

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; amending s. 20.23, F.S.;
4 providing reference to seaport programs;
5 providing for an organizational unit to
6 administer said programs; deleting reference to
7 the Office of Construction and including
8 reference to the Office of Highway Operations
9 within the Department of Transportation;
10 amending s. 206.46, F.S.; increasing a
11 percentage amount of revenues in the State
12 Transportation Trust Fund to be transferred to
13 the Right-of-Way Acquisition and Bridge
14 Construction Trust Fund annually; increasing
15 the dollar amount which may be so transferred;
16 creating s. 215.615, F.S.; providing for state
17 bonds for federal-aid highways construction;
18 creating s. 215.616, F.S.; providing for the
19 issuance of certain revenue bonds for
20 fixed-guideway transportation systems;
21 providing for an audit of the Florida Seaport
22 Development Program; creating s. 316.0815,
23 F.S.; providing for a duty to yield for public
24 transit vehicles; providing penalties; amending
25 s. 316.302, F.S.; revising obsolete dates and
26 statutory references with respect to commercial
27 motor vehicles; amending s. 316.3025, F.S.;
28 correcting a cross reference; amending s.
29 316.545, F.S.; providing a maximum penalty for
30 operating a commercial motor vehicle when the
31 registration or license plate has not been

1 expired for more than 90 days; prohibiting the
2 department from seizing certain vehicles;
3 amending s. 316.555, F.S.; providing for an
4 exemption from locally imposed weight limits
5 under certain circumstances; amending s.
6 320.0715, F.S.; providing an exemption from the
7 International Registration Plan; amending s.
8 334.035, F.S.; revising language with respect
9 to the purpose of the Florida Transportation
10 Code; amending s. 334.0445, F.S.; continuing
11 the operation of the model career service
12 classification and compensation plan within the
13 Department of Transportation for a certain time
14 period; amending s. 334.046, F.S.; revising
15 Department of Transportation program
16 objectives; creating s. 334.071, F.S.;
17 providing for the legislative designation of
18 transportation facilities; amending s. 334.351,
19 F.S.; deleting language with respect to the
20 total amount of youth work experience program
21 contracts; amending s. 335.0415, F.S.; revising
22 a date with respect to public road
23 jurisdiction; amending s. 335.093, F.S.;
24 authorizing the department to designate public
25 roads as scenic highways; amending s. 337.025,
26 F.S.; increasing the annual cap on
27 transportation project contracts that use
28 innovative construction and financing
29 techniques; amending s. 337.11, F.S.; providing
30 for contracts without advertising and
31 competitive bids; repealing authority for owner

1 controlled insurance plans in the Department of
 2 Transportation; amending s. 337.16, F.S.;
 3 revising language with respect to contractors
 4 who are delinquent with respect to contracts
 5 with the department; amending s. 337.162, F.S.;
 6 revising language with respect to professional
 7 services; amending s. 337.18, F.S.; revising
 8 language with respect to certain surety bonds;
 9 providing for bonds payable to the department
 10 rather than to the Governor; amending s.
 11 337.185, F.S.; increasing claim limits with
 12 respect to certain contractual claims governed
 13 by the State Arbitration Board; revising
 14 language with respect to hearings on certain
 15 disputes; increasing certain fees; amending s.
 16 337.19, F.S.; revising language with respect to
 17 suits at law and in equity brought by or
 18 against the department with respect to breach
 19 of an express provision or an implied covenant
 20 of a written agreement or a written directive
 21 issued by the department pursuant to the
 22 written agreement; providing for rights and
 23 obligations; prohibiting liability under
 24 certain circumstances; providing exceptions
 25 with respect to liability; providing for
 26 applicability; amending s. 337.25, F.S.;
 27 authorizing the department to purchase, lease,
 28 exchange, or otherwise acquire property
 29 interests; amending s. 337.251, F.S.;
 30 authorizing a fixed-guideway transportation
 31 system operating within the department's

1 right-of-way to operate at any safe speed;
2 amending s. 337.403, F.S.; authorizing the
3 department to participate in the cost of
4 certain clearing and grubbing with respect to
5 utility improvement relocation; amending s.
6 338.223, F.S.; revising language with respect
7 to proposed turnpike projects to provide that
8 certain requirements do not apply to hardship
9 and protective purchases by the department of
10 advance right-of-way; providing definitions;
11 amending s. 338.229, F.S.; providing additional
12 rights of the department with respect to
13 certain bondholders; amending s. 339.135, F.S.;
14 providing for allocation of certain new highway
15 funds; amending s. 339.155, F.S.; revising
16 language with respect to transportation
17 planning; amending s. 339.175, F.S.; revising
18 language with respect to metropolitan planning
19 organizations; amending s. 341.031, F.S.;
20 correcting cross references to conform to the
21 act; amending s. 341.041, F.S.; directing the
22 department to create and maintain a common
23 self-retention insurance fund to support
24 fixed-guideway projects throughout the state;
25 amending s. 341.051, F.S.; deleting provisions
26 which require the department to develop a
27 specified investment policy; amending s.
28 341.053, F.S.; providing for development of an
29 intermodal development plan; amending s.
30 341.302, F.S.; revising language with respect
31 to the responsibilities of the department

1 concerning the rail program; amending ss.
2 348.9401, 348.941, 348.942, and 348.943, F.S.;
3 renaming the St. Lucie County Expressway
4 Authority as the St. Lucie County Expressway
5 and Bridge Authority and including the Indian
6 River Lagoon Bridge as part of the expressway
7 and bridge system; revising power of the
8 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. 338.251, F.S.; providing
15 that funds repaid by the authority to the Toll
16 Facilities Revolving Trust Fund are to be
17 loaned back to the authority for specified
18 purposes; amending s. 373.4137, F.S.; revising
19 language with respect to mitigation
20 requirements; amending s. 479.01, F.S.;
21 revising definitions; amending s. 479.07, F.S.;
22 revising language with respect to sign permits;
23 amending s. 479.16, F.S.; revising language
24 with respect to signs for which permits are not
25 required; repealing ss. 341.3201-341.386, F.S.;
26 eliminating the Florida High-Speed Rail
27 Transportation Act; amending s. 348.0004, F.S.;
28 authorizing certain boards of county
29 commissioners to alter expressway tolls;
30 providing additional membership for
31 Metropolitan Planning Organizations; amending

1 s. 212.055, F.S.; revising the application of
 2 the charter county transit system surtax;
 3 amending ss. 20.23, 206.46, 288.9607, 337.29,
 4 337.407, 338.22, 338.221, 338.223, 338.225,
 5 338.227, 338.228, 338.229, 338.231, 338.232,
 6 338.239, 339.08, 339.175, 339.241, 341.3333,
 7 348.0005, 348.0009, 348.248, 348.948, 349.05,
 8 and 479.01, F.S.; correcting cross references;
 9 repealing s. 234.112, F.S., relating to school
 10 bus stops; repealing s. 335.165, F.S., relating
 11 to welcome stations; repealing section 137 of
 12 chapter 96-320, Laws of Florida, relating to
 13 certain uncollectible debts owned by a local
 14 government for utility relocation cost
 15 reimbursements; repealing s. 339.091, F.S.,
 16 relating to a declaration of legislative
 17 intent; repealing s. 339.145, F.S., relating to
 18 certain expenditures in the Working Capital
 19 Trust Fund; repealing s. 339.147, F.S.,
 20 relating to certain audits by the Auditor
 21 General; amending ss. 311.09, 331.303, 331.305,
 22 331.308, 331.331, 334.03, 335.074, 335.182,
 23 335.188, 336.044, 337.015, 337.139, 339.2405,
 24 341.051, 341.352, 343.64, 343.74, 378.411,
 25 427.012, 427.013, and 951.05, F.S.; deleting
 26 obsolete language, and, where appropriate,
 27 replacing such language with updated text;
 28 reenacting ss. 336.01, 338.222, 339.135(7)(e),
 29 and 341.321(1), F.S., relating to designation
 30 of county road system, acquisition or
 31 construction or operation of turnpike projects,

1 amendment of the adopted work program, and
 2 legislative findings and intent regarding
 3 development of high-speed rail transportation
 4 system; amending s. 73.015, F.S.; requiring
 5 presuit negotiation before an action in eminent
 6 domain may be initiated under ch. 73 or ch. 74,
 7 F.S.; providing requirements for the condemning
 8 authority; requiring the condemning authority
 9 to give specified notices; requiring a written
 10 offer of purchase and appraisal and specifying
 11 the time period during which the owner may
 12 respond to the offer before a condemnation
 13 lawsuit may be filed; providing procedures;
 14 allowing a business owner to claim business
 15 damage within a specified time period;
 16 providing circumstances under which the court
 17 must strike a business-damage defense;
 18 providing procedures for business-damage
 19 claims; providing for nonbinding mediation;
 20 requiring the condemning authority to pay
 21 reasonable costs and attorney's fees of a
 22 property owner; allowing the property owner to
 23 file a complaint in circuit court to recover
 24 attorney's fees and costs, if the parties
 25 cannot agree on the amount; providing that
 26 certain evidence is inadmissible in specified
 27 proceedings; amending s. 73.071, F.S.;
 28 modifying eligibility requirements for business
 29 owners to claim business damages; providing for
 30 future repeal; amending s. 73.091, F.S.;

31 providing that no prejudgment interest shall be

1 paid on costs or attorney's fees in eminent
2 domain; amending s. 73.092, F.S.; revising
3 provisions relating to attorney's fees for
4 business-damage claims; amending ss. 127.01 and
5 166.401, F.S.; restricting the exercise by
6 counties and municipalities of specified
7 eminent domain powers granted to the Department
8 of Transportation; repealing ss. 337.27(2),
9 337.271, 348.0008(2), 348.759(2), 348.957(2),
10 F.S., relating to limiting the acquisition cost
11 of lands and property acquired through eminent
12 domain proceedings by the Department of
13 Transportation, the Orlando-Orange County
14 Expressway Authority, or the Seminole County
15 Expressway Authority, or under the Florida
16 Expressway Authority Act, and relating to the
17 notice that the Department of Transportation
18 must give to a fee owner at the inception of
19 negotiations to acquire land; providing
20 effective dates.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (b) of subsection (2) and
25 paragraphs (a), (d), and (m) of subsection (3) of section
26 20.23, Florida Statutes, 1998 Supplement, are amended to read:
27 20.23 Department of Transportation.--There is created
28 a Department of Transportation which shall be a decentralized
29 agency.

30 (2)

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- 1 (b) The commission shall have the primary functions
2 to:
- 3 1. Recommend major transportation policies for the
4 Governor's approval, and assure that approved policies and any
5 revisions thereto are properly executed.
- 6 2. Periodically review the status of the state
7 transportation system including highway, transit, rail,
8 seaport, intermodal development, and aviation components of
9 the system and recommend improvements therein to the Governor
10 and the Legislature.
- 11 3. Perform an in-depth evaluation of the annual
12 department budget request, the Florida Transportation Plan,
13 and the tentative work program for compliance with all
14 applicable laws and established departmental policies. Except
15 as specifically provided in s. 339.135(4)(c)2., (d), and (f),
16 the commission may not consider individual construction
17 projects, but shall consider methods of accomplishing the
18 goals of the department in the most effective, efficient, and
19 businesslike manner.
- 20 4. Monitor the financial status of the department on a
21 regular basis to assure that the department is managing
22 revenue and bond proceeds responsibly and in accordance with
23 law and established policy.
- 24 5. Monitor on at least a quarterly basis, the
25 efficiency, productivity, and management of the department,
26 using performance and production standards developed by the
27 commission pursuant to s. 334.045.
- 28 6. Perform an in-depth evaluation of the factors
29 causing disruption of project schedules in the adopted work
30 program and recommend to the Legislature and the Governor
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1 methods to eliminate or reduce the disruptive effects of these
2 factors.

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

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

25 a. Developing policy and procedures and monitoring
26 performance to ensure compliance with these policies and
27 procedures;

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

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1 c. Assessing and ensuring the accuracy of information
2 within the department's financial management information
3 systems; and

4 d. Performing other activities of a statewide nature.

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

9 a. The Office of Administration;

10 b. The Office of Policy Planning;

11 c. The Office of Design;

12 d. The Office of Highway Operations ~~Office of~~
13 ~~Construction~~;

14 e. The Office of Right-of-Way;

15 f. The Office of Toll Operations; and

16 g. The Office of Information Systems.

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

22 (m) The secretary shall appoint a state public
23 transportation administrator who shall report to the Assistant
24 Secretary for Transportation Policy. The state public
25 transportation administrator's responsibilities shall include,
26 but are not limited to, the administration of statewide
27 transit, rail, seaport, intermodal development, and aviation
28 programs. This position shall be classified at a level equal
29 to a deputy assistant secretary. The department shall also
30 assign to the public transportation administrator an

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1 organizational unit the primary function of which is to
2 administer the seaport ~~high-speed rail~~ program.

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

5 206.46 State Transportation Trust Fund.--

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

23 (3) Through fiscal year 1999-2000, a minimum of 14.3
24 percent of all state revenues deposited into the State
25 Transportation Trust Fund shall be committed annually by the
26 department for public transportation projects in accordance
27 with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and
28 chapter 343. Beginning in fiscal year 2000-2001, and each year
29 thereafter, a minimum of 15 percent of all state revenues
30 deposited into the State Transportation Trust Fund shall be
31 committed annually by the department for public transportation

1 projects in accordance with chapter 311, ss. 332.002-332.007,
2 ~~and chapter 341, and chapter 343.~~

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

5 215.615 State bonds for federal-aid highways
6 construction.--

7 (1) Upon the request of the Department of
8 Transportation, the Division of Bond Finance is authorized
9 pursuant to s. 11, Art. VII of the State Constitution and the
10 State Bond Act to issue revenue bonds, for and on behalf of
11 the Department of Transportation, for the purpose of financing
12 or refinancing the construction, reconstruction, and
13 improvement of projects that are eligible to receive
14 federal-aid highway funds. The Division of Bond Finance is
15 authorized to consider innovative financing technologies which
16 may include, but are not limited to, innovative bidding and
17 structures of potential financings that may result in
18 negotiated transactions.

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

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

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

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

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

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

25 215.616 Issuance of revenue bonds authorized.--

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

1 facilities appurtenant thereto, costs of issuance, and other
 2 amounts relating to such financing or refinancing. Such
 3 revenue bonds shall be matched on a 50-50 basis with funds
 4 from sources other than revenues of the Department of
 5 Transportation, in a manner acceptable to the Department of
 6 Transportation. The Division of Bond Finance is authorized to
 7 consider innovative financing technologies which may include,
 8 but are not limited to, innovative bidding and structures of
 9 potential financings that may result in negotiated
 10 transactions.

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

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1 payment shall not affect the obligation of the Department of
2 Transportation to pay debt service on the bonds.

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

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

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

29 (e) The state does hereby covenant with holders of
30 such revenue bonds or other instruments of indebtedness issued
31 hereunder that it will not repeal or impair or amend these

1 provisions in any manner which will materially adversely
2 affect the rights of such holders so long as bonds authorized
3 by this paragraph are outstanding unless adequate provision
4 has been made for the payment of such bonds pursuant to the
5 documents authorizing the issuance of such bonds.

6 (f) This subsection supersedes any inconsistent
7 provisions in existing law.

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

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

29 Section 5. Prior to the 2000 legislative session, the
30 Auditor General, in cooperation with the Office of Program
31 Policy Analysis and Government Accountability, shall conduct a

1 financial and performance audit of the Florida Seaport
2 Development Program established pursuant to chapter 311 and s.
3 320.20, Florida Statutes. The audit shall include, but not be
4 limited to, a review of the Department of Transportation's,
5 Florida Seaport Development Council's, and the Florida Ports
6 Financing Commission's organizational and administrative
7 structure, procedures, internal controls, and expenditures
8 relating to the state's investment in seaport infrastructure
9 and seaport intermodal access projects. The Auditor General
10 shall determine whether sufficient procedures and internal
11 controls exist regarding seaport program administration to
12 assure accountability in the implementation and enforcement of
13 all laws, rules, policies, and procedures; and whether
14 sufficient statutory safeguards are in place to protect and
15 maximize public investment in the seaport program.

