31 environment.

1 (2) The department shall document in the Florida
2 Transportation Plan pursuant to s. 339.155 the goals and
3 objectives which provide statewide policy guidance for
4 accomplishing the department's mission.

5 (3) At a minimum, the department's goals shall address
6 the following:

7 (a) Providing a safe transportation system for
8 residents, visitors, and commerce.

9 (b) Preservation of the transportation system.

10 (c) Providing an interconnected transportation system
11 to support Florida's economy.

12 (d) Providing travel choices to support Florida's
13 communities.

14 Section 21. Section 334.071, Florida Statutes, is
15 created to read:

16 334.071 Legislative designation of transportation
17 facilities.--

18 (1) Designation of a transportation facility contained
19 in an act of the Legislature is for honorary or memorial
20 purposes or to distinguish a particular facility, and unless
21 specifically provided for, shall not be construed to require
22 any action by a local government or private party regarding
23 the changing of any street signs, mailing address, or 911
24 emergency telephone number system listing.

25 (2) The effect of such designations shall only be
26 construed to require the placement of markers by the
27 department at the termini or intersections specified for each
28 highway segment or bridge designated, and as authority for the
29 department to place other markers as appropriate for the
30 transportation facility being designated.

31

1 Section 22. Section 334.351, Florida Statutes, is
2 amended to read:

3 334.351 Youth work experience program; findings and
4 intent; authority to contract; limitation.--The Legislature
5 finds and declares that young men and women of the state
6 should be given an opportunity to obtain public service work
7 and training experience that protects and conserves the
8 valuable resources of the state and promotes participation in
9 other community enhancement projects. Notwithstanding the
10 requirements of chapters 287 and 337, the Department of
11 Transportation is authorized to contract with public agencies
12 and nonprofit organizations for the performance of work
13 related to the construction and maintenance of
14 transportation-related facilities by youths enrolled in youth
15 work experience programs. ~~The total amount of contracts~~
16 ~~entered into by the department under this section in any~~
17 ~~fiscal year may not exceed the amount specifically~~
18 ~~appropriated by the Legislature for this program.~~

19 Section 23. Subsection (1) of section 335.0415,
20 Florida Statutes, is amended to read:

21 335.0415 Public road jurisdiction and transfer
22 process.--

23 (1) The jurisdiction of public roads and the
24 responsibility for operation and maintenance within the
25 right-of-way of any road within the state, county, and
26 municipal road system shall be that which existed on June 10,
27 1995 ~~exists on July 1, 1995.~~

28 Section 24. Subsection (1) of section 335.093, Florida
29 Statutes, is amended to read:

30 335.093 Scenic highway designation.--

31

1 (1) The Department of Transportation may, after
2 consultation with other state agencies and local governments,
3 designate public roads as scenic highways ~~on the state highway~~
4 ~~system~~. Public roads ~~Highways~~ designated as scenic highways
5 are intended to preserve, maintain, and protect a part of
6 Florida's cultural, historical, and scenic routes ~~on the State~~
7 ~~Highway System~~ for vehicular, bicycle, and pedestrian travel.

8 Section 25. Section 337.025, Florida Statutes, is
9 amended to read:

10 337.025 Innovative highway projects; department to
11 establish program.--The department is authorized to establish
12 a program for highway projects demonstrating innovative
13 techniques of highway construction and finance which have the
14 intended effect of controlling time and cost increases on
15 construction projects. Such techniques may include, but are
16 not limited to, state-of-the-art technology for pavement,
17 safety, and other aspects of highway construction; innovative
18 bidding and financing techniques; accelerated construction
19 procedures; and those techniques that have the potential to
20 reduce project life cycle costs. To the maximum extent
21 practical, the department must use the existing process to
22 award and administer construction contracts. When specific
23 innovative techniques are to be used, the department is not
24 required to adhere to those provisions of law that would
25 prevent, preclude, or in any way prohibit the department from
26 using the innovative technique. However, prior to using an
27 innovative technique that is inconsistent with another
28 provision of law, the department must document in writing the
29 need for the exception and identify what benefits the
30 traveling public and the affected community are anticipated to
31 receive. The department may enter into no more than ~~\$120~~\$60

1 million in contracts annually for the purposes authorized by
2 this section.

3 Section 26. Paragraph (c) is added to subsection (6)
4 of section 337.11, Florida Statutes, and subsection (16) of
5 said section is amended, to read:

6 337.11 Contracting authority of department; bids;
7 emergency repairs, supplemental agreements, and change orders;
8 combined design and construction contracts; progress payments;
9 records; requirements of vehicle registration.--

10 (6)

11 (c) When the department determines that it is in the
12 best interest of the public for reasons of public concern,
13 economy, improved operations, or safety, and only when
14 circumstances dictate rapid completion of the work, the
15 department may, up to the threshold amount provided in s.
16 287.017 for CATEGORY FOUR, enter into contracts for
17 construction and maintenance without advertising and receiving
18 competitive bids. The department may enter into such contracts
19 only upon a determination that the work is necessary for one
20 of the following reasons:

21 1. To ensure timely completion of projects or
22 avoidance of undue delay for other projects;

23 2. To accomplish minor repairs or construction and
24 maintenance activities for which time is of the essence and
25 for which significant costs savings would occur; or

26 3. To accomplish nonemergency work necessary to ensure
27 avoidance of adverse conditions that affect the safe and
28 efficient flow of traffic.

29
30 Prior to entering into any contract pursuant to this
31 paragraph, the department shall make a good faith effort to

1 obtain two or more quotes from qualified contractors, if
2 available. The department shall also consider disadvantaged
3 business enterprise participation in such contracts. When the
4 work exists within the limits of an existing department
5 contract, the department shall make a good faith effort to
6 negotiate and enter into a contract with the prime contractor
7 on the existing contract.

8 ~~(16) The department is authorized to undertake and~~
9 ~~contract to provide an owner controlled insurance plan (OCIP)~~
10 ~~on any construction project or group of related construction~~
11 ~~projects if the head of the department determines that an OCIP~~
12 ~~will be both cost-effective for the department and otherwise~~
13 ~~in its best interests. Such OCIP may provide insurance~~
14 ~~coverage for the department and for worker's compensation and~~
15 ~~employers liability and general liability and builders risk~~
16 ~~for contractors and subcontractors, for and in conjunction~~
17 ~~with any or all work performed on such projects. The~~
18 ~~department may directly purchase such coverage in the manner~~
19 ~~provided for the purchase of commodities pursuant to s.~~
20 ~~287.057, or self-insure, or use a combination thereof, any~~
21 ~~other statutory provisions or limitations on self-insurance or~~
22 ~~purchase of insurance notwithstanding. The department's~~
23 ~~authority hereunder includes the purchase of risk management,~~
24 ~~risk and loss control, safety management, investigative and~~
25 ~~claims adjustment services, advancement of funds for payment~~
26 ~~of claims, and other services reasonably necessary to process~~
27 ~~and pay claims under and administer the OCIP. In addition to~~
28 ~~any prequalification required under s. 337.14, no contractor~~
29 ~~shall be prequalified to bid on an OCIP project unless the~~
30 ~~contractor's casualty and loss experience and safety record~~
31 ~~meets the minimum requirements for OCIP coverage issuance on~~

1 ~~the project, were the contractor to be awarded the project.~~
2 ~~Exercise of the department's authority under this subsection~~
3 ~~shall not be deemed a waiver of sovereign immunity.~~

4 Section 27. Paragraph (a) of subsection (1) of section
5 337.16, Florida Statutes, is amended to read:

6 337.16 Disqualification of delinquent contractors from
7 bidding; determination of contractor nonresponsibility;
8 denial, suspension, and revocation of certificates of
9 qualification; grounds; hearing.--

10 (1) A contractor shall not be qualified to bid when an
11 investigation by the department discloses that such contractor
12 is delinquent on a previously awarded contract, and in such
13 case the contractor's certificate of qualification shall be
14 suspended or revoked. Any contractor whose certificate of
15 qualification is suspended or revoked for delinquency shall
16 also be disapproved as a subcontractor during the period of
17 suspension or revocation, except when a prime contractor's bid
18 has used prices of a subcontractor who becomes disqualified
19 after the bid and before the request for authorization to
20 sublet is presented.

21 (a) A contractor is delinquent ~~when unsatisfactory~~
22 ~~progress is being made on a construction project or when the~~
23 ~~allowed contract time has expired and the contract work is not~~
24 ~~complete. Unsatisfactory progress shall be determined in~~
25 ~~accordance with the contract provisions.~~

26 Section 28. Subsection (2) of section 337.162, Florida
27 Statutes, 1998 Supplement, is amended to read:

28 337.162 Professional services.--Professional services
29 provided to the department that fall below acceptable
30 professional standards may result in transportation project
31 delays, overruns, and reduced facility life. To minimize these

1 effects and ensure that quality services are received, the
2 Legislature hereby declares that licensed professionals shall
3 be held accountable for the quality of the services they
4 provide to the department.

5 (2) Any person who is employed by the department and
6 who is licensed by the Department of Business and Professional
7 Regulation and who, through the course of his or her
8 employment, has knowledge or reason to believe that any person
9 has violated the provisions of state professional licensing
10 laws or rules shall submit a complaint about the violations to
11 the Department of Business and Professional Regulation.
12 Failure to submit a complaint about the violations may be
13 grounds for disciplinary action pursuant to part I of chapter
14 455 and the state licensing law applicable to that licensee.
15 However, licensees under part II of chapter 475 are exempt
16 from the provisions of s. 455.227(1)(i).The complaint
17 submitted to the Department of Business and Professional
18 Regulation and maintained by the department is confidential
19 and exempt from s. 119.07(1).

20 Section 29. Subsections (1) and (2) of section 337.18,
21 Florida Statutes, 1998 Supplement, are amended to read:

22 337.18 Surety bonds; requirement with respect to
23 contract award; defaults; damage assessments.--

24 (1) A surety bond shall be required of the successful
25 bidder in an amount equal to the awarded contract price. For a
26 project for which the contract price is \$150,000 or less, the
27 department may waive the requirement for all or a portion of a
28 surety bond if it determines the project is of a noncritical
29 nature and nonperformance will not endanger public health,
30 safety, or property. The department may require alternate
31 means of security if a surety bond is waived. The surety on

1 such bond shall be a surety company authorized to do business
2 in the state. All bonds shall be payable to the department
3 ~~Governor and his or her successors in office~~ and conditioned
4 for the prompt, faithful, and efficient performance of the
5 contract according to plans and specifications and within the
6 time period specified, and for the prompt payment of all
7 persons furnishing labor, material, equipment, and supplies
8 therefor; however, whenever an improvement, demolition, or
9 removal contract price is \$25,000 or less, the security may,
10 in the discretion of the bidder, be in the form of a cashier's
11 check, bank money order of any state or national bank,
12 certified check, or postal money order.

13 (2) The department shall provide in its contracts for
14 the determination of default on the part of any contractor for
15 cause attributable to such contractor. The department shall
16 have no liability for anticipated profits for unfinished work
17 on a contract which has been determined to be in default.
18 Every contract let by the department for the performance of
19 work shall contain a provision for payment to the department
20 by the contractor of liquidated damages due to failure of the
21 contractor to complete the contract work within the time
22 stipulated in the contract or within such additional time as
23 may have been granted by the department. The contractual
24 provision shall include a reasonable estimate of the damages
25 that would be incurred by the department as a result of such
26 failure. The department shall establish a schedule of daily
27 liquidated damage, based on original contract amounts, charges
28 for construction contracts entered into by the department,
29 which schedule shall be incorporated by reference into the
30 contract. The department shall update the schedule of
31 liquidated damages at least once every 2 years, but no more

1 often than once a year. The schedule shall, at a minimum, be
2 based on the average construction, engineering, and inspection
3 costs experienced by the department on contracts over the 2
4 preceding fiscal years. The schedule shall also include
5 anticipated costs of project-related delays and inconveniences
6 to the department and traveling public. Anticipated costs may
7 include, but are not limited to, road user costs, a portion of
8 the projected revenues that will be lost due to failure to
9 timely open a project to revenue-producing traffic, costs
10 resulting from retaining detours for an extended time, and
11 other similar costs. ~~The schedule shall be divided into the~~
12 ~~following categories, based on the original contract amounts:~~

- 13 ~~(a) \$50,000 and under;~~
- 14 ~~(b) Over \$50,000 but less than \$250,000;~~
- 15 ~~(c) \$250,000 or more but less than \$500,000;~~
- 16 ~~(d) \$500,000 or more but less than \$2.5 million;~~
- 17 ~~(e) \$2.5 million or more but less than \$5 million;~~
- 18 ~~(f) \$5 million or more but less than \$10 million;~~
- 19 ~~(g) \$10 million or more but less than \$15 million;~~
- 20 ~~(h) \$15 million or more but less than \$20 million; and~~
- 21 ~~(i) \$20 million and over.~~

22
23 Any such liquidated damages paid to the department shall be
24 deposited to the credit of the fund from which payment for the
25 work contracted was authorized.

