

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senators Webster and Casas moved the following amendment to		
12	amendment (322842):		
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14	<b>Senate Amendment (with title amendment)</b>		
15	On page 1, between lines 17 and 18,		
16			
17	insert:		
18	Section 1. Paragraph (b) of subsection (2) and		
19	paragraphs (a) and (d) of subsection (3) of section 20.23,		
20	Florida Statutes, 1998 Supplement, is amended and to read:		
21	20.23 Department of Transportation.--There is created		
22	a Department of Transportation which shall be a decentralized		
23	agency.		
24	(2)		
25	(b) The commission shall have the primary functions		
26	to:		
27	1. Recommend major transportation policies for the		
28	Governor's approval, and assure that approved policies and any		
29	revisions thereto are properly executed.		
30	2. Periodically review the status of the state		
31	transportation system <u>including highway, transit, rail,</u>		

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 seaport, intermodal development, and aviation components of  
2 the system and recommend improvements therein to the Governor  
3 and the Legislature.

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

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

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

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

26           (3)(a) The central office shall establish departmental  
27 policies, rules, procedures, and standards and shall monitor  
28 the implementation of such policies, rules, procedures, and  
29 standards in order to ensure uniform compliance and quality  
30 performance by the districts and central office units that  
31 implement transportation programs. Major transportation

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 policy initiatives or revisions shall be submitted to the  
2 commission for review.The central office monitoring function  
3 shall be based on a plan that clearly specifies what areas  
4 will be monitored, activities and criteria used to measure  
5 compliance, and a feedback process that assures monitoring  
6 findings are reported and deficiencies corrected. The  
7 secretary is responsible for ensuring that a ~~the~~ central  
8 office monitoring function is implemented ~~by October 1, 1990,~~  
9 and that it functions properly thereafter. In conjunction  
10 with its monitoring function, the central office shall provide  
11 such training and administrative support to the districts as  
12 the department determines to be necessary to ensure that the  
13 department's programs are carried out in the most efficient  
14 and effective manner.

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

17 a. Developing policy and procedures and monitoring  
18 performance to ensure compliance with these policies and  
19 procedures;

20 b. Performing statewide activities which it is more  
21 cost-effective to perform in a central location;

22 c. Assessing and ensuring the accuracy of information  
23 within the department's financial management information  
24 systems; and

25 d. Performing other activities of a statewide nature.

26 2. The following offices are established and shall be  
27 headed by a manager, each of whom shall be appointed by and  
28 serve at the pleasure of the secretary. The positions shall be  
29 classified at a level equal to a division director:

30 a. The Office of Administration;

31 b. The Office of Policy Planning;

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

- 1 c. The Office of Design;
- 2 d. The Office of Highway Operations ~~Construction~~;
- 3 e. The Office of Right-of-Way;
- 4 f. The Office of Toll Operations; and
- 5 g. The Office of Information Systems.

6 3. Other offices may be established in accordance with  
 7 s. 20.04(6). The heads of such offices are exempt from part II  
 8 of chapter 110. No office or organization shall be created at  
 9 a level equal to or higher than a division without specific  
 10 legislative authority.

11 4. During the construction of a major transportation  
 12 improvement project or as determined by the district  
 13 secretary, the department may provide assistance to a business  
 14 entity significantly impacted by the project if the entity is  
 15 a for-profit entity that has been in business for 3 years  
 16 prior to the beginning of construction and has direct or  
 17 shared access to the transportation project being constructed.  
 18 The assistance program shall be in the form of additional  
 19 guarantees to assist the impacted business entity in receiving  
 20 loans pursuant to Title 13 C.F.R. part 120. However, in no  
 21 instance shall the combined guarantees be greater than 90  
 22 percent of the loan. The department shall adopt rules to  
 23 implement this subparagraph.

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

26 206.46 State Transportation Trust Fund.--

27 (2) Notwithstanding any other provisions of law, from  
 28 the revenues deposited into the State Transportation Trust  
 29 Fund a maximum of 7 ~~6~~ percent in each fiscal year shall be  
 30 transferred into the Right-of-Way Acquisition and Bridge  
 31 Construction Trust Fund created in s. 215.605, as needed to

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 meet the requirements of the documents authorizing the bonds  
2 issued or proposed to be issued under ss. 215.605 and 337.276  
3 or at a minimum amount sufficient to pay for the debt service  
4 coverage requirements of outstanding bonds. Notwithstanding  
5 the 7 6 percent annual transfer authorized in this subsection,  
6 the annual amount transferred under this subsection shall not  
7 exceed an amount necessary to provide the required debt  
8 service coverage levels for a maximum debt service not to  
9 exceed \$135\$115 million. Such transfer shall be payable  
10 primarily from the motor and diesel fuel taxes transferred to  
11 the State Transportation Trust Fund from the Fuel Tax  
12 Collection Trust Fund.

13 (3) Through fiscal year 1999-2000, a minimum of 14.3  
14 percent of all state revenues deposited into the State  
15 Transportation Trust Fund shall be committed annually by the  
16 department for public transportation projects in accordance  
17 with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and  
18 chapter 343. Beginning in fiscal year 2000-2001, and each year  
19 thereafter, a minimum of 15 percent of all state revenues  
20 deposited into the State Transportation Trust Fund shall be  
21 committed annually by the department for public transportation  
22 projects in accordance with chapter 311, ss. 332.002-332.007,  
23 ~~and~~ chapter 341, and chapter 343.

24 Section 3. The Department of Community Affairs and the  
25 Department of Transportation must jointly review and submit  
26 proposed legislative language based upon and implementing the  
27 recommendations of the Transportation and Land Use Study  
28 Committee, created by the 1998 Legislature, and 1999 Senate  
29 Bill 2306, to the Legislature on or before December 1, 1999.  
30 Such proposed legislative language must be fiscally feasible  
31 within current and projected funding.

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           Section 4. Section 215.615, Florida Statutes, is  
2 created to read:

3           215.615 Fixed-guideway transportation systems  
4 funding.--

5           (1) The issuance of revenue bonds by the Division of  
6 Bond Finance, on behalf of the Department of Transportation,  
7 pursuant to s. 11, Art. VII of the State Constitution, is  
8 authorized, pursuant to the State Bond Act, to finance or  
9 refinance fixed capital expenditures for fixed-guideway  
10 transportation systems, as defined in s. 341.031, including  
11 facilities appurtenant thereto, costs of issuance, and other  
12 amounts relating to such financing or refinancing. Such  
13 revenue bonds shall be matched on a 50-50 basis with funds  
14 from sources other than revenues of the Department of  
15 Transportation, in a manner acceptable to the Department of  
16 Transportation.

17           (a) The department and any participating commuter rail  
18 authority or regional transportation authority established  
19 under chapter 343, local governments, or local governments  
20 collectively by interlocal agreement having jurisdiction of a  
21 fixed-guideway transportation system may enter into an  
22 interlocal agreement to promote the efficient and  
23 cost-effective financing or refinancing of fixed-guideway  
24 transportation system projects by revenue bonds issued  
25 pursuant to this subsection. The terms of such interlocal  
26 agreements shall include provisions for the Department of  
27 Transportation to request the issuance of the bonds on behalf  
28 of the parties; shall provide that each party to the agreement  
29 is contractually liable for an equal share of funding an  
30 amount equal to the debt service requirements of such bonds;  
31 and shall include any other terms, provisions or covenants

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 necessary to the making of and full performance under such  
2 interlocal agreement. Repayments made to the department under  
3 any interlocal agreement are not pledged to the repayment of  
4 bonds issued hereunder, and failure of the local governmental  
5 authority to make such payment shall not affect the obligation  
6 of the department to pay debt service on the bonds.

7 (b) Revenue bonds issued pursuant to this subsection  
8 shall not constitute a general obligation of, or a pledge of  
9 the full faith and credit of, the State of Florida. Bonds  
10 issued pursuant to this section shall be payable from funds  
11 available pursuant to s. 206.46(3), subject to annual  
12 appropriation. The amount of revenues available for debt  
13 service shall never exceed a maximum of 2 percent of all state  
14 revenues deposited into the State Transportation Trust Fund.

15 (c) The projects to be financed or refinanced with the  
16 proceeds of the revenue bonds issued hereunder are designated  
17 as state fixed capital outlay projects for purposes of s.  
18 11(d), Art. VII of the State Constitution, and the specific  
19 projects to be financed or refinanced shall be determined by  
20 the Department of Transportation in accordance with state law  
21 and appropriations from the State Transportation Trust Fund.  
22 Each project to be financed with the proceeds of the bonds  
23 issued pursuant to this subsection must first be approved by  
24 the Legislature by an act of general law.

25 (d) Any complaint for validation of bonds issued  
26 pursuant to this section shall be filed in the circuit court  
27 of the county where the seat of state government is situated,  
28 the notice required to be published by s. 75.06 shall be  
29 published only in the county where the complaint is filed, and  
30 the complaint and order of the circuit court shall be served  
31 only on the state attorney of the circuit in which the action

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 is pending.

2 (e) The state does hereby covenant with holders of  
 3 such revenue bonds or other instruments of indebtedness issued  
 4 hereunder, that it will not repeal or impair or amend these  
 5 provisions in any manner that will materially and adversely  
 6 affect the rights of such holders as long as bonds authorized  
 7 by this subsection are outstanding.

8 (f) This subsection supersedes any inconsistent  
 9 provisions in existing law.

10

11 Notwithstanding this subsection, the lien of revenue bonds  
 12 issued pursuant to this subsection on moneys deposited into  
 13 the State Transportation Trust Fund shall be subordinate to  
 14 the lien on such moneys of bonds issued under ss. 215.605,  
 15 320.20, and 215.616, and any pledge of such moneys to pay  
 16 operating and maintenance expenses under subsection (5) and  
 17 chapter 348, as may be amended.

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

30 Section 5. Subsection (2) of section 316.003, Florida  
 31 Statutes, is amended to read:

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           316.003 Definitions.--The following words and phrases,  
2 when used in this chapter, shall have the meanings  
3 respectively ascribed to them in this section, except where  
4 the context otherwise requires:

5           (2) BICYCLE.--Every vehicle propelled solely by human  
6 power, and every motorized bicycle propelled by a combination  
7 of human power and an electric helper motor ~~rated at not more~~  
8 ~~than 200 watts and~~ capable of propelling the vehicle at a  
9 speed of not more than 20 ~~10~~ miles per hour on level ground  
10 upon which any person may ride, having two tandem wheels, and  
11 including any device generally recognized as a bicycle though  
12 equipped with two front or two rear wheels. The term does not  
13 include such a vehicle with a seat height of no more than 25  
14 inches from the ground when the seat is adjusted to its  
15 highest position or a scooter or similar device. No person  
16 under the age of 16 may operate or ride upon a motorized  
17 bicycle.

18           Section 6. Subsection (1) of section 320.08, Florida  
19 Statutes, is amended to read:

20           320.08 License taxes.--Except as otherwise provided  
21 herein, there are hereby levied and imposed annual license  
22 taxes for the operation of motor vehicles, mopeds, motorized  
23 bicycles as defined in s. 316.003(2), and mobile homes, as  
24 defined in s. 320.01, which shall be paid to and collected by  
25 the department or its agent upon the registration or renewal  
26 of registration of the following:

27           (1) MOTORCYCLES, and MOPEDS, ~~MOTORIZED BICYCLES.~~--

28           (a) Any motorcycle: \$10 flat.

29           (b) Any moped: \$5 flat.

30           ~~(c) Any motorized bicycle as defined in s. 316.003(2):~~  
31 ~~\$5 flat; however, annual renewal is not required.~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1            ~~(c)~~(d) Upon registration of any motorcycle,  
 2 motor-driven cycle, or moped there shall be paid in addition  
 3 to the license taxes specified in this subsection a  
 4 nonrefundable motorcycle safety education fee in the amount of  
 5 \$2.50. The proceeds of such additional fee shall be deposited  
 6 in the Highway Safety Operating Trust Fund and be used  
 7 exclusively to fund a motorcycle driver improvement program  
 8 implemented pursuant to s. 322.025 or the Florida Motorcycle  
 9 Safety Education Program established in s. 322.0255.

10           ~~(d)~~(e) An ancient, antique, or collectible motorcycle:  
 11 \$10 flat.

12           Section 7. Section 320.0803, Florida Statutes, is  
 13 amended to read:

14           320.0803 Moped ~~and motorized bicycle~~ license plates.--

15           (1) Any other provision of law to the contrary  
 16 notwithstanding, registration and payment of license taxes in  
 17 accordance with these requirements and for the purposes stated  
 18 herein shall in no way be construed as placing any  
 19 requirements upon mopeds, ~~and motorized bicycles as defined in~~  
 20 ~~s. 316.003(2)~~, other than the requirements of registration and  
 21 payment of license taxes.

22           (2) Each request for a license plate for a moped ~~or a~~  
 23 ~~motorized bicycle~~ shall be submitted to the department or its  
 24 agent on an application form supplied by the department,  
 25 accompanied by the license tax required in s. 320.08.

26           (3) The license plate for a moped ~~or motorized bicycle~~  
 27 shall be 4 inches wide by 7 inches long.

28           (4) A license plate for a moped ~~or motorized bicycle~~  
 29 shall be of the same material as license plates issued  
 30 pursuant to s. 320.06; however, the word "Florida" shall be  
 31 stamped across the top of the plate in small letters.



Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 enforcement; designation.--

2 (2) Upon request from the appropriate local  
 3 government, the Department of Transportation shall install and  
 4 maintain such traffic and pedestrian control devices on  
 5 state-maintained roads as prescribed in this section for all  
 6 prekindergarten early-intervention schools that receive  
 7 federal funding through the Headstart program.

8 Section 11. Paragraph (b) of subsection (1),  
 9 paragraphs (e) and (f) of subsection (2) of section 316.302,  
 10 Florida Statutes, 1998 Supplement, are amended to read:

11 316.302 Commercial motor vehicles; safety regulations;  
 12 transporters and shippers of hazardous materials;  
 13 enforcement.--

14 (1)

15 (b) Except as otherwise provided in this section, all  
 16 owners or drivers of commercial motor vehicles that are  
 17 engaged in intrastate commerce are subject to the rules and  
 18 regulations contained in 49 C.F.R. parts 382, 385, and  
 19 390-397, with the exception of 49 C.F.R. s. 390.5 as it  
 20 relates to the definition of bus, as such rules and  
 21 regulations existed on March 1, 1999 ~~1997~~.

22 (2)

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

31 (f) A person who operates a commercial motor vehicle

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 having a declared gross vehicle weight of less than 26,000  
 2 pounds solely in intrastate commerce and who is not  
 3 transporting hazardous materials, or who is transporting  
 4 petroleum products as defined in s. 376.301 ~~s. 376.301(29)~~, is  
 5 exempt from subsection (1). However, such person must comply  
 6 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.  
 7 396.3(a)(1) and ~~s.~~396.9.

8 Section 12. Paragraph (c) of subsection (3) of section  
 9 316.3025, Florida Statutes, is amended to read:

10 316.3025 Penalties.--

11 (3)

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

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

15 2. A violation of the shipping paper requirements of  
 16 49 C.F.R. parts 171-179;

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

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

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

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

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

22 Section 13. Paragraph (b) of subsection (2) of section  
 23 316.545, Florida Statutes, is amended to read:

24 316.545 Weight and load unlawful; special fuel and  
 25 motor fuel tax enforcement; inspection; penalty; review.--

26 (2)

27 (b) The officer shall inspect the license plate or  
 28 registration certificate of the commercial vehicle, as defined  
 29 in s. 316.003(66), to determine if its gross weight is in  
 30 compliance with the declared gross vehicle weight. If its  
 31 gross weight exceeds the declared weight, the penalty shall be

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 5 cents per pound on the difference between such weights. In  
2 those cases when the commercial vehicle, as defined in s.  
3 316.003(66), is being operated over the highways of the state  
4 with an expired registration or with no registration from this  
5 or any other jurisdiction or is not registered under the  
6 applicable provisions of chapter 320, the penalty herein shall  
7 apply on the basis of 5 cents per pound on that scaled weight  
8 which exceeds 35,000 pounds on laden truck tractor-semitrailer  
9 combinations or tandem trailer truck combinations, 10,000  
10 pounds on laden straight trucks or straight truck-trailer  
11 combinations, or 10,000 pounds on any unladen commercial motor  
12 vehicle. If the license plate or registration has not been  
13 expired for more than 90 days, the penalty imposed under this  
14 paragraph may not exceed \$1,000.In the case of special mobile  
15 equipment as defined in s. 316.003(48), which qualifies for  
16 the license tax provided for in s. 320.08(5)(b), being  
17 operated on the highways of the state with an expired  
18 registration or otherwise not properly registered under the  
19 applicable provisions of chapter 320, a penalty of \$75 shall  
20 apply in addition to any other penalty which may apply in  
21 accordance with this chapter. A vehicle found in violation of  
22 this section may be detained until the owner or operator  
23 produces evidence that the vehicle has been properly  
24 registered. Any costs incurred by the retention of the  
25 vehicle shall be the sole responsibility of the owner. A  
26 person who has been assessed a penalty pursuant to this  
27 paragraph for failure to have a valid vehicle registration  
28 certificate pursuant to the provisions of chapter 320 is not  
29 subject to the delinquent fee authorized in s. 320.07 if such  
30 person obtains a valid registration certificate within 10  
31 working days after such penalty was assessed.



Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 described in s. 311.07(3)(b).  
2  
3 Such revenues may be assigned, pledged, or set aside as a  
4 trust for the payment of principal or interest on bonds, tax  
5 anticipation certificates, or any other form of indebtedness  
6 issued by an individual port or appropriate local government  
7 having jurisdiction thereof, or collectively by interlocal  
8 agreement among any of the ports, or used to purchase credit  
9 support to permit such borrowings. However, such debt shall  
10 not constitute a general obligation of the state. This state  
11 does hereby covenant with holders of such revenue bonds or  
12 other instruments of indebtedness issued hereunder that it  
13 will not repeal or impair or amend this subsection in any  
14 manner which will materially and adversely affect the rights  
15 of holders so long as bonds authorized by this subsection are  
16 outstanding. Any revenues that are not pledged to the  
17 repayment of bonds as authorized by this section may be  
18 utilized for purposes authorized under the Florida Seaport  
19 Transportation and Economic Development Program. This revenue  
20 source is in addition to any amounts provided for and  
21 appropriated in accordance with s. 311.07 and subsection (3).  
22 The Florida Seaport Transportation and Economic Development  
23 Council shall approve distribution of funds to ports for  
24 projects that have been approved pursuant to s. 311.09(5)-(9),  
25 or for seaport intermodal access projects identified in the  
26 5-year Florida Seaport Mission Plan as provided in s.  
27 311.09(3) and mutually agreed upon by the FSTED Council and  
28 the Department of Transportation. All contracts for actual  
29 construction of projects authorized by this subsection must  
30 include a provision encouraging employment of WAGES  
31 participants. The goal for employment of WAGES participants

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 is 25 percent of all new employees employed specifically for  
2 the project, unless the Department of Transportation and the  
3 Florida Seaport Transportation and Economic Development  
4 Council can demonstrate to the satisfaction of the Secretary  
5 of Labor and Employment Security that such a requirement would  
6 severely hamper the successful completion of the project. In  
7 such an instance, the Secretary of Labor and Employment  
8 Security shall establish an appropriate percentage of  
9 employees that must be WAGES participants. The council and the  
10 Department of Transportation are authorized to perform such  
11 acts as are required to facilitate and implement the  
12 provisions of this subsection. To better enable the ports to  
13 cooperate to their mutual advantage, the governing body of  
14 each port may exercise powers provided to municipalities or  
15 counties in s. 163.01(7)(d) subject to the provisions of  
16 chapter 311 and special acts, if any, pertaining to a port.  
17 The use of funds provided pursuant to this subsection is  
18 limited to eligible projects listed in this subsection. The  
19 provisions of s. 311.07(4) do not apply to any funds received  
20 pursuant to this subsection.

21 Section 15. Prior to the 2000 legislative session, the  
22 Auditor General, in cooperation with the Office of Program  
23 Policy Analysis and Government Accountability and the  
24 Department of Banking and Finance, shall conduct a financial  
25 and performance audit of the Florida Seaport Development  
26 Program established pursuant to chapter 311 and s. 320.20,  
27 Florida Statutes.

28 Section 16. Subsection (1) of section 335.0415,  
29 Florida Statutes, is amended to read:

30 335.0415 Public road jurisdiction and transfer  
31 process.--

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           (1) The jurisdiction of public roads and the  
2 responsibility for operation and maintenance within the  
3 right-of-way of any road within the state, county, and  
4 municipal road system shall be that which existed on June 10,  
5 1995 ~~exists on July 1, 1995.~~

6           Section 17. Subsection (1) of section 335.093, Florida  
7 Statutes, is amended to read:

8           335.093 Scenic highway designation.--

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

16           Section 18. Paragraph (c) is added to subsection (6)  
17 of section 337.11, Florida Statutes, and subsection (16) of  
18 that section is amended to read:

19           337.11 Contracting authority of department; bids;  
20 emergency repairs, supplemental agreements, and change orders;  
21 combined design and construction contracts; progress payments;  
22 records; requirements of vehicle registration.--

23           (6)

24           (c) When the department determines that it is in the  
25 best interest of the public for reasons of public concern,  
26 economy, improved operations or safety, and only when  
27 circumstances dictate rapid completion of the work, the  
28 department may, up to the threshold amount provided in s.  
29 287.017 for CATEGORY FOUR, enter into contracts for  
30 construction and maintenance without advertising and receiving  
31 competitive bids. However, if legislation is enacted by the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Legislature which changes the category thresholds, the  
2 threshold amount shall remain at \$60,000. The department may  
3 enter into such contracts only upon a determination that the  
4 work is necessary for one of the following reasons:

5 1. To ensure timely completion of projects or  
6 avoidance of undue delay for other projects;

7 2. To accomplish minor repairs or construction and  
8 maintenance activities for which time is of the essence and  
9 for which significant cost savings would occur; or

10 3. To accomplish nonemergency work necessary to ensure  
11 avoidance of adverse conditions that affect the safe and  
12 efficient flow of traffic.

13  
14 The department shall make a good-faith effort to obtain two or  
15 more quotes, if available, from qualified contractors before  
16 entering into any contract. The department shall give  
17 consideration to disadvantaged business enterprise  
18 participation. However, when the work exists within the limits  
19 of an existing contract, the department shall make a  
20 good-faith effort to negotiate and enter into a contract with  
21 the prime contractor on the existing contract.

22 ~~(16) The department is authorized to undertake and~~  
23 ~~contract to provide an owner controlled insurance plan (OCIP)~~  
24 ~~on any construction project or group of related construction~~  
25 ~~projects if the head of the department determines that an OCIP~~  
26 ~~will be both cost-effective for the department and otherwise~~  
27 ~~in its best interests. Such OCIP may provide insurance~~  
28 ~~coverage for the department and for worker's compensation and~~  
29 ~~employers liability and general liability and builders risk~~  
30 ~~for contractors and subcontractors, for and in conjunction~~  
31 ~~with any or all work performed on such projects. The~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~department may directly purchase such coverage in the manner~~  
2 ~~provided for the purchase of commodities pursuant to s.~~  
3 ~~287.057, or self-insure, or use a combination thereof, any~~  
4 ~~other statutory provisions or limitations on self-insurance or~~  
5 ~~purchase of insurance notwithstanding. The department's~~  
6 ~~authority hereunder includes the purchase of risk management,~~  
7 ~~risk and loss control, safety management, investigative and~~  
8 ~~claims adjustment services, advancement of funds for payment~~  
9 ~~of claims, and other services reasonably necessary to process~~  
10 ~~and pay claims under and administer the OCIP. In addition to~~  
11 ~~any prequalification required under s. 337.14, no contractor~~  
12 ~~shall be prequalified to bid on an OCIP project unless the~~  
13 ~~contractor's casualty and loss experience and safety record~~  
14 ~~meets the minimum requirements for OCIP coverage issuance on~~  
15 ~~the project, were the contractor to be awarded the project.~~  
16 ~~Exercise of the department's authority under this subsection~~  
17 ~~shall not be deemed a waiver of sovereign immunity.~~

18 Section 19. Paragraph (a) of subsection (1) of section  
19 337.16, Florida Statutes, is amended to read:

20 337.16 Disqualification of delinquent contractors from  
21 bidding; determination of contractor nonresponsibility;  
22 denial, suspension, and revocation of certificates of  
23 qualification; grounds; hearing.--

24 (1) A contractor shall not be qualified to bid when an  
25 investigation by the department discloses that such contractor  
26 is delinquent on a previously awarded contract, and in such  
27 case the contractor's certificate of qualification shall be  
28 suspended or revoked. Any contractor whose certificate of  
29 qualification is suspended or revoked for delinquency shall  
30 also be disapproved as a subcontractor during the period of  
31 suspension or revocation, except when a prime contractor's bid

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 has used prices of a subcontractor who becomes disqualified  
2 after the bid and before the request for authorization to  
3 sublet is presented.

4 (a) A contractor is delinquent when ~~unsatisfactory~~  
5 ~~progress is being made on a construction project or when the~~  
6 allowed contract time has expired and the contract work is not  
7 complete. ~~Unsatisfactory progress shall be determined in~~  
8 ~~accordance with the contract provisions.~~

9 Section 20. Subsection (2) of section 337.162, Florida  
10 Statutes, 1998 Supplement, is amended to read:

11 337.162 Professional services.--Professional services  
12 provided to the department that fall below acceptable  
13 professional standards may result in transportation project  
14 delays, overruns, and reduced facility life. To minimize these  
15 effects and ensure that quality services are received, the  
16 Legislature hereby declares that licensed professionals shall  
17 be held accountable for the quality of the services they  
18 provide to the department.

19 (2) Any person who is employed by the department and  
20 who is licensed by the Department of Business and Professional  
21 Regulation and who, through the course of his or her  
22 employment, has knowledge or reason to believe that any person  
23 has violated the provisions of state professional licensing  
24 laws or rules shall submit a complaint about the violations to  
25 the Department of Business and Professional Regulation.  
26 Failure to submit a complaint about the violations may be  
27 grounds for disciplinary action pursuant to part I of chapter  
28 455 and the state licensing law applicable to that licensee.  
29 However, licensees under part II of chapter 475 are exempt  
30 from the provisions of s. 455.227(1)(i).The complaint  
31 submitted to the Department of Business and Professional

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Regulation and maintained by the department is confidential  
2 and exempt from s. 119.07(1).

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

5 337.18 Surety bonds; requirement with respect to  
6 contract award; defaults; damage assessments.--

7 (1) A surety bond shall be required of the successful  
8 bidder in an amount equal to the awarded contract price. For a  
9 project for which the contract price is \$150,000 or less, the  
10 department may waive the requirement for all or a portion of a  
11 surety bond if it determines the project is of a noncritical  
12 nature and nonperformance will not endanger public health,  
13 safety, or property. The department may require alternate  
14 means of security if a surety bond is waived. The surety on  
15 such bond shall be a surety company authorized to do business  
16 in the state. All bonds shall be payable to the department  
17 ~~Governor and his or her successors in office~~ and conditioned  
18 for the prompt, faithful, and efficient performance of the  
19 contract according to plans and specifications and within the  
20 time period specified, and for the prompt payment of all  
21 persons furnishing labor, material, equipment, and supplies  
22 therefor; however, whenever an improvement, demolition, or  
23 removal contract price is \$25,000 or less, the security may,  
24 in the discretion of the bidder, be in the form of a cashier's  
25 check, bank money order of any state or national bank,  
26 certified check, or postal money order.

27 (2) The department shall provide in its contracts for  
28 the determination of default on the part of any contractor for  
29 cause attributable to such contractor. The department shall  
30 have no liability for anticipated profits for unfinished work  
31 on a contract which has been determined to be in default.

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Every contract let by the department for the performance of  
2 work shall contain a provision for payment to the department  
3 by the contractor of liquidated damages due to failure of the  
4 contractor to complete the contract work within the time  
5 stipulated in the contract or within such additional time as  
6 may have been granted by the department. The contractual  
7 provision shall include a reasonable estimate of the damages  
8 that would be incurred by the department as a result of such  
9 failure. The department shall establish a schedule of daily  
10 liquidated damage charges, based on original contract amounts,  
11 for construction contracts entered into by the department,  
12 which schedule shall be incorporated by reference into the  
13 contract. The department shall update the schedule of  
14 liquidated damages at least once every 2 years, but no more  
15 often than once a year. The schedule shall, at a minimum, be  
16 based on the average construction, engineering, and inspection  
17 costs experienced by the department on contracts over the 2  
18 preceding fiscal years. The schedule shall also include  
19 anticipated costs of project-related delays and inconveniences  
20 to the department and traveling public. Anticipated costs may  
21 include, but are not limited to, road user costs, a portion of  
22 the projected revenues that will be lost due to failure to  
23 timely open a project to revenue-producing traffic, costs  
24 resulting from retaining detours for an extended time, and  
25 other similar costs. ~~The schedule shall be divided into the~~  
26 ~~following categories, based on the original contract amounts:~~  
27       ~~(a) \$50,000 and under;~~  
28       ~~(b) Over \$50,000 but less than \$250,000;~~  
29       ~~(c) \$250,000 or more but less than \$500,000;~~  
30       ~~(d) \$500,000 or more but less than \$2.5 million;~~  
31       ~~(e) \$2.5 million or more but less than \$5 million;~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

- 1           ~~(f) \$5 million or more but less than \$10 million;~~  
2           ~~(g) \$10 million or more but less than \$15 million;~~  
3           ~~(h) \$15 million or more but less than \$20 million; and~~  
4           ~~(i) \$20 million and over.~~

5  
6 Any such liquidated damages paid to the department shall be  
7 deposited to the credit of the fund from which payment for the  
8 work contracted was authorized.

9           Section 22. Subsections (1), (2), (3), (7), and (8) of  
10 section 337.185, Florida Statutes, are amended to read:

11           337.185 State Arbitration Board.--

12           (1) To facilitate the prompt settlement of claims for  
13 additional compensation arising out of construction contracts  
14 between the department and the various contractors with whom  
15 it transacts business, the Legislature does hereby establish  
16 the State Arbitration Board, referred to in this section as  
17 the "board." For the purpose of this section, "claim" shall  
18 mean the aggregate of all outstanding claims by a party  
19 arising out of a construction contract. Every contractual  
20 claim in an amount up to \$250,000~~\$100,000~~ per contract or, at  
21 the claimant's option, up to \$500,000~~\$250,000~~ per contract  
22 or, upon agreement of the parties, up to \$1 million per  
23 contract that cannot be resolved by negotiation between the  
24 department and the contractor shall be arbitrated by the board  
25 after acceptance of the project by the department. As an  
26 exception, either party to the dispute may request that the  
27 claim be submitted to binding private arbitration. A court of  
28 law may not consider the settlement of such a claim until the  
29 process established by this section has been exhausted.

30           (2) The board shall be composed of three members. One  
31 member shall be appointed by the head of the department, and

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 one member shall be elected by those construction companies  
2 who are under contract with the department. The third member  
3 shall be chosen by agreement of the other two members.  
4 Whenever the third member has a conflict of interest regarding  
5 affiliation with one of the parties, the other two members  
6 shall select an alternate member for that hearing. The head  
7 of the department may select an alternative or substitute to  
8 serve as the department member for any hearing or term. Each  
9 member shall serve a 2-year term. The board shall elect a  
10 chair, each term, who shall be the administrator of the board  
11 and custodian of its records.

12 (3) A hearing may be requested by the department or by  
13 a contractor who has a dispute with the department which,  
14 under the rules of the board, may be the subject of  
15 arbitration. The board shall conduct the hearing within 45  
16 days of the request. The party requesting the board's  
17 consideration shall give notice of the hearing to each member.  
18 If the board finds that a third party is necessary to resolve  
19 the dispute, the board may vote to dismiss the claim, which  
20 may thereafter be pursued in accordance with the laws of the  
21 state in a court of law.

22 (7) The members member of the board ~~elected by~~  
23 ~~construction companies and the third member of the board~~ may  
24 receive compensation for the performance of their duties  
25 hereunder, from administrative fees received by the board,  
26 except that no employee of the department may receive  
27 compensation from the board. The compensation amount shall be  
28 determined by the board, but shall not exceed \$125 per hour,  
29 up to a maximum of \$1,000\$750 per day for each member  
30 authorized to receive compensation. Nothing in this section  
31 shall prevent the member elected by construction companies

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 from being an employee of an association affiliated with the  
 2 industry, even if the sole responsibility of that member is  
 3 service on the board. Travel expenses for the industry member  
 4 may be paid by an industry association, if necessary. The  
 5 board may allocate funds annually for clerical and other  
 6 administrative services.

7 (8) The party requesting arbitration shall pay a fee  
 8 to the board in accordance with a schedule established by it,  
 9 not to exceed \$500 per claim which is \$25,000 or less, not to  
 10 exceed \$1,000 per claim which is in excess of \$25,000 but not  
 11 exceeding \$50,000, not to exceed \$1,500 per claim which is in  
 12 excess of \$50,000 but not exceeding \$100,000, not to exceed  
 13 \$2,000 per claim which is in excess of \$100,000 but not  
 14 exceeding \$200,000, ~~and not to exceed \$3,000~~~~\$2,500~~ per claim  
 15 which is in excess of \$200,000 but not exceeding \$300,000  
 16 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of  
 17 \$300,000 but not exceeding \$400,000, and not to exceed \$5,000  
 18 per claim which is in excess of \$400,000, to cover the cost of  
 19 administration and compensation of the board.

20 Section 23. Paragraph (a) of subsection (1) and  
 21 paragraph (i) of subsection (4) of section 337.25, Florida  
 22 Statutes, are amended to read:

23 337.25 Acquisition, lease, and disposal of real and  
 24 personal property.--

25 (1)(a) The department may purchase, lease, exchange,  
 26 or otherwise acquire any land, property interests, or  
 27 buildings or other improvements, including personal property  
 28 within such buildings or on such lands, necessary to secure or  
 29 utilize transportation rights-of-way for existing, proposed,  
 30 or anticipated transportation facilities on the State Highway  
 31 System, on the State Park Road System, in a rail corridor, or

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 in a transportation corridor designated by the department.