16 Section 6. Section 316.0815, Florida Statutes, is
17 created to read:

18 316.0815 Duty to yield to public transit vehicles.--

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

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

26 (3) A violation of this section is a noncriminal
27 traffic infraction, punishable as a moving violation as
28 provided in chapter 318.

29 Section 7. Paragraph (b) of subsection (1) and
30 paragraphs (e) and (f) of subsection (2) of section 316.302,
31 Florida Statutes, 1998 Supplement, are amended to read:

1 316.302 Commercial motor vehicles; safety regulations;
2 transporters and shippers of hazardous materials;
3 enforcement.--

4 (1)

5 (b) Except as otherwise provided in this section, all
6 owners or drivers of commercial motor vehicles that are
7 engaged in intrastate commerce are subject to the rules and
8 regulations contained in 49 C.F.R. parts 382, 385, and
9 390-397, with the exception of 49 C.F.R. s. 390.5 as it
10 relates to the definition of bus, as such rules and
11 regulations existed on March 1, 1999 ~~1997~~.

12 (2)

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

21 (f) A person who operates a commercial motor vehicle
22 having a declared gross vehicle weight of less than 26,000
23 pounds solely in intrastate commerce and who is not
24 transporting hazardous materials, or who is transporting
25 petroleum products as defined in s. 376.301(31)~~(29)~~, is exempt
26 from subsection (1). However, such person must comply with 49
27 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
28 396.3(a)(1) and ~~s.~~396.9.

29 Section 8. Paragraph (c) of subsection (3) of section
30 316.3025, Florida Statutes, is amended to read:

31 316.3025 Penalties.--

- 1 (3)
- 2 (c) A civil penalty of \$250 may be assessed for:
- 3 1. A violation of the placarding requirements of 49
- 4 C.F.R. parts 171-179;
- 5 2. A violation of the shipping paper requirements of
- 6 49 C.F.R. parts 171-179;
- 7 3. A violation of 49 C.F.R. s. 392.10;
- 8 4. A violation of 49 C.F.R. s. 397.5 ~~395.5~~;
- 9 5. A violation of 49 C.F.R. s. 397.7;
- 10 6. A violation of 49 C.F.R. s. 397.13; or
- 11 7. A violation of 49 C.F.R. s. 397.15.

12 Section 9. Paragraph (b) of subsection (2) and

13 subsection (5) of section 316.545, Florida Statutes, are

14 amended to read:

15 316.545 Weight and load unlawful; special fuel and

16 motor fuel tax enforcement; inspection; penalty; review.--

17 (2)

18 (b) The officer shall inspect the license plate or

19 registration certificate of the commercial vehicle, as defined

20 in s. 316.003(66), to determine if its gross weight is in

21 compliance with the declared gross vehicle weight. If its

22 gross weight exceeds the declared weight, the penalty shall be

23 5 cents per pound on the difference between such weights. In

24 those cases when the commercial vehicle, as defined in s.

25 316.003(66), is being operated over the highways of the state

26 with an expired registration or with no registration from this

27 or any other jurisdiction or is not registered under the

28 applicable provisions of chapter 320, the penalty herein shall

29 apply on the basis of 5 cents per pound on that scaled weight

30 which exceeds 35,000 pounds on laden truck tractor-semitrailer

31 combinations or tandem trailer truck combinations, 10,000

1 pounds on laden straight trucks or straight truck-trailer
2 combinations, or 10,000 pounds on any unladen commercial motor
3 vehicle. If the license plate or registration has not been
4 expired for more than 90 days, the penalty imposed under this
5 paragraph may not exceed \$1,000.In the case of special mobile
6 equipment as defined in s. 316.003(48), which qualifies for
7 the license tax provided for in s. 320.08(5)(b), being
8 operated on the highways of the state with an expired
9 registration or otherwise not properly registered under the
10 applicable provisions of chapter 320, a penalty of \$75 shall
11 apply in addition to any other penalty which may apply in
12 accordance with this chapter. A vehicle found in violation of
13 this section may be detained until the owner or operator
14 produces evidence that the vehicle has been properly
15 registered. Any costs incurred by the retention of the
16 vehicle shall be the sole responsibility of the owner. A
17 person who has been assessed a penalty pursuant to this
18 paragraph for failure to have a valid vehicle registration
19 certificate pursuant to the provisions of chapter 320 is not
20 subject to the delinquent fee authorized in s. 320.07 if such
21 person obtains a valid registration certificate within 10
22 working days after such penalty was assessed.

23 (5) Whenever any person violates the provisions of
24 this chapter and becomes indebted to the state because of such
25 violation in the amounts aforesaid and refuses to pay said
26 penalty, such penalty shall become a lien upon the motor
27 vehicle, and the same may be foreclosed by the state in a
28 court of equity. It shall be presumed that the owner of the
29 motor vehicle is liable for the sum. Any person, firm, or
30 corporation claiming an interest in the seized motor vehicle
31 may, at any time after the lien of the state attaches to the

1 motor vehicle, obtain possession of the seized vehicle by
 2 filing a good and sufficient forthcoming bond with the officer
 3 having possession of the vehicle, payable to the Governor of
 4 the state in twice the amount of the state's lien, with a
 5 corporate surety duly authorized to transact business in this
 6 state as surety, conditioned to have the motor vehicle or
 7 combination of vehicles forthcoming to abide the result of any
 8 suit for the foreclosure of such lien. It shall be presumed
 9 that the owner of the motor vehicle is liable for the penalty
 10 imposed under this section. Upon the posting of such bond with
 11 the officer making the seizure, the vehicle shall be released
 12 and the bond shall be forwarded to the Department of
 13 Transportation for safekeeping. The lien of the state against
 14 the motor vehicle aforesaid shall be foreclosed in equity, and
 15 the ordinary rules of court relative to proceedings in equity
 16 shall control. If it appears that the seized vehicle has been
 17 released to the defendant upon his or her forthcoming bond,
 18 the state shall take judgment of foreclosure against the
 19 property itself, and judgment against the defendant and the
 20 sureties on the bond for the amount of the lien, including
 21 cost of proceedings. After the rendition of the decree, the
 22 state may, at its option, proceed to sue out execution against
 23 the defendant and his or her sureties for the amount recovered
 24 as aforesaid or direct the sale of the vehicle under
 25 foreclosure. Notwithstanding the provisions of this subsection
 26 to the contrary, the department shall not seize a vehicle
 27 owned and operated by a governmental entity pending the
 28 payment of a fine or posting of a bond. For such a
 29 governmental vehicle the department shall provide a notice of
 30 the violation to the driver of the vehicle and shall release
 31 the vehicle to continue operating, unless the department

1 determines that it would be unsafe for the vehicle to
2 continue. The department shall provide a copy of the notice of
3 violation to the appropriate governmental entity. The
4 governmental entity must either pay the penalty or file a
5 request for review of the penalty as provided in subsections
6 (7) and (8) within 20 days of receipt of the notice.

7 Section 10. Section 316.555, Florida Statutes, is
8 amended to read:

9 316.555 Weight, load, speed limits may be lowered;
10 condition precedent.--Anything in this chapter to the contrary
11 notwithstanding, the Department of Transportation with respect
12 to state roads, and local authorities with respect to highways
13 under their jurisdiction, may prescribe, by notice hereinafter
14 provided for, loads and weights and speed limits lower than
15 the limits prescribed in this chapter and other laws, whenever
16 in its or their judgment any road or part thereof or any
17 bridge or culvert shall, by reason of its design,
18 deterioration, rain, or other climatic or natural causes be
19 liable to be damaged or destroyed by motor vehicles, trailers,
20 or semitrailers, if the gross weight or speed limit thereof
21 shall exceed the limits prescribed in said notice. The
22 Department of Transportation or local authority may, by like
23 notice, regulate or prohibit, in whole or in part, the
24 operation of any specified class or size of motor vehicles,
25 trailers, or semitrailers on any highways or specified parts
26 thereof under its or their jurisdiction, whenever in its or
27 their judgment, such regulation or prohibition is necessary to
28 provide for the public safety and convenience on the highways,
29 or parts thereof, by reason of traffic density, intensive use
30 thereof by the traveling public, or other reasons of public
31 safety and convenience. The notice or the substance thereof

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

30 Section 11. Subsection (5) is added to section
 31 320.0715, Florida Statutes, to read:

1 320.0715 International Registration Plan; motor
2 carrier services; permits; retention of records.--

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

9 Section 12. Section 334.035, Florida Statutes, is
10 amended to read:

11 334.035 Purpose of transportation code.--The purpose
12 of the Florida Transportation Code is to establish the
13 responsibilities of the state, the counties, and the
14 municipalities in the planning and development of the
15 transportation systems serving the people of the state and to
16 assure the development of an integrated, balanced statewide
17 transportation system which enhances economic development
18 through promotion of international trade and interstate and
19 intrastate commerce. This code is necessary for the
20 protection of the public safety and general welfare and for
21 the preservation of all transportation facilities in the
22 state. The chapters in the code shall be considered
23 components of the total code, and the provisions therein,
24 unless expressly limited in scope, shall apply to all
25 chapters.

26 Section 13. Subsection (1) of section 334.0445,
27 Florida Statutes, 1998 Supplement, is amended to read:

28 334.0445 Model career service classification and
29 compensation plan.--

30 (1) Effective July 1, 1994, the Legislature grants to
31 the Department of Transportation in consultation with the

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

13 Section 14. Section 334.046, Florida Statutes, is
14 amended to read:

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

17 334.046 Department mission, goals, and objectives.--

18 (1) The mission of the Department of Transportation
19 shall be to provide a safe, interconnected statewide
20 transportation system for Florida's citizens and visitors that
21 ensures the mobility of people and freight, while enhancing
22 economic prosperity and sustaining the quality of our
23 environment.

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

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

30 (a) Providing a safe transportation system for
31 residents, visitors, and commerce.

- 1 (b) Preservation of the transportation system.
2 (c) Providing an interconnected transportation system
3 to support Florida's economy.
4 (d) Providing travel choices to support Florida's
5 communities.

6 Section 15. Section 334.071, Florida Statutes, is
7 created to read:

8 334.071 Legislative designation of transportation
9 facilities.--

10 (1) Designation of a transportation facility contained
11 in an act of the Legislature is for honorary or memorial
12 purposes or to distinguish a particular facility, and unless
13 specifically provided for, shall not be construed to require
14 any action by a local government or private party regarding
15 the changing of any street signs, mailing address, or 911
16 emergency telephone number system listing.

17 (2) The effect of such designations shall only be
18 construed to require the placement of markers by the
19 department at the termini or intersections specified for each
20 highway segment or bridge designated, and as authority for the
21 department to place other markers as appropriate for the
22 transportation facility being designated.

23 Section 16. Section 334.351, Florida Statutes, is
24 amended to read:

25 334.351 Youth work experience program; findings and
26 intent; authority to contract; limitation.--The Legislature
27 finds and declares that young men and women of the state
28 should be given an opportunity to obtain public service work
29 and training experience that protects and conserves the
30 valuable resources of the state and promotes participation in
31 other community enhancement projects. Notwithstanding the

1 requirements of chapters 287 and 337, the Department of
2 Transportation is authorized to contract with public agencies
3 and nonprofit organizations for the performance of work
4 related to the construction and maintenance of
5 transportation-related facilities by youths enrolled in youth
6 work experience programs. ~~The total amount of contracts~~
7 ~~entered into by the department under this section in any~~
8 ~~fiscal year may not exceed the amount specifically~~
9 ~~appropriated by the Legislature for this program.~~

10 Section 17. Subsection (1) of section 335.0415,
11 Florida Statutes, is amended to read:

12 335.0415 Public road jurisdiction and transfer
13 process.--

14 (1) The jurisdiction of public roads and the
15 responsibility for operation and maintenance within the
16 right-of-way of any road within the state, county, and
17 municipal road system shall be that which existed on June 10,
18 1995 ~~exists on July 1, 1995.~~

19 Section 18. Subsection (1) of section 335.093, Florida
20 Statutes, is amended to read:

21 335.093 Scenic highway designation.--

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

29 Section 19. Section 337.025, Florida Statutes, is
30 amended to read:

31

1 337.025 Innovative highway projects; department to
 2 establish program.--The department is authorized to establish
 3 a program for highway projects demonstrating innovative
 4 techniques of highway construction and finance which have the
 5 intended effect of controlling time and cost increases on
 6 construction projects. Such techniques may include, but are
 7 not limited to, state-of-the-art technology for pavement,
 8 safety, and other aspects of highway construction; innovative
 9 bidding and financing techniques; accelerated construction
 10 procedures; and those techniques that have the potential to
 11 reduce project life cycle costs. To the maximum extent
 12 practical, the department must use the existing process to
 13 award and administer construction contracts. When specific
 14 innovative techniques are to be used, the department is not
 15 required to adhere to those provisions of law that would
 16 prevent, preclude, or in any way prohibit the department from
 17 using the innovative technique. However, prior to using an
 18 innovative technique that is inconsistent with another
 19 provision of law, the department must document in writing the
 20 need for the exception and identify what benefits the
 21 traveling public and the affected community are anticipated to
 22 receive. The department may enter into no more than \$120~~\$60~~
 23 million in contracts annually for the purposes authorized by
 24 this section.

25 Section 20. Paragraph (c) is added to subsection (6)
 26 of section 337.11, Florida Statutes, and subsection (16) of
 27 said section is amended, to read:

28 337.11 Contracting authority of department; bids;
 29 emergency repairs, supplemental agreements, and change orders;
 30 combined design and construction contracts; progress payments;
 31 records; requirements of vehicle registration.--

1 (6)
2 (c)1. When the department determines that it is in the
3 best interest of the public for reasons of public concern,
4 economy, improved operations, or safety, and only when
5 circumstances dictate rapid completion of the work, the
6 department may, up to the threshold amount provided in s.
7 287.017 for CATEGORY FOUR, enter into contracts for
8 construction and maintenance without advertising and receiving
9 competitive bids. The department may enter into such contracts
10 only upon a written determination by the district secretary
11 that the work is necessary for one of the following reasons:
12 a. To ensure timely completion of projects or
13 avoidance of undue delay for other projects;
14 b. To accomplish minor repairs or construction and
15 maintenance activities for which time is of the essence and
16 for which significant costs savings would occur; or
17 c. To accomplish nonemergency work necessary to ensure
18 avoidance of adverse conditions that affect the safe and
19 efficient flow of traffic,
20
21 and that written determination shall specify the applicable
22 reason.
23 2. Prior to entering into any contract pursuant to
24 this paragraph, the department shall make a good faith effort
25 to obtain two or more quotes from qualified contractors, if
26 available. The employee making the good faith effort shall
27 create a short document which contains the names of the
28 qualified contractors and the quotes. If no quotes are
29 available, the employee so shall state. The department shall
30 also consider disadvantaged business enterprise participation
31 in such contracts. When the work exists within the limits of

1 an existing department contract, the department shall make a
2 good faith effort to negotiate and enter into a contract with
3 the prime contractor on the existing contract.

4 ~~(16) The department is authorized to undertake and~~
5 ~~contract to provide an owner controlled insurance plan (OCIP)~~
6 ~~on any construction project or group of related construction~~
7 ~~projects if the head of the department determines that an OCIP~~
8 ~~will be both cost-effective for the department and otherwise~~
9 ~~in its best interests. Such OCIP may provide insurance~~
10 ~~coverage for the department and for worker's compensation and~~
11 ~~employers liability and general liability and builders risk~~
12 ~~for contractors and subcontractors, for and in conjunction~~
13 ~~with any or all work performed on such projects. The~~
14 ~~department may directly purchase such coverage in the manner~~
15 ~~provided for the purchase of commodities pursuant to s.~~
16 ~~287.057, or self-insure, or use a combination thereof, any~~
17 ~~other statutory provisions or limitations on self-insurance or~~
18 ~~purchase of insurance notwithstanding. The department's~~
19 ~~authority hereunder includes the purchase of risk management,~~
20 ~~risk and loss control, safety management, investigative and~~
21 ~~claims adjustment services, advancement of funds for payment~~
22 ~~of claims, and other services reasonably necessary to process~~
23 ~~and pay claims under and administer the OCIP. In addition to~~
24 ~~any prequalification required under s. 337.14, no contractor~~
25 ~~shall be prequalified to bid on an OCIP project unless the~~
26 ~~contractor's casualty and loss experience and safety record~~
27 ~~meets the minimum requirements for OCIP coverage issuance on~~
28 ~~the project, were the contractor to be awarded the project.~~
29 ~~Exercise of the department's authority under this subsection~~
30 ~~shall not be deemed a waiver of sovereign immunity.~~

31

1 Section 21. Paragraph (a) of subsection (1) of section
2 337.16, Florida Statutes, is amended to read:

3 337.16 Disqualification of delinquent contractors from
4 bidding; determination of contractor nonresponsibility;
5 denial, suspension, and revocation of certificates of
6 qualification; grounds; hearing.--

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

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

23 Section 22. Subsection (2) of section 337.162, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 337.162 Professional services.--Professional services
26 provided to the department that fall below acceptable
27 professional standards may result in transportation project
28 delays, overruns, and reduced facility life. To minimize these
29 effects and ensure that quality services are received, the
30 Legislature hereby declares that licensed professionals shall
31

1 be held accountable for the quality of the services they
2 provide to the department.