26 Section 30. Subsections (1), (2), (3), (7), and (8) of
27 section 337.185, Florida Statutes, are amended to read:

28 337.185 State Arbitration Board.--

29 (1) To facilitate the prompt settlement of claims for
30 additional compensation arising out of construction contracts
31 between the department and the various contractors with whom

1 it transacts business, the Legislature does hereby establish
2 the State Arbitration Board, referred to in this section as
3 the "board." For the purpose of this section, "claim" shall
4 mean the aggregate of all outstanding claims by a party
5 arising out of a construction contract. Every contractual
6 claim in an amount up to ~~\$250,000~~ ~~\$100,000~~ per contract or, at
7 the claimant's option, up to ~~\$250,000~~ ~~\$500,000~~ per contract
8 or, upon agreement of the parties, up to \$1,000,000 per
9 contract that cannot be resolved by negotiation between the
10 department and the contractor shall be arbitrated by the board
11 after acceptance of the project by the department. As an
12 exception, either party to the dispute may request that the
13 claim be submitted to binding private arbitration. A court of
14 law may not consider the settlement of such a claim until the
15 process established by this section has been exhausted.

16 (2) The board shall be composed of three members. One
17 member shall be appointed by the head of the department, and
18 one member shall be elected by those construction companies
19 who are under contract with the department. The third member
20 shall be chosen by agreement of the other two members.
21 Whenever the third member has a conflict of interest regarding
22 affiliation with one of the parties, the other two members
23 shall select an alternate member for that hearing. The head of
24 the department may select an alternative or substitute to
25 serve as the department member for any hearing or term. Each
26 member shall serve a 2-year term. The board shall elect a
27 chair, each term, who shall be the administrator of the board
28 and custodian of its records.

29 (3) A hearing may be requested by the department or by
30 a contractor who has a dispute with the department which,
31 under the rules of the board, may be the subject of

1 arbitration. The board shall conduct the hearing within 45
2 days of the request. The party requesting the board's
3 consideration shall give notice of the hearing to each member.
4 If the board finds that a third party is necessary to resolve
5 the dispute, the board may vote to dismiss the claim, which
6 may thereafter be pursued in accordance with the laws of the
7 State of Florida ~~a court of law.~~

8 (7) The members ~~member~~ of the board ~~elected by~~
9 ~~construction companies and the third member of the board~~ may
10 receive compensation for the performance of their duties
11 hereunder, from administrative fees received by the board,
12 except that no employee of the department may receive
13 compensation from the board. The compensation amount shall be
14 determined by the board, but shall not exceed \$125 per hour,
15 up to a maximum of \$1,000~~\$750~~ per day for each member
16 authorized to receive compensation. Nothing in this section
17 shall prevent the member elected by construction companies
18 from being an employee of an association affiliated with the
19 industry, even if the sole responsibility of that member is
20 service on the board. Travel expenses for the industry member
21 may be paid by an industry association, if necessary. The
22 board may allocate funds annually for clerical and other
23 administrative services.

24 (8) The party requesting arbitration shall pay a fee
25 to the board in accordance with a schedule established by it,
26 not to exceed \$500 per claim which is \$25,000 or less, not to
27 exceed \$1,000 per claim which is in excess of \$25,000 but not
28 exceeding \$50,000, not to exceed \$1,500 per claim which is in
29 excess of \$50,000 but not exceeding \$100,000, not to exceed
30 \$2,000 per claim which is in excess of \$100,000 but not
31 exceeding \$200,000, ~~and~~ not to exceed \$3,000~~\$2,500~~ per claim

1 which is in excess of \$200,000 but not exceeding \$300,000
2 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of
3 \$300,000 but not exceeding \$400,000, and not to exceed \$5,000
4 per claim which is in excess of \$400,000,to cover the cost of
5 administration and compensation of the board.

6 Section 31. (1) Subsection (1) of section 337.19,
7 Florida Statutes, is amended to read:

8 337.19 Suits by and against department; limitation of
9 actions; forum.--

10 (1) Suits at law and in equity may be brought and
11 maintained by and against the department on any contract claim
12 arising from breach of an express provision or an implied
13 covenant of a written agreement or a written directive issued
14 by the department pursuant to the written agreement. In any
15 such suit, the department and the contractor shall have all of
16 the same rights and obligations as a private person under a
17 like contract, except that no liability may be based on an
18 oral modification of either the written contract or written
19 directive. Nothing herein shall be construed to waive the
20 sovereign immunity of the state and its political subdivisions
21 from equitable claims and equitable remedies. Notwithstanding
22 anything to the contrary contained in this section, no
23 employee or agent of the department may be held personally
24 liable to an extent greater than that pursuant to s. 768.28,
25 ~~under contract for work done,~~provided,that no suit sounding
26 in tort shall be maintained against the department.

27 (2) Suits by and against the department under this
28 section shall be commenced within 820 days of the final
29 acceptance of the work. This section shall apply to all
30 contracts entered into after June 30, 1993.

31

1 (3) Any action or suit brought against the department
2 shall be brought in the county or counties where the cause of
3 action accrued, or in the county of the department's district
4 headquarters responsible for the work, or in Leon County.

5 (2) The amendment to subsection (1) of section 337.19,
6 Florida Statutes, as set forth in this section shall apply to
7 contracts entered into on or after July 1, 1999.

8 Section 32. Paragraph (a) of subsection (1) and
9 paragraph (i) of subsection (4) of section 337.25, Florida
10 Statutes, are amended to read:

11 337.25 Acquisition, lease, and disposal of real and
12 personal property.--

13 (1)(a) The department may purchase, lease, exchange,
14 or otherwise acquire any land, property interests, or
15 buildings or other improvements, including personal property
16 within such buildings or on such lands, necessary to secure or
17 utilize transportation rights-of-way for existing, proposed,
18 or anticipated transportation facilities on the State Highway
19 System, on the State Park Road System, in a rail corridor, or
20 in a transportation corridor designated by the department.
21 Such property shall be held in the name of the state.

22 (4) The department may sell, in the name of the state,
23 any land, building, or other property, real or personal, which
24 was acquired under the provisions of subsection (1) and which
25 the department has determined is not needed for the
26 construction, operation, and maintenance of a transportation
27 facility. With the exception of any parcel governed by
28 paragraph (c), paragraph (d), paragraph (f), paragraph (g), or
29 paragraph (i), the department shall afford first right of
30 refusal to the local government in the jurisdiction of which
31

1 the parcel is situated. When such a determination has been
2 made, property may be disposed of in the following manner:
3 (i) If property was originally acquired specifically
4 to provide replacement housing for persons displaced by
5 ~~federally assisted~~ transportation projects, the department may
6 negotiate for the sale of such property as replacement
7 housing. As compensation, the state shall receive no less than
8 its investment in such properties or fair market value,
9 whichever is lower. It is expressly intended that this benefit
10 be extended only to those persons actually displaced by such
11 project. Dispositions to any other persons must be for fair
12 market value.

13 Section 33. Subsection (9) is added to section
14 337.251, Florida Statutes, to read:

15 337.251 Lease of property for joint public-private
16 development and areas above or below department property.--

17 (9) Notwithstanding chapter 341 or any other provision
18 of law to the contrary, a fixed-guideway transportation system
19 authorized by the department to be wholly or partially within
20 the department's right-of-way pursuant to a lease granted
21 under this section may operate at any safe speed.

22 Section 34. Subsection (1) of section 337.403, Florida
23 Statutes, is amended to read:

24 337.403 Relocation of utility; expenses.--

25 (1) Any utility heretofore or hereafter placed upon,
26 under, over, or along any public road or publicly owned rail
27 corridor that is found by the authority to be unreasonably
28 interfering in any way with the convenient, safe, or
29 continuous use, or the maintenance, improvement, extension, or
30 expansion, of such public road or publicly owned rail corridor
31 shall, upon 30 days' written notice to the utility or its

1 agent by the authority, be removed or relocated by such
2 utility at its own expense except as provided in paragraphs
3 (a), ~~and~~ (b), and (c).

4 (a) If the relocation of utility facilities, as
5 referred to in s. 111 of the Federal-Aid Highway Act of 1956,
6 Pub. L. No. 627 of the 84th Congress, is necessitated by the
7 construction of a project on the federal-aid interstate
8 system, including extensions thereof within urban areas, and
9 the cost of such project is eligible and approved for
10 reimbursement by the Federal Government to the extent of 90
11 percent or more under the Federal Aid Highway Act, or any
12 amendment thereof, then in that event the utility owning or
13 operating such facilities shall relocate such facilities upon
14 order of the department, and the state shall pay the entire
15 expense properly attributable to such relocation after
16 deducting therefrom any increase in the value of the new
17 facility and any salvage value derived from the old facility.

18 (b) When a joint agreement between the department and
19 the utility is executed for utility improvement, relocation,
20 or removal work to be accomplished as part of a contract for
21 construction of a transportation facility, the department may
22 participate in those utility improvement, relocation, or
23 removal costs that exceed the department's official estimate
24 of the cost of such work by more than 10 percent. The amount
25 of such participation shall be limited to the difference
26 between the official estimate of all the work in the joint
27 agreement plus 10 percent and the amount awarded for this work
28 in the construction contract for such work. The department may
29 not participate in any utility improvement, relocation, or
30 removal costs that occur as a result of changes or additions
31 during the course of the contract.

1 (c) When an agreement between the department and a
2 utility is executed for utility improvement, relocation, or
3 removal work to be accomplished in advance of a contract for
4 construction of a transportation facility, the department may
5 participate in the cost of clearing and grubbing necessary to
6 perform such work.

7 Section 35. Subsection (1) of section 337.408, Florida
8 Statutes, is amended to read:

9 337.408 Regulation of benches, transit shelters, and
10 waste disposal receptacles within rights-of-way.--

11 (1) Benches or transit shelters, including advertising
12 displayed on benches or transit shelters, may be installed
13 within the right-of-way limits of any municipal, county, or
14 state road, except a limited access highway; provided that
15 such benches or transit shelters are for the comfort and ~~or~~
16 convenience of the general public, or at recognized ~~designated~~
17 stops on official bus routes; and, provided further, that
18 written authorization has been given to a qualified private
19 supplier of such service by the municipal government within
20 whose incorporated limits such benches or transit shelters are
21 installed, or by the county government within whose
22 unincorporated limits such benches or transit shelters are
23 installed. A municipality or county may authorize the
24 installation, without public bid or limit in period of
25 service, of benches and transit shelters together with
26 advertising displayed thereon, within the right-of-way limits
27 of such roads. Any contract for the installation of benches or
28 transit shelters or advertising on benches or transit shelters
29 which was entered into before April 8, 1992, without public
30 bidding or limit in period of service, is ratified and
31 affirmed. Such benches or transit shelters may not interfere

1 with right-of-way preservation and maintenance. Any bench or
2 transit shelter located on a sidewalk within the right-of-way
3 limits of any road on the State Highway System or the county
4 road system shall be located so as to leave at least 36 inches
5 clearance for pedestrians and persons in wheelchairs. Such
6 clearance shall be measured in a direction perpendicular to
7 the centerline of the road.