2 Such property shall be held in the name of the state.

3 (4) The department may sell, in the name of the state,  
4 any land, building, or other property, real or personal, which  
5 was acquired under the provisions of subsection (1) and which  
6 the department has determined is not needed for the  
7 construction, operation, and maintenance of a transportation  
8 facility. With the exception of any parcel governed by  
9 paragraph (c), paragraph (d), paragraph (f), paragraph (g), or  
10 paragraph (i), the department shall afford first right of  
11 refusal to the local government in the jurisdiction of which  
12 the parcel is situated. When such a determination has been  
13 made, property may be disposed of in the following manner:

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

24 Section 24. Subsection (9) is added to section  
25 337.251, Florida Statutes, to read:

26 337.251 Lease of property for joint public-private  
27 development and areas above or below department property.--

28 (9) Notwithstanding s. 341.327, a fixed-guideway  
29 transportation system authorized by the department to be  
30 wholly or partially within the department's right-of-way  
31 pursuant to a lease granted under this section may operate at

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 any safe speed.

2 Section 25. Subsection (1) of section 337.403, Florida  
3 Statutes, is amended to read:

4 337.403 Relocation of utility; expenses.--

5 (1) Any utility heretofore or hereafter placed upon,  
6 under, over, or along any public road or publicly owned rail  
7 corridor that is found by the authority to be unreasonably  
8 interfering in any way with the convenient, safe, or  
9 continuous use, or the maintenance, improvement, extension, or  
10 expansion, of such public road or publicly owned rail corridor  
11 shall, upon 30 days' written notice to the utility or its  
12 agent by the authority, be removed or relocated by such  
13 utility at its own expense except as provided in paragraphs  
14 (a), ~~and~~ (b), and (c).

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

29 (b) When a joint agreement between the department and  
30 the utility is executed for utility improvement, relocation,  
31 or removal work to be accomplished as part of a contract for

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 construction of a transportation facility, the department may  
 2 participate in those utility improvement, relocation, or  
 3 removal costs that exceed the department's official estimate  
 4 of the cost of such work by more than 10 percent. The amount  
 5 of such participation shall be limited to the difference  
 6 between the official estimate of all the work in the joint  
 7 agreement plus 10 percent and the amount awarded for this work  
 8 in the construction contract for such work. The department may  
 9 not participate in any utility improvement, relocation, or  
 10 removal costs that occur as a result of changes or additions  
 11 during the course of the contract.

12 (c) When an agreement between the department and  
 13 utility is executed for utility improvement, relocation, or  
 14 removal work to be accomplished in advance of a contract for  
 15 construction of a transportation facility, the department may  
 16 participate in the cost of clearing and grubbing necessary to  
 17 perform such work.

18 Section 26. Subsection (18) is added to section  
 19 373.414, Florida Statutes, to read:

20 373.414 Additional criteria for activities in surface  
 21 waters and wetlands.--

22 (18) MITIGATION STUDIES.--

23 (a) For impacts resulting from activities regulated  
 24 under part IV of chapter 373, the Legislature finds that  
 25 successful mitigation performed by the public and private  
 26 sectors has helped to preserve the state's natural resources.

27 (b) The Office of Program Policy Analysis and  
 28 Government Accountability shall study the mitigation options  
 29 as defined by s. 373.414(1)(b), implemented from 1994 to the  
 30 present, and issue a report by January 31, 2000. The study  
 31 shall consider the effectiveness and costs of the current

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 mitigation options in offsetting adverse effects to wetlands  
2 and wetland functions, including the application of cumulative  
3 impact considerations, and identify, as appropriate,  
4 recommendations for statutory or rule changes to increase the  
5 effectiveness of mitigation strategies.

6 Section 27. Paragraph (b) of subsection (2) of section  
7 338.223, Florida Statutes, is amended to read:

8 338.223 Proposed turnpike projects.--

9 (2)

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

8           Section 28. Section 338.229, Florida Statutes, is  
 9 amended to read:

10           338.229 Pledge to bondholders not to restrict certain  
 11 rights of department.--The state does pledge to, and agree  
 12 with, the holders of the bonds issued pursuant to ss.  
 13 338.22-338.241 ~~ss. 338.22-338.244~~ that the state will not  
 14 limit or restrict the rights vested in the department to  
 15 construct, reconstruct, maintain, and operate any turnpike  
 16 project as defined in ss. 338.22-338.241 ~~ss. 338.22-338.244~~ or  
 17 to establish and collect such tolls or other charges as may be  
 18 convenient or necessary to produce sufficient revenues to meet  
 19 the expenses of maintenance and operation of the turnpike  
 20 system and to fulfill the terms of any agreements made with  
 21 the holders of bonds authorized by this act and that the state  
 22 will not in any way impair the rights or remedies of the  
 23 holders of such bonds until the bonds, together with interest  
 24 on the bonds, are fully paid and discharged. In implementing  
 25 this section, the department is specifically authorized to  
 26 provide for further restrictions on the sale, transfer, lease,  
 27 or other disposition or operation of any portion of the  
 28 turnpike system which reduces the revenue available for  
 29 payment to bondholders.

30           Section 29. Subsection (10) of section 338.251,  
 31 Florida Statutes, 1998 Supplement, is amended to read:

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           338.251 Toll Facilities Revolving Trust Fund.--The  
 2 Toll Facilities Revolving Trust Fund is hereby created for the  
 3 purpose of encouraging the development and enhancing the  
 4 financial feasibility of revenue-producing road projects  
 5 undertaken by local governmental entities in a county or  
 6 combination of contiguous counties.

7           (10) Any repayment of prior or future advances made  
 8 from the State Transportation Trust Fund which were used to  
 9 fund any project phase of a toll facility, shall be deposited  
 10 in the Toll Facilities Revolving Trust Fund. However, when  
 11 funds advanced to the Seminole County Expressway Authority  
 12 pursuant to this section are repaid to the Toll Facilities  
 13 Revolving Trust Fund by or on behalf of the Seminole County  
 14 Expressway Authority, those funds shall thereupon and  
 15 forthwith be appropriated for and advanced to the Seminole  
 16 County Expressway Authority for funding the design of and the  
 17 advanced right-of-way acquisition for that segment of the  
 18 Seminole County Expressway extending from U.S. Highway 17/92  
 19 to Interstate Highway 4. Notwithstanding subsection (6), when  
 20 funds previously advanced to the Orlando-Orange County  
 21 Expressway Authority are repaid to the Toll Facilities  
 22 Revolving Trust Fund by or on behalf of the Orlando-Orange  
 23 County Expressway Authority, those funds may thereupon and  
 24 forthwith be appropriated for and advanced to the Seminole  
 25 County Expressway Authority for funding that segment of the  
 26 Seminole County Expressway extending from U.S. Highway 17/92  
 27 to Interstate Highway 4. Any funds advanced to the  
 28 Tampa-Hillsborough County Expressway Authority pursuant to  
 29 this section which have been or will be repaid on or after  
 30 July 1, 1998, to the Toll Facilities Revolving Trust Fund on  
 31 behalf of the Tampa-Hillsborough County Expressway Authority

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 shall thereupon and forthwith be appropriated for and advanced  
2 to the Tampa-Hillsborough County Expressway Authority for  
3 funding the design of and the advanced right-of-way  
4 acquisition for the Brandon area feeder roads, capital  
5 improvements to increase capacity to the expressway system,  
6 and Lee Roy Selmon Crosstown Expressway System Widening as  
7 authorized under s. 348.565.

8 Section 30. Section 339.2816, Florida Statutes, is  
9 created to read:

10 339.2816 Small County Road Assistance Program;  
11 definitions; program funding; funding eligibility; project  
12 contract administration.--

13 (1) There is created within the Department of  
14 Transportation the Small County Road Assistance Program. The  
15 purpose of this program is to assist small county governments  
16 in resurfacing or reconstructing county roads.

17 (3) For the purposes of this section the term "small  
18 county" means any county that has a population of 75,000 or  
19 less according to 1990 federal census data.

20 (4) Beginning with fiscal year 1999-2000 until fiscal  
21 year 2009-2010 up to \$25 million annually from the State  
22 Transportation Trust Fund may be used for the purposes of  
23 funding the Small County Road Assistance Program as described  
24 in this section.

25 (5)(a) Small counties shall be eligible to compete for  
26 funds that have been designated for the Small County Road  
27 Assistance Program for resurfacing or reconstruction projects  
28 on county roads that were part of the county road system on  
29 June 10, 1995. Capacity improvements on county roads shall not  
30 be eligible for funding under the program.

31 (b) In determining a county's eligibility for

Bill No. HB 591, 2nd Eng.

Amendment No.     

1 assistance under this program, the department may consider  
2 whether the county has attempted to keep county roads in  
3 satisfactory condition, including the amount of local option  
4 fuel tax and ad valorem millage rate imposed by the county.

5 The department may also consider the extent to which the  
6 county has offered to provide a match of local funds with  
7 state funds provided under the program. At a minimum, small  
8 counties shall be eligible only if:

9       1. The county has enacted the maximum rate of the  
10 local option fuel tax authorized by s. 336.025(1)(a), and has  
11 imposed an ad valorem millage rate of at least 8 mills, or

12       2. The county has imposed an ad valorem millage rate  
13 of 10 mills.

14       (c) The following criteria shall be used to prioritize  
15 road projects for funding under the program:

16       1. The primary criterion is the physical condition of  
17 the road as measured by the department.

18       2. As secondary criteria the department may consider:

19       a. Whether a road is used as an evacuation route.

20       b. Whether a road has high levels of agricultural  
21 travel.

22       c. Whether a road is considered a major arterial  
23 route.

24       d. Whether a road is considered a feeder road.

25       e. Other criteria related to the impact of a project  
26 on the public road system or on the state or local economy as  
27 determined by the department.

28       (6) The department is authorized to administer  
29 contracts on behalf of a county selected to receive funding  
30 for a project under this section. All projects funded under  
31 this section shall be included in the department's work

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 program developed pursuant to s. 339.135.

2 Section 31. Present paragraph (i) of subsection (2) of  
 3 section 339.08, Florida Statutes, is redesignated as paragraph  
 4 (j) and a new paragraph (i) is added to that subsection to  
 5 read:

6 339.08 Use of moneys in State Transportation Trust  
 7 Fund.--

8 (2) These rules must restrict the use of such moneys  
 9 to the following purposes:

10 (i) To pay the cost of county road projects selected  
 11 in accordance with the Small County Road Assistance Program  
 12 created in s. 339.2816.

13 Section 32. Section 339.155, Florida Statutes, is  
 14 amended to read:

15 339.155 Transportation planning.--

16 (1) THE FLORIDA TRANSPORTATION PLAN.--The department  
 17 shall develop and annually update a statewide transportation  
 18 plan, to be known as the Florida Transportation Plan. The  
 19 plan shall be designed so as to be easily read and understood  
 20 by the general public.

21 ~~(1) PURPOSE.--~~The purpose of the Florida  
 22 Transportation Plan is to establish and define the state's  
 23 long-range transportation goals and objectives ~~of the~~  
 24 ~~department~~ to be accomplished over a period of at least 20  
 25 years within the context of the State Comprehensive Plan and  
 26 any other statutory mandates and authorizations. The Florida  
 27 Transportation Plan shall consider the needs of the entire  
 28 state transportation system and examine the use of all modes  
 29 of transportation to effectively and efficiently meet such  
 30 needs given to the department. ~~The plan shall define the~~  
 31 ~~relationship between the long-range goals and the short-range~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~objectives, and specify those objectives against which the~~  
2 ~~department's achievement of such goals will be measured. The~~  
3 ~~plan shall provide a policy framework within which the~~  
4 ~~department's legislative budget request, the strategic~~  
5 ~~information resource management plan, and the work program are~~  
6 ~~developed.~~

7 (2) SCOPE OF PLANNING PROCESS DEVELOPMENT CRITERIA.--

8 (a) ~~The Florida Transportation Plan shall consider the~~  
9 ~~needs of the entire state transportation system, examine the~~  
10 ~~use of all modes of transportation to effectively and~~  
11 ~~efficiently meet such needs, and provide for the~~  
12 ~~interconnection of all types of modes in a comprehensive~~  
13 ~~intermodal transportation system. In developing the Florida~~  
14 ~~Transportation Plan, the department shall carry out a~~  
15 ~~transportation planning process that provides for~~  
16 ~~consideration of projects and strategies that will consider~~  
17 ~~the following:~~

18 1. Support the economic vitality of the United States,  
19 Florida, and the metropolitan areas, especially by enabling  
20 global competitiveness, 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 throughout  
29 Florida, for people and freight;

30 6. Promote efficient system management and operation;

31 and

Bill No. HB 591, 2nd Eng.

Amendment No.     

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

3           (b) Additionally, the department shall consider:

4           1. With respect to nonmetropolitan areas, the concerns  
5 of local elected officials representing units of general  
6 purpose local government;

7           2. The concerns of Indian tribal governments and  
8 federal land management agencies that have jurisdiction over  
9 land within the boundaries of Florida; and

10          3. Coordination of transportation plans, programs, and  
11 planning activities with related planning activities being  
12 carried out outside of metropolitan planning areas.

13          (c)(a) The results of the management systems required  
14 pursuant to federal laws and regulations.

15          (d)(b) Any federal, state, or local energy use goals,  
16 objectives, programs, or requirements.

17          (e)(c) Strategies for incorporating bicycle  
18 transportation facilities and pedestrian walkways in projects  
19 where appropriate throughout the state.

20          (f)(d) International border crossings and access to  
21 ports, airports, intermodal transportation facilities, major  
22 freight distribution routes, national parks, recreation and  
23 scenic areas, monuments and historic sites, and military  
24 installations.

25          (g)(e) The transportation needs of nonmetropolitan  
26 areas through a process that includes consultation with local  
27 elected officials with jurisdiction over transportation.

28          (h)(f) Consistency of the plan, to the maximum extent  
29 feasible, with strategic regional policy plans, metropolitan  
30 planning organization plans, and approved local government  
31 comprehensive plans so as to contribute to the management of

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 orderly and coordinated community development.

2 (i)~~(g)~~ Connectivity between metropolitan areas within  
3 the state and with metropolitan areas in other states.

4 (j)~~(h)~~ Recreational travel and tourism.

5 (k)~~(i)~~ Any state plan developed pursuant to the  
6 Federal Water Pollution Control Act.

7 (l)~~(j)~~ Transportation system management and investment  
8 strategies designed to make the most efficient use of existing  
9 transportation facilities.

10 (m)~~(k)~~ The total social, economic, energy, and  
11 environmental effects of transportation decisions on the  
12 community and region.

13 (n)~~(i)~~ Methods to manage traffic congestion and to  
14 prevent traffic congestion from developing in areas where it  
15 does not yet occur, including methods which reduce motor  
16 vehicle travel, particularly single-occupant vehicle travel.

17 (o)~~(m)~~ Methods to expand and enhance transit services  
18 and to increase the use of such services.

19 (p)~~(n)~~ The effect of transportation decisions on land  
20 use and land development, including the need for consistency  
21 between transportation decisionmaking and the provisions of  
22 all applicable short-range and long-range land use and  
23 development plans.

24 (q)~~(o)~~ Where appropriate, the use of innovative  
25 mechanisms for financing projects, including value capture  
26 pricing, tolls, and congestion pricing.

27 (r)~~(p)~~ Preservation and management of rights-of-way  
28 for construction of future transportation projects, including  
29 identification of unused rights-of-way which may be needed for  
30 future transportation corridors, and identification of those  
31 corridors for which action is most needed to prevent

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 destruction or loss.

2 (s)~~(q)~~ Future, as well as existing, needs of the state  
3 transportation system.

4 (t)~~(r)~~ Methods to enhance the efficient movement of  
5 commercial motor vehicles.

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

8 (v)~~(t)~~ Investment strategies to improve adjoining  
9 state and local roads that support rural economic growth and  
10 tourism development, federal agency renewable resources  
11 management, and multipurpose land management practices,  
12 including recreation development.

13 (w)~~(u)~~ The concerns of Indian tribal governments  
14 having jurisdiction over lands within the boundaries of the  
15 state.

16 (x)~~(v)~~ A seaport or airport master plan, which has  
17 been incorporated into an approved local government  
18 comprehensive plan, and the linkage of transportation modes  
19 described in such plan which are needed to provide for the  
20 movement of goods and passengers between the seaport or  
21 airport and the other transportation facilities.

22 (y)~~(w)~~ The joint use of transportation corridors and  
23 major transportation facilities for alternate transportation  
24 and community uses.