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

18 Section 23. Subsections (1) and (2) of section 337.18,
19 Florida Statutes, 1998 Supplement, are amended to read:

20 337.18 Surety bonds; requirement with respect to
21 contract award; defaults; damage assessments.--

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

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

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

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

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

20
21 Any such liquidated damages paid to the department shall be
22 deposited to the credit of the fund from which payment for the
23 work contracted was authorized.

24 Section 24. Subsections (1), (2), (3), (7), and (8) of
25 section 337.185, Florida Statutes, are amended to read:

26 337.185 State Arbitration Board.--

27 (1) To facilitate the prompt settlement of claims for
28 additional compensation arising out of construction contracts
29 between the department and the various contractors with whom
30 it transacts business, the Legislature does hereby establish
31 the State Arbitration Board, referred to in this section as

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

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

27 (3) A hearing may be requested by the department or by
 28 a contractor who has a dispute with the department which,
 29 under the rules of the board, may be the subject of
 30 arbitration. The board shall conduct the hearing within 45
 31 days of the request. The party requesting the board's

1 consideration shall give notice of the hearing to each member.
 2 If the board finds that a third party is necessary to resolve
 3 the dispute, the board may vote to dismiss the claim, which
 4 may thereafter be pursued in accordance with the laws of the
 5 State of Florida ~~a court of law.~~

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

22 (8) The party requesting arbitration shall pay a fee
 23 to the board in accordance with a schedule established by it,
 24 not to exceed \$500 per claim which is \$25,000 or less, not to
 25 exceed \$1,000 per claim which is in excess of \$25,000 but not
 26 exceeding \$50,000, not to exceed \$1,500 per claim which is in
 27 excess of \$50,000 but not exceeding \$100,000, not to exceed
 28 \$2,000 per claim which is in excess of \$100,000 but not
 29 exceeding \$200,000, ~~and~~ not to exceed \$3,000~~\$2,500~~ per claim
 30 which is in excess of \$200,000 but not exceeding \$300,000
 31 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of

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

4 Section 25. (1) Subsection (1) of section 337.19,
5 Florida Statutes, is amended to read:

6 337.19 Suits by and against department; limitation of
7 actions; forum.--

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

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

29 (3) Any action or suit brought against the department
30 shall be brought in the county or counties where the cause of
31

1 action accrued, or in the county of the department's district
2 headquarters responsible for the work, or in Leon County.

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

6 Section 26. Paragraph (a) of subsection (1) and
7 paragraph (i) of subsection (4) of section 337.25, Florida
8 Statutes, are amended to read:

9 337.25 Acquisition, lease, and disposal of real and
10 personal property.--

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

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

31

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

11 Section 27. Subsection (9) is added to section
12 337.251, Florida Statutes, to read:

13 337.251 Lease of property for joint public-private
14 development and areas above or below department property.--

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

20 Section 28. Subsection (1) of section 337.403, Florida
21 Statutes, is amended to read:

22 337.403 Relocation of utility; expenses.--

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

1 utility at its own expense except as provided in paragraphs
2 (a), ~~and~~ (b), and (c).

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

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

31

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

7 Section 29. Paragraph (b) of subsection (2) of section
8 338.223, Florida Statutes, is amended to read:

9 338.223 Proposed turnpike projects.--

10 (2)

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

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

9 Section 30. Section 338.229, Florida Statutes, is
10 amended to read:

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

1 Section 31. Paragraph (a) of subsection (4) of section
2 339.135, Florida Statutes, is amended to read:

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

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

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

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

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

3 Section 32. Section 339.155, Florida Statutes, is
4 amended to read:

5 339.155 Transportation planning.--

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

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

28 (2) SCOPE OF PLANNING PROCESS.--

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

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

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

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

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

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

13 6. Promote efficient system management and operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (5) ADDITIONAL TRANSPORTATION PLANS.--

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

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

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

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

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

31

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

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

21 (c) Opportunity for design hearings:

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

27 a. Those whose property lies in whole or in part
28 within 300 feet on either side of the centerline of the
29 proposed facility.
30
31

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

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

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

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

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

20 Section 33. Section 339.175, Florida Statutes, 1998
21 Supplement, is amended to read:

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

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

18 (1) DESIGNATION.--

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

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

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

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

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

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

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

3
4 Each M.P.O. required under this section must be fully
5 operative no later than 6 months following its designation.

6 (2) VOTING MEMBERSHIP.--

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

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

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

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

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

3 (3) APPORTIONMENT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 6. Promote efficient system management and operation.
31

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

3 (c) Additionally, each M.P.O. shall consider:

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

7 1.2. The consistency of transportation planning with
8 applicable federal, state, and local energy conservation
9 programs, goals, and objectives;

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

12 2.4. The likely effect of transportation policy
13 decisions on land use and development and the consistency of
14 transportation plans and programs with all applicable
15 short-term and long-term land use and development plans;

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

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

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

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

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

31

1 ~~3.10.~~ The preservation of rights-of-way for
2 construction of future transportation projects, including the
3 identification of unused rights-of-way that may be needed for
4 future transportation corridors and the identification of
5 corridors for which action is most needed to prevent
6 destruction or loss;

7 ~~11. Any available methods to enhance the efficient~~
8 ~~movement of freight;~~

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

11 4.13. The overall social, economic, energy, and
12 environmental effects of transportation decisions; and

13 5.14. Any available methods to expand or enhance
14 transit services and increase the use of such services; ~~and~~

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

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

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

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

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

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

31

1 5. Represent all the jurisdictional areas within the
2 metropolitan area in the formulation of transportation plans
3 and programs required by this section; and

4 6. Perform all other duties required by state or
5 federal law.

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

28 (f)~~(e)~~1. Each M.P.O. shall appoint a citizens'
29 advisory committee, the members of which serve at the pleasure
30 of the M.P.O. The membership on the citizens' advisory
31 committee must reflect a broad cross section of local

1 residents with an interest in the development of an efficient,
2 safe, and cost-effective transportation system. Minorities,
3 the elderly, and the handicapped must be adequately
4 represented.

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

10 ~~(g)(f)~~ The department shall allocate to each M.P.O.,
11 for the purpose of accomplishing its transportation planning
12 and programming duties, an appropriate amount of federal
13 transportation planning funds.

14 ~~(h)(g)~~ Each M.P.O. may employ personnel or may enter
15 into contracts with local or state agencies, private planning
16 firms, or private engineering firms to accomplish its
17 transportation planning and programming duties required by
18 state or federal law.

19 (6) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must
20 develop a long-range transportation plan that addresses at
21 least a 20-year planning horizon. The plan must include both
22 long-range and short-range strategies and must comply with all
23 other state and federal requirements. The long-range
24 transportation plan must be consistent, to the maximum extent
25 feasible, with future land use elements and the goals,
26 objectives, and policies of the approved local government
27 comprehensive plans of the units of local government located
28 within the jurisdiction of the M.P.O. The approved long-range
29 transportation plan must be considered by local governments in
30 the development of the transportation elements in local
31

1 government comprehensive plans and any amendments thereto. The
 2 long-range transportation plan must, at a minimum:

3 (a) Identify transportation facilities, including, but
 4 not limited to, major roadways, airports, seaports, commuter
 5 rail systems, transit systems, and intermodal or multimodal
 6 terminals that will function as an integrated metropolitan
 7 transportation system. The long-range transportation plan
 8 must give emphasis to those transportation facilities that
 9 serve national, statewide, or regional functions, and must
 10 consider the goals and objectives identified in the Florida
 11 Transportation Plan as provided in s. 339.155. If a project is
 12 located within the boundaries of more than one M.P.O., the
 13 M.P.O.'s shall coordinate plans regarding the project in the
 14 long-range transportation plan.

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

31

1 (c) Assess capital investment and other measures
2 necessary to:

3 1. Ensure the preservation of the existing
4 metropolitan transportation system including requirements for
5 the operation, resurfacing, restoration, and rehabilitation of
6 major roadways and requirements for the operation,
7 maintenance, modernization, and rehabilitation of public
8 transportation facilities; and

9 2. Make the most efficient use of existing
10 transportation facilities to relieve vehicular congestion and
11 maximize the mobility of people and goods.

12 (d) Indicate, as appropriate, proposed transportation
13 enhancement activities, including, but not limited to,
14 pedestrian and bicycle facilities, scenic easements,
15 landscaping, historic preservation, mitigation of water
16 pollution due to highway runoff, and control of outdoor
17 advertising.

18 (e) In addition to the requirements of paragraphs
19 (a)-(d), in metropolitan areas that are classified as
20 nonattainment areas for ozone or carbon monoxide, the M.P.O.
21 must coordinate the development of the long-range
22 transportation plan with the State Implementation Plan
23 developed pursuant to the requirements of the federal Clean
24 Air Act.

25
26 In the development of its long-range transportation plan, each
27 M.P.O. must provide citizens, affected public agencies,
28 representatives of transportation agency employees, freight
29 shippers, providers of freight transportation services,
30 private providers of transportation, representatives of users
31 of public transit, and other interested parties, ~~and members~~

1 ~~of the general public~~ with a reasonable opportunity to comment
2 on the long-range transportation plan. The long-range
3 transportation plan must be approved by the M.P.O.

4 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.
5 shall, in cooperation with the state and affected public
6 transportation operators, develop a transportation improvement
7 program for the area within the jurisdiction of the M.P.O. In
8 the development of the transportation improvement program,
9 each M.P.O. must provide citizens, affected public transit
10 agencies, representatives of transportation agency employees,
11 freight shippers, providers of freight transportation
12 services, private providers of transportation, representatives
13 of users of public transit, and other interested parties, ~~and~~
14 ~~members of the general public~~ with a reasonable opportunity to
15 comment on the proposed transportation improvement program.

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

30 (b) Each M.P.O. annually shall prepare a list of
31 project priorities and shall submit the list to the

1 appropriate district of the department by October 1 of each
2 year; however, the department and a metropolitan planning
3 organization may, in writing, agree to vary this submittal
4 date. The list of project priorities must be formally reviewed
5 by the technical and citizens' advisory committees, and
6 approved by the M.P.O., before it is transmitted to the
7 district. The approved list of project priorities must be used
8 by the district in developing the district work program and
9 must be used by the M.P.O. in developing its transportation
10 improvement program. The annual list of project priorities
11 must be based upon project selection criteria that, at a
12 minimum, consider the following:

- 13 1. The approved M.P.O. long-range transportation plan;
- 14 2. The results of the transportation management
15 systems; and
- 16 3. The M.P.O.'s public-involvement procedures.

17 (c) The transportation improvement program must, at a
18 minimum:

- 19 1. Include projects and project phases to be funded
20 with state or federal funds within the time period of the
21 transportation improvement program and which are recommended
22 for advancement during the next fiscal year and 4 subsequent
23 fiscal years. Such projects and project phases must be
24 consistent, to the maximum extent feasible, with the approved
25 local government comprehensive plans of the units of local
26 government located within the jurisdiction of the M.P.O. For
27 informational purposes, the transportation improvement program
28 shall also include a list of projects to be funded from local
29 or private revenues.
- 30 2. Include projects within the metropolitan area which
31 are proposed for funding under 23 U.S.C. s. 134 of the Federal

1 Transit Act and which are consistent with the long-range
2 transportation plan developed under subsection (6).

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

20 4. Group projects and project phases of similar
21 urgency and anticipated staging into appropriate staging
22 periods.

23 5. Indicate how the transportation improvement program
24 relates to the long-range transportation plan developed under
25 subsection (6), including providing examples of specific
26 projects or project phases that further the goals and policies
27 of the long-range transportation plan.

28 6. Indicate whether any project or project phase is
29 inconsistent with an approved comprehensive plan of a unit of
30 local government located within the jurisdiction of the M.P.O.
31 If a project is inconsistent with an affected comprehensive

1 plan, the M.P.O. must provide justification for including the
2 project in the transportation improvement program.

3 7. Indicate how the improvements are consistent, to
4 the maximum extent feasible, with affected seaport and airport
5 master plans and with public transit development plans of the
6 units of local government located within the jurisdiction of
7 the M.P.O. If a project is located within the boundaries of
8 more than one M.P.O., the M.P.O.'s shall coordinate plans
9 regarding the project in the transportation improvement
10 program.

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

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

30 (f)~~(e)~~ The adopted annual transportation improvement
31 program for M.P.O.'s in nonattainment or maintenance areas

1 must be submitted to the district secretary and the Department
 2 of Community Affairs at least 90 days before the submission of
 3 the state transportation improvement program by the department
 4 to the appropriate federal agencies. The annual transportation
 5 improvement program for M.P.O.'s in attainment areas must be
 6 submitted to the district secretary and the Department of
 7 Community Affairs at least 45 days before the department
 8 submits the state transportation improvement program to the
 9 appropriate federal agencies; however, the department, the
 10 Department of Community Affairs, and a metropolitan planning
 11 organization may, in writing, agree to vary this submittal
 12 date. The Governor or the Governor's designee shall review
 13 and approve each transportation improvement program and any
 14 amendments thereto.

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

27 (h) The M.P.O. shall annually publish or otherwise
 28 make available for public review the annual listing of
 29 projects for which federal funds have been obligated in the
 30 preceding year. Project monitoring systems shall be maintained
 31

1 by those agencies responsible for obligating federal funds and
2 made accessible to the M.P.O.'s.

3 (8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall
4 develop, in cooperation with the department and public
5 transportation providers, a unified planning work program that
6 lists all planning tasks to be undertaken during the program
7 year. The unified planning work program must provide a
8 complete description of each planning task and an estimated
9 budget therefor and must comply with applicable state and
10 federal law.

11 (9) AGREEMENTS.--

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

15 1. An agreement with the department clearly
16 establishing the cooperative relationship essential to
17 accomplish the transportation planning requirements of state
18 and federal law.

19 2. An agreement with the metropolitan and regional
20 intergovernmental coordination and review agencies serving the
21 metropolitan areas, specifying the means by which activities
22 will be coordinated and how transportation planning and
23 programming will be part of the comprehensive planned
24 development of the area.

25 3. An agreement with operators of public
26 transportation systems, including transit systems, commuter
27 rail systems, airports, and seaports, describing the means by
28 which activities will be coordinated and specifying how public
29 transit, commuter rail, aviation, and seaport planning and
30 programming will be part of the comprehensive planned
31 development of the metropolitan area.

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

4 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
5 COUNCIL.--

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

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

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

21 1. Enter into contracts with individuals, private
22 corporations, and public agencies.

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

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

27 4. Establish bylaws and adopt rules pursuant to ss.
28 120.536(1) and 120.54 to implement provisions of law
29 conferring powers or duties upon it.

30
31

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

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

9 7. Employ an executive director and such other staff
10 as necessary to perform adequately the functions of the
11 council, within budgetary limitations. The executive director
12 and staff are exempt from part II of chapter 110 and serve at
13 the direction and control of the council. The council is
14 assigned to the Office of the Secretary of the Department of
15 Transportation ~~or~~ for fiscal and accountability purposes, but
16 it shall otherwise function independently of the control and
17 direction of the department.