8 Section 36. Paragraph (b) of subsection (2) of section
9 338.223, Florida Statutes, is amended to read:

10 338.223 Proposed turnpike projects.--

11 (2)

12 (b) In accordance with the legislative intent
13 expressed in s. 337.273, and after the requirement of
14 paragraph (1)(c) have been met, the department may acquire
15 lands and property before making a final determination of the
16 economic feasibility of a project. The requirements of
17 paragraph (1)(c) shall not apply to hardship and protective
18 purchases of advance right-of-way by the department. The cost
19 of advance acquisition of right-of-way may be paid from bonds
20 issued under s. 337.276 or from turnpike revenues. For
21 purposes of this paragraph, the term "hardship purchase" means
22 purchase of a residential dwelling of not more than four units
23 from a property owner who is at a disadvantage due to health
24 impairment, job loss, or significant loss of rental income.
25 For purposes of this paragraph, the term "protective purchase"
26 means a purchase to limit development, building, or other
27 intensification of land uses within the area right-of-way is
28 needed for transportation facilities. The department shall
29 give written notice to the Department of Environmental
30 Protection 30 days prior to final agency acceptance as set
31 forth in s. 119.07(3)(n), which notice shall allow the

1 Department of Environmental Protection to comment. Hardship
2 and protective purchases of right-of-way shall not influence
3 the environmental feasibility of a project, including the
4 decision relative to the need to construct the project or the
5 selection of a specific location. Costs to acquire and dispose
6 of property acquired as hardship and protective purchases are
7 considered costs of doing business for the department and
8 shall not be considered in the determination of environmental
9 feasibility for the project.

10 Section 37. Section 338.229, Florida Statutes, is
11 amended to read:

12 338.229 Pledge to bondholders not to restrict certain
13 rights of department.--The state does pledge to, and agree
14 with, the holders of the bonds issued pursuant to ss.
15 338.22-338.241 ~~338.22-338.244~~ that the state will not limit or
16 restrict the rights vested in the department to construct,
17 reconstruct, maintain, and operate any turnpike project as
18 defined in ss. 338.22-338.241 ~~338.22-338.244~~ or to establish
19 and collect such tolls or other charges as may be convenient
20 or necessary to produce sufficient revenues to meet the
21 expenses of maintenance and operation of the turnpike system
22 and to fulfill the terms of any agreements made with the
23 holders of bonds authorized by this act and that the state
24 will not in any way impair the rights or remedies of the
25 holders of such bonds until the bonds, together with interest
26 on the bonds, are fully paid and discharged. In implementing
27 this section, the department is specifically authorized to
28 provide for further restrictions on the sale, transfer, lease,
29 or other disposition or operation of any portion of the
30 turnpike system which reduces the revenue available for
31 payment to bondholders.

1 Section 38. Paragraph (a) of subsection (4) of section
2 339.135, Florida Statutes, is amended to read:

3 339.135 Work program; legislative budget request;
4 definitions; preparation, adoption, execution, and
5 amendment.--

6 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.--

7 (a)1. To assure that no district or county is
8 penalized for local efforts to improve the State Highway
9 System, the department shall, for the purpose of developing a
10 tentative work program, allocate funds for new construction to
11 the districts, except for the turnpike district, based on
12 equal parts of population and motor fuel tax collections.
13 Funds for resurfacing, bridge repair and rehabilitation,
14 bridge fender system construction or repair, public transit
15 projects except public transit block grants as provided in s.
16 341.052, and other programs with quantitative needs
17 assessments shall be allocated based on the results of these
18 assessments. The department may not transfer any funds
19 allocated to a district under this paragraph to any other
20 district except as provided in subsection (7). Funds for
21 public transit block grants shall be allocated to the
22 districts pursuant to s. 341.052.

23 2. Notwithstanding the provisions of subparagraph 1.,
24 the department shall allocate at least 50 percent of any new
25 discretionary highway capacity funds to the Florida Intrastate
26 Highway System established pursuant to s. 338.001. Any
27 remaining new discretionary highway capacity funds shall be
28 allocated to the districts for new construction as provided in
29 subparagraph 1. For the purposes of this subparagraph, the
30 term "new discretionary highway capacity funds" means any
31 funds available to the department above the prior year funding

1 level for capacity improvements, which the department has the
2 discretion to allocate to highway projects.

3 Section 39. Section 339.155, Florida Statutes, is
4 amended to read:

5 339.155 Transportation planning.--

6 (1) FLORIDA TRANSPORTATION PLAN.--The department shall
7 develop and annually update a statewide transportation plan,
8 to be known as the Florida Transportation Plan. The plan
9 shall be designed so as to be easily read and understood by
10 the general public.

11 ~~(1) PURPOSE.--~~The purpose of the Florida
12 Transportation Plan is to establish and define the state's
13 long-range transportation goals and objectives of the
14 ~~department~~ to be accomplished over a period of at least 20
15 years within the context of the State Comprehensive Plan and
16 any other statutory mandates and authorizations. The Florida
17 Transportation Plan shall consider the needs of the entire
18 state transportation system and examine the use of all modes
19 of transportation to effectively and efficiently meet such
20 needs given to the department. The plan shall define the
21 relationship between the long-range goals and the short-range
22 objectives, and specify those objectives against which the
23 department's achievement of such goals will be measured. The
24 plan shall provide a policy framework within which the
25 department's legislative budget request, the strategic
26 information resource management plan, and the work program are
27 developed.

28 (2) SCOPE OF PLANNING PROCESS.--

29 (a) The department shall carry out a transportation
30 planning process that provides for consideration of projects
31 and strategies that will:

1 1. Support the economic vitality of the United States,
2 Florida, and the metropolitan areas, especially by enabling
3 global competitiveness, productivity, and efficiency.

4 2. Increase the safety and security of the
5 transportation system for motorized and nonmotorized users.

6 3. Increase the accessibility and mobility options
7 available to people and for freight.

8 4. Protect and enhance the environment, promote energy
9 conservation, and improve quality of life.

10 5. Enhance the integration and connectivity of the
11 transportation system across and between modes throughout
12 Florida for people and freight.

13 6. Promote efficient system management and operation.

14 7. Emphasize the preservation of the existing
15 transportation system.

16 (b) Additionally, the transportation planning process
17 shall consider:

18 1. With respect to nonmetropolitan areas, the concerns
19 of local elected officials representing units of general
20 purpose local government.

21 2. The concerns of Indian tribal governments and
22 federal land management agencies that have jurisdiction over
23 land within the boundaries of Florida.

24 3. Coordination of transportation plans, programs, and
25 planning activities with related planning activities being
26 carried out outside of metropolitan planning areas.

27 ~~DEVELOPMENT CRITERIA.--The Florida Transportation Plan shall~~
28 ~~consider the needs of the entire state transportation system,~~
29 ~~examine the use of all modes of transportation to effectively~~
30 ~~and efficiently meet such needs, and provide for the~~
31 ~~interconnection of all types of modes in a comprehensive~~

1 ~~intermodal transportation system. In developing the Florida~~
2 ~~Transportation Plan, the department shall consider the~~
3 ~~following:~~

4 ~~(a) The results of the management systems required~~
5 ~~pursuant to federal laws and regulations.~~

6 ~~(b) Any federal, state, or local energy use goals,~~
7 ~~objectives, programs, or requirements.~~

8 ~~(c) Strategies for incorporating bicycle~~
9 ~~transportation facilities and pedestrian walkways in projects~~
10 ~~where appropriate throughout the state.~~

11 ~~(d) International border crossings and access to~~
12 ~~ports, airports, intermodal transportation facilities, major~~
13 ~~freight distribution routes, national parks, recreation and~~
14 ~~scenic areas, monuments and historic sites, and military~~
15 ~~installations.~~

16 ~~(e) The transportation needs of nonmetropolitan areas~~
17 ~~through a process that includes consultation with local~~
18 ~~elected officials with jurisdiction over transportation.~~

19 ~~(f) Consistency of the plan, to the maximum extent~~
20 ~~feasible, with strategic regional policy plans, metropolitan~~
21 ~~planning organization plans, and approved local government~~
22 ~~comprehensive plans so as to contribute to the management of~~
23 ~~orderly and coordinated community development.~~

24 ~~(g) Connectivity between metropolitan areas within the~~
25 ~~state and with metropolitan areas in other states.~~

26 ~~(h) Recreational travel and tourism.~~

27 ~~(i) Any state plan developed pursuant to the Federal~~
28 ~~Water Pollution Control Act.~~

29 ~~(j) Transportation system management and investment~~
30 ~~strategies designed to make the most efficient use of existing~~
31 ~~transportation facilities.~~

1 ~~(k) The total social, economic, energy, and~~
2 ~~environmental effects of transportation decisions on the~~
3 ~~community and region.~~

4 ~~(l) Methods to manage traffic congestion and to~~
5 ~~prevent traffic congestion from developing in areas where it~~
6 ~~does not yet occur, including methods which reduce motor~~
7 ~~vehicle travel, particularly single-occupant vehicle travel.~~

8 ~~(m) Methods to expand and enhance transit services and~~
9 ~~to increase the use of such services.~~

10 ~~(n) The effect of transportation decisions on land use~~
11 ~~and land development, including the need for consistency~~
12 ~~between transportation decisionmaking and the provisions of~~
13 ~~all applicable short-range and long-range land use and~~
14 ~~development plans.~~

15 ~~(o) Where appropriate, the use of innovative~~
16 ~~mechanisms for financing projects, including value capture~~
17 ~~pricing, tolls, and congestion pricing.~~

18 ~~(p) Preservation and management of rights-of-way for~~
19 ~~construction of future transportation projects, including~~
20 ~~identification of unused rights-of-way which may be needed for~~
21 ~~future transportation corridors, and identification of those~~
22 ~~corridors for which action is most needed to prevent~~
23 ~~destruction or loss.~~

24 ~~(q) Future, as well as existing, needs of the state~~
25 ~~transportation system.~~

26 ~~(r) Methods to enhance the efficient movement of~~
27 ~~commercial motor vehicles.~~

28 ~~(s) The use of life-cycle costs in the design and~~
29 ~~engineering of bridges, tunnels, or pavement.~~

30 ~~(t) Investment strategies to improve adjoining state~~
31 ~~and local roads that support rural economic growth and tourism~~

1 ~~development, federal agency renewable resources management,~~
2 ~~and multipurpose land management practices, including~~
3 ~~recreation development.~~

4 ~~(u) The concerns of Indian tribal governments having~~
5 ~~jurisdiction over lands within the boundaries of the state.~~

6 ~~(v) A seaport or airport master plan, which has been~~
7 ~~incorporated into an approved local government comprehensive~~
8 ~~plan, and the linkage of transportation modes described in~~
9 ~~such plan which are needed to provide for the movement of~~
10 ~~goods and passengers between the seaport or airport and the~~
11 ~~other transportation facilities.~~

12 ~~(w) The joint use of transportation corridors and~~
13 ~~major transportation facilities for alternate transportation~~
14 ~~and community uses.~~

15 ~~(x) The integration of any proposed system into all~~
16 ~~other types of transportation facilities in the community.~~

17 (3) FORMAT, SCHEDULE, AND REVIEW. ~~--The Florida~~
18 ~~Transportation Plan shall be a unified, concise planning~~
19 ~~document that clearly defines the state's long-range~~
20 ~~transportation goals and objectives and documents the~~
21 ~~department's short-range objectives developed to further such~~
22 ~~goals and objectives.~~ The plan shall include a glossary that
23 clearly and succinctly defines any and all phrases, words, or
24 terms of art included in the plan, with which the general
25 public may be unfamiliar and shall consist of, at a minimum,
26 the following components:

27 (a) A long-range component documenting the goals and
28 long-term objectives necessary to implement the results of the
29 department's findings from its examination of the criteria
30 listed in subsection (2). The long-range component must be
31 developed in cooperation with the metropolitan planning

1 organizations and reconciled, to the maximum extent feasible,
2 with the long-range plans developed by metropolitan planning
3 organizations pursuant to s. 339.175. The plan shall also be
4 developed in consultation with affected local officials in
5 nonmetropolitan areas and with any affected Indian tribal
6 governments.The plan must provide an examination of
7 transportation issues likely to arise during at least a
8 20-year period. The long-range component shall be updated at
9 least once every 5 years, or more often as necessary, to
10 reflect substantive changes to federal or state law.