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

27 (3) FORMAT, SCHEDULE, AND REVIEW.--The Florida  
28 Transportation Plan shall be a unified, concise planning  
29 document that clearly defines the state's long-range  
30 transportation goals and objectives and documents the  
31 department's short-range objectives developed to further such

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 goals and objectives. The plan shall include a glossary that  
2 clearly and succinctly defines any and all phrases, words, or  
3 terms of art included in the plan, with which the general  
4 public may be unfamiliar and shall consist of, at a minimum,  
5 the following components:

6 (a) A long-range component documenting the goals and  
7 long-term objectives necessary to implement the results of the  
8 department's findings from its examination of the criteria  
9 listed in subsection (2). The long-range component must be  
10 developed in cooperation with the metropolitan planning  
11 organizations and reconciled, to the maximum extent feasible,  
12 with the long-range plans developed by metropolitan planning  
13 organizations pursuant to s. 339.175. The plan must also be  
14 developed in consultation with affected local officials in  
15 nonmetropolitan areas and with any affected Indian tribal  
16 governments.The plan must provide an examination of  
17 transportation issues likely to arise during at least a  
18 20-year period. The long-range component shall be updated at  
19 least once every 5 years, or more often as necessary, to  
20 reflect substantive changes to federal or state law.

21 (b) A short-range component documenting the short-term  
22 objectives and strategies necessary to implement the goals and  
23 long-term objectives contained in the long-range component.  
24 The short-range component must define the relationship between  
25 the long-range goals and the short-range objectives, specify  
26 those objectives against which the department's achievement of  
27 such goals will be measured, and identify transportation  
28 strategies necessary to efficiently achieve the goals and  
29 objectives in the plan. It must provide a policy framework  
30 within which the department's legislative budget request, the  
31 strategic information resource management plan, and the work

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 program are developed.The short-range component shall serve  
2 as the department's annual agency strategic plan pursuant to  
3 s. 186.021. The short-range component shall be developed  
4 consistent with the requirements of s. 186.022 and consistent  
5 with available and forecasted state and federal funds. In  
6 addition to those entities listed in s. 186.022, the  
7 short-range component shall also be submitted to the Florida  
8 Transportation Commission.

9 (4) ANNUAL PERFORMANCE REPORT.--The department shall  
10 develop an annual performance report evaluating the operation  
11 of the department for the preceding fiscal year. The report,  
12 which shall meet the requirements of s. 186.022, shall also  
13 include a summary of the financial operations of the  
14 department and shall annually evaluate how well the adopted  
15 work program meets the short-term objectives contained in the  
16 short-range component of the Florida Transportation Plan. In  
17 addition to the entities listed in s. 186.022, this  
18 performance report shall also be submitted to the Florida  
19 Transportation Commission and the legislative appropriations  
20 and transportation committees.

21 (5) ADDITIONAL TRANSPORTATION PLANS.--

22 (a) Upon request by local governmental entities, the  
23 department may in its discretion develop and design  
24 transportation corridors, arterial and collector streets,  
25 vehicular parking areas, and other support facilities which  
26 are consistent with the plans of the department for major  
27 transportation facilities. The department may render to local  
28 governmental entities or their planning agencies such  
29 technical assistance and services as are necessary so that  
30 local plans and facilities are coordinated with the plans and  
31 facilities of the department.

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           (b) Each regional planning council, as provided for in  
2 s. 186.504, or any successor agency thereto, shall develop, as  
3 an element of its strategic regional policy plan,  
4 transportation goals and policies. The transportation goals  
5 and policies shall be consistent, to the maximum extent  
6 feasible, with the goals and policies of the metropolitan  
7 planning organization and the Florida Transportation Plan.  
8 The transportation goals and policies of the regional planning  
9 council will be advisory only and shall be submitted to the  
10 department and any affected metropolitan planning organization  
11 for their consideration and comments. Metropolitan planning  
12 organization plans and other local transportation plans shall  
13 be developed consistent, to the maximum extent feasible, with  
14 the regional transportation goals and policies. The regional  
15 planning council shall review urbanized area transportation  
16 plans and any other planning products stipulated in s. 339.175  
17 and provide the department and respective metropolitan  
18 planning organizations with written recommendations which the  
19 department and the metropolitan planning organizations shall  
20 take under advisement. Further, the regional planning  
21 councils shall directly assist local governments which are not  
22 part of a metropolitan area transportation planning process in  
23 the development of the transportation element of their  
24 comprehensive plans as required by s. 163.3177.

25           (6) PROCEDURES FOR PUBLIC PARTICIPATION IN  
26 TRANSPORTATION PLANNING.--

27           (a) During the development of the long-range component  
28 of the Florida Transportation Plan and prior to substantive  
29 revisions, and prior to adoption of all subsequent amendments,  
30 the department shall provide citizens, affected public  
31 agencies, representatives of transportation agency employees,

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 other affected employee representatives, private providers of  
2 transportation, and other known interested parties with an  
3 opportunity to comment on the proposed plan or revisions  
4 amendments. These opportunities ~~This hearing shall include~~  
5 ~~presentation and discussion of the factors listed in~~  
6 ~~subsection (2) and shall include, at a minimum, publishing a~~  
7 notice in the Florida Administrative Weekly and within a  
8 newspaper of general circulation within the area of each  
9 department district office. ~~These notices shall be published~~  
10 ~~twice prior to the day of the hearing, with the first notice~~  
11 ~~appearing at least 14 days prior to the hearing.~~

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

30 (c) Opportunity for design hearings:

31 1. The department, prior to holding a design hearing,

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 shall duly notice all affected property owners of record, as  
2 recorded in the property appraiser's office, by mail at least  
3 20 days prior to the date set for the hearing. The affected  
4 property owners shall be:

5 a. Those whose property lies in whole or in part  
6 within 300 feet on either side of the centerline of the  
7 proposed facility.

8 b. Those who the department determines will be  
9 substantially affected environmentally, economically,  
10 socially, or safetywise.

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

15 3. A copy of the notice of opportunity for the hearing  
16 shall be furnished to the United States Department of  
17 Transportation and to the appropriate departments of the state  
18 government at the time of publication.

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

24 5. The opportunity for a hearing shall be afforded in  
25 each case in which the department is in doubt as to whether a  
26 hearing is required.

27 Section 33. Section 339.175, Florida Statutes, is  
28 amended to read:

29 339.175 Metropolitan planning organization.--It is the  
30 intent of the Legislature to encourage and promote the safe  
31 and efficient management, operation, and development of

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~surface~~ transportation systems ~~embracing various modes of~~  
2 ~~transportation in a manner~~ that will serve ~~maximize~~ the  
3 mobility needs of people and freight goods within and through  
4 urbanized areas of this state while minimizing ~~and minimize,~~  
5 ~~to the maximum extent feasible,~~ and together with applicable  
6 ~~regulatory government agencies,~~ transportation-related fuel  
7 consumption and air pollution. To accomplish these  
8 objectives, metropolitan planning organizations, referred to  
9 in this section as M.P.O.'s, shall develop, in cooperation  
10 with the state and public transit operators, transportation  
11 plans and programs for metropolitan areas. The plans and  
12 programs for each metropolitan area must provide for the  
13 development and integrated management and operation of  
14 transportation systems and facilities, including pedestrian  
15 walkways and bicycle transportation facilities that will  
16 function as an intermodal transportation system for the  
17 metropolitan area ~~Such plans and programs must provide for the~~  
18 ~~development of transportation facilities that will function as~~  
19 ~~an intermodal transportation system for the metropolitan area.~~  
20 The process for developing such plans and programs shall  
21 provide for consideration of all modes of transportation and  
22 shall be continuing, cooperative, and comprehensive, to the  
23 degree appropriate, based on the complexity of the  
24 transportation problems to be addressed.

25 (1) DESIGNATION.--

26 (a)1. An M.P.O. shall be designated for each urbanized  
27 area of the state. Such designation shall be accomplished by  
28 agreement between the Governor and units of general-purpose  
29 local government representing at least 75 percent of the  
30 population of the urbanized area; however, the unit of  
31 general-purpose local government that represents the central

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 city or cities within the M.P.O. jurisdiction, as defined by  
2 the United States Bureau of the Census, must be a party to  
3 such agreement.

4 2. More than one M.P.O. may be designated within an  
5 existing metropolitan planning area ~~urbanized area~~ only if the  
6 Governor and the existing M.P.O. determine ~~determines~~ that the  
7 size and complexity of the existing metropolitan planning area  
8 makes justifies the designation of more than one M.P.O. for  
9 the area appropriate ~~multiple M.P.O.'s~~.

10 (b) Each M.P.O. shall be created and operated under  
11 the provisions of this section pursuant to an interlocal  
12 agreement entered into pursuant to s. 163.01. The signatories  
13 to the interlocal agreement shall be the department and the  
14 governmental entities designated by the Governor for  
15 membership on the M.P.O. If there is a conflict between this  
16 section and s. 163.01, this section prevails.

17 (c) The jurisdictional boundaries of an M.P.O. shall  
18 be determined by agreement between the Governor and the  
19 applicable M.P.O. The boundaries must include at least the  
20 metropolitan planning area, which is the existing urbanized  
21 area and the contiguous area expected to become urbanized  
22 within a 20-year forecast period, at a minimum, the  
23 ~~metropolitan area~~ and may encompass ~~include~~ the entire  
24 metropolitan statistical area or the consolidated metropolitan  
25 statistical area.

26 (d) In the case of an urbanized area designated as a  
27 nonattainment area for ozone or carbon monoxide under the  
28 Clean Air Act 42 U.S.C. s. 7401 et seq., the boundaries of the  
29 metropolitan planning area in existence as of the date of  
30 enactment of this paragraph shall be retained, except that the  
31 boundaries may be adjusted by agreement of the Governor and

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 affected metropolitan planning organizations in the manner  
2 described in this section. If more than one M.P.O. has  
3 authority within a metropolitan area or an area that is  
4 designated as a nonattainment area, each M.P.O. shall consult  
5 with other M.P.O.'s designated for such area and with the  
6 state in the coordination of plans and programs required by  
7 this section.

8  
9 Each M.P.O. required under this section must be fully  
10 operative no later than 6 months following its designation.

11 (2) VOTING MEMBERSHIP.--

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 general-purpose governments, except that an M.P.O. may  
2 include, as part of its apportioned voting members, a member  
3 of a statutorily authorized planning board or an official of  
4 an agency that operates or administers a major mode of  
5 transportation. ~~In metropolitan areas in which authorities or  
6 other agencies have been, or may be, created by law to perform  
7 transportation functions that are not under the jurisdiction  
8 of a general-purpose local government represented on the  
9 M.P.O., they shall be provided voting membership on the M.P.O.~~  
10 The county commission shall compose not less than 20 percent  
11 of the M.P.O. membership if an official of an agency that  
12 operates or administers a major mode of transportation has  
13 been appointed to an M.P.O.

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

24 (c) Any other provision of this section to the contrary  
25 notwithstanding, a chartered county with over 1 million  
26 population may elect to reapportion the membership of an  
27 M.P.O. whose jurisdiction is wholly within the county. The  
28 charter county may exercise the provisions of this paragraph  
29 if:

30 1. The M.P.O. approves the reapportionment plan by a  
31 3/4 vote of its membership;

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           2. The M.P.O. and the charter county determine that  
2 the reapportionment plan is needed to fulfill specific goals  
3 and policies applicable to that metropolitan planning area;  
4 and

5           3. The charter county determines the reapportionment  
6 plan otherwise complies with all federal requirements  
7 pertaining to M.P.O. membership.

8  
9 Any charter county that elects to exercise the provisions of  
10 this paragraph shall notify the Governor in writing.

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

26           (3) APPORTIONMENT.--

27           (a) The Governor shall, with the agreement of the  
28 affected units of general-purpose local government as required  
29 by federal rules and regulations, apportion the membership on  
30 the applicable M.P.O. among the various governmental entities  
31 within the area and shall prescribe a method for appointing

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 alternate members who may vote at any M.P.O. meeting that an  
2 alternate member attends in place of a regular member. An  
3 appointed alternate member must be an elected official serving  
4 the same governmental entity or a general-purpose local  
5 government with jurisdiction within all or part of the area  
6 that the regular member serves. The governmental entity so  
7 designated shall appoint the appropriate number of members to  
8 the M.P.O. from eligible officials. Representatives of the  
9 department shall serve as nonvoting members of the M.P.O.  
10 Nonvoting advisers may be appointed by the M.P.O. as deemed  
11 necessary. The Governor shall review the composition of the  
12 M.P.O. membership in conjunction with the decennial census as  
13 prepared by the United States Department of Commerce, Bureau  
14 of Census at least every 5 years and reapportion it as  
15 necessary to comply with subsection (2).

16 (b) Except for members who represent municipalities on  
17 the basis of alternating with representatives from other  
18 municipalities that do not have members on the M.P.O. as  
19 provided in paragraph (2)(a), the members of an M.P.O. shall  
20 serve 4-year terms. Members who represent municipalities on  
21 the basis of alternating with representatives from other  
22 municipalities that do not have members on the M.P.O. as  
23 provided in paragraph (2)(a) may serve terms of up to 4 years  
24 as further provided in the interlocal agreement described in  
25 paragraph (1)(b). The membership of a member who is a public  
26 official automatically terminates upon the member's leaving  
27 his or her elective or appointive office for any reason, or  
28 may be terminated by a majority vote of the total membership  
29 of a county or city governing entity represented by the  
30 member. A vacancy shall be filled by the original appointing  
31 entity. A member may be reappointed for one or more

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 additional 4-year terms.

2 (c) If a governmental entity fails to fill an assigned  
3 appointment to an M.P.O. within 60 days after notification by  
4 the Governor of its duty to appoint, that appointment shall be  
5 made by the Governor from the eligible representatives of that  
6 governmental entity.

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

18 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,  
19 privileges, and authority of an M.P.O. are those specified in  
20 this section or incorporated in an interlocal agreement  
21 authorized under s. 163.01. Each M.P.O. shall perform all  
22 acts required by federal or state laws or rules, now and  
23 subsequently applicable, which are necessary to qualify for  
24 federal aid. It is the intent of this section that each M.P.O.  
25 shall be involved in the planning and programming of  
26 transportation facilities, including, but not limited to,  
27 airports, intercity and high-speed rail lines, seaports, and  
28 intermodal facilities, to the extent permitted by state or  
29 federal law.

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

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

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

7           (b) In developing the long-range transportation plan  
8 and the transportation improvement program required under  
9 paragraph (a), each M.P.O. shall provide for consideration of  
10 projects and strategies that will ~~must, at a minimum,~~  
11 ~~consider:~~

12           1. Support the economic vitality of the metropolitan  
13 area, especially by enabling global competitiveness,  
14 productivity, and efficiency;

15           2. Increase the safety and security of the  
16 transportation system for motorized and nonmotorized users;

17           3. Increase the accessibility and mobility options  
18 available to people and for freight;

19           4. Protect and enhance the environment, promote energy  
20 conservation, and improve quality of life;

21           5. Enhance the integration and connectivity of the  
22 transportation system, across and between modes, for people  
23 and freight;

24           6. Promote efficient system management and operation;  
25 and

26           7. Emphasize the preservation of the existing  
27 transportation system.

28           ~~1. The preservation of existing transportation~~  
29 ~~facilities and, where practical, ways to meet transportation~~  
30 ~~needs by using existing facilities more efficiently;~~

31           ~~2. The consistency of transportation planning with~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

- 1 ~~applicable federal, state, and local energy conservation~~  
2 ~~programs, goals, and objectives;~~
- 3 ~~3. The need to relieve congestion and prevent~~  
4 ~~congestion from occurring where it does not yet occur;~~
- 5 ~~4. The likely effect of transportation policy~~  
6 ~~decisions on land use and development and the consistency of~~  
7 ~~transportation plans and programs with all applicable~~  
8 ~~short-term and long-term land use and development plans;~~
- 9 ~~5. The programming of transportation enhancement~~  
10 ~~activities as required by federal law;~~
- 11 ~~6. The effect of all transportation projects to be~~  
12 ~~undertaken in the metropolitan area, without regard to whether~~  
13 ~~such projects are publicly funded;~~
- 14 ~~7. The provision of access to seaports, airports,~~  
15 ~~intermodal transportation facilities, major freight~~  
16 ~~distribution routes, national and state parks, recreation~~  
17 ~~areas, monuments and historic sites, and military~~  
18 ~~installations;~~
- 19 ~~8. The need for roads within the metropolitan area to~~  
20 ~~efficiently connect with roads outside the metropolitan area;~~
- 21 ~~9. The transportation needs identified through the use~~  
22 ~~of transportation management systems required by federal or~~  
23 ~~state law;~~
- 24 ~~10. The preservation of rights-of-way for construction~~  
25 ~~of future transportation projects, including the~~  
26 ~~identification of unused rights-of-way that may be needed for~~  
27 ~~future transportation corridors and the identification of~~  
28 ~~corridors for which action is most needed to prevent~~  
29 ~~destruction or loss;~~
- 30 ~~11. Any available methods to enhance the efficient~~  
31 ~~movement of freight;~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

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

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

7           ~~15. The possible allocation of capital investments to~~  
8 ~~increase security for transit systems.~~

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

12           1. Prepare a congestion management system for the  
13 metropolitan area and cooperate with the department in the  
14 development of all other transportation management systems  
15 required by state or federal law;

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

18           3. Assist the department in performing its duties  
19 relating to access management, functional classification of  
20 roads, and data collection;

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

23           5. Represent all the jurisdictional areas within the  
24 metropolitan area in the formulation of transportation plans  
25 and programs required by this section; and

26           6. Perform all other duties required by state or  
27 federal law.