18 8. Adopt an agency strategic plan that provides the
19 priority directions the agency will take to carry out its
20 mission within the context of the state comprehensive plan and
21 any other statutory mandates and directions given to the
22 agency.

23 (11) APPLICATION OF FEDERAL LAW.--Upon notification by
24 an agency of the Federal Government that any provision of this
25 section conflicts with federal laws or regulations, such
26 federal laws or regulations will take precedence to the extent
27 of the conflict until such conflict is resolved. The
28 department or an M.P.O. may take any necessary action to
29 comply with such federal laws and regulations or to continue
30 to remain eligible to receive federal funds.

31

1 Section 34. Subsections (8) and (10) of section
2 341.031, Florida Statutes, are amended to read:

3 341.031 Definitions.--As used in ss. 341.011-341.061,
4 the term:

5 (8) "Public transit service development project" means
6 a project undertaken by a public agency to determine whether a
7 new or innovative technique or measure can be utilized to
8 improve or expand public transit services to its constituency.
9 The duration of the project shall be limited according to the
10 type of the project in conformance with the provisions of s.
11 341.051(5)(e)(~~f~~), but in no case shall exceed a period of 3
12 years. Public transit service development projects
13 specifically include projects involving the utilization of new
14 technologies, services, routes, or vehicle frequencies; the
15 purchase of special transportation services; and other such
16 techniques for increasing service to the riding public as are
17 applicable to specific localities and transit user groups.

18 (10) "Transit corridor project" means a project that
19 is undertaken by a public agency and designed to relieve
20 congestion and improve capacity within an identified
21 transportation corridor by increasing people-carrying capacity
22 of the system through the use and facilitated movement of
23 high-occupancy conveyances. Each transit corridor project
24 must meet the requirements established in s. 341.051(5)(d)(~~e~~)
25 ~~and, if applicable, the requirements of the department's major~~
26 ~~capital investment policy developed pursuant to s.~~
27 ~~341.051(5)(b)~~. Initial project duration shall not exceed a
28 period of 2 years unless the project is reauthorized by the
29 Legislature. Such reauthorization shall be based upon a
30 determination that the project is meeting or exceeding the
31 criteria, developed pursuant to s. 341.051(5)(d)(~~e~~), by which

1 the success of the project is being judged and by inclusion of
2 the project in a departmental appropriation request.

3 Section 35. Subsection (14) is added to section
4 341.041, Florida Statutes, 1998 Supplement, to read:

5 341.041 Transit responsibilities of the
6 department.--The department shall, within the resources
7 provided pursuant to chapter 216:

8 (14) Create and maintain a common self-retention
9 insurance fund to support fixed-guideway projects throughout
10 the state where there is a contractual or legal obligation to
11 have such fund in existence in order to provide fixed-guideway
12 services. The maximum limit of such fund shall be as required
13 by any contractual or legal obligation.

14 Section 36. Subsection (5) of section 341.051, Florida
15 Statutes, is amended to read:

16 341.051 Administration and financing of public transit
17 programs and projects.--

18 (5) FUND PARTICIPATION; CAPITAL ASSISTANCE.--

19 (a) The department may fund up to 50 percent of the
20 nonfederal share of the costs, not to exceed the local share,
21 of any eligible public transit capital project or commuter
22 assistance project that is local in scope; except, however,
23 that departmental participation in the final design,
24 right-of-way acquisition, and construction phases of an
25 individual fixed-guideway project which is not approved for
26 federal funding shall not exceed an amount equal to 12.5
27 percent of the total cost of each phase.

28 ~~(b) The Department of Transportation shall develop a~~
29 ~~major capital investment policy which shall include policy~~
30 ~~criteria and guidelines for the expenditure or commitment of~~
31

1 ~~state funds for public transit capital projects. The policy~~
2 ~~shall include the following:~~

3 1. ~~Methods to be used to determine consistency of a~~
4 ~~transit project with the approved local government~~
5 ~~comprehensive plans of the units of local government in which~~
6 ~~the project is located.~~

7 2. ~~Methods for evaluating the level of local~~
8 ~~commitment to a transit project, which is to be demonstrated~~
9 ~~through system planning and the development of a feasible plan~~
10 ~~to fund operating cost through fares, value capture techniques~~
11 ~~such as joint development and special districts, or other~~
12 ~~local funding mechanisms.~~

13 3. ~~Methods for evaluating alternative transit systems~~
14 ~~including an analysis of technology and alternative methods~~
15 ~~for providing transit services in the corridor.~~

16
17 ~~The department shall present such investment policy to both~~
18 ~~the Senate Transportation Committee and the House Public~~
19 ~~Transportation Committee along with recommended legislation by~~
20 ~~March 1, 1991.~~

21 **(b)(c)** The department is authorized to fund up to 100
22 percent of the cost of any eligible transit capital project or
23 commuter assistance project that is statewide in scope or
24 involves more than one county where no other governmental
25 entity or appropriate jurisdiction exists.

26 **(c)(d)** The department is authorized to advance up to
27 80 percent of the capital cost of any eligible project that
28 will assist Florida's transit systems in becoming fiscally
29 self-sufficient. Such advances shall be reimbursed to the
30 department on an appropriate schedule not to exceed 5 years
31 after the date of provision of the advances.

1 (d)~~(e)~~ The department is authorized to fund up to 100
2 percent of the capital and net operating costs of statewide
3 transit service development projects or transit corridor
4 projects. All transit service development projects shall be
5 specifically identified by way of a departmental appropriation
6 request, and transit corridor projects shall be identified as
7 part of the planned improvements on each transportation
8 corridor designated by the department. The project
9 objectives, the assigned operational and financial
10 responsibilities, the timeframe required to develop the
11 required service, and the criteria by which the success of the
12 project will be judged shall be documented by the department
13 for each such transit service development project or transit
14 corridor project.

15 (e)~~(f)~~ The department is authorized to fund up to 50
16 percent of the capital and net operating costs of transit
17 service development projects that are local in scope and that
18 will improve system efficiencies, ridership, or revenues. All
19 such projects shall be identified in the appropriation request
20 of the department through a specific program of projects, as
21 provided for in s. 341.041, that is selectively applied in the
22 following functional areas and is subject to the specified
23 times of duration:

24 1. Improving system operations, including, but not
25 limited to, realigning route structures, increasing system
26 average speed, decreasing deadhead mileage, expanding area
27 coverage, and improving schedule adherence, for a period of up
28 to 3 years;

29 2. Improving system maintenance procedures, including,
30 but not limited to, effective preventive maintenance programs,
31 improved mechanics training programs, decreasing service

1 repair calls, decreasing parts inventory requirements, and
2 decreasing equipment downtime, for a period of up to 3 years;

3 3. Improving marketing and consumer information
4 programs, including, but not limited to, automated information
5 services, organized advertising and promotion programs, and
6 signing of designated stops, for a period of up to 2 years;
7 and

8 4. Improving technology involved in overall
9 operations, including, but not limited to, transit equipment,
10 fare collection techniques, electronic data processing
11 applications, and bus locators, for a period of up to 2 years.

12
13 The term "net operating costs" means all operating costs of a
14 project less any federal funds, fares, or other sources of
15 income to the project.

16 Section 37. Subsections (2) through (5) of section
17 341.053, Florida Statutes, are renumbered as subsections (3)
18 through (6), respectively, and a new subsection (2) is added
19 to that section to read:

20 341.053 Intermodal Development Program;
21 administration; eligible projects; limitations.--

22 (2) In recognition of the department's role in the
23 economic development of this state, the department shall
24 develop a proposed intermodal development plan to connect
25 Florida's airports, deepwater seaports, rail systems serving
26 both passenger and freight, and major intermodal connectors to
27 the Florida Intrastate Highway System facilities as the
28 primary system for the movement of people and freight in this
29 state in order to make the intermodal development plan a fully
30 integrated and interconnected system. The intermodal
31 development plan must:

1 (a) Define and assess the state's freight intermodal
2 network, including airports, seaports, rail lines and
3 terminals, and connecting highways.

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

8 (c) Be developed in a manner that will assure maximum
9 use of existing facilities and optimum integration and
10 coordination of the various modes of transportation, including
11 both government-owned and privately owned resources, in the
12 most cost-effective manner possible.

13 Section 38. Subsections (6) and (8) of section
14 341.302, Florida Statutes, are amended to read:

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

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

28 (8) Conduct, at a minimum, inspections of track and
29 rolling stock, train signals and related equipment, hazardous
30 materials transportation, including the loading, unloading,
31 and labeling of hazardous materials at shipper, receiver, and

1 transfer points, and train operating practices to determine
2 adherence to state and federal standards. Department
3 personnel may enforce any safety regulation issued under the
4 Federal Government's preemptive authority over interstate
5 commerce.

6 Section 39. Section 348.9401, Florida Statutes, is
7 amended to read:

8 348.9401 Short title.--This part shall be known and
9 may be cited as the "St. Lucie County Expressway and Bridge
10 Authority Law."

11 Section 40. Subsections (2) and (11) of section
12 348.941, Florida Statutes, are amended to read:

13 348.941 Definitions.--As used in this part, unless the
14 context clearly indicates otherwise, the term:

15 (2) "Authority" means the St. Lucie County Expressway
16 and Bridge Authority.

17 (11) "St. Lucie County Expressway and Bridge System"
18 means:

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

23 (b) The Indian River Lagoon Bridge.

24 Section 41. The catchline and subsections (1) and (2)
25 of section 348.942, Florida Statutes, are amended to read:

26 348.942 St. Lucie County and Bridge Expressway
27 Authority--

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

1 (2) The authority shall have the exclusive right to
2 exercise all those powers herein set forth; and no other
3 entity, body, or authority, whether within or without St.
4 Lucie County, may either directly or indirectly exercise any
5 jurisdiction, control, authority, or power in any manner
6 relating to any expressway and bridge system within St. Lucie
7 County without either the express consent of the authority or
8 as otherwise provided herein.

9 Section 42. Paragraph (a) of subsection (1) and
10 paragraph (g) of subsection (2) of section 348.943, Florida
11 Statutes, are amended to read:

12 348.943 Purposes and powers.--

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

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

23 (g)1. To borrow money as provided by the State Bond
24 Act or, in the alternative, pursuant to the provisions of s.
25 348.944(3), and in either case for any purpose of the
26 authority authorized, including the financing or refinancing
27 of the cost of all or any part of the system.

28 2. The authority shall reimburse St. Lucie County for
29 any sums expended, together with interest at the highest rate
30 applicable to the bonds of the authority for which the sums
31

1 were required, from the St. Lucie County gasoline tax funds
2 for payment of the bonds.

3 Section 43. Section 348.944, Florida Statutes, is
4 amended to read:

5 348.944 Bonds.--

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

8 (2) As an alternative to subsection (1), the authority
9 may issue its own bonds pursuant to subsection (3) in such
10 principal amounts as, in the opinion of the authority, are
11 necessary to provide sufficient moneys for achieving its
12 corporate purposes, so long as such bonds do not pledge the
13 full faith and credit of the state, St. Lucie County, or any
14 municipality in St. Lucie County.

15 (3) The bonds of the authority issued pursuant to this
16 subsection, whether on original issuance or on refunding,
17 shall be authorized by resolution of the members thereof and
18 may be either term or serial bonds, shall bear such date or
19 dates, mature at such time or times, not exceeding 40 years
20 from their respective dates, bear interest at such rate or
21 rates (not exceeding the maximum lawful rate), fixed or
22 variable, be in such denominations, be in such form, carry
23 such registration, exchangeability, and interchangeability
24 privileges, be payable in such medium of payment and at such
25 place or places, be subject to such terms of redemption, with
26 or without premium, and have such rank and be entitled to such
27 priorities on the revenues, tolls, fees, rentals, or other
28 charges, receipts, or moneys of the authority, including any
29 moneys received pursuant to the terms of any lease-purchase
30 agreement between the authority and the department, as such
31 resolution or any resolution subsequent thereto may provide.

1 The bonds shall be executed either by manual or facsimile
 2 signature by such officers as the authority shall determine.
 3 The term "bonds" shall include all forms of indebtedness,
 4 including notes. The proceeds of any bonds shall be used for
 5 such purposes and shall be disbursed in such manner and under
 6 such restrictions, if any, as the authority may provide
 7 pursuant to resolution. The bonds may also be issued pursuant
 8 to an indenture of trust or other agreement with such trustee
 9 or fiscal agent as may be selected by the authority. The
 10 resolution, indenture of trust, or other agreement may contain
 11 such provisions securing the bonds as the authority deems
 12 appropriate. The principal of and the interest on the bonds
 13 shall be payable from such revenues, tolls, fees, rentals, or
 14 other charges, receipts, or moneys as determined by the
 15 authority pursuant to resolution. The authority may grant a
 16 lien upon and pledge such revenues, tolls, fees, rentals, or
 17 other charges, receipts, or moneys in favor of the holders of
 18 each series of bonds in the manner and to the extent provided
 19 by the authority by resolution. Such revenues, tolls, fees,
 20 rentals, or other charges, receipts, or moneys shall
 21 immediately be subject to such lien without any physical
 22 delivery thereof, and such lien shall be valid and binding as
 23 against all parties having claims of any kind in tort,
 24 contract, or otherwise against the authority.

25 (4) Bonds issued by or on behalf of the authority
 26 shall be sold at public sale in the manner provided by the
 27 State Bond Act. However, if the authority shall determine by
 28 resolution that a negotiated sale of the bonds is in the best
 29 interest of the authority, the authority may negotiate for
 30 sale of the bonds with the underwriter or underwriters
 31 designated by the division in the case of bonds issued

1 pursuant to subsection (1) or the authority in the case of
2 bonds issued pursuant to subsection (3). The authority shall
3 provide a specific finding by resolution as to the reason
4 requiring the negotiated sale. Pending the preparation of
5 definitive bonds, interim certificates may be issued to the
6 purchaser or purchasers of such bonds and may contain such
7 terms and conditions as the authority may determine.

8 Section 44. Section 348.9495, Florida Statutes, is
9 created to read:

10 348.9495 Exemption from taxation.--The effectuation of
11 the authorized purposes of the authority created under this
12 part is, shall, and will be in all respects for the benefit of
13 the people of the state, for the increase of their commerce
14 and prosperity, and for the improvement of their health and
15 living conditions, and, since such authority will be
16 performing essential governmental functions in effectuating
17 such purposes, such authority shall not be required to pay any
18 taxes or assessments of any kind or nature whatsoever upon any
19 property acquired or used by it for such purposes or upon any
20 tolls, fees, rentals, receipts, moneys, or charges at any time
21 received by it, and the bonds issued by the authority, their
22 transfer, and the income therefrom, including any profits made
23 on the sale thereof, shall at all times be free from taxation
24 of any kind by the state or by any political subdivision,
25 taxing agency, or instrumentality thereof. The exemption
26 granted by this section shall not be applicable to any tax
27 imposed by chapter 220 on interest, income, or profits on debt
28 obligations owned by corporations.