11 (b) A short-range component documenting the short-term
12 objectives and strategies necessary to implement the goals and
13 long-term objectives contained in the long-range component.
14 The short-range component shall define the relationship
15 between the long-range goals and the short-range objectives,
16 specify those objectives against which the department's
17 achievement of such goals will be measured, and identify
18 transportation strategies necessary to efficiently achieve the
19 goals and objectives in the plan. It shall provide a policy
20 framework within which the department's legislative budget
21 request, the strategic information resource management plan,
22 and the work program are developed.The short-range component
23 shall serve as the department's annual agency strategic plan
24 pursuant to s. 186.021. The short-range component shall be
25 developed consistent with the requirements of s. 186.022 and
26 consistent with available and forecasted state and federal
27 funds. In addition to those entities listed in s. 186.022, the
28 short-range component shall also be submitted to the Florida
29 Transportation Commission.

30 (4) ANNUAL PERFORMANCE REPORT.--The department shall
31 develop an annual performance report evaluating the operation

1 of the department for the preceding fiscal year. The report,
2 which shall meet the requirements of s. 186.022, shall also
3 include a summary of the financial operations of the
4 department and shall annually evaluate how well the adopted
5 work program meets the short-term objectives contained in the
6 short-range component of the Florida Transportation Plan. In
7 addition to the entities listed in s. 186.022, this
8 performance report shall also be submitted to the Florida
9 Transportation Commission and the legislative appropriations
10 and transportation committees.

11 (5) ADDITIONAL TRANSPORTATION PLANS.--

12 (a) Upon request by local governmental entities, the
13 department may in its discretion develop and design
14 transportation corridors, arterial and collector streets,
15 vehicular parking areas, and other support facilities which
16 are consistent with the plans of the department for major
17 transportation facilities. The department may render to local
18 governmental entities or their planning agencies such
19 technical assistance and services as are necessary so that
20 local plans and facilities are coordinated with the plans and
21 facilities of the department.

22 (b) Each regional planning council, as provided for in
23 s. 186.504, or any successor agency thereto, shall develop, as
24 an element of its strategic regional policy plan,
25 transportation goals and policies. The transportation goals
26 and policies shall be consistent, to the maximum extent
27 feasible, with the goals and policies of the metropolitan
28 planning organization and the Florida Transportation Plan.
29 The transportation goals and policies of the regional planning
30 council will be advisory only and shall be submitted to the
31 department and any affected metropolitan planning organization

1 for their consideration and comments. Metropolitan planning
2 organization plans and other local transportation plans shall
3 be developed consistent, to the maximum extent feasible, with
4 the regional transportation goals and policies. The regional
5 planning council shall review urbanized area transportation
6 plans and any other planning products stipulated in s. 339.175
7 and provide the department and respective metropolitan
8 planning organizations with written recommendations which the
9 department and the metropolitan planning organizations shall
10 take under advisement. Further, the regional planning
11 councils shall directly assist local governments which are not
12 part of a metropolitan area transportation planning process in
13 the development of the transportation element of their
14 comprehensive plans as required by s. 163.3177.

15 (6) PROCEDURES FOR PUBLIC PARTICIPATION IN
16 TRANSPORTATION PLANNING.--

17 (a) During the development of the long-range component
18 of the Florida Transportation Plan, and prior to substantive
19 revisions ~~adoption of all subsequent amendments~~, the
20 department shall provide citizens, affected public agencies,
21 representatives of transportation agency employees, other
22 affected employee representatives, private providers of
23 transportation, and other known interested parties with an
24 opportunity to comment on the proposed plan or revisions
25 amendments. These opportunities ~~This hearing shall include~~
26 ~~presentation and discussion of the factors listed in~~
27 ~~subsection (2) and~~ shall include, at a minimum, publishing a
28 notice in the Florida Administrative Weekly and within a
29 newspaper of general circulation within the area of each
30 department district office. ~~These notices shall be published~~
31

1 ~~twice prior to the day of the hearing, with the first notice~~
2 ~~appearing at least 14 days prior to the hearing.~~

3 (b) During development of major transportation
4 improvements, such as those increasing the capacity of a
5 facility through the addition of new lanes or providing new
6 access to a limited or controlled access facility or
7 construction of a facility in a new location, the department
8 shall hold one or more hearings prior to the selection of the
9 facility to be provided; prior to the selection of the site or
10 corridor of the proposed facility; and prior to the selection
11 of and commitment to a specific design proposal for the
12 proposed facility. Such public hearings shall be conducted so
13 as to provide an opportunity for effective participation by
14 interested persons in the process of transportation planning
15 and site and route selection and in the specific location and
16 design of transportation facilities. The various factors
17 involved in the decision or decisions and any alternative
18 proposals shall be clearly presented so that the persons
19 attending the hearing may present their views relating to the
20 decision or decisions which will be made.

21 (c) Opportunity for design hearings:

22 1. The department, prior to holding a design hearing,
23 shall duly notice all affected property owners of record, as
24 recorded in the property appraiser's office, by mail at least
25 20 days prior to the date set for the hearing. The affected
26 property owners shall be:

27 a. Those whose property lies in whole or in part
28 within 300 feet on either side of the centerline of the
29 proposed facility.

30
31

1 b. Those who the department determines will be
2 substantially affected environmentally, economically,
3 socially, or safetywise.

4 2. For each subsequent hearing, the department shall
5 daily publish notice at least 14 days immediately prior to the
6 hearing date in a newspaper of general circulation for the
7 area affected.

8 3. A copy of the notice of opportunity for the hearing
9 shall be furnished to the United States Department of
10 Transportation and to the appropriate departments of the state
11 government at the time of publication.

12 4. The opportunity for another hearing shall be
13 afforded in any case when proposed locations or designs are so
14 changed from those presented in the notices specified above or
15 at a hearing as to have a substantially different social,
16 economic, or environmental effect.

17 5. The opportunity for a hearing shall be afforded in
18 each case in which the department is in doubt as to whether a
19 hearing is required.

20 Section 40. Section 339.175, Florida Statutes, 1998
21 Supplement, is amended to read:

22 339.175 Metropolitan planning organization.--It is the
23 intent of the Legislature to encourage and promote the safe
24 and efficient management, operation, and development of
25 surface transportation systems ~~embracing various modes of~~
26 ~~transportation in a manner~~ that will serve ~~maximize~~ the
27 mobility needs of people and freight ~~goods~~ within and through
28 urbanized areas of this state while minimizing and minimize,
29 ~~to the maximum extent feasible, and together with applicable~~
30 ~~regulatory government agencies,~~ transportation-related fuel
31 consumption and air pollution. To accomplish these

1 objectives, metropolitan planning organizations, referred to
2 in this section as M.P.O.'s, shall develop, in cooperation
3 with the state and public transit operators, transportation
4 plans and programs for metropolitan areas. The plans and
5 programs for each metropolitan area shall provide for the
6 development and integrated management and operation of
7 transportation systems and facilities, including pedestrian
8 walkways and bicycle transportation facilities, that will
9 function as an intermodal transportation system for the
10 ~~metropolitan area. Such plans and programs must provide for~~
11 ~~the development of transportation facilities that will~~
12 ~~function as an intermodal transportation system for the~~
13 ~~metropolitan area.~~ The process for developing such plans and
14 programs shall provide for consideration of all modes of
15 transportation and shall be continuing, cooperative, and
16 comprehensive, to the degree appropriate, based on the
17 complexity of the transportation problems to be addressed.

18 (1) DESIGNATION.--

19 (a)1. An M.P.O. shall be designated for each urbanized
20 area of the state. Such designation shall be accomplished by
21 agreement between the Governor and units of general-purpose
22 local government representing at least 75 percent of the
23 population of the urbanized area; however, the unit of
24 general-purpose local government that represents the central
25 city or cities within the M.P.O. jurisdiction, as defined by
26 the United States Bureau of the Census, must be a party to
27 such agreement.

28 2. More than one M.P.O. may be designated within an
29 existing metropolitan planning ~~urbanized~~ area only if the
30 Governor and the existing M.P.O. determine ~~determines~~ that the
31 size and complexity of the existing metropolitan planning area

1 make ~~justifies the~~ designation of more than one M.P.O. for the
2 area appropriate ~~multiple M.P.O.'s~~.

3 (b) Each M.P.O. shall be created and operated under
4 the provisions of this section pursuant to an interlocal
5 agreement entered into pursuant to s. 163.01. The signatories
6 to the interlocal agreement shall be the department and the
7 governmental entities designated by the Governor for
8 membership on the M.P.O. If there is a conflict between this
9 section and s. 163.01, this section prevails.

10 (c) The jurisdictional boundaries of an M.P.O. is the
11 metropolitan planning area which is ~~shall be~~ determined by
12 agreement between the Governor and the applicable M.P.O. Each
13 metropolitan planning area shall encompass at least the
14 existing urbanized area and the contiguous area expected to
15 become urbanized within a 20-year forecast period ~~The~~
16 ~~boundaries must include, at a minimum, the metropolitan area~~
17 and may encompass ~~include~~ the entire metropolitan statistical
18 area or the consolidated metropolitan statistical area as
19 defined by the United States Department of Commerce, Bureau of
20 the Census.

21 (d) In the case of an urbanized area designated as a
22 nonattainment area for ozone or carbon monoxide under the
23 Clean Air Act, 42 U.S.C. s. 7401 et seq., the boundaries of
24 the metropolitan planning area in existence as of the date of
25 enactment of this paragraph shall be retained, except that the
26 boundaries may be adjusted by agreement of the Governor and
27 affected metropolitan planning organizations in the manner
28 described in this subsection. If more than one M.P.O. has
29 authority within a metropolitan area or an area that is
30 designated as a nonattainment area, each M.P.O. shall consult
31 with other M.P.O.'s designated for such area and with the

1 state in the coordination of plans and programs required by
2 this section.

3

4 Each M.P.O. required under this section must be fully
5 operative no later than 6 months following its designation.

6 (2) VOTING MEMBERSHIP.--

7 (a) The voting membership of an M.P.O. shall consist
8 of not fewer than 5 or more than 19 apportioned members, the
9 exact number to be determined on an equitable
10 geographic-population ratio basis by the Governor, based on an
11 agreement among the affected units of general-purpose local
12 government as required by federal rules and regulations. The
13 Governor, in accordance with 23 U.S.C. s. 134, ~~as amended by~~
14 ~~the Intermodal Surface Transportation Efficiency Act of 1991,~~
15 may also provide for M.P.O. members who represent
16 municipalities to alternate with representatives from other
17 municipalities within the metropolitan planning designated
18 ~~urban~~ area that do not have members on the M.P.O. County
19 commission members shall compose not less than one-third of
20 the M.P.O. membership, except for an M.P.O. with more than 15
21 members located in a county with a five-member county
22 commission or an M.P.O. with 19 members located in a county
23 with no more than 6 county commissioners, in which case county
24 commission members may compose less than one-third percent of
25 the M.P.O. membership, but all county commissioners must be
26 members. All voting members shall be elected officials of
27 general-purpose governments, except that an M.P.O. may
28 include, as part of its apportioned voting members, a member
29 of a statutorily authorized planning board or an official of
30 an agency that operates or administers a major mode of
31 transportation. ~~In metropolitan areas in which authorities or~~

1 ~~other agencies have been, or may be, created by law to perform~~
2 ~~transportation functions that are not under the jurisdiction~~
3 ~~of a general-purpose local government represented on the~~
4 ~~M.P.O., they shall be provided voting membership on the M.P.O.~~
5 The county commission shall compose not less than 20 percent
6 of the M.P.O. membership if an official of an agency that
7 operates or administers a major mode of transportation has
8 been appointed to an M.P.O.

9 (b) In metropolitan areas in which authorities or
10 other agencies have been, or may be, created by law to perform
11 transportation functions that are not under the jurisdiction
12 of a general-purpose local government represented on the
13 M.P.O., they shall be provided voting membership on the M.P.O.
14 In all other M.P.O.'s, where transportation authorities or
15 agencies are to be represented by elected officials from
16 general purpose local governments, the M.P.O. shall establish
17 a process by which the collective interests of such
18 authorities or other agencies are expressed and conveyed.

19 (c)~~(b)~~ Any other provision of this section to the
20 contrary notwithstanding, any county chartered under s. 6(e),
21 Art. VIII of the State Constitution may elect to have its
22 county commission serve as the M.P.O., if the M.P.O.
23 jurisdiction is wholly contained within the county. Any
24 charter county that elects to exercise the provisions of this
25 paragraph shall so notify the Governor in writing. Upon
26 receipt of such notification, the Governor must designate the
27 county commission as the M.P.O. The Governor must appoint
28 four additional voting members to the M.P.O., one of whom must
29 be an elected official representing a municipality within the
30 county, one of whom must be an expressway authority member,
31 one of whom must be a person who does not hold elected public

1 office and who resides in the unincorporated portion of the
2 county, and one of whom must be a school board member.