28           (d) Each M.P.O. shall appoint a technical advisory  
29 committee that includes planners; engineers; representatives  
30 of local aviation authorities, port authorities, and public  
31 transit authorities or representatives of aviation

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

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

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

31 (f) The department shall allocate to each M.P.O., for

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 the purpose of accomplishing its transportation planning and  
2 programming duties, an appropriate amount of federal  
3 transportation planning funds.

4 (g) Each M.P.O. may employ personnel or may enter into  
5 contracts with local or state agencies, private planning  
6 firms, or private engineering firms to accomplish its  
7 transportation planning and programming duties required by  
8 state or federal law.

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

23 (a) Identify transportation facilities, including, but  
24 not limited to, major roadways, airports, seaports, commuter  
25 rail systems, transit systems, and intermodal or multimodal  
26 terminals that will function as an integrated metropolitan  
27 transportation system. The long-range transportation plan  
28 must give emphasis to those transportation facilities that  
29 serve national, statewide, or regional functions, and must  
30 consider the goals and objectives identified in the Florida  
31 Transportation Plan as provided in s. 339.155. If a project is

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 located within the boundaries of more than one M.P.O., the  
2 M.P.O.'s must coordinate plans regarding the project in the  
3 long-range transportation plan.

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

20 (c) Assess capital investment and other measures  
21 necessary to:

22 1. Ensure the preservation of the existing  
23 metropolitan transportation system including requirements for  
24 the operation, resurfacing, restoration, and rehabilitation of  
25 major roadways and requirements for the operation,  
26 maintenance, modernization, and rehabilitation of public  
27 transportation facilities; and

28 2. Make the most efficient use of existing  
29 transportation facilities to relieve vehicular congestion and  
30 maximize the mobility of people and goods.

31 (d) Indicate, as appropriate, proposed transportation

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 enhancement activities, including, but not limited to,  
2 pedestrian and bicycle facilities, scenic easements,  
3 landscaping, historic preservation, mitigation of water  
4 pollution due to highway runoff, and control of outdoor  
5 advertising.

6 (e) In addition to the requirements of paragraphs  
7 (a)-(d), in metropolitan areas that are classified as  
8 nonattainment areas for ozone or carbon monoxide, the M.P.O.  
9 must coordinate the development of the long-range  
10 transportation plan with the State Implementation Plan  
11 developed pursuant to the requirements of the federal Clean  
12 Air Act.

13  
14 In the development of its long-range transportation plan, each  
15 M.P.O. must provide the public, affected public agencies,  
16 representatives of transportation agency employees, freight  
17 shippers, providers of freight transportation services,  
18 private providers of transportation, representatives of users  
19 of public transit, and other interested parties, ~~and members~~  
20 ~~of the general public~~ with a reasonable opportunity to comment  
21 on the long-range transportation plan. The long-range  
22 transportation plan must be approved by the M.P.O.

23 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.  
24 shall, in cooperation with the state and affected public  
25 transportation operators, develop a transportation improvement  
26 program for the area within the jurisdiction of the M.P.O. In  
27 the development of the transportation improvement program,  
28 each M.P.O. must provide the public, affected public ~~transit~~  
29 agencies, representatives of transportation agency employees,  
30 freight shippers, providers of freight transportation  
31 services, private providers of transportation, representatives

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 of users of public transit, and other interested parties,~~and~~  
2 ~~members of the general public~~ with a reasonable opportunity to  
3 comment on the proposed transportation improvement program.

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

18 (b) Each M.P.O. annually shall prepare a list of  
19 project priorities and shall submit the list to the  
20 appropriate district of the department by October 1 of each  
21 year; however, the department and a metropolitan planning  
22 organization may, in writing, agree to vary this submittal  
23 date. The list of project priorities must be formally reviewed  
24 by the technical and citizens' advisory committees, and  
25 approved by the M.P.O., before it is transmitted to the  
26 district. The approved list of project priorities must be used  
27 by the district in developing the district work program and  
28 must be used by the M.P.O. in developing its transportation  
29 improvement program. The annual list of project priorities  
30 must be based upon project selection criteria that, at a  
31 minimum, consider the following:

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           1. The approved M.P.O. long-range transportation plan;

2           2. The results of the transportation management  
3 systems; and

4           3. The M.P.O.'s public-involvement procedures.

5           (c) The transportation improvement program must, at a  
6 minimum:

7           1. Include projects and project phases to be funded  
8 with state or federal funds within the time period of the  
9 transportation improvement program and which are recommended  
10 for advancement during the next fiscal year and 4 subsequent  
11 fiscal years. Such projects and project phases must be  
12 consistent, to the maximum extent feasible, with the approved  
13 local government comprehensive plans of the units of local  
14 government located within the jurisdiction of the M.P.O. For  
15 informational purposes, the transportation improvement program  
16 shall also include a list of projects to be funded from local  
17 or private revenues.

18           2. Include projects within the metropolitan area which  
19 are proposed for funding under 23 U.S.C. s. 134 of the Federal  
20 Transit Act and which are consistent with the long-range  
21 transportation plan developed under subsection (6).

22           3. Provide a financial plan that demonstrates how the  
23 transportation improvement program can be implemented;  
24 indicates the resources, both public and private, that are  
25 reasonably expected to be available to accomplish the program;  
26 identifies and recommends any innovative financing techniques  
27 that may be used to fund needed projects and programs; and may  
28 include, for illustrative purposes, additional projects that  
29 would be included in the approved transportation improvement  
30 program if reasonable additional resources beyond those  
31 identified in the financial plan were available. Innovative

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 financing. ~~Such~~ techniques may include the assessment of  
2 tolls, the use of value capture financing, or the use of value  
3 ~~congestion~~ pricing. The transportation improvement program  
4 may include a project or project phase only if full funding  
5 can reasonably be anticipated to be available for the project  
6 or project phase within the time period contemplated for  
7 completion of the project or project phase.

8 4. Group projects and project phases of similar  
9 urgency and anticipated staging into appropriate staging  
10 periods.

11 5. Indicate how the transportation improvement program  
12 relates to the long-range transportation plan developed under  
13 subsection (6), including providing examples of specific  
14 projects or project phases that further the goals and policies  
15 of the long-range transportation plan.

16 6. Indicate whether any project or project phase is  
17 inconsistent with an approved comprehensive plan of a unit of  
18 local government located within the jurisdiction of the M.P.O.  
19 If a project is inconsistent with an affected comprehensive  
20 plan, the M.P.O. must provide justification for including the  
21 project in the transportation improvement program.

22 7. Indicate how the improvements are consistent, to  
23 the maximum extent feasible, with affected seaport and airport  
24 master plans and with public transit development plans of the  
25 units of local government located within the jurisdiction of  
26 the M.P.O. If a project is located within the boundaries of  
27 more than one M.P.O., the M.P.O.'s must coordinate plans  
28 regarding the project in the transportation improvement  
29 program.

30 (d) Projects included in the transportation  
31 improvement program and that have advanced to the design stage

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 of preliminary engineering may be removed from or rescheduled  
2 in a subsequent transportation improvement program only by the  
3 joint action of the M.P.O. and the department. Except when  
4 recommended in writing by the district secretary for good  
5 cause, any project removed from or rescheduled in a subsequent  
6 transportation improvement program shall not be rescheduled by  
7 the M.P.O. in that subsequent program earlier than the 5th  
8 year of such program.

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

18 (f)(e) The adopted annual transportation improvement  
19 program for M.P.O.'s in nonattainment or maintenance areas  
20 must be submitted to the district secretary and the Department  
21 of Community Affairs at least 90 days before the submission of  
22 the state transportation improvement program by the department  
23 to the appropriate federal agencies. The annual transportation  
24 improvement program for M.P.O.'s in attainment areas must be  
25 submitted to the district secretary and the Department of  
26 Community Affairs at least 45 days before the department  
27 submits the state transportation improvement program to the  
28 appropriate federal agencies; however, the department, the  
29 Department of Community Affairs, and a metropolitan planning  
30 organization may, in writing, agree to vary this submittal  
31 date. The Governor or the Governor's designee shall review

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 and approve each transportation improvement program and any  
2 amendments thereto.

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

15 (h) The M.P.O. shall annually publish or otherwise  
16 make available for public review the annual listing of  
17 projects for which federal funds have been obligated in the  
18 preceding year. Project monitoring systems must be maintained  
19 by those agencies responsible for obligating federal funds and  
20 made accessible to the M.P.O.'s.

21 (8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall  
22 develop, in cooperation with the department and public  
23 transportation providers, a unified planning work program that  
24 lists all planning tasks to be undertaken during the program  
25 year. The unified planning work program must provide a  
26 complete description of each planning task and an estimated  
27 budget therefor and must comply with applicable state and  
28 federal law.

29 (9) AGREEMENTS.--

30 (a) Each M.P.O. shall execute the following written  
31 agreements, which shall be reviewed, and updated as necessary,

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 every 5 years:

2 1. An agreement with the department clearly  
3 establishing the cooperative relationship essential to  
4 accomplish the transportation planning requirements of state  
5 and federal law.

6 2. An agreement with the metropolitan and regional  
7 intergovernmental coordination and review agencies serving the  
8 metropolitan areas, specifying the means by which activities  
9 will be coordinated and how transportation planning and  
10 programming will be part of the comprehensive planned  
11 development of the area.

12 3. An agreement with operators of public  
13 transportation systems, including transit systems, commuter  
14 rail systems, airports, and seaports, describing the means by  
15 which activities will be coordinated and specifying how public  
16 transit, commuter rail, aviation, and seaport planning and  
17 programming will be part of the comprehensive planned  
18 development of the metropolitan area.

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

22 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY  
23 COUNCIL.--

24 (a) A Metropolitan Planning Organization Advisory  
25 Council is created to augment, and not supplant, the role of  
26 the individual M.P.O.'s in the cooperative transportation  
27 planning process described in s. 339.155(5).

28 (b) The council shall consist of one representative  
29 from each M.P.O. and shall elect a chairperson annually from  
30 its number. Each M.P.O. shall also elect an alternate  
31 representative from each M.P.O. to vote in the absence of the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 representative. Members of the council do not receive any  
2 compensation for their services, but may be reimbursed from  
3 funds made available to council members for travel and per  
4 diem expenses incurred in the performance of their council  
5 duties as provided in s. 112.061.

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

8 1. Enter into contracts with individuals, private  
9 corporations, and public agencies.

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

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

14 4. Establish bylaws and adopt rules pursuant to ss.  
15 120.536(1) and 120.54 to implement provisions of law  
16 conferring powers or duties upon it.

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

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

25 7. Employ an executive director and such other staff  
26 as necessary to perform adequately the functions of the  
27 council, within budgetary limitations. The executive director  
28 and staff are exempt from part II of chapter 110 and serve at  
29 the direction and control of the council. The council is  
30 assigned to the Office of the Secretary of the Department of  
31 Transportation ~~or~~ for fiscal and accountability purposes, but

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 it shall otherwise function independently of the control and  
2 direction of the department.

3 8. Adopt an agency strategic plan that provides the  
4 priority directions the agency will take to carry out its  
5 mission within the context of the state comprehensive plan and  
6 any other statutory mandates and directions given to the  
7 agency.

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

16 Section 34. Subsection (14) is added to section  
17 341.041, Florida Statutes, 1998 Supplement, to read:

18 341.041 Transit responsibilities of the  
19 department.--The department shall, within the resources  
20 provided pursuant to chapter 216:

21 (14) Create and maintain a common self-retention  
22 insurance fund to support fixed-guideway projects throughout  
23 the state when there is a contractual obligation to have the  
24 fund in existence in order to provide fixed-guideway services.  
25 The maximum limit of the fund is as required by any  
26 contractual obligation.

27 Section 35. Subsections (6) and (8) of section  
28 341.302, Florida Statutes, are amended to read:

29 341.302 Rail program, duties and responsibilities of  
30 the department.--The department, in conjunction with other  
31 governmental units and the private sector, shall develop and

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 implement a rail program of statewide application designed to  
2 ensure the proper maintenance, safety, revitalization, and  
3 expansion of the rail system to assure its continued and  
4 increased availability to respond to statewide mobility needs.  
5 Within the resources provided pursuant to chapter 216, and as  
6 authorized under Title 49 C.F.R. part 212, the department  
7 shall:

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

11 (8) Conduct, at a minimum, inspections of track and  
12 rolling stock, train signals and related equipment, hazardous  
13 materials transportation, including the loading, unloading,  
14 and labeling of hazardous materials at shippers', receivers',  
15 and transfer points, and train operating practices to  
16 determine adherence to state and federal standards.

17 Department personnel may enforce any safety regulation issued  
18 under the Federal Government's preemptive authority over  
19 interstate commerce.

20 Section 36. Paragraph (a) of subsection (2) and  
21 subsections (3), (4), (5), (6), (9), and (10) of section  
22 373.4137, Florida Statutes, are amended to read:

23 373.4137 Mitigation requirements.--

24 (2) Environmental impact inventories for  
25 transportation projects proposed by the Department of  
26 Transportation shall be developed as follows:

27 (a) By May 1 of each year ~~Beginning July 1996~~, the  
28 Department of Transportation shall submit ~~annually~~ to the  
29 Department of Environmental Protection and the water  
30 management districts a copy of its adopted work program and an  
31 inventory of habitats addressed in the rules tentatively,

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~adopted~~ pursuant to this part and s. 404 of the Clean Water  
2 Act, 33 U.S.C. s. 1344, which may be impacted by its plan of  
3 construction for transportation projects in the next first 3  
4 years of the tentative work program. The Department of  
5 Transportation may also include in its inventory the habitat  
6 impacts of any future transportation project identified in the  
7 tentative work program. ~~For the July 1996 submittal, the~~  
8 ~~inventory may exclude those projects which have received~~  
9 ~~permits pursuant to this part and s. 404 of the Clean Water~~  
10 ~~Act, 33 U.S.C. s. 1344, projects for which mitigation planning~~  
11 ~~or design has commenced, or projects for which mitigation has~~  
12 ~~been implemented in anticipation of future permitting needs.~~

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 limited to, design, engineering, production, and staff  
2 support. Actual conceptual plan preparation costs incurred  
3 before 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 July 1,  
19 beginning in 1998, the cost per acre shall be adjusted by the  
20 percentage change in the average of the Consumer Price Index  
21 issued by the United States Department of Labor for the most  
22 recent 12-month period ending September 30, compared to the  
23 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 modifications, pursuant to this part and s. 404 of the Clean  
28 Water Act, 33 U.S.C. s. 1344. The subject, and the following  
29 year's transfer of funds shall be adjusted accordingly to  
30 reflect the overtransfer or undertransfer of funds from the  
31 preceding year. The Department of Transportation Environmental

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

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

25 (b) Specific projects may be excluded from the  
 26 mitigation plan and shall not be subject to this section upon  
 27 the agreement of the Department of Transportation, the  
 28 Department of Environmental Protection, and the appropriate  
 29 water management district that the inclusion of such projects  
 30 would hamper the efficiency or timeliness of the mitigation  
 31 planning and permitting process, or the Department of

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Environmental Protection and the water management district are  
2 unable to identify mitigation that would offset the impacts of  
3 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 provided 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~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

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 ~~(9) The recommended mitigation plan shall be annually~~  
16 ~~submitted to the Executive Office of the Governor and the~~  
17 ~~Legislature through the legislative budget request of the~~  
18 ~~Department of Environmental Protection in accordance with~~  
19 ~~chapter 216. Any funds not directed to implement the~~  
20 ~~mitigation plan should, to the greatest extent possible, be~~  
21 ~~directed to fund aquatic and exotic plant problems within the~~  
22 ~~wetlands and other surface waters.~~

23 ~~(10) By December 1, 1997, the Department of~~  
24 ~~Environmental Protection, in consultation with the water~~  
25 ~~management districts, shall submit a report to the Governor,~~  
26 ~~the President of the Senate, and the Speaker of the House of~~  
27 ~~Representatives describing the implementation of this section,~~  
28 ~~including the use of public and private mitigation banks and~~  
29 ~~other types of mitigation approved in the mitigation plan.~~  
30 ~~The report shall also recommend any amendments to this section~~  
31 ~~necessary to improve the process for developing and~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~implementing mitigation plans for the Department of~~  
2 ~~Transportation. The report shall also include a specific~~  
3 ~~section on how private and public mitigation banks are~~  
4 ~~utilized within the mitigation plans.~~

5 Section 37. Subsections (3) and (23) of section  
6 479.01, Florida Statutes, are amended to read:

7 479.01 Definitions.--As used in this chapter, the  
8 term:

9 (3) "Commercial or industrial zone" means a parcel of  
10 land an area within 660 feet of the nearest edge of the  
11 right-of-way of the interstate or federal-aid primary system  
12 designated predominately for commercial or industrial use  
13 under both the future land use map of the comprehensive plan  
14 and the land use development regulations adopted pursuant to  
15 chapter 163. If a parcel is located in an area designated for  
16 multiple uses on the future land use map of a comprehensive  
17 plan and the land development regulations do not clearly  
18 designate that parcel for a specific use, the area will be  
19 considered an unzoned commercial or industrial area if it  
20 meets the criteria of subsection (23).~~Where a local~~  
21 ~~governmental entity has not enacted a comprehensive plan by~~  
22 ~~local ordinance but has zoning regulations governing the area,~~  
23 ~~the zoning of an area shall determine whether the area is~~  
24 ~~designated predominately for commercial or industrial uses.~~

25 (23) "Unzoned commercial or industrial area" means a  
26 parcel of land designated by the an area within 660 feet of  
27 the nearest edge of the right-of-way of the interstate or  
28 federal-aid primary system where the land use is not covered  
29 by a future land use map of the comprehensive plan for  
30 multiple uses that include commercial or industrial uses but  
31 are not specifically designated for commercial or industrial

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 uses under the land development regulations or zoning  
 2 regulation pursuant to subsection (2), in which there are  
 3 located three or more separate and distinct conforming  
 4 industrial or commercial activities are located.