29 Section 45. Subsection (10) of section 338.251,
30 Florida Statutes, 1998 Supplement, is amended to read:

31

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 under this
29 section which have been or will be repaid on or after July 1,
30 1998, to the Toll Facilities Revolving Trust Fund by or on
31 behalf of the Tampa-Hillsborough County Expressway Authority,

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

8 Section 46. Section 373.4137, Florida Statutes, is
9 amended to read:

10 373.4137 Mitigation requirements.--

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

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

25 (a) By May 1 of each year ~~Beginning July 1996~~, the
26 Department of Transportation shall submit ~~annually~~ to the
27 Department of Environmental Protection and the water
28 management districts a copy of its tentative ~~adopted~~ work
29 program and an inventory of habitats addressed in the rules
30 adopted pursuant to this part and s. 404 of the Clean Water
31 Act, 33 U.S.C. s. 1344, which may be impacted by its plan of

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

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

18 (3) To fund the mitigation plan for the projected
 19 impacts identified in the inventory described in subsection
 20 (2), ~~beginning July 1, 1997,~~ the Department of Transportation
 21 shall identify funds quarterly in an escrow account within the
 22 State Transportation Trust Fund for the environmental
 23 mitigation phase of projects budgeted by the Department of
 24 Transportation for the current fiscal year. The escrow account
 25 will be maintained ~~established~~ by the Department of
 26 Transportation for the benefit of the Department of
 27 Environmental Protection and the water management districts.
 28 Any interest earnings from the escrow account shall remain
 29 with ~~be returned to~~ the Department of Transportation. The
 30 Department of Environmental Protection or water management
 31 districts may ~~shall~~ request a transfer of funds from the

1 ~~escrow account to the Ecosystem Management and Restoration~~
2 ~~Trust Fund~~ no sooner than 30 days prior to the date the funds
3 are needed to pay for activities associated with development
4 or implementation of the approved mitigation plan described in
5 subsection (4) for the current fiscal year, including, but not
6 limited to, design, engineering, production, and staff
7 support. Actual conceptual plan preparation costs incurred
8 prior to plan approval may be submitted to the Department of
9 Transportation and the Department of Environmental Protection
10 by November 1 of each year with the plan. The conceptual plan
11 preparation costs of each water management district will be
12 paid based on the amount approved on the mitigation plan and
13 allocated to the current fiscal year projects identified by
14 the water management district contained in the mitigation
15 programs. The amount transferred to the escrow account each
16 year by the Department of Transportation shall correspond to a
17 cost per acre of \$75,000 multiplied by the projected acres of
18 impact identified in the inventory described in subsection (2)
19 ~~within the water management district for that year. The water~~
20 ~~management district may draw from the trust fund no sooner~~
21 ~~than 30 days prior to the date funds are needed to pay for~~
22 ~~activities associated with development or implementation of~~
23 ~~the mitigation plan described in subsection (4). However, the~~
24 \$75,000 cost per acre does not constitute an admission against
25 interest against the state or its subdivisions nor is the cost
26 admissible as evidence of full compensation for any property
27 acquired by eminent domain or through inverse condemnation.
28 Each ~~May~~ July 1, ~~beginning in 1998,~~ the cost per acre shall be
29 adjusted by the percentage change in the average of the
30 Consumer Price Index issued by the United States Department of
31 Labor for the most recent 12-month period ending September 30,

1 compared to the base year average, which is the average for
2 the 12-month period ending September 30, 1996. At the end of
3 each year, the projected acreage of impact shall be reconciled
4 with the acreage of impact of projects as permitted, including
5 permit modification, pursuant to this part and s. 404 of the
6 Clean Water Act, 33 U.S.C. s. 1344., ~~and~~ The subject following
7 year's transfer of funds shall be adjusted accordingly to
8 reflect the over transfer or under transfer of funds from the
9 preceding year. The Department of Transportation ~~Environmental~~
10 ~~Protection~~ is authorized to transfer such funds from the
11 escrow account ~~Ecosystem Management and Restoration Trust Fund~~
12 to the Department of Environmental Protection and the water
13 management districts to carry out the mitigation programs.

14 (4) Prior to December 1 of each year ~~31, 1996~~, each
15 water management district, in consultation with the Department
16 of Environmental Protection, the United States Army Corps of
17 Engineers, the Department of Transportation, ~~and~~ other
18 appropriate federal, state, and local governments, and other
19 interested parties, including entities operating mitigation
20 banks, shall develop a plan for the primary purpose of
21 complying with the mitigation requirements adopted pursuant to
22 this part and 33 U.S.C. s. 1344. This plan shall also address
23 significant invasive aquatic and exotic plant problems within
24 wetlands and other surface waters. In developing such plans,
25 the districts shall utilize sound ecosystem management
26 practices to address significant water resource needs and
27 shall focus on activities of the Department of Environmental
28 Protection and the water management districts, such as surface
29 water improvement and management (SWIM) waterbodies and lands
30 identified for potential acquisition for preservation,
31 restoration, or enhancement, to the extent that such

1 activities comply with the mitigation requirements adopted
 2 under this part and 33 U.S.C. s. 1344. In determining the
 3 activities to be included in such plans, the districts shall
 4 also consider the purchase of credits from public or private
 5 mitigation banks permitted pursuant to s. 373.4136 and
 6 associated federal authorization ~~under this part~~ and shall
 7 include such purchase as a part of the mitigation plan when
 8 such purchase would offset the impact of the transportation
 9 project, provide equal benefits to the water resources than
 10 other mitigation options being considered, and provide the
 11 most cost-effective mitigation option. The mitigation plan
 12 shall be preliminarily approved by the water management
 13 district governing board and shall be submitted to the
 14 secretary of the Department of Environmental Protection for
 15 review and final approval. The preliminary approval by the
 16 water management district governing board does not constitute
 17 a decision which affects substantial interests as provided by
 18 s. 120.569. At least 30 days prior to preliminary approval,
 19 the water management district shall provide a copy of the
 20 draft mitigation plan to any person who has requested a copy.

21 (a) For each transportation project with a funding
 22 request for the next fiscal year, the mitigation plan shall
 23 include a brief explanation of why a mitigation bank was or
 24 was not chosen as a mitigation option, including an estimation
 25 of identifiable costs of the mitigation bank and nonbank
 26 options to the extent practicable. ~~If the Department of~~
 27 ~~Environmental Protection and water management districts are~~
 28 ~~unable to identify mitigation that would offset the impacts of~~
 29 ~~a project included in the inventory, either due to the nature~~
 30 ~~of the impact or the amount of funds available, that project~~

1 ~~shall not be addressed in the mitigation plan and the project~~
2 ~~shall not be subject to the provisions of this section.~~

3 (b) Specific projects may be excluded from the
4 mitigation plan and shall not be subject to this section upon
5 the agreement of the Department of Transportation, the
6 Department of Environmental Protection, and the appropriate
7 water management district if:

8 1. that The inclusion of such projects would hamper
9 the efficiency or timeliness of the mitigation planning and
10 permitting process; or

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

14 (c) Surface water improvement and management or
15 invasive plant control projects undertaken using the \$12
16 million advance transferred from the Department of
17 Transportation to the Department of Environmental Protection
18 in fiscal year 1996-1997 which meet the requirements for
19 mitigation under this part and 33 U.S.C. s. 1344 shall remain
20 available for mitigation until the \$12 million is fully
21 credited up to and including fiscal year 2004-2005. When these
22 projects are used as mitigation, the \$12 million advance shall
23 be reduced by \$75,000 per acre of impact mitigated. For any
24 fiscal year through and including fiscal year 2004-2005, to
25 the extent the cost of developing and implementing the
26 mitigation plans is less than the amount transferred pursuant
27 to subsection (3), the difference shall be credited towards
28 the \$12 million advance. Except as noted in this paragraph,
29 any funds not directed to implement the mitigation plan
30 should, to the greatest extent possible, be directed to fund
31 invasive plant control within wetlands and other surface

1 waters. ~~Those transportation projects that are proposed to~~
 2 ~~commence in fiscal year 1996-1997 shall not be addressed in~~
 3 ~~the mitigation plan, and the provisions of subsection (7)~~
 4 ~~shall not apply to these projects. The Department of~~
 5 ~~Transportation may enter into interagency agreements with the~~
 6 ~~Department of Environmental Protection or any water management~~
 7 ~~district to perform mitigation planning and implementation for~~
 8 ~~these projects.~~

9 ~~(d) On July 1, 1996, the Department of Transportation~~
 10 ~~shall transfer to the Department of Environmental Protection~~
 11 ~~\$12 million from the State Transportation Trust Fund for the~~
 12 ~~purposes of the surface water improvement management program~~
 13 ~~and to address statewide aquatic and exotic plant problems~~
 14 ~~within wetlands and other surface waters. Such funds shall be~~
 15 ~~considered an advance upon funds that the Department of~~
 16 ~~Transportation would provide for statewide mitigation during~~
 17 ~~the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This~~
 18 ~~use of mitigation funds for surface water improvement~~
 19 ~~management projects or aquatic and exotic plant control may be~~
 20 ~~utilized as mitigation for transportation projects to the~~
 21 ~~extent that it complies with the mitigation requirements~~
 22 ~~adopted pursuant to this part and 33 U.S.C. s. 1344. To the~~
 23 ~~extent that such activities result in mitigation credit for~~
 24 ~~projects permitted in fiscal year 1996-1997, all or part of~~
 25 ~~the \$12 million funding for surface water improvement~~
 26 ~~management projects or aquatic and exotic plant control in~~
 27 ~~fiscal year 1996-1997 shall be drawn from Department of~~
 28 ~~Transportation mitigation funding for fiscal year 1996-1997~~
 29 ~~rather than from mitigation funding for fiscal years~~
 30 ~~1997-1998, 1998-1999, and 1999-2000, in an amount equal to the~~
 31 ~~cost per acre of impact described in subsection (3), times the~~

1 ~~acreage of impact that is mitigated by such plant control~~
 2 ~~activities. Any part of the \$12 million that does not result~~
 3 ~~in mitigation credit for projects permitted in fiscal year~~
 4 ~~1996-1997 shall remain available for mitigation credit during~~
 5 ~~fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

6 (5) The water management district shall be responsible
 7 for ensuring that mitigation requirements pursuant to 33
 8 U.S.C. s. 1344 are met for the impacts identified in the
 9 inventory described in subsection (2), by implementation of
 10 the approved plan described in subsection (4) to the extent
 11 funding is provided as funded by the Department of
 12 Transportation. During the federal permitting process, the
 13 water management district may deviate from the approved
 14 mitigation plan in order to comply with federal permitting
 15 requirements.

16 (6) The mitigation plan shall be updated annually to
 17 reflect the most current Department of Transportation work
 18 program and may be amended throughout the year to anticipate
 19 schedule changes or additional projects which may arise. Each
 20 update and amendment of the mitigation plan shall be submitted
 21 to the secretary of the Department of Environmental Protection
 22 for approval ~~as described in subsection (4)~~. However, such
 23 approval shall not be applicable to a deviation as described
 24 in subsection (5).

25 (7) Upon approval by the secretary of the Department
 26 of Environmental Protection, the mitigation plan shall be
 27 deemed to satisfy the mitigation requirements under this part
 28 and any other mitigation requirements imposed by local,
 29 regional, and state agencies for impacts identified in the
 30 inventory described in subsection (2). The approval of the
 31 secretary shall authorize the activities proposed in the

1 mitigation plan, and no other state, regional, or local permit
2 or approval shall be necessary.

3 (8) This section shall not be construed to eliminate
4 the need for the Department of Transportation to comply with
5 the requirement to implement practicable design modifications,
6 including realignment of transportation projects, to reduce or
7 eliminate the impacts of its transportation projects on
8 wetlands and other surface waters as required by rules adopted
9 pursuant to this part, or to diminish the authority under this
10 part to regulate other impacts, including water quantity or
11 water quality impacts, or impacts regulated under this part
12 that are not identified in the inventory described in
13 subsection (2).

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

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

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

4 Section 47. Subsections (3) and (23) of section
5 479.01, Florida Statutes, are amended to read:

6 479.01 Definitions.--As used in this chapter, the
7 term:

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

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

1 ~~regulation pursuant to subsection (2), in which there are~~
2 ~~located~~ three or more separate and distinct conforming
3 industrial or commercial activities are located.

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

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

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

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

13
14 Distances specified in this paragraph must be measured from the
15 nearest outer edge of the primary building, or primary
16 building complex when the individual units of the complex are
17 connected by covered walkways ~~uses located within a 1,600-foot~~
18 ~~radius of each other and generally recognized as commercial or~~
19 ~~industrial by zoning authorities in this state.~~

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

23 1.(a) Signs.

24 2. Communication towers.

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

28 4.(c) Transient or temporary activities.

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

31

1 ~~6.(e)~~ Activities conducted more than 660 feet from the
2 nearest edge of the right-of-way.

3 ~~7.(f)~~ Activities conducted in a building principally
4 used as a residence.

5 ~~8.(g)~~ Railroad tracks and minor sidings.

6 Section 48. Paragraph (b) of subsection (8) of section
7 479.07, Florida Statutes, is 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 prior to the removal of the sign ~~within 90 days after the date~~
31 ~~of the department's final notice of sign removal~~, the

1 permittee demonstrates that a 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. A ~~The~~ permit reinstatement fee of up to \$300,
9 based upon 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
16 Conflicting applications filed by other persons for the same
17 or competing site covered by a permit subject to the
18 provisions of this paragraph shall not be approved until after
19 the sign subject to the expired permit has been removed.

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

22 479.16 Signs for which permits are not required.--The
23 following signs are exempt from the requirement that a permit
24 for a sign be obtained under the provisions of this chapter
25 but are required to comply with the provisions of s.
26 479.11(4)-(8):

27 (15) Signs not in excess of 16 square feet placed at a
28 road junction with the State Highway System denoting only the
29 distance or direction of a residence or farm operation, or, in
30 a rural area where a hardship is created because a small
31 business is not visible from the road junction with the State

1 Highway System, one sign not in excess of 16 & square feet,
 2 denoting only the name of the business and the distance and
 3 direction to the business. The small-business-sign provision
 4 of this subsection does not apply to charter counties and may
 5 not be implemented if the Federal Government notifies the
 6 department that implementation will adversely affect the
 7 allocation of federal funds to the department.

8 Section 50. Sections 341.3201, 341.321, 341.322,
 9 341.325, 341.327, 341.329, 341.331, 341.332, 341.3331,
 10 341.3332, 341.3333, 341.3334, 341.3335, 341.3336, 341.3337,
 11 341.3338, 341.3339, 341.334, 341.335, 341.336, 341.3365,
 12 341.342, 341.343, 341.344, 341.345, 341.346, 341.3465,
 13 341.347, 341.348, 341.351, 341.352, 341.353, 341.363, 341.364,
 14 341.365, 341.366, 341.368, 341.369, 341.371, 341.372, 341.375,
 15 341.381, 341.382, 341.383, and 341.386, Florida Statutes, are
 16 hereby repealed.

17 Section 51. Paragraph (d) of subsection (1) of section
 18 212.055, Florida Statutes, 1998 Supplement, is amended to
 19 read:

20 212.055 Discretionary sales surtaxes; legislative
 21 intent; authorization and use of proceeds.--It is the
 22 legislative intent that any authorization for imposition of a
 23 discretionary sales surtax shall be published in the Florida
 24 Statutes as a subsection of this section, irrespective of the
 25 duration of the levy. Each enactment shall specify the types
 26 of counties authorized to levy; the rate or rates which may be
 27 imposed; the maximum length of time the surtax may be imposed,
 28 if any; the procedure which must be followed to secure voter
 29 approval, if required; the purpose for which the proceeds may
 30 be expended; and such other requirements as the Legislature
 31

1 may provide. Taxable transactions and administrative
2 procedures shall be as provided in s. 212.054.

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

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

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

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

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

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

5 Section 52. Paragraph (f) of subsection (2) of section
6 348.0004, Florida Statutes, is amended to read:

7 348.0004 Purposes and powers.--

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

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

1 expressway system for transportation in an amount sufficient
2 to replace revenues necessary to meet bond obligations secured
3 by such tolls and increases.

4 Section 53. In addition to the voting membership
5 established by s. 339.175(2), Florida Statutes, 1998
6 Supplement, and notwithstanding any other provision of law to
7 the contrary, the voting membership of any Metropolitan
8 Planning Organization whose geographical boundaries include
9 any county as defined in s. 125.011(1), Florida Statutes, must
10 include an additional voting member appointed by that city's
11 governing body for each city with a population of 50,000 or
12 more residents.

13 Section 54. Paragraph (d) of subsection (3) of section
14 20.23, Florida Statutes, 1998 Supplement, is amended to read:

15 20.23 Department of Transportation.--There is created
16 a Department of Transportation which shall be a decentralized
17 agency.

18 (3)

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

21 a. Developing policy and procedures and monitoring
22 performance to ensure compliance with these policies and
23 procedures;

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

26 c. Assessing and ensuring the accuracy of information
27 within the department's financial management information
28 systems; and

29 d. Performing other activities of a statewide nature.

30 2. The following offices are established and shall be
31 headed by a manager, each of whom shall be appointed by and

1 serve at the pleasure of the secretary. The positions shall be
2 classified at a level equal to a division director:

- 3 a. The Office of Administration;
- 4 b. The Office of Policy Planning;
- 5 c. The Office of Design;
- 6 d. The Office of Construction;
- 7 e. The Office of Right-of-Way;
- 8 f. The Office of Toll Operations; and
- 9 g. The Office of Information Systems.