3 (3) APPORTIONMENT.--

4 (a) The Governor shall, with the agreement of the
5 affected units of general-purpose local government as required
6 by federal rules and regulations, apportion the membership on
7 the applicable M.P.O. among the various governmental entities
8 within the area and shall prescribe a method for appointing
9 alternate members who may vote at any M.P.O. meeting that an
10 alternate member attends in place of a regular member. An
11 appointed alternate member must be an elected official serving
12 the same governmental entity or a general-purpose local
13 government with jurisdiction within all or part of the area
14 that the regular member serves. The governmental entity so
15 designated shall appoint the appropriate number of members to
16 the M.P.O. from eligible officials. Representatives of the
17 department shall serve as nonvoting members of the M.P.O.
18 Nonvoting advisers may be appointed by the M.P.O. as deemed
19 necessary. ~~The Governor shall review the composition of the~~
20 ~~M.P.O. membership at least every 5 years and reapportion it as~~
21 ~~necessary to comply with subsection (2).~~

22 (b) Except for members who represent municipalities on
23 the basis of alternating with representatives from other
24 municipalities that do not have members on the M.P.O. as
25 provided in paragraph (2)(a), the members of an M.P.O. shall
26 serve 4-year terms. Members who represent municipalities on
27 the basis of alternating with representatives from other
28 municipalities that do not have members on the M.P.O. as
29 provided in paragraph (2)(a) may serve terms of up to 4 years
30 as further provided in the interlocal agreement described in
31 paragraph (1)(b). The membership of a member who is a public

1 official automatically terminates upon the member's leaving
2 his or her elective or appointive office for any reason, or
3 may be terminated by a majority vote of the total membership
4 of a county or city governing entity represented by the
5 member. A vacancy shall be filled by the original appointing
6 entity. A member may be reappointed for one or more
7 additional 4-year terms.

8 (c) If a governmental entity fails to fill an assigned
9 appointment to an M.P.O. within 60 days after notification by
10 the Governor of its duty to appoint, that appointment shall be
11 made by the Governor from the eligible representatives of that
12 governmental entity.

13 (4) AUTHORITY AND RESPONSIBILITY.--The authority and
14 responsibility of an M.P.O. is to manage a continuing,
15 cooperative, and comprehensive transportation planning process
16 that results in the development of plans and programs which
17 are consistent, to the maximum extent feasible, with the
18 approved local government comprehensive plans of the units of
19 local government the boundaries of which are within the
20 metropolitan area of the M.P.O. An M.P.O. shall be the forum
21 for cooperative decisionmaking by officials of the affected
22 governmental entities in the development of the plans and
23 programs required by subsections (5), (6), (7), and (8).

24 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
25 privileges, and authority of an M.P.O. are those specified in
26 this section or incorporated in an interlocal agreement
27 authorized under s. 163.01. Each M.P.O. shall perform all
28 acts required by federal or state laws or rules, now and
29 subsequently applicable, which are necessary to qualify for
30 federal aid. It is the intent of this section that each M.P.O.
31 shall be involved in the planning and programming of

1 transportation facilities, including, but not limited to,
2 airports, intercity and high-speed rail lines, seaports, and
3 intermodal facilities, to the extent permitted by state or
4 federal law.

5 (a) Each M.P.O. shall, in cooperation with the
6 department, develop:

7 1. A long-range transportation plan pursuant to the
8 requirements of subsection (6);

9 2. An annually updated transportation improvement
10 program pursuant to the requirements of subsection (7); and

11 3. An annual unified planning work program pursuant to
12 the requirements of subsection (8).

13 (b) In developing the long-range transportation plan
14 and the transportation improvement program required under
15 paragraph (a), each M.P.O. shall provide for consideration of
16 projects and strategies that will ~~must, at a minimum,~~
17 ~~consider:~~

18 1. Support the economic vitality of the metropolitan
19 area, especially by enabling global competitiveness,
20 productivity, and efficiency.

21 2. Increase the safety and security of the
22 transportation system for motorized and nonmotorized users.

23 3. Increase the accessibility and mobility options
24 available to people and for freight.

25 4. Protect and enhance the environment, promote energy
26 conservation, and improve quality of life.

27 5. Enhance the integration and connectivity of the
28 transportation system, across and between modes, for people
29 and freight.

30 6. Promote efficient system management and operation.
31

1 7. Emphasize the preservation of the existing
2 transportation system.

3 ~~1. The preservation of existing transportation~~
4 ~~facilities and, where practical, ways to meet transportation~~
5 ~~needs by using existing facilities more efficiently;~~

6 ~~2. The consistency of transportation planning with~~
7 ~~applicable federal, state, and local energy conservation~~
8 ~~programs, goals, and objectives;~~

9 ~~3. The need to relieve congestion and prevent~~
10 ~~congestion from occurring where it does not yet occur;~~

11 ~~4. The likely effect of transportation policy~~
12 ~~decisions on land use and development and the consistency of~~
13 ~~transportation plans and programs with all applicable~~
14 ~~short-term and long-term land use and development plans;~~

15 ~~5. The programming of transportation enhancement~~
16 ~~activities as required by federal law;~~

17 ~~6. The effect of all transportation projects to be~~
18 ~~undertaken in the metropolitan area, without regard to whether~~
19 ~~such projects are publicly funded;~~

20 ~~7. The provision of access to seaports, airports,~~
21 ~~intermodal transportation facilities, major freight~~
22 ~~distribution routes, national and state parks, recreation~~
23 ~~areas, monuments and historic sites, and military~~
24 ~~installations;~~

25 ~~8. The need for roads within the metropolitan area to~~
26 ~~efficiently connect with roads outside the metropolitan area;~~

27 ~~9. The transportation needs identified through the use~~
28 ~~of transportation management systems required by federal or~~
29 ~~state law;~~

30 ~~10. The preservation of rights-of-way for construction~~
31 ~~of future transportation projects, including the~~

1 ~~identification of unused rights-of-way that may be needed for~~
2 ~~future transportation corridors and the identification of~~
3 ~~corridors for which action is most needed to prevent~~
4 ~~destruction or loss;~~

5 ~~11. Any available methods to enhance the efficient~~
6 ~~movement of freight;~~

7 ~~12. The use of life-cycle costs in the design and~~
8 ~~engineering of bridges, tunnels, or pavement;~~

9 ~~13. The overall social, economic, energy, and~~
10 ~~environmental effects of transportation decisions;~~

11 ~~14. Any available methods to expand or enhance transit~~
12 ~~services and increase the use of such services; and~~

13 ~~15. The possible allocation of capital investments to~~
14 ~~increase security for transit systems.~~

15 (c) In order to provide recommendations to the
16 department and local governmental entities regarding
17 transportation plans and programs, each M.P.O. shall:

18 1. Prepare a congestion management system for the
19 metropolitan area and cooperate with the department in the
20 development of all other transportation management systems
21 required by state or federal law;

22 2. Assist the department in mapping transportation
23 planning boundaries required by state or federal law;

24 3. Assist the department in performing its duties
25 relating to access management, functional classification of
26 roads, and data collection;

27 4. Execute all agreements or certifications necessary
28 to comply with applicable state or federal law;

29 5. Represent all the jurisdictional areas within the
30 metropolitan area in the formulation of transportation plans
31 and programs required by this section; and

1 6. Perform all other duties required by state or
2 federal law.

3 (d) Each M.P.O. shall appoint a technical advisory
4 committee that includes planners; engineers; representatives
5 of local aviation authorities, port authorities, and public
6 transit authorities or representatives of aviation
7 departments, seaport departments, and public transit
8 departments of municipal or county governments, as applicable;
9 the school superintendent of each county within the
10 jurisdiction of the M.P.O. or the superintendent's designee;
11 and other appropriate representatives of affected local
12 governments. In addition to any other duties assigned to it by
13 the M.P.O. or by state or federal law, the technical advisory
14 committee is responsible for identifying projects contained in
15 the long-range plan or transportation improvement program
16 which deserve to be classified as a school safety concern.
17 Upon receipt of the recommendation from the technical advisory
18 committee that a project should be so classified, the M.P.O.
19 must vote on whether to classify a particular project as a
20 school safety concern. If the M.P.O. votes that a project
21 should be classified as a school safety concern, the local
22 governmental entity responsible for the project must consider
23 at least two alternatives before making a decision about
24 project location or alignment.

25 (e)1. Each M.P.O. shall appoint a citizens' advisory
26 committee, the members of which serve at the pleasure of the
27 M.P.O. The membership on the citizens' advisory committee must
28 reflect a broad cross section of local residents with an
29 interest in the development of an efficient, safe, and
30 cost-effective transportation system. Minorities, the elderly,
31 and the handicapped must be adequately represented.

1 2. Notwithstanding the provisions of subparagraph 1.,
2 an M.P.O. may, with the approval of the department and the
3 applicable federal governmental agency, adopt an alternative
4 program or mechanism to ensure citizen involvement in the
5 transportation planning process.

6 (f) The department shall allocate to each M.P.O., for
7 the purpose of accomplishing its transportation planning and
8 programming duties, an appropriate amount of federal
9 transportation planning funds.

10 (g) Each M.P.O. may employ personnel or may enter into
11 contracts with local or state agencies, private planning
12 firms, or private engineering firms to accomplish its
13 transportation planning and programming duties required by
14 state or federal law.

15 (6) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must
16 develop a long-range transportation plan that addresses at
17 least a 20-year planning horizon. The plan must include both
18 long-range and short-range strategies and must comply with all
19 other state and federal requirements. The long-range
20 transportation plan must be consistent, to the maximum extent
21 feasible, with future land use elements and the goals,
22 objectives, and policies of the approved local government
23 comprehensive plans of the units of local government located
24 within the jurisdiction of the M.P.O. The approved long-range
25 transportation plan must be considered by local governments in
26 the development of the transportation elements in local
27 government comprehensive plans and any amendments thereto. The
28 long-range transportation plan must, at a minimum:

29 (a) Identify transportation facilities, including, but
30 not limited to, major roadways, airports, seaports, commuter
31 rail systems, transit systems, and intermodal or multimodal

1 terminals that will function as an integrated metropolitan
2 transportation system. The long-range transportation plan
3 must give emphasis to those transportation facilities that
4 serve national, statewide, or regional functions, and must
5 consider the goals and objectives identified in the Florida
6 Transportation Plan as provided in s. 339.155. If a project is
7 located within the boundaries of more than one M.P.O., the
8 M.P.O.'s shall coordinate plans regarding the project in the
9 long-range transportation plan.

10 (b) Include a financial plan that demonstrates how the
11 plan can be implemented, indicating resources from public and
12 private sources which are reasonably expected to be available
13 to carry out the plan, and recommends any additional financing
14 strategies for needed projects and programs. The financial
15 plan may include, for illustrative purposes, additional
16 projects that would be included in the adopted long-range
17 transportation plan if reasonable additional resources beyond
18 those identified in the financial plan were available. For the
19 purpose of developing the long-range transportation plan, the
20 M.P.O. and the department shall cooperatively develop
21 estimates of funds that will be available to support plan
22 implementation. Innovative financing techniques ~~that~~ may be
23 used to fund needed projects and programs. Such techniques
24 may include the assessment of tolls, the use of value capture
25 financing, or the use of value ~~congestion~~ pricing.