5 (a) These activities must satisfy the following  
 6 criteria:

7 1. At least one of the commercial or industrial  
 8 activities must be located on the same side of the highway and  
 9 within 800 feet of the sign location;

10 2. The commercial or industrial activities must be  
 11 within 660 feet from the nearest edge of the right-of-way; and

12 3. The commercial industrial activities must be within  
 13 1,600 feet of each other.

14  
 15 Distances specified in this paragraph must be measured from  
 16 the nearest outer edge of the primary building or primary  
 17 building complex when the individual units of the complex are  
 18 connected by covered walkways. ~~uses located within a~~  
 19 ~~1,600-foot radius of each other and generally recognized as~~  
 20 ~~commercial or industrial by zoning authorities in this state.~~

21 (b) Certain activities, including, but not limited to,  
 22 the following, may not be so recognized as commercial or  
 23 industrial activities:

24 1.(a) Signs.

25 2.(b) Agricultural, forestry, ranching, grazing,  
 26 farming, and related activities, including, but not limited  
 27 to, wayside fresh produce stands.

28 3.(c) Transient or temporary activities.

29 4.(d) Activities not visible from the main-traveled  
 30 way.

31 5.(e) Activities conducted more than 660 feet from the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 nearest edge of the right-of-way.

2 6.(f) Activities conducted in a building principally  
3 used as a residence.

4 7.(g) Railroad tracks and minor sidings.

5 8. Communication towers.

6 Section 38. Paragraphs (b) and (c) of subsection (8)  
7 of section 479.07, Florida Statutes, are amended to read:

8 479.07 Sign permits.--

9 (8)

10 (b) If a permittee has not submitted his or her fee  
11 payment by the expiration date of the licenses or permits, the  
12 department shall send a notice of violation to the permittee  
13 within 45 days after the expiration date, requiring the  
14 payment of the permit fee within 30 days after the date of the  
15 notice and payment of a delinquency fee equal to 10 percent of  
16 the original amount due or, in the alternative to these  
17 payments, requiring the filing of a request for an  
18 administrative hearing to show cause why his or her sign  
19 should not be subject to immediate removal due to expiration  
20 of his or her license or permit. If the permittee submits  
21 payment as required by the violation notice, his or her  
22 license or permit will be automatically reinstated and such  
23 reinstatement will be retroactive to the original expiration  
24 date. If the permittee does not respond to the notice of  
25 violation within the 30-day period, the department shall,  
26 within 30 days, issue a final notice of sign removal and may,  
27 following 90 days after the date of the department's final  
28 notice of sign removal, remove the sign without incurring any  
29 liability as a result of such removal. However, if at any time  
30 before removal of the sign ~~within 90 days after the date of~~  
31 ~~the department's final notice of sign removal~~, the permittee

Bill No. HB 591, 2nd Eng.

Amendment No.     

1 demonstrates that a good-faith ~~good faith~~ error on the part of  
2 the permittee resulted in cancellation or nonrenewal of the  
3 permit, the department may reinstate the permit if:

4 ~~1. The sign has not yet been disassembled by the~~  
5 ~~permittee;~~

6 ~~2. Conflicting applications have not been filed by~~  
7 ~~other persons;~~

8 ~~1.3.~~ The permit reinstatement fee of up to \$300 based  
9 on the size of the sign is paid;

10 ~~2.4.~~ All other permit renewal and delinquent permit  
11 fees due as of the reinstatement date are paid; and

12 ~~3.5.~~ The permittee reimburses the department for all  
13 actual costs resulting from the permit cancellation or  
14 nonrenewal ~~and sign removal.~~

15 (c) Conflicting applications filed by other persons  
16 for the same or competing sites covered by a permit subject to  
17 paragraph (b) may not be approved until after the sign subject  
18 to the expired permit has been removed.

19 ~~(d)(c)~~ The cost for removing a sign, whether by the  
20 department or an independent contractor, shall be assessed by  
21 the department against the permittee.

22 Section 39. Subsection (15) of section 479.16, Florida  
23 Statutes, is amended to read:

24 479.16 Signs for which permits are not required.--The  
25 following signs are exempt from the requirement that a permit  
26 for a sign be obtained under the provisions of this chapter  
27 but are required to comply with the provisions of s.

28 479.11(4)-(8):

29 (15) Signs not in excess of 16 square feet placed at a  
30 road junction with the State Highway System denoting only the  
31 distance or direction of a residence or farm operation, or, in

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 a rural area where a hardship is created because a small  
2 business is not visible from the road junction with the State  
3 Highway System, one sign not in excess of 16 # square feet,  
4 denoting only the name of the business and the distance and  
5 direction to the business. The small-business-sign provision  
6 of this subsection does not apply to charter counties and may  
7 not be implemented if the Federal Government notifies the  
8 department that implementation will adversely affect the  
9 allocation of federal funds to the department.

10 Section 40. Subsection (5) is added to section  
11 320.0715, Florida Statutes, to read:

12 320.0715 International Registration Plan; motor  
13 carrier services; permits; retention of records.--

14 (5) The provisions of this section do not apply to any  
15 commercial motor vehicle domiciled in a foreign state that  
16 enters this state solely for the purpose of bringing a  
17 commercial vehicle in for repairs, or picking up a newly  
18 purchased commercial vehicle, so long as the commercial motor  
19 vehicle is operated by its owner and is not hauling a load.

20 Section 41. Section 334.035, Florida Statutes, is  
21 amended to read:

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

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 the preservation of all transportation facilities in the  
2 state. The chapters in the code shall be considered  
3 components of the total code, and the provisions therein,  
4 unless expressly limited in scope, shall apply to all  
5 chapters.

6 Section 42. Subsection (1) of section 334.0445,  
7 Florida Statutes, 1998 Supplement, is amended to read:

8 334.0445 Model career service classification and  
9 compensation plan.--

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

24 Section 43. Section 334.046, Florida Statutes, is  
25 amended to read:

26 (Substantial rewording of section. See

27 s. 334.046, F.S., for present text.)

28 334.046 Department mission, goals, and objectives.--

29 (1) The mission of the Department of Transportation

30 shall be to provide a safe, interconnected statewide

31 transportation system for Florida's citizens and visitors that

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ensures the mobility of people and freight, while enhancing  
 2 economic prosperity and sustaining the quality of our  
 3 environment.

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

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

10 (a) Providing a safe transportation system for  
 11 residents, visitors, and commerce.

12 (b) Preservation of the transportation system.

13 (c) Providing an interconnected transportation system  
 14 to support Florida's economy.

15 (d) Providing travel choices to support Florida's  
 16 communities.

17 Section 44. Section 334.071, Florida Statutes, is  
 18 created to read:

19 334.071 Legislative designation of transportation  
 20 facilities.--

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

28 (2) The effect of such designations shall only be  
 29 construed to require the placement of markers by the  
 30 department at the termini or intersections specified for each  
 31 highway segment or bridge designated, and as authority for the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 department to place other markers as appropriate for the  
2 transportation facility being designated.

3 Section 45. Section 337.025, Florida Statutes, is  
4 amended to read:

5 337.025 Innovative highway projects; department to  
6 establish program.--The department is authorized to establish  
7 a program for highway projects demonstrating innovative  
8 techniques of highway construction and finance which have the  
9 intended effect of controlling time and cost increases on  
10 construction projects. Such techniques may include, but are  
11 not limited to, state-of-the-art technology for pavement,  
12 safety, and other aspects of highway construction; innovative  
13 bidding and financing techniques; accelerated construction  
14 procedures; and those techniques that have the potential to  
15 reduce project life cycle costs. To the maximum extent  
16 practical, the department must use the existing process to  
17 award and administer construction contracts. When specific  
18 innovative techniques are to be used, the department is not  
19 required to adhere to those provisions of law that would  
20 prevent, preclude, or in any way prohibit the department from  
21 using the innovative technique. However, prior to using an  
22 innovative technique that is inconsistent with another  
23 provision of law, the department must document in writing the  
24 need for the exception and identify what benefits the  
25 traveling public and the affected community are anticipated to  
26 receive. The department may enter into no more than ~~\$120~~\$60  
27 million in contracts annually for the purposes authorized by  
28 this section.

29 Section 46. Paragraph (a) of subsection (4) of section  
30 339.135, Florida Statutes, is amended to read:

31 339.135 Work program; legislative budget request;

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 definitions; preparation, adoption, execution, and  
2 amendment.--

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

4 (a)1. To assure that no district or county is  
5 penalized for local efforts to improve the State Highway  
6 System, the department shall, for the purpose of developing a  
7 tentative work program, allocate funds for new construction to  
8 the districts, except for the turnpike district, based on  
9 equal parts of population and motor fuel tax collections.

10 Funds for resurfacing, bridge repair and rehabilitation,  
11 bridge fender system construction or repair, public transit  
12 projects except public transit block grants as provided in s.  
13 341.052, and other programs with quantitative needs  
14 assessments shall be allocated based on the results of these  
15 assessments. The department may not transfer any funds  
16 allocated to a district under this paragraph to any other  
17 district except as provided in subsection (7). Funds for  
18 public transit block grants shall be allocated to the  
19 districts pursuant to s. 341.052.

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

31 Section 47. Subsections (2) through (5) of section

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 341.053, Florida Statutes, are renumbered as subsections (3)  
2 through (6), respectively, and a new subsection (2) is added  
3 to that section to read:

4 341.053 Intermodal Development Program;  
5 administration; eligible projects; limitations.--

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

16 (a) Define and assess the state's freight intermodal  
17 network, including airports, seaports, rail lines and  
18 terminals, and connecting highways.

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

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

28 Section 48. Section 348.9401, Florida Statutes, is  
29 amended to read:

30 348.9401 Short title.--This part shall be known and  
31 may be cited as the "St. Lucie County Expressway and Bridge

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Authority Law."

2 Section 49. Subsections (2) and (11) of section  
3 348.941, Florida Statutes, are amended to read:

4 348.941 Definitions.--As used in this part, unless the  
5 context clearly indicates otherwise, the term:

6 (2) "Authority" means the St. Lucie County Expressway  
7 and Bridge Authority.

8 (11) "St. Lucie County Expressway and Bridge System"  
9 means:

10 (a) any and all expressways in St. Lucie County and  
11 appurtenant facilities thereto, including, but not limited to,  
12 all approaches, roads, bridges, and avenues of access for such  
13 expressway or expressways; and

14 (b) The Indian River Lagoon Bridge.

15 Section 50. The catchline and subsections (1) and (2)  
16 of section 348.942, Florida Statutes, are amended to read:

17 348.942 St. Lucie County and Bridge Expressway  
18 Authority.--

19 (1) There is created and established a body politic  
20 and corporate, an agency of the state, to be known as the "St.  
21 Lucie County Expressway and Bridge Authority," hereinafter  
22 referred to as the "authority."

23 (2) The authority shall have the exclusive right to  
24 exercise all those powers herein set forth; and no other  
25 entity, body, or authority, whether within or without St.  
26 Lucie County, may either directly or indirectly exercise any  
27 jurisdiction, control, authority, or power in any manner  
28 relating to any expressway and bridge system within St. Lucie  
29 County without either the express consent of the authority or  
30 as otherwise provided herein.

31 Section 51. Paragraph (a) of subsection (1) and

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 paragraph (g) of subsection (2) of section 348.943, Florida  
2 Statutes, are amended to read:

3 348.943 Purposes and powers.--

4 (1)(a) The authority created and established by the  
5 provisions of this part is granted and shall have the right to  
6 acquire, hold, construct, improve, maintain, operate, own, and  
7 lease the St. Lucie County Expressway and Bridge System,  
8 hereinafter referred to as the "system."

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

14 (g)1. To borrow money as provided by the State Bond  
15 Act or, in the alternative, pursuant to the provisions of s.  
16 348.944(3), and in either case for any purpose of the  
17 authority authorized, including the financing or refinancing  
18 of the cost of all or any part of the system.

19 2. The authority shall reimburse St. Lucie County for  
20 any sums expended, together with interest at the highest rate  
21 applicable to the bonds of the authority for which the sums  
22 were required, from the St. Lucie County gasoline tax funds  
23 for payment of the bonds.

24 Section 52. Section 348.944, Florida Statutes, is  
25 amended to read:

26 348.944 Bonds.--

27 (1) Bonds may be issued on behalf of the authority as  
28 provided by the State Bond Act.

29 (2) As an alternative to subsection (1), the authority  
30 may issue its own bonds pursuant to subsection (3) in such  
31 principal amounts as, in the opinion of the authority, are

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 necessary to provide sufficient moneys for achieving its  
2 corporate purposes, so long as such bonds do not pledge the  
3 full faith and credit of the state, St. Lucie County, or any  
4 municipality in St. Lucie County.

5 (3) The bonds of the authority issued pursuant to this  
6 subsection, whether on original issuance or on refunding,  
7 shall be authorized by resolution of the members thereof and  
8 may be either term or serial bonds, shall bear such date or  
9 dates, mature at such time or times, not exceeding 40 years  
10 from their respective dates, bear interest at such rate or  
11 rates (not exceeding the maximum lawful rate), fixed or  
12 variable, be in such denominations, be in such form, carry  
13 such registration, exchangeability, and interchangeability  
14 privileges, be payable in such medium of payment and at such  
15 place or places, be subject to such terms of redemption, with  
16 or without premium, and have such rank and be entitled to such  
17 priorities on the revenues, tolls, fees, rentals, or other  
18 charges, receipts, or moneys of the authority, including any  
19 moneys received pursuant to the terms of any lease-purchase  
20 agreement between the authority and the department, as such  
21 resolution or any resolution subsequent thereto may provide.  
22 The bonds shall be executed either by manual or facsimile  
23 signature by such officers as the authority shall determine.  
24 The term "bonds" shall include all forms of indebtedness,  
25 including notes. The proceeds of any bonds shall be used for  
26 such purposes and shall be disbursed in such manner and under  
27 such restrictions, if any, as the authority may provide  
28 pursuant to resolution. The bonds may also be issued pursuant  
29 to an indenture of trust or other agreement with such trustee  
30 or fiscal agent as may be selected by the authority. The  
31 resolution, indenture of trust, or other agreement may contain

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 such provisions securing the bonds as the authority deems  
2 appropriate. The principal of and the interest on the bonds  
3 shall be payable from such revenues, tolls, fees, rentals, or  
4 other charges, receipts, or moneys as determined by the  
5 authority pursuant to resolution. The authority may grant a  
6 lien upon and pledge such revenues, tolls, fees, rentals, or  
7 other charges, receipts, or moneys in favor of the holders of  
8 each series of bonds in the manner and to the extent provided  
9 by the authority by resolution. Such revenues, tolls, fees,  
10 rentals, or other charges, receipts, or moneys shall  
11 immediately be subject to such lien without any physical  
12 delivery thereof, and such lien shall be valid and binding as  
13 against all parties having claims of any kind in tort,  
14 contract, or otherwise against the authority.

15 (4) Bonds issued by or on behalf of the authority  
16 shall be sold at public sale in the manner provided by the  
17 State Bond Act. However, if the authority shall determine by  
18 resolution that a negotiated sale of the bonds is in the best  
19 interest of the authority, the authority may negotiate for  
20 sale of the bonds with the underwriter or underwriters  
21 designated by the division in the case of bonds issued  
22 pursuant to subsection (1) or the authority in the case of  
23 bonds issued pursuant to subsection (3). The authority shall  
24 provide a specific finding by resolution as to the reason  
25 requiring the negotiated sale. Pending the preparation of  
26 definitive bonds, interim certificates may be issued to the  
27 purchaser or purchasers of such bonds and may contain such  
28 terms and conditions as the authority may determine.

29 Section 53. Section 348.9495, Florida Statutes, is  
30 created to read:

31 348.9495 Exemption from taxation.--The effectuation of

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 the authorized purposes of the authority created under this  
2 part is, shall, and will be in all respects for the benefit of  
3 the people of the state, for the increase of their commerce  
4 and prosperity, and for the improvement of their health and  
5 living conditions, and, since such authority will be  
6 performing essential governmental functions in effectuating  
7 such purposes, such authority shall not be required to pay any  
8 taxes or assessments of any kind or nature whatsoever upon any  
9 property acquired or used by it for such purposes or upon any  
10 tolls, fees, rentals, receipts, moneys, or charges at any time  
11 received by it, and the bonds issued by the authority, their  
12 transfer, and the income therefrom, including any profits made  
13 on the sale thereof, shall at all times be free from taxation  
14 of any kind by the state or by any political subdivision,  
15 taxing agency, or instrumentality thereof. The exemption  
16 granted by this section shall not be applicable to any tax  
17 imposed by chapter 220 on interest, income, or profits on debt  
18 obligations owned by corporations.