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

15 Section 55. Subsection (4) of section 206.46, Florida
16 Statutes, is amended to read:

17 206.46 State Transportation Trust Fund.--

18 (4) The department may authorize the investment of the
19 earnings accrued and collected upon the investment of the
20 minimum balance of funds required to be maintained in the
21 State Transportation Trust Fund pursuant to s.
22 339.135(6)(b)(7)(b). Such investment shall be limited as
23 provided in s. 288.9607(7).

24 Section 56. Section 234.112, Florida Statutes, is
25 repealed.

26 Section 57. Paragraph (a) of subsection (7) of section
27 288.9607, Florida Statutes, is amended to read:

28 288.9607 Guaranty of bond issues.--

29 (7)(a) The corporation is authorized to enter into an
30 investment agreement with the Department of Transportation and
31 the State Board of Administration concerning the investment of

1 the earnings accrued and collected upon the investment of the
2 minimum balance of funds required to be maintained in the
3 State Transportation Trust Fund pursuant to s.
4 339.135(6)(b)~~(7)(b)~~. Such investment shall be limited as
5 follows:

6 1. Not more than \$4 million of the investment earnings
7 earned on the investment of the minimum balance of the State
8 Transportation Trust Fund in a fiscal year shall be at risk at
9 any time on one or more bonds or series of bonds issued by the
10 corporation.

11 2. The investment earnings shall not be used to
12 guarantee any bonds issued after June 30, 1998, and in no
13 event shall the investment earnings be used to guarantee any
14 bond issued for a maturity longer than 15 years.

15 3. The corporation shall pay a reasonable fee, set by
16 the State Board of Administration, in return for the
17 investment of such funds. The fee shall not be less than the
18 comparable rate for similar investments in terms of size and
19 risk.

20 4. The proceeds of bonds, or portions thereof, issued
21 by the corporation for which a guaranty has been or will be
22 issued pursuant to s. 288.9606, s. 288.9608, or this section
23 used to make loans to any one person, including any related
24 interests, as defined in s. 658.48, of such person, shall not
25 exceed 20 percent of the principal of all such outstanding
26 bonds of the corporation issued prior to the first composite
27 bond issue of the corporation, or December 31, 1995, whichever
28 comes first, and shall not exceed 15 percent of the principal
29 of all such outstanding bonds of the corporation issued
30 thereafter, in each case determined as of the date of issuance
31 of the bonds for which such determination is being made and

1 taking into account the principal amount of such bonds to be
 2 issued. The provisions of this subparagraph shall not apply
 3 when the total amount of all such outstanding bonds issued by
 4 the corporation is less than \$10 million. For the purpose of
 5 calculating the limits imposed by the provisions of this
 6 subparagraph, the first \$10 million of bonds issued by the
 7 corporation shall be taken into account.

8 5. The corporation shall establish a debt service
 9 reserve account which contains not less than 6 months' debt
 10 service reserves from the proceeds of the sale of any bonds,
 11 or portions thereof, guaranteed by the corporation.

12 6. The corporation shall establish an account known as
 13 the Revenue Bond Guaranty Reserve Account, the Guaranty Fund.
 14 The corporation shall deposit a sum of money or other cash
 15 equivalents into this fund and maintain a balance of money or
 16 cash equivalents in this fund, from sources other than the
 17 investment of earnings accrued and collected upon the
 18 investment of the minimum balance of funds required to be
 19 maintained in the State Transportation Trust Fund, not less
 20 than a sum equal to 1 year of maximum debt service on all
 21 outstanding bonds, or portions thereof, of the corporation for
 22 which a guaranty has been issued pursuant to ss. 288.9606,
 23 288.9607, and 288.9608. In the event the corporation fails to
 24 maintain the balance required pursuant to this subparagraph
 25 for any reason other than a default on a bond issue of the
 26 corporation guaranteed pursuant to this section or because of
 27 the use by the corporation of any such funds to pay insurance,
 28 maintenance, or other costs which may be required for the
 29 preservation of any project or other collateral security for
 30 any bond issued by the corporation, or to otherwise protect
 31 the Revenue Bond Guaranty Reserve Account from loss while the

1 applicant is in default on amortization payments, or to
2 minimize losses to the reserve account in each case in such
3 manner as may be deemed necessary or advisable by the
4 corporation, the corporation shall immediately notify the
5 Department of Transportation of such deficiency. Any
6 supplemental funding authorized by an investment agreement
7 entered into with the Department of Transportation and the
8 State Board of Administration concerning the use of investment
9 earnings of the minimum balance of funds is void unless such
10 deficiency of funds is cured by the corporation within 90 days
11 after the corporation has notified the Department of
12 Transportation of such deficiency.

13 Section 58. Subsection (3) of section 311.09, Florida
14 Statutes, is amended to read:

15 311.09 Florida Seaport Transportation and Economic
16 Development Council.--

17 (3) The council shall prepare a 5-year Florida Seaport
18 Mission Plan defining the goals and objectives of the council
19 concerning the development of port facilities and an
20 intermodal transportation system consistent with the goals of
21 the Florida Transportation Plan developed pursuant to s.
22 339.155. The Florida Seaport Mission Plan shall include
23 specific recommendations for the construction of
24 transportation facilities connecting any port to another
25 transportation mode and for the efficient, cost-effective
26 development of transportation facilities or port facilities
27 for the purpose of enhancing international trade, promoting
28 cargo flow, increasing cruise passenger movements, increasing
29 port revenues, and providing economic benefits to the state.
30 The council shall update the 5-year Florida Seaport Mission
31 Plan annually and shall submit the plan no later than February

1 1 of each year to the President of the Senate; the Speaker of
2 the House of Representatives; the Office of Tourism, Trade,
3 and Economic Development; the Department of Transportation;
4 and the Department of Community Affairs. The council shall
5 develop programs, based on an examination of existing programs
6 in Florida and other states, for the training of minorities
7 and secondary school students in job skills associated with
8 employment opportunities in the maritime industry, and report
9 on progress and recommendations for further action to the
10 President of the Senate and the Speaker of the House of
11 Representatives annually, ~~beginning no later than February 1,~~
12 ~~1991.~~

13 Section 59. Subsection (16) of section 331.303,
14 Florida Statutes, is amended to read:

15 331.303 Definitions.--

16 (16) "Project" means any development, improvement,
17 property, launch, utility, facility, system, works, road,
18 sidewalk, enterprise, service, or convenience, which may
19 include coordination with Enterprise Florida, Inc.~~the Florida~~
20 ~~High Technology and Industry Council~~, the Board of Regents,
21 and the Space Research Foundation; any rocket, capsule,
22 module, launch facility, assembly facility, operations or
23 control facility, tracking facility, administrative facility,
24 or any other type of space-related transportation vehicle,
25 station, or facility; any type of equipment or instrument to
26 be used or useful in connection with any of the foregoing; any
27 type of intellectual property and intellectual property
28 protection in connection with any of the foregoing including,
29 without limitation, any patent, copyright, trademark, and
30 service mark for, among other things, computer software; any
31 water, wastewater, gas, or electric utility system, plant, or

1 distribution or collection system; any small business
2 incubator initiative, including any startup aerospace company,
3 research and development company, research and development
4 facility, storage facility, and consulting service; or any
5 tourism initiative, including any space experience attraction,
6 space-launch-related activity, and space museum sponsored or
7 promoted by the authority.

8 Section 60. Subsections (1), (4), and (21) of section
9 331.305, Florida Statutes, are amended to read:

10 331.305 Powers of the authority.--The authority shall
11 have the power to:

12 (1) Exercise all powers granted to corporations under
13 the Florida Business ~~General~~ Corporation Act, chapter 607.

14 (4) Review and make recommendations with respect to a
15 strategy to guide and facilitate the future of space-related
16 educational and commercial development. The authority shall
17 in coordination with the Federal Government, private industry,
18 and Florida universities develop a business plan which shall
19 address the expansion of Spaceport Florida locations, space
20 launch capacity, spaceport projects, and complementary
21 activities, which shall include, but not be limited to, a
22 detailed analysis of:

23 (a) The authority and the commercial space industry.

24 (b) Products, services description--potential,
25 technologies, skills.

26 (c) Market research and evaluation--customers,
27 competition, economics.

28 (d) Marketing plan and strategy.

29 (e) Design and development plan--tasks, difficulties,
30 costs.

31

1 (f) Manufacturing locations, facilities, and
2 operations plan.

3 (g) Management organization--roles and
4 responsibilities.

5 (h) Overall schedule (monthly).

6 (i) Important risks, assumptions, and problems.

7 (j) Community impact--economic, human development,
8 community development.

9 (k) Financial plan (monthly for first year; quarterly
10 for next 3 years).

11 (l) Proposed authority offering--financing,
12 capitalization, use of funds.

13

14 ~~A final report containing the recommendations and business~~
15 ~~plan of the authority shall be completed and submitted prior~~
16 ~~to the 1990 Regular Session of the Legislature, along with any~~
17 ~~proposed statutory changes and related legislative budget~~
18 ~~requests required to implement the business plan, to the~~
19 ~~Governor, the President of the Senate, the Speaker of the~~
20 ~~House of Representatives, the minority leader of the Senate,~~
21 ~~and the minority leader of the House of Representatives.~~

22 (21) Issue revenue bonds, assessment bonds, or any
23 other bonds or obligations authorized by the provisions of
24 this act or any other law, or any combination of the
25 foregoing, and pay all or part of the cost of the acquisition,
26 construction, reconstruction, extension, repair, improvement,
27 or maintenance of any project or combination of projects,
28 including payloads and space flight hardware, and equipment
29 for research, development, and educational activities, to
30 provide for any facility, service, or other activity of the
31 authority, and provide for the retirement or refunding of any

1 bonds or obligations of the authority, or for any combination
 2 of the foregoing purposes. ~~Until December 31, 1994, bonds,~~
 3 ~~other than conduit bonds, issued under the authority contained~~
 4 ~~in this act shall not exceed a total of \$500 million and must~~
 5 ~~first be approved by a majority of the members of the Governor~~
 6 ~~and Cabinet.~~ The authority must provide 14 days' notice to
 7 the presiding officers and appropriations chairs of both
 8 houses of the Legislature prior to presenting a bond proposal
 9 to the Governor and Cabinet. If either presiding officer or
 10 appropriations chair objects to the bonding proposal within
 11 the 14-day-notice period, the bond issuance may be approved
 12 only by a vote of two-thirds of the members of the Governor
 13 and Cabinet.

14 Section 61. Subsection (2) of section 331.308, Florida
 15 Statutes, is amended to read:

16 331.308 Board of supervisors.--

17 (2) Initially, the Governor shall appoint four regular
 18 members for terms of 3 years or until successors are appointed
 19 and qualified and three regular members for terms of 4 years
 20 or until successors are appointed and qualified. Thereafter,
 21 each such member shall serve a term of 4 years or until a
 22 successor is appointed and qualified. The term of each such
 23 member shall be construed to commence on the date of
 24 appointment and to terminate on June 30 of the year of the end
 25 of the term. ~~The terms for such members initially appointed~~
 26 ~~shall be construed to include the time between initial~~
 27 ~~appointment and June 30, 1992, for those appointed for 3-year~~
 28 ~~terms, and June 30, 1993, for those appointed for 4-year~~
 29 ~~terms. No such member shall be allowed to serve an initial~~
 30 ~~3-year term or fill any vacancy for the remainder of a term~~
 31 ~~for less than 4 years.~~ Appointment to the board shall not

1 preclude any such member from holding any other private or
2 public position.

3 Section 62. Subsection (1) of section 331.331, Florida
4 Statutes, is amended to read:

5 331.331 Revenue bonds.--

6 (1) Revenue bonds issued by the authority shall not be
7 deemed revenue bonds issued by the state or its agencies for
8 purposes of s. 11, Art. VII of the State Constitution and ss.
9 215.57-215.83. ~~However, until December 31, 1994, the power of~~
10 ~~the authority to issue revenue bonds shall be limited as~~
11 ~~provided in s. 331.305.~~ The authority shall include in its
12 annual report to the Governor and Legislature, as provided in
13 s. 331.310, a summary of the status of existing and proposed
14 bonding projects.

15 Section 63. Paragraph (d) of subsection (25) of
16 section 334.03, Florida Statutes, is amended to read:

17 334.03 Definitions.--When used in the Florida
18 Transportation Code, the term:

19 (25) "State Highway System" means the following, which
20 shall be facilities to which access is regulated:

21 (d) The urban minor arterial mileage on the existing
22 State Highway System as of July 1, 1987, plus additional
23 mileage to comply with the 2-percent requirement as described
24 below. ~~These urban minor arterial routes shall be selected in~~
25 ~~accordance with s. 335.04(1)(a) and (b).~~

26
27 However, not less than 2 percent of the public road mileage of
28 each urbanized area on record as of June 30, 1986, shall be
29 included as minor arterials in the State Highway System.
30 Urbanized areas not meeting the foregoing minimum requirement
31 shall have transferred to the State Highway System additional

1 minor arterials of the highest significance in which case the
2 total minor arterials in the State Highway System from any
3 urbanized area shall not exceed 2.5 percent of that area's
4 total public urban road mileage.

5 Section 64. Subsection (5) of section 335.074, Florida
6 Statutes, is amended to read:

7 335.074 Safety inspection of bridges.--

8 ~~(5) The department shall prepare a report of its~~
9 ~~findings with respect to each such bridge or other structure~~
10 ~~whereon significant structural deficiencies were discovered~~
11 ~~and transmit a summary of the findings as part of the report~~
12 ~~required in s. 334.046(3).~~

13 Section 65. Section 335.165, Florida Statutes, is
14 repealed.

15 Section 66. Subsection (2) of section 335.182, Florida
16 Statutes, is amended to read:

17 335.182 Regulation of connections to roads on State
18 Highway System; definitions.--

19 (2) The department shall, ~~no later than July 1, 1989,~~
20 adopt, by rule, administrative procedures for its issuance and
21 modification of access permits, closing of unpermitted
22 connections, and revocation of permits in accordance with this
23 act.

24 Section 67. Paragraphs (a) and (e) of subsection (3)
25 of section 335.188, Florida Statutes, are amended to read:

26 335.188 Access management standards; access control
27 classification system; criteria.--

28 (3) The control classification system shall be
29 developed consistent with the following:

30 (a) The department shall, ~~no later than July 1, 1990,~~
31 adopt rules setting forth procedures governing the

1 implementation of the access control classification system
2 required by this act. The rule shall provide for input from
3 the entities described in paragraph (b) as well as for public
4 meetings to discuss the access control classification system.
5 Nothing in this act affects the validity of the department's
6 existing or subsequently adopted rules concerning access to
7 the State Highway System. Such rules shall remain in effect
8 until repealed or replaced by the rules required by this act.

9 (e) An access control category shall be assigned to
10 each segment of the State Highway System ~~by July 1, 1993.~~

11 Section 68. Section 336.01, Florida Statutes, is
12 reenacted to read:

13 336.01 Designation of county road system.--The county
14 road system shall be as defined in s. 334.03(8).