26 (c) Assess capital investment and other measures
27 necessary to:

28 1. Ensure the preservation of the existing
29 metropolitan transportation system including requirements for
30 the operation, resurfacing, restoration, and rehabilitation of
31 major roadways and requirements for the operation,

1 maintenance, modernization, and rehabilitation of public
2 transportation facilities; and
3 2. Make the most efficient use of existing
4 transportation facilities to relieve vehicular congestion and
5 maximize the mobility of people and goods.
6 (d) Indicate, as appropriate, proposed transportation
7 enhancement activities, including, but not limited to,
8 pedestrian and bicycle facilities, scenic easements,
9 landscaping, historic preservation, mitigation of water
10 pollution due to highway runoff, and control of outdoor
11 advertising.
12 (e) In addition to the requirements of paragraphs
13 (a)-(d), in metropolitan areas that are classified as
14 nonattainment areas for ozone or carbon monoxide, the M.P.O.
15 must coordinate the development of the long-range
16 transportation plan with the State Implementation Plan
17 developed pursuant to the requirements of the federal Clean
18 Air Act.
19
20 In the development of its long-range transportation plan, each
21 M.P.O. must provide citizens, affected public agencies,
22 representatives of transportation agency employees, freight
23 shippers, providers of freight transportation services,
24 private providers of transportation, representatives of users
25 of public transit, and other interested parties, ~~and members~~
26 ~~of the general public~~ with a reasonable opportunity to comment
27 on the long-range transportation plan. The long-range
28 transportation plan must be approved by the M.P.O.
29 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.
30 shall, in cooperation with the state and affected public
31 transportation operators, develop a transportation improvement

1 program for the area within the jurisdiction of the M.P.O. In
2 the development of the transportation improvement program,
3 each M.P.O. must provide citizens, affected public transit
4 agencies, representatives of transportation agency employees,
5 freight shippers, providers of freight transportation
6 services, private providers of transportation, representatives
7 of users of public transit, and other interested parties, ~~and~~
8 ~~members of the general public~~ with a reasonable opportunity to
9 comment on the proposed transportation improvement program.

10 (a) Each M.P.O. is responsible for developing,
11 annually, a list of project priorities and a transportation
12 improvement program. The transportation improvement program
13 will be used to initiate federally aided transportation
14 facilities and improvements as well as other transportation
15 facilities and improvements including transit, rail, aviation,
16 and port facilities to be funded from the State Transportation
17 Trust Fund within its metropolitan area in accordance with
18 existing and subsequent federal and state laws and rules and
19 regulations related thereto. The transportation improvement
20 program shall be consistent, to the maximum extent feasible,
21 with the approved local government comprehensive plans of the
22 units of local government whose boundaries are within the
23 metropolitan area of the M.P.O.

24 (b) Each M.P.O. annually shall prepare a list of
25 project priorities and shall submit the list to the
26 appropriate district of the department by October 1 of each
27 year; however, the department and a metropolitan planning
28 organization may, in writing, agree to vary this submittal
29 date. The list of project priorities must be formally reviewed
30 by the technical and citizens' advisory committees, and
31 approved by the M.P.O., before it is transmitted to the

1 district. The approved list of project priorities must be used
2 by the district in developing the district work program and
3 must be used by the M.P.O. in developing its transportation
4 improvement program. The annual list of project priorities
5 must be based upon project selection criteria that, at a
6 minimum, consider the following:

- 7 1. The approved M.P.O. long-range transportation plan;
- 8 2. The results of the transportation management
9 systems; and
- 10 3. The M.P.O.'s public-involvement procedures.

11 (c) The transportation improvement program must, at a
12 minimum:

- 13 1. Include projects and project phases to be funded
14 with state or federal funds within the time period of the
15 transportation improvement program and which are recommended
16 for advancement during the next fiscal year and 4 subsequent
17 fiscal years. Such projects and project phases must be
18 consistent, to the maximum extent feasible, with the approved
19 local government comprehensive plans of the units of local
20 government located within the jurisdiction of the M.P.O. For
21 informational purposes, the transportation improvement program
22 shall also include a list of projects to be funded from local
23 or private revenues.
- 24 2. Include projects within the metropolitan area which
25 are proposed for funding under 23 U.S.C. s. 134 of the Federal
26 Transit Act and which are consistent with the long-range
27 transportation plan developed under subsection (6).
- 28 3. Provide a financial plan that demonstrates how the
29 transportation improvement program can be implemented;
30 indicates the resources, both public and private, that are
31 reasonably expected to be available to accomplish the program;

1 identifies ~~and recommends~~ any innovative financing techniques
2 that may be used to fund needed projects and programs; and may
3 include, for illustrative purposes, additional projects that
4 would be included in the approved transportation improvement
5 program if reasonable additional resources beyond those
6 identified in the financial plan were available. Innovative
7 financing ~~Such~~ techniques may include the assessment of tolls,
8 the use of value capture financing, or the use of value
9 ~~congestion~~ pricing. The transportation improvement program
10 shall ~~may~~ include a project or project phase only if full
11 funding can reasonably be anticipated to be available for the
12 project or project phase within the time period contemplated
13 for completion of the project or project phase.

14 4. Group projects and project phases of similar
15 urgency and anticipated staging into appropriate staging
16 periods.

17 5. Indicate how the transportation improvement program
18 relates to the long-range transportation plan developed under
19 subsection (6), including providing examples of specific
20 projects or project phases that further the goals and policies
21 of the long-range transportation plan.

22 6. Indicate whether any project or project phase is
23 inconsistent with an approved comprehensive plan of a unit of
24 local government located within the jurisdiction of the M.P.O.
25 If a project is inconsistent with an affected comprehensive
26 plan, the M.P.O. must provide justification for including the
27 project in the transportation improvement program.

28 7. Indicate how the improvements are consistent, to
29 the maximum extent feasible, with affected seaport and airport
30 master plans and with public transit development plans of the
31 units of local government located within the jurisdiction of

1 the M.P.O. If a project is located within the boundaries of
2 more than one M.P.O., the M.P.O.'s shall coordinate plans
3 regarding the project in the transportation improvement
4 program.

5 (d) Projects included in the transportation
6 improvement program and that have advanced to the design stage
7 of preliminary engineering may be removed from or rescheduled
8 in a subsequent transportation improvement program only by the
9 joint action of the M.P.O. and the department. Except when
10 recommended in writing by the district secretary for good
11 cause, any project removed from or rescheduled in a subsequent
12 transportation improvement program shall not be rescheduled by
13 the M.P.O. in that subsequent program earlier than the 5th
14 year of such program.

15 (e) During development of the transportation
16 improvement program, the M.P.O. shall, in cooperation with the
17 department and any affected public transit operation, provide
18 citizens, affected public agencies, representatives of
19 transportation agency employees, freight shippers, providers
20 of freight transportation services, private providers of
21 transportation, representatives of users of public transit,
22 and other interested parties with reasonable notice of and an
23 opportunity to comment on the proposed program.

24 ~~(f)~~(e) The adopted annual transportation improvement
25 program for M.P.O.'s in nonattainment or maintenance areas
26 must be submitted to the district secretary and the Department
27 of Community Affairs at least 90 days before the submission of
28 the state transportation improvement program by the department
29 to the appropriate federal agencies. The annual transportation
30 improvement program for M.P.O.'s in attainment areas must be
31 submitted to the district secretary and the Department of

1 Community Affairs at least 45 days before the department
2 submits the state transportation improvement program to the
3 appropriate federal agencies; however, the department, the
4 Department of Community Affairs, and a metropolitan planning
5 organization may, in writing, agree to vary this submittal
6 date. The Governor or the Governor's designee shall review
7 and approve each transportation improvement program and any
8 amendments thereto.

9 (g)~~(f)~~ The Department of Community Affairs shall
10 review the annual transportation improvement program of each
11 M.P.O. for consistency with the approved local government
12 comprehensive plans of the units of local government whose
13 boundaries are within the metropolitan area of each M.P.O. and
14 shall identify those projects that are inconsistent with such
15 comprehensive plans. The Department of Community Affairs shall
16 notify an M.P.O. of any transportation projects contained in
17 its transportation improvement program which are inconsistent
18 with the approved local government comprehensive plans of the
19 units of local government whose boundaries are within the
20 metropolitan area of the M.P.O.

21 (h) The M.P.O. shall annually publish or otherwise
22 make available for public review the annual listing of
23 projects for which federal funds have been obligated in the
24 preceding year. Project monitoring systems shall be maintained
25 by those agencies responsible for obligating federal funds and
26 made accessible to the M.P.O.'s.

27 (8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall
28 develop, in cooperation with the department and public
29 transportation providers, a unified planning work program that
30 lists all planning tasks to be undertaken during the program
31 year. The unified planning work program must provide a

1 complete description of each planning task and an estimated
2 budget therefor and must comply with applicable state and
3 federal law.

4 (9) AGREEMENTS.--

5 (a) Each M.P.O. shall execute the following written
6 agreements, which shall be reviewed, and updated as necessary,
7 every 5 years:

8 1. An agreement with the department clearly
9 establishing the cooperative relationship essential to
10 accomplish the transportation planning requirements of state
11 and federal law.

12 2. An agreement with the metropolitan and regional
13 intergovernmental coordination and review agencies serving the
14 metropolitan areas, specifying the means by which activities
15 will be coordinated and how transportation planning and
16 programming will be part of the comprehensive planned
17 development of the area.

18 3. An agreement with operators of public
19 transportation systems, including transit systems, commuter
20 rail systems, airports, and seaports, describing the means by
21 which activities will be coordinated and specifying how public
22 transit, commuter rail, aviation, and seaport planning and
23 programming will be part of the comprehensive planned
24 development of the metropolitan area.

25 (b) An M.P.O. may execute other agreements required by
26 state or federal law or as necessary to properly accomplish
27 its functions.

28 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
29 COUNCIL.--

30 (a) A Metropolitan Planning Organization Advisory
31 Council is created to augment, and not supplant, the role of

1 the individual M.P.O.'s in the cooperative transportation
2 planning process described in s. 339.155(5).

3 (b) The council shall consist of one representative
4 from each M.P.O. and shall elect a chairperson annually from
5 its number. Each M.P.O. shall also elect an alternate
6 representative from each M.P.O. to vote in the absence of the
7 representative. Members of the council do not receive any
8 compensation for their services, but may be reimbursed from
9 funds made available to council members for travel and per
10 diem expenses incurred in the performance of their council
11 duties as provided in s. 112.061.

12 (c) The powers and duties of the Metropolitan Planning
13 Organization Advisory Council are to:

14 1. Enter into contracts with individuals, private
15 corporations, and public agencies.

16 2. Acquire, own, operate, maintain, sell, or lease
17 personal property essential for the conduct of business.

18 3. Accept funds, grants, assistance, gifts, or
19 bequests from private, local, state, or federal sources.

20 4. Establish bylaws and adopt rules pursuant to ss.
21 120.536(1) and 120.54 to implement provisions of law
22 conferring powers or duties upon it.

23 5. Assist M.P.O.'s in carrying out the urbanized area
24 transportation planning process by serving as the principal
25 forum for collective policy discussion pursuant to law.

26 6. Serve as a clearinghouse for review and comment by
27 M.P.O.'s on the Florida Transportation Plan and on other
28 issues required to comply with federal or state law in
29 carrying out the urbanized area transportation and systematic
30 planning processes instituted pursuant to s. 339.155.

31

1 7. Employ an executive director and such other staff
2 as necessary to perform adequately the functions of the
3 council, within budgetary limitations. The executive director
4 and staff are exempt from part II of chapter 110 and serve at
5 the direction and control of the council. The council is
6 assigned to the Office of the Secretary of the Department of
7 Transportation ~~or~~ for fiscal and accountability purposes, but
8 it shall otherwise function independently of the control and
9 direction of the department.

10 8. Adopt an agency strategic plan that provides the
11 priority directions the agency will take to carry out its
12 mission within the context of the state comprehensive plan and
13 any other statutory mandates and directions given to the
14 agency.

15 (11) APPLICATION OF FEDERAL LAW.--Upon notification by
16 an agency of the Federal Government that any provision of this
17 section conflicts with federal laws or regulations, such
18 federal laws or regulations will take precedence to the extent
19 of the conflict until such conflict is resolved. The
20 department or an M.P.O. may take any necessary action to
21 comply with such federal laws and regulations or to continue
22 to remain eligible to receive federal funds.

23 Section 41. Subsection (14) is added to section
24 341.041, Florida Statutes, 1998 Supplement, to read:

25 341.041 Transit responsibilities of the
26 department.--The department shall, within the resources
27 provided pursuant to chapter 216:

28 (14) Create and maintain a common self-retention
29 insurance fund to support public transit projects throughout
30 the state where there is a contractual or legal obligation to
31 have such fund in existence in order to provide public transit

1 services. The maximum limit of such fund shall be as required
2 by any contractual or legal obligation.