19 Section 54. Paragraph (d) of subsection (1) of section  
20 212.055, Florida Statutes, 1998 Supplement, is amended to  
21 read:

22 212.055 Discretionary sales surtaxes; legislative  
23 intent; authorization and use of proceeds.--It is the  
24 legislative intent that any authorization for imposition of a  
25 discretionary sales surtax shall be published in the Florida  
26 Statutes as a subsection of this section, irrespective of the  
27 duration of the levy. Each enactment shall specify the types  
28 of counties authorized to levy; the rate or rates which may be  
29 imposed; the maximum length of time the surtax may be imposed,  
30 if any; the procedure which must be followed to secure voter  
31 approval, if required; the purpose for which the proceeds may

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 be expended; and such other requirements as the Legislature  
2 may provide. Taxable transactions and administrative  
3 procedures shall be as provided in s. 212.054.

4 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

5 (d) Proceeds from the surtax shall be applied to as  
6 many or as few of the uses enumerated below in whatever  
7 combination the county commission deems appropriate:

8 1. Deposited by the county in the trust fund and shall  
9 be used ~~only~~ for the purposes of development, construction,  
10 equipment, maintenance, operation, supportive services,  
11 including a countywide bus system, and related costs of a  
12 fixed guideway rapid transit system;

13 2. Remitted by the governing body of the county to an  
14 expressway or transportation authority created by law to be  
15 used, at the discretion of such authority, for the  
16 development, construction, operation, or maintenance of roads  
17 or bridges in the county, for the operation and maintenance of  
18 a bus system, ~~or~~ for the payment of principal and interest on  
19 existing bonds issued for the construction of such roads or  
20 bridges, and, upon approval by the county commission, such  
21 proceeds may be pledged for bonds issued to refinance existing  
22 bonds or new bonds issued for the construction of such roads  
23 or bridges; and ~~or~~

24 3. For each county, as defined in s. 125.011(1), used  
25 for the development, construction, operation, and ~~or~~  
26 maintenance of roads and bridges in the county; for the  
27 expansion, operation, and maintenance of ~~an existing~~ bus and  
28 fixed guideway systems ~~system~~; and ~~or~~ for the payment of  
29 principal and interest on ~~existing~~ bonds issued for the  
30 construction of fixed guideway rapid transit systems, bus  
31 systems, roads, or bridges; and such proceeds may be pledged

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 by the governing body of the county for bonds issued to  
2 refinance existing bonds or new bonds issued for the  
3 construction of such fixed guideway rapid transit systems, bus  
4 systems, roads, or bridges and no more than 25 percent used  
5 for nontransit uses.

6 Section 55. Paragraph (f) of subsection (2) of section  
7 348.0004, Florida Statutes, is amended to read:

8 348.0004 Purposes and powers.--

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

13 (f) To fix, alter, charge, establish, and collect  
14 tolls, rates, fees, rentals, and other charges for the  
15 services and facilities system, which tolls, rates, fees,  
16 rentals, and other charges must always be sufficient to comply  
17 with any covenants made with the holders of any bonds issued  
18 pursuant to the Florida Expressway Authority Act. However,  
19 such right and power may be assigned or delegated by the  
20 authority to the department. Notwithstanding s. 338.165 or any  
21 other provision of law to the contrary, in any county as  
22 defined in s. 125.011(1), to the extent surplus revenues  
23 exist, they may be used for purposes enumerated in subsection  
24 (7), provided the expenditures are consistent with the  
25 metropolitan planning organization's adopted long-range plan.  
26 Notwithstanding any other provision of law to the contrary,  
27 but subject to any contractual requirements contained in  
28 documents securing any outstanding indebtedness payable from  
29 tolls, in any county as defined in s. 125.011(1), the board of  
30 county commissioners may, by ordinance, alter or abolish  
31 existing tolls and currently approved increases thereto if the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 board provides a local source of funding to the county  
2 expressway system for transportation in an amount sufficient  
3 to replace revenues necessary to meet bond obligations secured  
4 by such tolls and increases.

5 Section 56. In addition to the voting membership  
6 established by s. 339.175(2), Florida Statutes, 1998  
7 Supplement, and notwithstanding any other provision of law to  
8 the contrary, the voting membership of any Metropolitan  
9 Planning Organization whose geographical boundaries include  
10 any county as defined in s. 125.011(1), Florida Statutes, must  
11 include an additional voting member appointed by that city's  
12 governing body for each city with a population of 50,000 or  
13 more residents.

14 Section 57. Effective January 1, 2000, section 73.015,  
15 Florida Statutes, is created to read:

16 73.015 Presuit negotiation.--

17 (1) Effective July 1, 2000, before an eminent domain  
18 proceeding is brought under this chapter or chapter 74, the  
19 condemning authority must attempt to negotiate in good faith  
20 with the fee owner of the parcel to be acquired, must provide  
21 the fee owner with a written offer and, if requested, a copy  
22 of the appraisal upon which the offer is based, and must  
23 attempt to reach an agreement regarding the amount of  
24 compensation to be paid for the parcel.

25 (a) At the inception of negotiation for acquisition,  
26 the condemning authority must notify the fee owner of the  
27 following:

28 1. That all or a portion of his or her property is  
29 necessary for a project.

30 2. The nature of the project for which the parcel is  
31 considered necessary, and the parcel designation of the

Bill No. HB 591, 2nd Eng.

Amendment No.     

1 property to be acquired.

2 3. That, within 15 business days after receipt of a  
3 request by the fee owner, the condemning authority will  
4 provide a copy of the appraisal report upon which the offer to  
5 the fee owner is based; copies, to the extent prepared, of the  
6 right-of-way maps or other documents that depict the proposed  
7 taking; and copies, to the extent prepared, of the  
8 construction plans that depict project improvements to be  
9 constructed on the property taken and improvements to be  
10 constructed adjacent to the remaining property, including, but  
11 not limited to, plan, profile, cross-section, drainage, and  
12 pavement marking sheets, and driveway connection detail. The  
13 condemning authority shall provide any additional plan sheets  
14 within 15 days of request.

15 4. The fee owner's statutory rights under ss. 73.091  
16 and 73.092.

17 5. The fee owner's rights and responsibilities under  
18 paragraphs (b) and (c) and subsection (4).

19 (b) The condemning authority must provide a written  
20 offer of compensation to the fee owner as to the value of the  
21 property sought to be appropriated and, where less than the  
22 entire property is sought to be appropriated, any damages to  
23 the remainder caused by the taking. The owner must be given at  
24 least 30 days after either receipt of the notice or the date  
25 the notice is returned as undeliverable by the postal  
26 authorities to respond to the offer, before the condemning  
27 authority files a condemnation proceeding for the parcel  
28 identified in the offer.

29 (c) The notice and written offer must be sent by  
30 certified mail, return receipt requested, to the fee owner's  
31 last known address listed on the county ad valorem tax roll.

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 Alternatively, the notice and written offer may be personally  
2 delivered to the fee owner of the property. If there is more  
3 than one owner of a property, notice to one owner constitutes  
4 notice to all owners of the property. The return of the notice  
5 as undeliverable by the postal authorities constitutes  
6 compliance with this provision. The condemning authority is  
7 not required to give notice or a written offer to a person who  
8 acquires title to the property after the notice required by  
9 this section has been given.

10 (d) Notwithstanding this subsection, with respect to  
11 lands acquired under s. 259.041, the condemning authority is  
12 not required to give the fee owner the current appraisal  
13 before executing an option contract.

14 (2) Effective July 1, 2000, before an eminent domain  
15 proceeding is brought under this chapter or chapter 74 by the  
16 Department of Transportation or by a county, municipality,  
17 board, district, or other public body for the condemnation of  
18 right-of-way, the condemning authority must make a good-faith  
19 effort to notify the business owners, including lessees, who  
20 operate a business located on the property to be acquired.

21 (a) The condemning authority must notify the business  
22 owner of the following:

23 1. That all or a portion of his or her property is  
24 necessary for a project.

25 2. The nature of the project for which the parcel is  
26 considered necessary, and the parcel designation of the  
27 property to be acquired.

28 3. That, within 15 business days after receipt of a  
29 request by the business owner, the condemning authority will  
30 provide a copy of the appraisal report upon which the offer to  
31 the fee owner is based; copies, to the extent prepared, of the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 right-of-way maps or other documents that depict the proposed  
2 taking; and copies, to the extent prepared, of the  
3 construction plans that depict project improvements to be  
4 constructed on the property taken and improvements to be  
5 constructed adjacent to the remaining property, including, but  
6 not limited to, plan, profile, cross-section, drainage,  
7 pavement marking sheets, and driveway connection detail. The  
8 condemning authority shall provide any additional plan sheets  
9 within 15 days of request.

10 4. The business owner's statutory rights under ss.  
11 73.071, 73.091, and 73.092.

12 5. The business owner's rights and responsibilities  
13 under paragraphs (b) and (c) and subsection (4).

14 (b) The notice must be made subsequent to or  
15 concurrent with the condemning authority's making the written  
16 offer of compensation to the fee owner pursuant to subsection  
17 (1). The notice must be sent by certified mail, return  
18 receipt requested, to the address of the registered agent for  
19 the business located on the property to be acquired, or if no  
20 agent is registered, by certified mail or personal delivery to  
21 the address of the business located on the property to be  
22 acquired. Notice to one owner of a multiple ownership  
23 business constitutes notice to all business owners of that  
24 business. The return of the notice as undeliverable by the  
25 postal authorities constitutes compliance with these  
26 provisions. The condemning authority is not required to give  
27 notice to a person who acquires an interest in the business  
28 after the notice required by this section has been given.  
29 Once notice has been made to business owners under this  
30 subsection, the condemning authority may file a condemnation  
31 proceeding pursuant to chapter 73 or chapter 74 for the

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 property identified in the notice.

2 (c) If the business qualifies for business damages  
3 pursuant to s. 73.071(3)(b) and the business intends to claim  
4 business damages, the business owner must, within 180 days  
5 after either receipt of the notice or the date the notice is  
6 returned as undeliverable by the postal authorities, or at a  
7 later time mutually agreed to by the condemning authority and  
8 the business owner, submit to the condemning authority a  
9 good-faith written offer to settle any claims of business  
10 damage. The written offer must be sent to the condemning  
11 authority by certified mail, return receipt requested. Absent  
12 a showing of a good-faith justification for the failure to  
13 submit a business-damage offer within 180 days, the court must  
14 strike the business owner's claim for business damages in any  
15 condemnation proceeding. If the court finds that the business  
16 owner has made a showing of a good-faith justification for the  
17 failure to timely submit a business damage offer, the court  
18 shall grant the business owner up to 180 days within which to  
19 submit a business-damage offer, which the condemning authority  
20 must respond to within 120 days.

21 1. The business-damage offer must include an  
22 explanation of the nature, extent, and monetary amount of such  
23 damage and must be prepared by the owner, a certified public  
24 accountant, or a business damage expert familiar with the  
25 nature of the operations of the owner's business. The  
26 business owner shall also provide to the condemning authority  
27 copies of the owner's business records that substantiate the  
28 good-faith offer to settle the business damage claim. If  
29 additional information is needed beyond data that may be  
30 obtained from business records existing at the time of the  
31 offer, the business owner and condemning authority may agree

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 on a schedule for the submission of such information.

2 2. As used in this paragraph, the term "business  
3 records" includes, but is not limited to, copies of federal  
4 income tax returns, federal income tax withholding statements,  
5 federal miscellaneous income tax statements, state sales tax  
6 returns, balance sheets, profit and loss statements, and state  
7 corporate income tax returns for the 5 years preceding  
8 notification which are attributable to the business operation  
9 on the property to be acquired, and other records relied upon  
10 by the business owner that substantiate the business-damage  
11 claim.

12 (d) Within 120 days after receipt of the good-faith  
13 business-damage offer and accompanying business records, the  
14 condemning authority must, by certified mail, accept or reject  
15 the business owner's offer or make a counteroffer. Failure of  
16 the condemning authority to respond to the business damage  
17 offer, or rejection thereof pursuant to this section, must be  
18 deemed to be a counteroffer of zero dollars for purposes of  
19 subsequent application of s. 73.092(1).

20 (3) At any time in the presuit negotiation process,  
21 the parties may agree to submit the compensation or  
22 business-damage claims to nonbinding mediation. The parties  
23 shall agree upon a mediator certified under s. 44.102. In the  
24 event that there is a settlement reached as a result of  
25 mediation or other mutually acceptable dispute resolution  
26 procedure, the agreement reached shall be in writing. The  
27 written agreement provided for in this section shall  
28 incorporate by reference the right-of-way maps, construction  
29 plans, or other documents related to the taking upon which the  
30 settlement is based. In the event of a settlement, both  
31 parties shall have the same legal rights that would have been

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 available under law if the matter had been resolved through  
2 eminent domain proceedings in circuit court with the maps,  
3 plans, or other documents having been made a part of the  
4 record.

5 (4) If a settlement is reached between the condemning  
6 authority and a property or business owner prior to a lawsuit  
7 being filed, the property or business owner who settles  
8 compensation claims in lieu of condemnation shall be entitled  
9 to recover costs in the same manner as provided in s. 73.091  
10 and attorney's fees in the same manner as provided in s.  
11 73.092, more specifically as follows:

12 (a) Attorney's fees for presuit negotiations under  
13 this section regarding the amount of compensation to be paid  
14 for the land, severance damages, and improvements must be  
15 calculated in the same manner as provided in s. 73.092(1)  
16 unless the parties otherwise agree.

17 (b) If business damages are recovered by the business  
18 owner based on the condemning authority accepting the business  
19 owner's initial offer or the business owner accepting the  
20 condemning authority's initial counteroffer, attorney's fees  
21 must be calculated in accordance with s. 73.092(2), (3), (4),  
22 and (5) for the attorney's time incurred in presentation of  
23 the business owner's good-faith offer under paragraph (2)(c).  
24 Otherwise, attorney's fees for the award of business damages  
25 must be calculated as provided in s. 73.092(1), based on the  
26 difference between the final judgment or settlement of  
27 business damages and the counteroffer to the business owner's  
28 offer by the condemning authority.

29 (c) Presuit costs must be presented, calculated, and  
30 awarded in the same manner as provided in s. 73.091, after  
31 submission by the business or property owner to the condemning

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 authority of all appraisal reports, business damage reports,  
 2 or other work-products for which recovery is sought, and upon  
 3 transfer of title of the real property by closing, upon  
 4 payment of any amounts due for business damages, or upon final  
 5 judgment.

6 (d) If the parties cannot agree on the amount of costs  
 7 and attorney's fees to be paid by the condemning authority,  
 8 the business or property owner may file a complaint in the  
 9 circuit court in the county in which the property is located  
 10 to recover attorney's fees and costs.

11  
 12 This shall only apply when the action is by the Department of  
 13 Transportation, county, municipality, board, district, or  
 14 other public body for the condemnation of a road right-of-way.

15 (5) Evidence of negotiations or of any written or oral  
 16 statements used in mediation or negotiations between the  
 17 parties under this section is inadmissible in any condemnation  
 18 proceeding, except in a proceeding to determine reasonable  
 19 costs and attorney's fees.

20 Section 58. Effective January 1, 2000, subsection (3)  
 21 of section 73.071, Florida Statutes, is amended to read:

22 73.071 Jury trial; compensation; severance damages;  
 23 business damages.--

24 (3) The jury shall determine solely the amount of  
 25 compensation to be paid, which compensation shall include:

26 (a) The value of the property sought to be  
 27 appropriated;

28 (b) Where less than the entire property is sought to  
 29 be appropriated, any damages to the remainder caused by the  
 30 taking, including, when the action is by the Department of  
 31 Transportation, county, municipality, board, district or other

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 public body for the condemnation of a right-of-way, and the  
2 effect of the taking of the property involved may damage or  
3 destroy an established business of more than 4 5 years'  
4 standing, owned by the party whose lands are being so taken,  
5 located upon adjoining lands owned or held by such party, the  
6 probable damages to such business which the denial of the use  
7 of the property so taken may reasonably cause; any person  
8 claiming the right to recover such special damages shall set  
9 forth in his or her written defenses the nature and extent of  
10 such damages; and

11 (c) Where the appropriation is of property upon which  
12 a mobile home, other than a travel trailer as defined in s.  
13 320.01, is located, whether or not the owner of the mobile  
14 home is an owner or lessee of the property involved, and the  
15 effect of the taking of the property involved requires the  
16 relocation of such mobile home, the reasonable removal or  
17 relocation expenses incurred by such mobile home owner, not to  
18 exceed the replacement value of such mobile home. The  
19 compensation paid to a mobile home owner under this paragraph  
20 shall preclude an award to a mobile home park owner for such  
21 expenses of removal or relocation. Any mobile home owner  
22 claiming the right to such removal or relocation expenses  
23 shall set forth in his or her written defenses the nature and  
24 extent of such expenses. This paragraph shall not apply to  
25 any governmental authority exercising its power of eminent  
26 domain when reasonable removal or relocation expenses must be  
27 paid to mobile home owners under other provisions of law or  
28 agency rule applicable to such exercise of power.