15 Section 69. Subsection (2) of section 336.044, Florida
16 Statutes, is amended to read:

17 336.044 Use of recyclable materials in construction.--

18 (2) The Legislature declares it to be in the public
19 interest to find alternative ways to use certain recyclable
20 materials that currently are part of the solid waste stream
21 and that contribute to problems of declining space in
22 landfills. To determine the feasibility of using certain
23 recyclable materials for paving materials, the department may
24 ~~shall before January 1, 1990, undertake, as part of its~~
25 ~~currently scheduled projects, demonstration projects~~ using the
26 following materials in road construction:

27 (a) Ground rubber from automobile tires in road
28 resurfacing or subbase materials for roads;

29 (b) Ash residue from coal combustion byproducts for
30 concrete and ash residue from waste incineration facilities
31 and oil combustion byproducts for subbase material;

1 (c) Recycled mixed-plastic material for guardrail
2 posts or right-of-way fence posts;

3 (d) Construction steel, including reinforcing rods and
4 I-beams, manufactured from scrap metals disposed of in the
5 state; and

6 (e) Glass, and glass aggregates.
7

8 ~~Within 1 year after the conclusion of the demonstration~~
9 ~~projects the department shall report to the Governor and the~~
10 ~~Legislature on the maximum percentage of each recyclable~~
11 ~~material that can be effectively utilized in road construction~~
12 ~~projects. Concurrent with the submission of the report the~~
13 ~~department shall review and modify its standard road and~~
14 ~~bridge construction specifications to allow and encourage the~~
15 ~~use of recyclable materials consistent with the findings of~~
16 ~~the demonstration projects.~~

17 Section 70. Subsection (7) of section 337.015, Florida
18 Statutes, is amended to read:

19 337.015 Administration of public
20 contracts.--Recognizing that the inefficient and ineffective
21 administration of public contracts inconveniences the
22 traveling public, increases costs to taxpayers, and interferes
23 with commerce, the Legislature hereby determines and declares
24 that:

25 ~~(7) The department in its annual report required in s.~~
26 ~~334.22(2) shall report how the department complied with this~~
27 ~~section for the preceding fiscal year.~~

28 Section 71. Section 337.139, Florida Statutes, is
29 amended to read:

30 337.139 Efforts to encourage awarding contracts to
31 disadvantaged business enterprises.--In implementing chapter

1 90-136, Laws of Florida, the Department of Transportation
2 shall institute procedures to encourage the awarding of
3 contracts for professional services and construction to
4 disadvantaged business enterprises. For the purposes of this
5 section, the term "disadvantaged business enterprise" means a
6 small business concern certified by the Department of
7 Transportation to be owned and controlled by socially and
8 economically disadvantaged individuals as defined by the
9 Surface Transportation and Uniform Relocation Act of 1987.
10 The Department of Transportation shall develop and implement
11 activities to encourage the participation of disadvantaged
12 business enterprises in the contracting process ~~and shall~~
13 ~~report to the Legislature prior to January 1, 1991, on its~~
14 ~~efforts to increase disadvantaged business participation.~~

15 Such efforts may include:

16 (1) Presolicitation or prebid meetings for the purpose
17 of informing disadvantaged business enterprises of contracting
18 opportunities.

19 (2) Written notice to disadvantaged business
20 enterprises of contract opportunities for commodities or
21 contractual and construction services which the disadvantaged
22 business provides.

23 (3) Provision of adequate information to disadvantaged
24 business enterprises about the plans, specifications, and
25 requirements of contracts or the availability of jobs.

26 (4) Breaking large contracts into several
27 single-purpose contracts of a size which may be obtained by
28 certified disadvantaged business enterprises.

29 Section 72. Subsection (3) of section 337.29, Florida
30 Statutes, is amended to read:

31

1 337.29 Vesting of title to roads; liability for
2 torts.--

3 (3) Title to all roads transferred in accordance with
4 the provisions of s. 335.0415 ~~335.04~~ shall be in the
5 governmental entity to which such roads have been transferred,
6 upon the recording of a right-of-way map by the appropriate
7 governmental entity in the public land records of the county
8 or counties in which such rights-of-way are located. To the
9 extent that sovereign immunity has been waived, liability for
10 torts shall be in the governmental entity having operation and
11 maintenance responsibility as provided in s. 335.0415
12 ~~335.04(2)~~. Except as otherwise provided by law, a
13 municipality shall have the same governmental, corporate, and
14 proprietary powers with relation to any public road or
15 right-of-way within the municipality which has been
16 transferred to another governmental entity pursuant to s.
17 335.0415 ~~335.04~~ that the municipality has with relation to
18 other public roads and rights-of-way within the municipality.

19 Section 73. Section 137 of chapter 96-320, Laws of
20 Florida, is repealed.

21 Section 74. Subsection (2) of section 337.407, Florida
22 Statutes, is amended to read:

23 337.407 Regulation of signs and lights within
24 rights-of-way.--

25 (2) The department has the authority to direct removal
26 of any sign erected in violation of subsection (1) paragraph
27 ~~(a)~~, in accordance with the provisions of chapter 479.

28 Section 75. Section 338.22, Florida Statutes, is
29 amended to read:

30
31

1 338.22 Florida Turnpike Law; short title.--Sections
2 338.22-338.241 ~~338.22-338.244~~ may be cited as the "Florida
3 Turnpike Law."

4 Section 76. Section 338.221, Florida Statutes, is
5 amended to read:

6 338.221 Definitions of terms used in ss.
7 338.22-338.241 ~~338.22-338.244~~.--As used in ss. 338.22-338.241
8 ~~338.22-338.244~~, the following words and terms have the
9 following meanings, unless the context indicates another or
10 different meaning or intent:

11 (1) "Bonds" or "revenue bonds" means notes, bonds,
12 refunding bonds or other evidences of indebtedness or
13 obligations, in either temporary or definitive form, issued by
14 the Division of Bond Finance on behalf of the department and
15 authorized under the provisions of ss. 338.22-338.241
16 ~~338.22-338.244~~ and the State Bond Act.

17 (2) "Cost," as applied to a turnpike project, includes
18 the cost of acquisition of all land, rights-of-way, property,
19 easements, and interests acquired by the department for
20 turnpike project construction; the cost of such construction;
21 the cost of all machinery and equipment, financing charges,
22 fees, and expenses related to the financing; establishment of
23 reserves to secure bonds; interest prior to and during
24 construction and for such period after completion of
25 construction as shall be determined by the department; the
26 cost of traffic estimates and of engineering and legal
27 expenses, plans, specifications, surveys, estimates of cost
28 and revenues; other expenses necessary or incident to
29 determining the feasibility or practicability of acquiring or
30 constructing any such turnpike project; administrative
31 expenses; and such other expenses as may be necessary or

1 incident to the acquisition or construction of a turnpike
2 project, the financing of such acquisition or construction,
3 and the placing of the turnpike project in operation.

4 (3) "Feeder road" means any road no more than 5 miles
5 in length, connecting to the turnpike system which the
6 department determines is necessary to create or facilitate
7 access to a turnpike project.

8 (4) "Owner" includes any person or any governmental
9 entity that has title to, or an interest in, any property,
10 right, easement, or interest authorized to be acquired
11 pursuant to ss. 338.22-338.241 ~~338.22-338.244~~.

12 (5) "Revenues" means all tolls, charges, rentals,
13 gifts, grants, moneys, and other funds coming into the
14 possession, or under the control, of the department by virtue
15 of the provisions hereof, except the proceeds from the sale of
16 bonds issued under ss. 338.22-338.241 ~~338.22-338.244~~.

17 (6) "Turnpike system" means those limited access toll
18 highways and associated feeder roads and other structures,
19 appurtenances, or rights previously designated, acquired, or
20 constructed pursuant to the Florida Turnpike Law and such
21 other additional turnpike projects as may be acquired or
22 constructed as approved by the Legislature.

23 (7) "Turnpike improvement" means any betterment
24 necessary or desirable for the operation of the turnpike
25 system, including, but not limited to, widenings, the addition
26 of interchanges to the existing turnpike system, resurfacings,
27 toll plazas, machinery, and equipment.

28 (8) "Economically feasible" means:

29 (a) For a proposed turnpike project, that, as
30 determined by the department before the issuance of revenue
31 bonds for the project, the estimated net revenues of the

1 proposed turnpike project, excluding feeder roads and turnpike
2 improvements, will be sufficient to pay at least 50 percent of
3 the debt service on the bonds by the end of the 5th year of
4 operation and to pay at least 100 percent of the debt service
5 on the bonds by the end of the 15th year of operation. In
6 implementing this paragraph, up to 50 percent of the adopted
7 work program costs of the project may be funded from turnpike
8 revenues.

9 (b) For turnpike projects, except for feeder roads and
10 turnpike improvements, financed from revenues of the turnpike
11 system, such project, or such group of projects, originally
12 financed from revenues of the turnpike system, that the
13 project is expected to generate sufficient revenues to
14 amortize project costs within 15 years of opening to traffic.

15
16 This subsection does not prohibit the pledging of revenues
17 from the entire turnpike system to bonds issued to finance or
18 refinance a turnpike project or group of turnpike projects.

19 (9) "Turnpike project" means any extension to or
20 expansion of the existing turnpike system and new limited
21 access toll highways and associated feeder roads and other
22 structures, interchanges, appurtenances, or rights as may be
23 approved in accordance with the Florida Turnpike Law.

24 (10) "Statement of environmental feasibility" means a
25 statement by the Department of Environmental Protection of the
26 project's significant environmental impacts.

27 Section 77. Section 338.222, Florida Statutes, is
28 reenacted to read:

29 338.222 Department of Transportation sole governmental
30 entity to acquire, construct, or operate turnpike projects;
31 exception.--

1 (1) No governmental entity other than the department
2 may acquire, construct, maintain, or operate the turnpike
3 system subsequent to the enactment of this law, except upon
4 specific authorization of the Legislature.

5 (2) The department may contract with any local
6 governmental entity as defined in s. 334.03(14) for the
7 design, right-of-way acquisition, or construction of any
8 turnpike project which the Legislature has approved. Local
9 governmental entities may negotiate with the department for
10 the design, right-of-way acquisition, and construction of any
11 section of the turnpike project within areas of their
12 respective jurisdictions or within counties with which they
13 have interlocal agreements.

14 Section 78. Section 338.223, Florida Statutes, is
15 reenacted and amended to read:

16 338.223 Proposed turnpike projects.--

17 (1)(a) Any proposed project to be constructed or
18 acquired as part of the turnpike system and any turnpike
19 improvement shall be included in the tentative work program.
20 No proposed project or group of proposed projects shall be
21 added to the turnpike system unless such project or projects
22 are determined to be economically feasible and a statement of
23 environmental feasibility has been completed for such project
24 or projects and such projects are determined to be consistent,
25 to the maximum extent feasible, with approved local government
26 comprehensive plans of the local governments in which such
27 projects are located. The department may authorize engineering
28 studies, traffic studies, environmental studies, and other
29 expert studies of the location, costs, economic feasibility,
30 and practicality of proposed turnpike projects throughout the
31 state and may proceed with the design phase of such projects.

1 The department shall not request legislative approval of a
 2 proposed turnpike project until the design phase of that
 3 project is at least 60 percent complete. If a proposed
 4 project or group of proposed projects is found to be
 5 economically feasible, consistent, to the maximum extent
 6 feasible, with approved local government comprehensive plans
 7 of the local governments in which such projects are located,
 8 and a favorable statement of environmental feasibility has
 9 been completed, the department, with the approval of the
 10 Legislature, shall, after the receipt of all necessary
 11 permits, construct, maintain, and operate such turnpike
 12 projects.

13 (b) Any proposed turnpike project or improvement shall
 14 be developed in accordance with the Florida Transportation
 15 Plan and the work program pursuant to s. 339.135. Turnpike
 16 projects that add capacity, alter access, affect feeder roads,
 17 or affect the operation of the local transportation system
 18 shall be included in the transportation improvement plan of
 19 the affected metropolitan planning organization. If such
 20 turnpike project does not fall within the jurisdiction of a
 21 metropolitan planning organization, the department shall
 22 notify the affected county and provide for public hearings in
 23 accordance with s. 339.155(6)(c).

24 (c) Prior to requesting legislative approval of a
 25 proposed turnpike project, the environmental feasibility of
 26 the proposed project shall be reviewed by the Department of
 27 Environmental Protection. The department shall submit its
 28 Project Development and Environmental Report to the Department
 29 of Environmental Protection, along with a draft copy of a
 30 public notice. Within 14 days of receipt of the draft public
 31 notice, the Department of Environmental Protection shall

1 return the draft public notice to the Department of
2 Transportation with an approval of the language or
3 modifications to the language. Upon receipt of the approved or
4 modified draft, or if no comments are provided within 14 days,
5 the Department of Transportation shall publish the notice in a
6 newspaper to provide a 30-day public comment period. The
7 headline of the required notice shall be in a type no smaller
8 than 18 point. The notice shall be placed in that portion of
9 the newspaper where legal notices appear. The notice shall be
10 published in a newspaper of general circulation in the county
11 or counties of general interest and readership in the
12 community as provided in s. 50.031, not one of limited subject
13 matter. Whenever possible, the notice shall appear in a
14 newspaper that is published at least 5 days a week. The notice
15 shall include, but is not limited to, the following
16 information:

17 1. The purpose of the notice is to provide for a
18 30-day period for written public comments on the environmental
19 impacts of a proposed turnpike project.

20 2. The name and description of the project, along with
21 a geographic location map clearly indicating the area where
22 the proposed project will be located.

23 3. The address where such comments must be sent and
24 the date such comments are due.

25
26 After a review of the department's report and any public
27 comments, the Department of Environmental Protection shall
28 submit a statement of environmental feasibility to the
29 department within 30 days after the date on which public
30 comments are due. The notice and the statement of
31 environmental feasibility shall not give rise to any rights to

1 a hearing or other rights or remedies provided pursuant to
2 chapter 120 or chapter 403, and shall not bind the Department
3 of Environmental Protection in any subsequent environmental
4 permit review.

5 (2)(a) Subject to the provisions of s. 338.228, the
6 department is authorized to expend, out of any funds available
7 for the purpose, such moneys as may be necessary for studies,
8 preliminary engineering, construction, right-of-way
9 acquisition, and construction engineering inspection of any
10 turnpike project and is authorized to use its engineering and
11 other resources for such purposes.

12 (b) In accordance with the legislative intent
13 expressed in s. 337.273, the department may acquire lands and
14 property before making a final determination of the economic
15 feasibility of a project. The cost of advance acquisition of
16 right-of-way may be paid from bonds issued under s. 337.276 or
17 from turnpike revenues.

18 (3) All obligations and expenses incurred by the
19 department under this section shall be paid by the department
20 and charged to the appropriate turnpike project. The
21 department shall keep proper records and accounts showing each
22 amount that is so charged. All obligations and expenses so
23 incurred shall be treated as part of the cost of such project
24 and shall be reimbursed to the department out of turnpike
25 revenues or out of the bonds authorized under ss.
26 338.22-338.241 ~~338.22-338.244~~ except when such reimbursement
27 is prohibited by state or federal law.

28 (4) The department is authorized, with the approval of
29 the Legislature, to use federal and state transportation funds
30 to lend or pay a portion of the operating, maintenance, and
31 capital costs of turnpike projects. Federal and state

1 transportation funds included in an adopted work program, or
2 the General Appropriations Act, for a turnpike project do not
3 have to be reimbursed to the State Transportation Trust Fund,
4 or used in determining the economic feasibility of the
5 proposed project. For operating and maintenance loans, the
6 maximum net loan amount in any fiscal year shall not exceed
7 0.5 percent of state transportation tax revenues for that
8 fiscal year.

9 Section 79. Section 338.225, Florida Statutes, is
10 amended to read:

11 338.225 Taking of public road for feeder road.--Before
12 taking over any existing public road for maintenance and
13 operation as a feeder road, the department shall obtain the
14 consent of the governmental entity then exercising
15 jurisdiction over the road, which governmental entity is
16 authorized to give such consent by resolution. Each feeder
17 road or portion of a feeder road acquired, constructed, or
18 taken over under this section for maintenance and operation
19 shall, for all purposes of ss. 338.22-338.241 ~~338.22-338.244~~,
20 be deemed to constitute a part of the turnpike system, except
21 that no toll shall be charged for transit between points on
22 such feeder road.

23 Section 80. Subsection (2) of section 338.227, Florida
24 Statutes, is amended to read:

25 338.227 Turnpike revenue bonds.--

26 (2) The proceeds of the bonds of each issue shall be
27 used solely for the payment of the cost of the turnpike
28 projects for which such bonds shall have been issued, except
29 as provided in the State Bond Act. Such proceeds shall be
30 disbursed and used as provided by ss. 338.22-338.241
31 ~~338.22-338.244~~ and in such manner and under such restrictions,

1 if any, as the Division of Bond Finance may provide in the
 2 resolution authorizing the issuance of such bonds or in the
 3 trust agreement hereinafter mentioned securing the same. All
 4 revenues and bond proceeds from the turnpike system received
 5 by the department pursuant to ss. 338.22-338.241
 6 ~~338.22-338.244~~, the Florida Turnpike Law, shall be used only
 7 for the cost of turnpike projects and turnpike improvements
 8 and for the administration, operation, maintenance, and
 9 financing of the turnpike system. No revenues or bond proceeds
 10 from the turnpike system shall be spent for the operation,
 11 maintenance, construction, or financing of any project which
 12 is not part of the turnpike system.