3 Section 42. Subsections (2) through (5) of section
4 341.053, Florida Statutes, are renumbered as subsections (3)
5 through (6), respectively, and a new subsection (2) is added
6 to that section to read:

7 341.053 Intermodal Development Program;
8 administration; eligible projects; limitations.--

9 (2) In recognition of the department's role in the
10 economic development of this state, the department shall
11 develop a proposed intermodal development plan to connect
12 Florida's airports, deepwater seaports, rail systems serving
13 both passenger and freight, and major intermodal connectors to
14 the Florida Intrastate Highway System facilities as the
15 primary system for the movement of people and freight in this
16 state in order to make the intermodal development plan a fully
17 integrated and interconnected system. The intermodal
18 development plan must:

19 (a) Define and assess the state's freight intermodal
20 network, including airports, seaports, rail lines and
21 terminals, and connecting highways.

22 (b) Prioritize statewide infrastructure investments,
23 including the acceleration of current projects, which are
24 found by the Freight Stakeholders Task Force to be priority
25 projects for the efficient movement of people and freight.

26 (c) Be developed in a manner that will assure maximum
27 use of existing facilities and optimum integration and
28 coordination of the various modes of transportation, including
29 both government-owned and privately owned resources, in the
30 most cost-effective manner possible.

31

1 Section 43. It is the intent of the Legislature that
2 all seaport projects which have been let to contract pursuant
3 to chapter 311 and section 320.20, Florida Statutes, prior to
4 July 1, 1999, shall continue to be implemented as provided in
5 laws in effect prior to the effective date of this act. All
6 future seaport projects funded using state funds pursuant to
7 chapter 311 and section 320.20, Florida Statutes, shall be
8 undertaken pursuant to the provisions of this act.

9 Section 44. Subsections (6) and (8) of section
10 341.302, Florida Statutes, are amended to read:

11 341.302 Rail program, duties and responsibilities of
12 the department.--The department, in conjunction with other
13 governmental units and the private sector, shall develop and
14 implement a rail program of statewide application designed to
15 ensure the proper maintenance, safety, revitalization, and
16 expansion of the rail system to assure its continued and
17 increased availability to respond to statewide mobility needs.
18 Within the resources provided pursuant to chapter 216, and as
19 authorized under Title 49 C.F.R. part 212, the department
20 shall:

21 (6) Secure and administer federal grants, loans, and
22 apportionments for rail projects within this state when
23 necessary to further the statewide program.

24 (8) Conduct, at a minimum, inspections of track and
25 rolling stock, train signals and related equipment, hazardous
26 materials transportation, including the loading, unloading,
27 and labeling of hazardous materials at shipper, receiver, and
28 transfer points, and train operating practices to determine
29 adherence to state and federal standards. Department
30 personnel may enforce any safety regulation issued under the
31

1 Federal Government's preemptive authority over interstate
2 commerce.

3 Section 45. Section 373.4137, Florida Statutes, is
4 amended to read:

5 373.4137 Mitigation requirements.--

6 (1) The Legislature finds that environmental
7 mitigation for the impact of transportation projects proposed
8 by the Department of Transportation can be more effectively
9 achieved by regional, long-range mitigation planning rather
10 than on a project-by-project basis. It is the intent of the
11 Legislature that mitigation to offset the adverse effects of
12 these transportation projects be funded by the Department of
13 Transportation and be carried out by the Department of
14 Environmental Protection and the water management districts,
15 including the use of mitigation banks established pursuant to
16 this part.

17 (2) Environmental impact inventories for
18 transportation projects proposed by the Department of
19 Transportation shall be developed as follows:

20 (a) By July 1 of each year ~~Beginning July 1996~~, the
21 Department of Transportation shall submit ~~annually~~ to the
22 Department of Environmental Protection and the water
23 management districts a copy of its tentative ~~adopted~~ work
24 program and an inventory of habitats addressed in the rules
25 adopted pursuant to this part and s. 404 of the Clean Water
26 Act, 33 U.S.C. s. 1344, which may be impacted by its plan of
27 construction for transportation projects in the next ~~first~~ 3
28 years of the adopted work program. The Department of
29 Transportation may also include in its inventory the habitat
30 impacts of any future transportation project identified in the
31 tentative work program ~~For the July 1996 submittal, the~~

1 ~~inventory may exclude those projects which have received~~
2 ~~permits pursuant to this part and s. 404 of the Clean Water~~
3 ~~Act, 33 U.S.C. s. 1344, projects for which mitigation planning~~
4 ~~or design has commenced, or projects for which mitigation has~~
5 ~~been implemented in anticipation of future permitting needs.~~

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

13 (3) To fund the mitigation plan for the projected
14 impacts identified in the inventory described in subsection
15 (2), ~~beginning July 1, 1997,~~ the Department of Transportation
16 shall identify funds quarterly in an escrow account within the
17 State Transportation Trust Fund for the environmental
18 mitigation phase of projects budgeted by the Department of
19 Transportation for the current fiscal year. The escrow account
20 will be maintained ~~established~~ by the Department of
21 Transportation for the benefit of the Department of
22 Environmental Protection and the water management districts.
23 Any interest earnings from the escrow account shall remain
24 with ~~be returned to~~ the Department of Transportation. The
25 Department of Environmental Protection or water management
26 districts may ~~shall~~ request a transfer of funds from the
27 escrow account ~~to the Ecosystem Management and Restoration~~
28 ~~Trust Fund~~ no sooner than 30 days prior to the date the funds
29 are needed to pay for activities associated with development
30 or implementation of the approved mitigation plan described in
31 subsection (4) for the current fiscal year, including, but not

1 limited to, design, engineering, production, and staff
2 support. Actual conceptual plan preparation costs incurred
3 prior to plan approval may be submitted to the Department of
4 Transportation and the Department of Environmental Protection
5 by November 1 of each year with the plan. The conceptual plan
6 preparation costs of each water management district will be
7 paid based on the amount approved on the mitigation plan and
8 allocated to the current fiscal year projects identified by
9 the water management district contained in the mitigation
10 programs. The amount transferred to the escrow account each
11 year by the Department of Transportation shall correspond to a
12 cost per acre of \$75,000 multiplied by the projected acres of
13 impact identified in the inventory described in subsection (2)
14 ~~within the water management district for that year. The water~~
15 ~~management district may draw from the trust fund no sooner~~
16 ~~than 30 days prior to the date funds are needed to pay for~~
17 ~~activities associated with development or implementation of~~
18 ~~the mitigation plan described in subsection (4). Each May~~
19 ~~July 1, beginning in 1998,~~the cost per acre shall be adjusted
20 by the percentage change in the average of the Consumer Price
21 Index issued by the United States Department of Labor for the
22 most recent 12-month period ending September 30, compared to
23 the base year average, which is the average for the 12-month
24 period ending September 30, 1996. At the end of each year,
25 the projected acreage of impact shall be reconciled with the
26 acreage of impact of projects as permitted, including permit
27 modification, pursuant to this part and s. 404 of the Clean
28 Water Act, 33 U.S.C. s. 1344, ~~and The subject following~~
29 year's transfer of funds shall be adjusted accordingly to
30 reflect the over transfer or under transfer of funds from the
31 preceding year. The Department of Transportation ~~Environmental~~

1 ~~Protection~~ is authorized to transfer such funds from the
2 escrow account Ecosystem Management and Restoration Trust Fund
3 to the Department of Environmental Protection and the water
4 management districts to carry out the mitigation programs.

5 (4) Prior to December 1 of each year ~~31, 1996~~, each
6 water management district, in consultation with the Department
7 of Environmental Protection, the United States Army Corps of
8 Engineers, the Department of Transportation, and other
9 appropriate federal, state, and local governments, and other
10 interested parties, including entities operating mitigation
11 banks, shall develop a plan for the primary purpose of
12 complying with the mitigation requirements adopted pursuant to
13 this part and 33 U.S.C. s. 1344. This plan shall also address
14 significant invasive aquatic and exotic plant problems within
15 wetlands and other surface waters. In developing such plans,
16 the districts shall utilize sound ecosystem management
17 practices to address significant water resource needs and
18 shall focus on activities of the Department of Environmental
19 Protection and the water management districts, such as surface
20 water improvement and management (SWIM) waterbodies and lands
21 identified for potential acquisition for preservation,
22 restoration, or enhancement, to the extent that such
23 activities comply with the mitigation requirements adopted
24 under this part and 33 U.S.C. s. 1344. In determining the
25 activities to be included in such plans, the districts shall
26 also consider the purchase of credits from public or private
27 mitigation banks permitted pursuant to s. 373.4136 and
28 associated federal authorization ~~under this part~~ and shall
29 include such purchase as a part of the mitigation plan when
30 such purchase would offset the impact of the transportation
31 project, provide equal benefits to the water resources than

1 other mitigation options being considered, and provide the
2 most cost-effective mitigation option. The mitigation plan
3 shall be preliminarily approved by the water management
4 district governing board and shall be submitted to the
5 secretary of the Department of Environmental Protection for
6 review and final approval. The preliminary approval by the
7 water management district governing board does not constitute
8 a decision which affects substantial interests as provided by
9 s. 120.569.At least 30 days prior to preliminary approval,
10 the water management district shall provide a copy of the
11 draft mitigation plan to any person who has requested a copy.

12 (a) For each transportation project with a funding
13 request for the next fiscal year, the mitigation plan shall
14 include a brief explanation of why a mitigation bank was or
15 was not chosen as a mitigation option, including an estimation
16 of identifiable costs of the mitigation bank and nonbank
17 options to the extent practicable.~~If the Department of~~
18 ~~Environmental Protection and water management districts are~~
19 ~~unable to identify mitigation that would offset the impacts of~~
20 ~~a project included in the inventory, either due to the nature~~
21 ~~of the impact or the amount of funds available, that project~~
22 ~~shall not be addressed in the mitigation plan and the project~~
23 ~~shall not be subject to the provisions of this section.~~

24 (b) Specific projects may be excluded from the
25 mitigation plan and shall not be subject to this section upon
26 the agreement of the Department of Transportation, the
27 Department of Environmental Protection, and the appropriate
28 water management district if:

29 1. that The inclusion of such projects would hamper
30 the efficiency or timeliness of the mitigation planning and
31 permitting process; or

1 2. The Department of Environmental Protection and the
2 water management district are unable to identify mitigation
3 that would offset the impacts of the project.

4 (c) Surface water improvement and management or
5 invasive plant control projects undertaken using the \$12
6 million advance transferred from the Department of
7 Transportation to the Department of Environmental Protection
8 in fiscal year 1996-1997 which meet the requirements for
9 mitigation under this part and 33 U.S.C. s. 1344 shall remain
10 available for mitigation until the \$12 million is fully
11 credited up to and including fiscal year 2004-2005. When these
12 projects are used as mitigation, the \$12 million advance shall
13 be reduced by \$75,000 per acre of impact mitigated. For any
14 fiscal year through and including fiscal year 2004-2005, to
15 the extent the cost of developing and implementing the
16 mitigation plans is less than the amount transferred pursuant
17 to subsection (3), the difference shall be credited towards
18 the \$12 million advance. Except as noted in this paragraph,
19 any funds not directed to implement the mitigation plan
20 should, to the greatest extent possible, be directed to fund
21 invasive plant control within wetlands and other surface
22 waters.~~Those transportation projects that are proposed to~~
23 ~~commence in fiscal year 1996-1997 shall not be addressed in~~
24 ~~the mitigation plan, and the provisions of subsection (7)~~
25 ~~shall not apply to these projects. The Department of~~
26 ~~Transportation may enter into interagency agreements with the~~
27 ~~Department of Environmental Protection or any water management~~
28 ~~district to perform mitigation planning and implementation for~~
29 ~~these projects.~~

30 ~~(d) On July 1, 1996, the Department of Transportation~~
31 ~~shall transfer to the Department of Environmental Protection~~

1 ~~§12 million from the State Transportation Trust Fund for the~~
2 ~~purposes of the surface water improvement management program~~
3 ~~and to address statewide aquatic and exotic plant problems~~
4 ~~within wetlands and other surface waters. Such funds shall be~~
5 ~~considered an advance upon funds that the Department of~~
6 ~~Transportation would provide for statewide mitigation during~~
7 ~~the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This~~
8 ~~use of mitigation funds for surface water improvement~~
9 ~~management projects or aquatic and exotic plant control may be~~
10 ~~utilized as mitigation for transportation projects to the~~
11 ~~extent that it complies with the mitigation requirements~~
12 ~~adopted pursuant to this part and 33 U.S.C. s. 1344. To the~~
13 ~~extent that such activities result in mitigation credit for~~
14 ~~projects permitted in fiscal year 1996-1997, all or part of~~
15 ~~the \$12 million funding for surface water improvement~~
16 ~~management projects or aquatic and exotic plant control in~~
17 ~~fiscal year 1996-1997 shall be drawn from Department of~~
18 ~~Transportation mitigation funding for fiscal year 1996-1997~~
19 ~~rather than from mitigation funding for fiscal years~~
20 ~~1997-1998, 1998-1999, and 1999-2000, in an amount equal to the~~
21 ~~cost per acre of impact described in subsection (3), times the~~
22 ~~acreage of impact that is mitigated by such plant control~~
23 ~~activities. Any part of the \$12 million that does not result~~
24 ~~in mitigation credit for projects permitted in fiscal year~~
25 ~~1996-1997 shall remain available for mitigation credit during~~
26 ~~fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

27 (5) The water management district shall be responsible
28 for ensuring that mitigation requirements pursuant to 33
29 U.S.C. s. 1344 are met for the impacts identified in the
30 inventory described in subsection (2), by implementation of
31 the approved plan described in subsection (4) to the extent

1 funding is provided ~~as funded~~ by the Department of
2 Transportation. During the federal permitting process, the
3 water management district may deviate from the approved
4 mitigation plan in order to comply with federal permitting
5 requirements.