29 Section 59. Effective January 1, 2000, the amendments  
30 to subsection (3) of section 73.071, Florida Statutes, as  
31 contained in this act shall stand repealed effective January

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 1, 2003.

2 Section 60. Effective January 1, 2000, subsection (1)  
3 of section 73.091, Florida Statutes, is amended to read:

4 73.091 Costs of the proceedings.--

5 (1) The petitioner shall pay attorney's fees as  
6 provided in s. 73.092 as well as all reasonable costs incurred  
7 in the defense of the proceedings in the circuit court,  
8 including, but not limited to, reasonable appraisal fees and,  
9 when business damages are compensable, a reasonable  
10 accountant's fee, to be assessed by that court. No prejudgment  
11 interest shall be paid on costs or attorney's fees.

12 Section 61. Effective January 1, 2000, subsection (1)  
13 of section 73.092, Florida Statutes, is amended to read:

14 73.092 Attorney's fees.--

15 (1) Except as otherwise provided in this section and  
16 s. 73.015, the court, in eminent domain proceedings, shall  
17 award attorney's fees based solely on the benefits achieved  
18 for the client.

19 (a) As used in this section, the term "benefits" means  
20 the difference, exclusive of interest, between the final  
21 judgment or settlement and the last written offer made by the  
22 condemning authority before the defendant hires an attorney.  
23 If no written offer is made by the condemning authority before  
24 the defendant hires an attorney, benefits must be measured  
25 from the first written offer after the attorney is hired.

26 1. In determining attorney's fees, if business records  
27 as defined in s. 73.015(2)(c)2. and kept by the owner in the  
28 ordinary course of business were provided to the condemning  
29 authority to substantiate the business damage offer in s.  
30 73.015(2)(c), benefits for amounts awarded for business  
31 damages must be based on the difference between the final

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 judgment or settlement and the written counteroffer made by  
2 the condemning authority provided in s. 73.015(2)(d).

3 2. In determining attorney's fees, if existing  
4 business records as defined in s. 73.015(2)(c)2. and kept by  
5 the owner in the ordinary course of business were not provided  
6 to the condemning authority to substantiate the business  
7 damage offer in s. 73.015(2)(c) and those records which were  
8 not provided are later deemed material to the determination of  
9 business damages, benefits for amounts awarded for business  
10 damages must be based upon the difference between the final  
11 judgment or settlement and the first written counteroffer made  
12 by the condemning authority within 90 days from the condemning  
13 authority's receipt of the business records previously not  
14 provided.

15 ~~1. In determining attorney's fees in prelitigation~~  
16 ~~negotiations, benefits do not include amounts awarded for~~  
17 ~~business damages unless the business owner provided to the~~  
18 ~~condemning authority, upon written request, prior to~~  
19 ~~litigation, those financial and business records kept by the~~  
20 ~~owner in the ordinary course of business.~~

21 ~~2. In determining attorney's fees subsequent to the~~  
22 ~~filing of litigation, if financial and business records kept~~  
23 ~~by the owner in the ordinary course of business were not~~  
24 ~~provided to the condemning authority prior to litigation,~~  
25 ~~benefits for amounts awarded for business damages must be~~  
26 ~~based on the first written offer made by the condemning~~  
27 ~~authority within 120 days after the filing of the eminent~~  
28 ~~domain action. In the event the petitioner makes a discovery~~  
29 ~~request for a defendant's financial and business records kept~~  
30 ~~in the ordinary course of business within 45 days after the~~  
31 ~~filing of that defendant's answer, then the 120-day period~~

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 ~~shall be extended to 60 days after receipt by petitioner of~~  
2 ~~those records. If the condemning authority makes no written~~  
3 ~~offer to the defendant for business damages within the time~~  
4 ~~period provided in this section, benefits for amounts awarded~~  
5 ~~for business damages must be based on the difference between~~  
6 ~~the final judgment or settlement and the last written offer~~  
7 ~~made by the condemning authority before the defendant hired an~~  
8 ~~attorney.~~

9 (b) The court may also consider nonmonetary benefits  
10 obtained for the client through the efforts of the attorney,  
11 to the extent such nonmonetary benefits are specifically  
12 identified by the court and can, within a reasonable degree of  
13 certainty, be quantified.

14 (c) Attorney's fees based on benefits achieved shall  
15 be awarded in accordance with the following schedule:

- 16 1. Thirty-three percent of any benefit up to \$250,000;  
17 plus  
18 2. Twenty-five percent of any portion of the benefit  
19 between \$250,000 and \$1 million; plus  
20 3. Twenty percent of any portion of the benefit  
21 exceeding \$1 million.

22 Section 62. Effective January 1, 2000, subsection (1)  
23 of section 127.01, Florida Statutes, is amended to read:

24 127.01 Counties delegated power of eminent domain;  
25 recreational purposes, issue of necessity of taking.--

26 (1)(a) Each county of the state is delegated authority  
27 to exercise the right and power of eminent domain; that is,  
28 the right to appropriate property, except state or federal,  
29 for any county purpose. The absolute fee simple title to all  
30 property so taken and acquired shall vest in such county  
31 unless the county seeks to condemn a particular right or

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 estate in such property.

2 (b) Each county is further authorized to exercise the  
3 eminent domain power ~~powers~~ granted to the Department of  
4 Transportation by s. 337.27(1) ~~and (2)~~, the transportation  
5 corridor protection provisions of s. 337.273, and the right of  
6 entry onto property pursuant to s. 337.274.

7 Section 63. Effective January 1, 2000, subsection (2)  
8 of section 166.401, Florida Statutes, is amended to read:

9 166.401 Right of eminent domain.--

10 (2) Each municipality is further authorized to  
11 exercise the eminent domain power ~~powers~~ granted to the  
12 Department of Transportation in s. 337.27(1) ~~and (2)~~ and the  
13 transportation corridor protection provisions of s. 337.273.

14 Section 64. Effective January 1, 2000, subsection (2)  
15 of section 337.27, section 337.271, subsection (2) of section  
16 348.0008, subsection (2) of section 348.759, and subsection  
17 (2) of section 348.957, Florida Statutes, are repealed.

18 Section 65. Subsections (3), (4), (5), and (6) are  
19 added to section 479.15, Florida Statutes, to read:

20 479.15 Harmony of regulations.--

21 (3) It is the express intent of the Legislature to  
22 limit the state right-of-way acquisition costs on state and  
23 federal roads in eminent domain proceedings, the provisions of  
24 ss. 479.07 and 479.155 notwithstanding. Subject to approval by  
25 the Federal Highway Administration, whenever public  
26 acquisition of land upon which is situated a lawful  
27 nonconforming sign occurs, as provided in this chapter, the  
28 sign may, at the election of its owner and the department, be  
29 relocated or reconstructed adjacent to the new right-of-way  
30 along the roadway within 100 feet of the current location,  
31 provided the nonconforming sign is not relocated on a parcel

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 zoned residential, and provided further that such relocation  
2 shall be subject to applicable setback requirements. The sign  
3 owner shall pay all costs associated with relocating or  
4 reconstructing any sign under this subsection, and neither the  
5 state nor any local government shall reimburse the sign owner  
6 for such costs, unless part of such relocation costs are  
7 required by federal law. If no adjacent property is available  
8 for the relocation, the department shall be responsible for  
9 paying the owner of the sign just compensation for its  
10 removal.

11 (4) Such relocation shall be adjacent to the current  
12 site and the face of the sign shall not be increased in size  
13 or height or structurally modified at the point of relocation  
14 in a manner inconsistent with the current building codes of  
15 the jurisdiction in which the sign is located.

16 (5) In the event that relocation can be accomplished  
17 but is inconsistent with the ordinances of the municipality or  
18 county within whose jurisdiction the sign is located, the  
19 ordinances of the local government shall prevail, provided  
20 that the local government shall assume the responsibility to  
21 provide the owner of the sign just compensation for its  
22 removal, but in no event shall compensation paid by the local  
23 government exceed the compensation required under state or  
24 federal law. Further, the provisions of this section shall not  
25 impair any agreement or future agreements between a  
26 municipality or county and the owner of a sign or signs within  
27 the jurisdiction of the municipality or county. Nothing in  
28 this section shall be deemed to cause a nonconforming sign to  
29 become conforming solely as a result of the relocation allowed  
30 in this section.

31 (6) The provisions of subsections (3), (4), and (5) of



Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 F.S.; providing the duty to yield to public  
2 transit vehicles reentering the flow of  
3 traffic; amending s. 316.1895, F.S.;  
4 authorizing local governments to request the  
5 Department of Transportation to install and  
6 maintain speed zones for federally funded  
7 Headstart programs located on roads maintained  
8 by the department; amending s. 316.302, F.S.;  
9 updating references to the current federal  
10 safety regulations; amending s. 316.3025, F.S.;  
11 updating references to the current federal  
12 safety regulations; amending s. 316.545, F.S.;  
13 providing a maximum penalty for operating a  
14 commercial motor vehicle when the registration  
15 or license plate has not been expired for more  
16 than 180 days; amending s. 320.20, F.S.,  
17 relating to the disposition of motor vehicle  
18 license tax moneys; providing for an audit of  
19 the ports; amending s. 335.0415, F.S.;  
20 clarifying the jurisdiction and responsibility  
21 for operation and maintenance of roads;  
22 amending s. 335.093, F.S.; authorizing the  
23 department to designate public roads as scenic  
24 highways; amending s. 337.11, F.S.; authorizing  
25 the department to enter into contracts for  
26 construction or maintenance of roadway and  
27 bridge elements without competitive bidding  
28 under certain circumstances; deleting the  
29 provision for the owner-controlled insurance  
30 plan; amending s. 337.16, F.S.; eliminating  
31 intermediate delinquency as grounds for

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 suspension or revocation of a contractor's  
2 certificate of qualification to bid on  
3 construction contracts in excess of a specified  
4 amount; amending s. 337.162, F.S.; providing  
5 that department appraisers are not obligated to  
6 report violations of state professional  
7 licensing laws to the Department of Business  
8 and Professional Regulation; amending s.  
9 337.18, F.S.; deleting the schedule of contract  
10 amount categories utilized to calculate  
11 liquidated damages to be paid by a contractor;  
12 allowing the department to adjust the  
13 categories; requiring that surety bonds posted  
14 by successful bidders on department  
15 construction contracts be payable to the  
16 department; amending s. 337.185, F.S.; raising  
17 the limit for binding arbitration contract  
18 disputes; authorizing the secretary of the  
19 department to select an alternate or substitute  
20 to serve as the department member of the board  
21 for any hearing; amending the fee schedule for  
22 arbitration to cover the cost of administration  
23 and compensation of the board; authorizing the  
24 department to acquire and negotiate for the  
25 sale of replacement housing; amending s.  
26 337.25, F.S.; authorizing the department to  
27 purchase options to purchase land for  
28 transportation facilities; amending s. 337.251,  
29 F.S.; authorizing a fixed guideway  
30 transportation system operating within the  
31 department's right-of-way to operate at any

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 safe speed; amending s. 337.403, F.S.;

2 authorizing the department to contract directly

3 with utility companies for clearing and

4 grubbing; amending s. 373.414, F.S.; requiring

5 OPPAGA to conduct a study regarding wetland

6 mitigation; amending s. 338.223, F.S.; defining

7 the terms "hardship purchase" and "protective

8 purchase"; amending s. 338.229, F.S.;

9 restricting the sale, transfer, lease, or other

10 disposition of operations on any portion of the

11 turnpike system; amending s. 339.2816, F.S.;

12 providing for the small county road assistance

13 program; amending 339.08, F.S.; conforming to

14 bill; amending s. 338.251, F.S.; providing that

15 funds repaid by the Tampa-Hillsborough County

16 Expressway Authority to the Toll Facilities

17 Revolving Trust Fund are to be loaned back to

18 the authority for specified purposes; amending

19 s. 339.155, F.S.; providing planning factors;

20 clarifying the roles of the long-range and

21 short-range components of the Florida

22 Transportation Plan; amending s. 339.175, F.S.;

23 providing planning factors; requiring a

24 recommendation for redesignation; clarifying

25 geographic boundaries of metropolitan planning

26 organizations; providing that metropolitan

27 planning organization plans must provide for

28 the development and operation of intermodal

29 transportation systems and facilities;

30 providing for reapportionment amending s.

31 341.041, F.S.; authorizing the creation and

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 maintenance of a common self-retention  
2 insurance fund to support public transit  
3 projects; amending s. 341.302, F.S.; relating  
4 to DOT rail program; amending s. 373.4137,  
5 F.S.; providing for the mitigation of impacts  
6 to wetlands and other sensitive habitats;  
7 amending s. 479.01, F.S.; defining the terms  
8 "commercial or industrial zone" and "unzoned  
9 commercial or industrial area"; providing that  
10 communication towers are not commercial or  
11 industrial activities; amending s. 479.07,  
12 F.S.; modifying the process for reinstatement  
13 of an outdoor advertising sign permit; amending  
14 s. 479.16, F.S.; clarifying that certain signs  
15 not in excess of 16 square feet are exempt from  
16 the permitting process; amending s. 320.0715,  
17 F.S.; providing an exemption from the  
18 International Registration Plan; amending s.  
19 334.035, F.S.; revising language with respect  
20 to the purpose of the Florida Transportation  
21 Code; amending s. 334.0445, F.S.; extending the  
22 current authorization for the department's  
23 model classification plan; amending s. 334.046,  
24 F.S.; revising Department of Transportation  
25 program objectives; creating s. 334.071, F.S.;  
26 providing for the legislative designation of  
27 transportation facilities; amending s. 337.025,  
28 F.S.; increasing the funds DOT may spend on  
29 innovative projects; amending s. 339.135, F.S.;  
30 providing for allocation of certain new highway  
31 funds; amending s. 341.053, F.S.; providing for

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 development of an intermodal development plan;  
2 amending ss. 348.9401, 348.941, 348.942, and  
3 348.943, F.S.; renaming the St. Lucie County  
4 Expressway Authority as the St. Lucie County  
5 Expressway and Bridge Authority and including  
6 the Indian River Lagoon Bridge as part of the  
7 expressway and bridge system; revising power of  
8 the authority to borrow money to conform to new  
9 provisions authorizing the issuance of certain  
10 bonds; amending s. 348.944, F.S.; authorizing  
11 the authority to issue its own bonds and  
12 providing requirements therefor; creating s.  
13 348.9495, F.S.; providing exemption from  
14 taxation; amending s. 212.055, F.S.; providing  
15 flexibility in the charter county transit  
16 system surtax; amending s. 348.0004, F.S.;

17 authorizing specified counties to abolish tolls  
18 if an offsetting source of local revenue is  
19 secured; authorizing MPO reapportionment for  
20 specified counties; amending s. 73.015, F.S.;

21 requiring presuit negotiation before an action  
22 in eminent domain may be initiated under ch. 73  
23 or ch. 74, F.S.; providing requirements for the  
24 condemning authority; requiring the condemning  
25 authority to give specified notices; requiring  
26 a written offer of purchase and appraisal and  
27 specifying the time period during which the  
28 owner may respond to the offer before a  
29 condemnation lawsuit may be filed; providing  
30 procedures; allowing a business owner to claim  
31 business damage within a specified time period;

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1 providing circumstances under which the court  
2 must strike a business-damage defense;  
3 providing procedures for business-damage  
4 claims; providing for nonbinding mediation;  
5 requiring the condemning authority to pay  
6 reasonable costs and attorney's fees of a  
7 property owner; allowing the property owner to  
8 file a complaint in circuit court to recover  
9 attorney's fees and costs, if the parties  
10 cannot agree on the amount; providing that  
11 certain evidence is inadmissible in specified  
12 proceedings; amending s. 73.071, F.S.;  
13 modifying eligibility requirements for business  
14 owners to claim business damages; providing for  
15 future repeal; amending s. 73.091, F.S.;  
16 providing that no prejudgment interest shall be  
17 paid on costs or attorney's fees in eminent  
18 domain; amending s. 73.092, F.S.; revising  
19 provisions relating to attorney's fees for  
20 business-damage claims; amending ss. 127.01 and  
21 166.401, F.S.; restricting the exercise by  
22 counties and municipalities of specified  
23 eminent domain powers granted to the Department  
24 of Transportation; repealing ss. 337.27(2),  
25 337.271, 348.0008(2), 348.759(2), 348.957(2),  
26 F.S., relating to limiting the acquisition cost  
27 of lands and property acquired through eminent  
28 domain proceedings by the Department of  
29 Transportation, the Orlando-Orange County  
30 Expressway Authority, or the Seminole County  
31 Expressway Authority, or under the Florida

Bill No. HB 591, 2nd Eng.

Amendment No. \_\_\_\_

1           Expressway Authority Act, and relating to the  
2           notice that the Department of Transportation  
3           must give to a fee owner at the inception of  
4           negotiations to acquire land; amending s.  
5           479.15, F.S.; prescribing duties and  
6           responsibilities of the Department of  
7           Transportation and local governments with  
8           respect to relocation of certain signs pursuant  
9           to acquisition of land; providing for  
10          application;

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