6 (6) The mitigation plan shall be updated annually to
7 reflect the most current Department of Transportation work
8 program and may be amended throughout the year to anticipate
9 schedule changes or additional projects which may arise. Each
10 update and amendment of the mitigation plan shall be submitted
11 to the secretary of the Department of Environmental Protection
12 for approval ~~as described in subsection (4)~~. However, such
13 approval shall not be applicable to a deviation as described
14 in subsection (5).

15 (7) Upon approval by the secretary of the Department
16 of Environmental Protection, the mitigation plan shall be
17 deemed to satisfy the mitigation requirements under this part
18 and any other mitigation requirements imposed by local,
19 regional, and state agencies for impacts identified in the
20 inventory described in subsection (2). The approval of the
21 secretary shall authorize the activities proposed in the
22 mitigation plan, and no other state, regional, or local permit
23 or approval shall be necessary.

24 (8) This section shall not be construed to eliminate
25 the need for the Department of Transportation to comply with
26 the requirement to implement practicable design modifications,
27 including realignment of transportation projects, to reduce or
28 eliminate the impacts of its transportation projects on
29 wetlands and other surface waters as required by rules adopted
30 pursuant to this part, or to diminish the authority under this
31 part to regulate other impacts, including water quantity or

1 water quality impacts, or impacts regulated under this part
2 that are not identified in the inventory described in
3 subsection (2).

4 ~~(9) The recommended mitigation plan shall be annually~~
5 ~~submitted to the Executive Office of the Governor and the~~
6 ~~Legislature through the legislative budget request of the~~
7 ~~Department of Environmental Protection in accordance with~~
8 ~~chapter 216. Any funds not directed to implement the~~
9 ~~mitigation plan should, to the greatest extent possible, be~~
10 ~~directed to fund aquatic and exotic plant problems within the~~
11 ~~wetlands and other surface waters.~~

12 ~~(10) By December 1, 1997, the Department of~~
13 ~~Environmental Protection, in consultation with the water~~
14 ~~management districts, shall submit a report to the Governor,~~
15 ~~the President of the Senate, and the Speaker of the House of~~
16 ~~Representatives describing the implementation of this section,~~
17 ~~including the use of public and private mitigation banks and~~
18 ~~other types of mitigation approved in the mitigation plan.~~
19 ~~The report shall also recommend any amendments to this section~~
20 ~~necessary to improve the process for developing and~~
21 ~~implementing mitigation plans for the Department of~~
22 ~~Transportation. The report shall also include a specific~~
23 ~~section on how private and public mitigation banks are~~
24 ~~utilized within the mitigation plans.~~

25 Section 46. Subsections (3) and (23) of section
26 479.01, Florida Statutes, are amended to read:

27 479.01 Definitions.--As used in this chapter, the
28 term:

29 (3) "Commercial or industrial zone" means a parcel of
30 land ~~an area within 660 feet of the nearest edge of the~~
31 ~~right-of-way of the interstate or federal-aid primary system~~

1 designated ~~predominately~~ for commercial or industrial use
2 under both the future land use map of the comprehensive plan
3 and the land use development regulations adopted under
4 ~~pursuant to~~ chapter 163. If a parcel is located in an area
5 designated for multiple uses on the future land use map of a
6 comprehensive plan and the land development regulations do not
7 clearly designate that parcel for a specific use, the area
8 will be considered an unzoned commercial or industrial area if
9 it meets the criteria of subsection (23)~~where a local~~
10 ~~governmental entity has not enacted a comprehensive plan by~~
11 ~~local ordinance but has zoning regulations governing the area,~~
12 ~~the zoning of an area shall determine whether the area is~~
13 ~~designated predominately for commercial or industrial uses.~~

14 (23) "Unzoned commercial or industrial area" means a
15 parcel of land designated by the ~~an area within 660 feet of~~
16 ~~the nearest edge of the right-of-way of the interstate or~~
17 ~~federal aid primary system where the land use is not covered~~
18 ~~by a future land use map of the comprehensive plan for~~
19 multiple uses that include commercial or industrial uses but
20 are not specifically designated for commercial or industrial
21 uses under the land development regulations and ~~or zoning~~
22 ~~regulation pursuant to subsection (2), in which there are~~
23 ~~located~~ three or more separate and distinct conforming
24 industrial or commercial activities are located.

25 (a) These activities must satisfy the following
26 criteria:

27 1. At least one of the commercial or industrial
28 activities must be located on the same side of the highway and
29 within 800 feet of the sign location.

30 2. The commercial or industrial activities must be
31 within 660 feet from the nearest edge of the right-of-way.

1 3. The commercial or industrial activities must be
2 within 1,600 feet of each other.

3
4 Distances specified in this paragraph must be measured from the
5 nearest outer edge of the primary building, or primary
6 building complex when the individual units of the complex are
7 connected by covered walkways ~~uses located within a 1,600-foot~~
8 ~~radius of each other and generally recognized as commercial or~~
9 ~~industrial by zoning authorities in this state.~~

10 (b) Certain activities, including, but not limited to,
11 the following, may not be so recognized as commercial or
12 industrial activities:

13 1.(a) Signs.

14 2. Communication towers.

15 3.(b) Agricultural, forestry, ranching, grazing,
16 farming, and related activities, including, but not limited
17 to, wayside fresh produce stands.

18 4.(c) Transient or temporary activities.

19 5.(d) Activities not visible from the main-traveled
20 way.

21 6.(e) Activities conducted more than 660 feet from the
22 nearest edge of the right-of-way.

23 7.(f) Activities conducted in a building principally
24 used as a residence.

25 8.(g) Railroad tracks and minor sidings.

26 Section 47. Paragraph (b) of subsection (8) of section
27 479.07, Florida Statutes, is amended to read:

28 479.07 Sign permits.--

29 (8)

30 (b) If a permittee has not submitted his or her fee
31 payment by the expiration date of the licenses or permits, the

1 department shall send a notice of violation to the permittee
2 within 45 days after the expiration date, requiring the
3 payment of the permit fee within 30 days after the date of the
4 notice and payment of a delinquency fee equal to 10 percent of
5 the original amount due or, in the alternative to these
6 payments, requiring the filing of a request for an
7 administrative hearing to show cause why his or her sign
8 should not be subject to immediate removal due to expiration
9 of his or her license or permit. If the permittee submits
10 payment as required by the violation notice, his or her
11 license or permit will be automatically reinstated and such
12 reinstatement will be retroactive to the original expiration
13 date. If the permittee does not respond to the notice of
14 violation within the 30-day period, the department shall,
15 within 30 days, issue a final notice of sign removal and may,
16 following 90 days after the date of the department's final
17 notice of sign removal, remove the sign without incurring any
18 liability as a result of such removal. However, if at any time
19 prior to the removal of the sign within 90 days after the date
20 of the department's final notice of sign removal, the
21 permittee demonstrates that a good faith error on the part of
22 the permittee resulted in cancellation or nonrenewal of the
23 permit, the department may reinstate the permit if:

- 24 1. ~~The sign has not yet been disassembled by the~~
25 ~~permittee;~~
- 26 2. ~~Conflicting applications have not been filed by~~
27 ~~other persons;~~
- 28 1.3. A The permit reinstatement fee of up to \$300,
29 based upon the size of the sign, is paid;
- 30 2.4. All other permit renewal and delinquent permit
31 fees due as of the reinstatement date are paid; and

1 ~~3.5.~~ The permittee reimburses the department for all
2 actual costs resulting from the permit cancellation or
3 nonrenewal ~~and sign removal~~.

4
5 Conflicting applications filed by other persons for the same
6 or competing site covered by a permit subject to the
7 provisions of this paragraph shall not be approved until after
8 the sign subject to the expired permit has been removed.

9 Section 48. Subsections (3), (4), and (5) are added to
10 section 479.15, Florida Statutes, to read:

11 479.15 Harmony of regulations.--

12 (3) It is the express intent of the Legislature to
13 limit the state right-of-way acquisition costs on state and
14 federal roads in eminent domain proceedings, the provisions of
15 ss. 479.07 and 479.155 notwithstanding. Subject to approval by
16 the Federal Highway Administration, whenever public
17 acquisition of land upon which is situated a lawful
18 nonconforming sign occurs, as provided in this chapter, the
19 sign may, at the election of its owner and the department, be
20 relocated or reconstructed adjacent to the new right-of-way
21 along the roadway. The sign owner shall pay for all costs
22 associated with relocating or reconstructing any sign under
23 this subsection. Neither the state nor any local government
24 shall reimburse the sign owner for such costs.

25 (4) Such relocation shall be adjacent to the current
26 site and the face of the sign shall not be increased in size
27 at the point of relocation.

28 (5) In the event that relocation shall be inconsistent
29 with the ordinances of the county or municipality within whose
30 jurisdiction the sign is located, the ordinance of the local
31 government shall prevail provided that the local government

1 shall assume the responsibility to provide the owner of the
2 sign just compensation for its removal. Further, the
3 provisions of this section shall not impair any existing or
4 future agreement between a county or municipality and the
5 owner of a sign or signs within the jurisdiction of the county
6 or municipality.

7 Section 49. Subsection (15) of section 479.16, Florida
8 Statutes, is amended to read:

9 479.16 Signs for which permits are not required.--The
10 following signs are exempt from the requirement that a permit
11 for a sign be obtained under the provisions of this chapter
12 but are required to comply with the provisions of s.
13 479.11(4)-(8):

14 (15) Signs not in excess of 16 square feet placed at a
15 road junction with the State Highway System denoting only the
16 distance or direction of a residence or farm operation, or, in
17 a rural area where a hardship is created because a small
18 business is not visible from the road junction with the State
19 Highway System, one sign not in excess of 16 & square feet,
20 denoting only the name of the business and the distance and
21 direction to the business. The small-business-sign provision
22 of this subsection does not apply to charter counties and may
23 not be implemented if the Federal Government notifies the
24 department that implementation will adversely affect the
25 allocation of federal funds to the department.

26 Section 50. Sections 341.3201, 341.321, 341.322,
27 341.325, 341.327, 341.329, 341.331, 341.332, 341.3331,
28 341.3332, 341.3333, 341.3334, 341.3335, 341.3336, 341.3337,
29 341.3338, 341.3339, 341.334, 341.335, 341.336, 341.3365,
30 341.342, 341.343, 341.344, 341.345, 341.346, 341.3465,
31 341.347, 341.348, 341.351, 341.352, 341.353, 341.363, 341.364,

1 341.365, 341.366, 341.368, 341.369, 341.371, 341.372, 341.375,
2 341.381, 341.382, 341.383, and 341.386, Florida Statutes, are
3 hereby repealed.

4 Section 51. Except as otherwise provided herein, this
5 act shall take effect upon becoming a law.

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