13 Section 81. Section 338.228, Florida Statutes, is
 14 amended to read:

15 338.228 Bonds not debts or pledges of credit of
 16 state.--Turnpike revenue bonds issued under the provisions of
 17 ss. 338.22-338.241 ~~338.22-338.244~~ are not debts of the state
 18 or pledges of the faith and credit of the state. Such bonds
 19 are payable exclusively from revenues pledged for their
 20 payment. All such bonds shall contain a statement on their
 21 face that the state is not obligated to pay the same or the
 22 interest thereon, except from the revenues pledged for their
 23 payment, and that the faith and credit of the state is not
 24 pledged to the payment of the principal or interest of such
 25 bonds. The issuance of turnpike revenue bonds under the
 26 provisions of ss. 338.22-338.241 ~~338.22-338.244~~ does not
 27 directly, indirectly, or contingently obligate the state to
 28 levy or to pledge any form of taxation whatsoever, or to make
 29 any appropriation for their payment. Except as provided in
 30 ss. 338.001, 338.223, and 338.2275, no state funds shall be
 31 used on any turnpike project or to pay the principal or

1 interest of any bonds issued to finance or refinance any
2 portion of the turnpike system, and all such bonds shall
3 contain a statement on their face to this effect.

4 Section 82. Section 338.229, Florida Statutes, is
5 amended to read:

6 338.229 Pledge to bondholders not to restrict certain
7 rights of department.--The state does pledge to, and agree
8 with, the holders of the bonds issued pursuant to ss.
9 338.22-338.241 ~~338.22-338.244~~ that the state will not limit or
10 restrict the rights vested in the department to construct,
11 reconstruct, maintain, and operate any turnpike project as
12 defined in ss. 338.22-338.241 ~~338.22-338.244~~ or to establish
13 and collect such tolls or other charges as may be convenient
14 or necessary to produce sufficient revenues to meet the
15 expenses of maintenance and operation of the turnpike system
16 and to fulfill the terms of any agreements made with the
17 holders of bonds authorized by this act and that the state
18 will not in any way impair the rights or remedies of the
19 holders of such bonds until the bonds, together with interest
20 on the bonds, are fully paid and discharged.

21 Section 83. Subsections (6) and (7) of section
22 338.231, Florida Statutes, are amended to read:

23 338.231 Turnpike tolls, fixing; pledge of tolls and
24 other revenues.--The department shall at all times fix,
25 adjust, charge, and collect such tolls for the use of the
26 turnpike system as are required in order to provide a fund
27 sufficient with other revenues of the turnpike system to pay
28 the cost of maintaining, improving, repairing, and operating
29 such turnpike system; to pay the principal of and interest on
30 all bonds issued to finance or refinance any portion of the
31

1 turnpike system as the same become due and payable; and to
 2 create reserves for all such purposes.

3 (6) In each fiscal year while any of the bonds of the
 4 Broward County Expressway Authority series 1984 and series
 5 1986-A remain outstanding, the department is authorized to
 6 pledge revenues from the turnpike system to the payment of
 7 principal and interest of such series of bonds, the repayment
 8 of Broward County gasoline tax funds as provided in s.
 9 338.2275(3)~~(4)~~, and the operation and maintenance expenses of
 10 the Sawgrass Expressway, to the extent gross toll revenues of
 11 the Sawgrass Expressway are insufficient to make such
 12 payments. The terms of an agreement relative to the pledge of
 13 turnpike system revenue will be negotiated with the parties of
 14 the 1984 and 1986 Broward County Expressway Authority
 15 lease-purchase agreements, and subject to the covenants of
 16 those agreements. The agreement shall establish that the
 17 Sawgrass Expressway shall be subject to the planning,
 18 management, and operating control of the department limited
 19 only by the terms of the lease-purchase agreements. The
 20 department shall provide for the payment of operation and
 21 maintenance expenses of the Sawgrass Expressway until such
 22 agreement is in effect. This pledge of turnpike system
 23 revenues shall be subordinate to the debt service requirements
 24 of any future issue of turnpike bonds, the payment of turnpike
 25 system operation and maintenance expenses, and subject to
 26 provisions of any subsequent resolution or trust indenture
 27 relating to the issuance of such turnpike bonds.

28 (7) The use and disposition of revenues pledged to
 29 bonds are subject to the provisions of ss. 338.22-338.241
 30 ~~338.22-338.244~~ and such regulations as the resolution
 31

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 authorizing the issuance of such bonds or such trust agreement
2 may provide.

3 Section 84. Section 338.232, Florida Statutes, is
4 amended to read:

5 338.232 Continuation of tolls upon provision for
6 payment of bondholders and assumption of maintenance by
7 department.--When all revenue bonds issued under the
8 provisions of ss. 338.22-338.241 ~~338.22-338.244~~ in connection
9 with the turnpike system and the interest on the bonds have
10 been paid, or an amount sufficient to provide for the payment
11 of all such bonds and the interest on the bonds to the
12 maturity of the bonds, or such earlier date on which the bonds
13 may be called, has been set aside in trust for the benefit of
14 the bondholders, the department may assume the maintenance of
15 the turnpike system as part of the State Highway System,
16 except that the turnpike system shall remain subject to
17 sufficient tolls to pay the cost of the maintenance, repair,
18 improvement, and operation of the system and the construction
19 of turnpike projects.

20 Section 85. Section 338.239, Florida Statutes, is
21 amended to read:

22 338.239 Traffic control on the turnpike system.--

23 (1) The department is authorized to adopt rules with
24 respect to the use of the turnpike system, which rules must
25 relate to vehicular speeds, loads and dimensions, safety
26 devices, rules of the road, and other matters necessary to
27 carry out the purposes of ss. 338.22-338.241 ~~338.22-338.244~~.
28 Insofar as these rules may be inconsistent with the provisions
29 of chapter 316, the rules control. A violation of these rules
30 must be punished pursuant to chapters 316 and 318.

31

1 (2) Members of the Florida Highway Patrol are vested
2 with the power, and charged with the duty, to enforce the
3 rules of the department. Expenses incurred by the Florida
4 Highway Patrol in carrying out its powers and duties under ss.
5 338.22-338.241 ~~338.22-338.244~~ may be treated as a part of the
6 cost of the operation of the turnpike system, and the
7 Department of Highway Safety and Motor Vehicles shall be
8 reimbursed by the Department of Transportation for such
9 expenses incurred on the turnpike mainline, which is that part
10 of the turnpike system extending from the southern terminus in
11 Florida City to the northern terminus in Wildwood including
12 all contiguous sections.

13 Section 86. Subsection (4) of section 339.08, Florida
14 Statutes, is amended to read:

15 339.08 Use of moneys in State Transportation Trust
16 Fund.--

17 (4) The department may authorize the investment of the
18 earnings accrued and collected upon the investment of the
19 minimum balance of funds required to be maintained in the
20 State Transportation Trust Fund pursuant to s. 339.135(6)(b)
21 ~~(7)(b)~~. Such investment shall be limited as provided in s.
22 288.9607(7).

23 Section 87. Section 339.091, Florida Statutes, is
24 repealed.

25 Section 88. Paragraph (e) of subsection (7) of section
26 339.135, Florida Statutes, is reenacted to read:

27 339.135 Work program; legislative budget request;
28 definitions; preparation, adoption, execution, and
29 amendment.--

30 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--

31

1 (e) Notwithstanding the requirements in paragraph (d)
 2 and ss. 216.177(2) and 216.351, the secretary may request the
 3 Executive Office of the Governor to amend the adopted work
 4 program when an emergency exists, as defined in s. 252.34(3),
 5 and the emergency relates to the repair or rehabilitation of
 6 any state transportation facility. The Executive Office of
 7 the Governor may approve the amendment to the adopted work
 8 program and amend that portion of the department's approved
 9 budget in the event that the delay incident to the
 10 notification requirements in paragraph (d) would be
 11 detrimental to the interests of the state. However, the
 12 department shall immediately notify the parties specified in
 13 paragraph (d) and shall provide such parties written
 14 justification for the emergency action within 7 days of the
 15 approval by the Executive Office of the Governor of the
 16 amendment to the adopted work program and the department's
 17 budget. In no event may the adopted work program be amended
 18 under the provisions of this subsection without the
 19 certification by the comptroller of the department that there
 20 are sufficient funds available pursuant to the 36-month cash
 21 forecast and applicable statutes.

22 Section 89. Sections 339.145 and 339.147, Florida
 23 Statutes, are repealed.

24 Section 90. Paragraph (a) of subsection (10) of
 25 section 339.175, Florida Statutes, 1998 Supplement, is amended
 26 to read:

27 339.175 Metropolitan planning organization.--It is the
 28 intent of the Legislature to encourage and promote the
 29 development of transportation systems embracing various modes
 30 of transportation in a manner that will maximize the mobility
 31 of people and goods within and through urbanized areas of this

1 state and minimize, to the maximum extent feasible, and
2 together with applicable regulatory government agencies,
3 transportation-related fuel consumption and air pollution. To
4 accomplish these objectives, metropolitan planning
5 organizations, referred to in this section as M.P.O.'s, shall
6 develop, in cooperation with the state, transportation plans
7 and programs for metropolitan areas. Such plans and programs
8 must provide for the development of transportation facilities
9 that will function as an intermodal transportation system for
10 the metropolitan area. The process for developing such plans
11 and programs shall be continuing, cooperative, and
12 comprehensive, to the degree appropriate, based on the
13 complexity of the transportation problems.

14 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
15 COUNCIL.--

16 (a) A Metropolitan Planning Organization Advisory
17 Council is created to augment, and not supplant, the role of
18 the individual M.P.O.'s in the cooperative transportation
19 planning process described in this section ~~s. 339.155(5)~~.

20 Section 91. Paragraph (a) of subsection (7) of section
21 339.2405, Florida Statutes, is amended to read:

22 339.2405 Florida Highway Beautification Council.--

23 (7)(a) The duties of the council shall be to:

24 1. Provide information to local governments and local
25 highway beautification councils regarding the state highway
26 beautification grants program.

27 2. Accept grant requests from local governments.

28 3. Review grant requests for compliance with council
29 rules.

30 4. Establish rules for evaluating and prioritizing the
31 grant requests. The rules must include, but are not limited

1 to, an examination of each grant's aesthetic value,
2 cost-effectiveness, level of local support, feasibility of
3 installation and maintenance, and compliance with state and
4 federal regulations. Rules adopted by the council which it
5 uses to evaluate grant applications must take into
6 consideration the contributions made by the highway
7 beautification project in preventing litter.

8 5. Maintain a prioritized list of approved grant
9 requests. The list must include recommended funding levels
10 for each request and, if staged implementation is appropriate,
11 funding requirements for each stage shall be provided.

12 6. Assess the feasibility of planting and maintaining
13 indigenous wildflowers and plants, instead of sod
14 groundcovers, along the rights-of-way of state roads and
15 highways. In making such assessment, the council shall
16 utilize data from other states which include indigenous
17 wildflower and plant species in their highway vegetative
18 management systems. ~~The council shall complete its assessment
19 and present a report to the head of the department by July 1,
20 1988.~~

21 Section 92. Paragraph (g) of subsection (2) of section
22 339.241, Florida Statutes, is amended to read:

23 339.241 Florida Junkyard Control Law.--

24 (2) DEFINITIONS.--Wherever used or referred to in this
25 section, unless a different meaning clearly appears from the
26 context, the term:

27 (g) "Junk," "junkyard," and "scrap metal processing
28 facility" mean the same as defined in 23 U.S.C. s. 136
29 ~~described in s. 205.371(1)(a), (b), and (e).~~

30 Section 93. Section 341.051, Florida Statutes, is
31 amended to read:

1 341.051 Administration and financing of public transit
2 programs and projects.--

3 (1) FEDERAL AID.--

4 (a) The department is authorized to receive federal
5 grants or apportionments for public transit projects in this
6 state.

7 (b) Local governmental entities are authorized to
8 receive federal grants or apportionments for public transit
9 and commuter assistance projects. In addition, the provisions
10 of s. 337.403 notwithstanding, if the relocation of utility
11 facilities is necessitated by the construction of a
12 fixed-guideway public transit project and the utilities
13 relocation is approved as a part of the project by a
14 participating federal agency (if eligible for federal matching
15 reimbursement), then any county chartered under s. 6(e), Art.
16 VIII of the State Constitution shall pay at least 50 percent
17 of the nonfederal share of the cost attributable to such
18 relocation after deducting therefrom any increase in the value
19 of the new facility and any salvage value derived from the old
20 facility. The balance of the nonfederal share shall be paid
21 by the utility.

22 (2) PUBLIC TRANSIT PLAN.--

23 (a) The department shall prepare a public transit plan
24 which shall be included in the tentative work program of the
25 department prepared pursuant to s. 339.135(4). The provisions
26 of s. 339.135 apply to public transit projects in the same
27 manner that they apply to other transportation facility
28 construction projects. Any planned department participation
29 shall be in accordance with subsection (5).

30 (b) The public transit plan shall be consistent with
31 the local plans developed in accordance with the comprehensive

1 transportation planning process. Projects that involve funds
2 administered by the department, and that will be undertaken
3 and implemented by another public agency, shall be included in
4 the public transit plan upon the request of that public
5 agency, providing such project is eligible under the
6 requirements established herein and subject to estimated
7 availability of funds. Projects so included in the plan shall
8 not be altered or removed from priority status without notice
9 to the public agency or local governmental entities involved.

10 (3) APPROPRIATION REQUESTS.--

11 (a) Public transit funds shall be requested on the
12 basis of the funding required for the public transit plan.
13 Appropriation requests shall identify each public transit
14 project calling for a state expenditure of \$500,000 or more.

15 (b) Public transit service development projects and
16 transit corridor projects shall be individually identified in
17 the appropriation request by the department. Such request
18 shall show a breakdown of funds showing capital and operating
19 expense.

20 (c) Unless otherwise authorized by the Legislature,
21 the department is prohibited from entering into any agreement
22 or contract for a public transit project which would result in
23 the ultimate expenditure or commitment of state funds in
24 excess of \$5 million.

25 (4) PROJECT ELIGIBILITY.--

26 (a) Any project that is necessary to meet the program
27 objectives enumerated in s. 341.041, that conforms to the
28 provisions of this section, and that is contained in the local
29 transportation improvement program and the adopted work
30 program of the department is eligible for the expenditure of
31 state funds for transit purposes.

1 1. The project shall be a project for service or
2 transportation facilities provided by the department under the
3 provisions of this act, a public transit capital project, a
4 commuter assistance project, a public transit service
5 development project, or a transit corridor project.

6 2. The project must be approved by the department as
7 being consistent with the criteria established pursuant to the
8 provisions of this act.

9 (b) Such expenditures shall be in accordance with the
10 fund participation rates and the criteria established in this
11 section for project development and implementation, and are
12 subject to approval by the department as being consistent with
13 the Florida Transportation Plan and regional transportation
14 goals and objectives.

15 (c) Unless otherwise authorized by the Legislature,
16 the department is prohibited from entering into any agreement
17 or contract for a public transit project which would result in
18 the ultimate expenditure or commitment of state funds in
19 excess of \$5 million.

20 (5) FUND PARTICIPATION; CAPITAL ASSISTANCE.--

21 (a) The department may fund up to 50 percent of the
22 nonfederal share of the costs, not to exceed the local share,
23 of any eligible public transit capital project or commuter
24 assistance project that is local in scope; except, however,
25 that departmental participation in the final design,
26 right-of-way acquisition, and construction phases of an
27 individual fixed-guideway project which is not approved for
28 federal funding shall not exceed an amount equal to 12.5
29 percent of the total cost of each phase.

30 (b) The Department of Transportation shall develop a
31 major capital investment policy which shall include policy

1 criteria and guidelines for the expenditure or commitment of
2 state funds for public transit capital projects. The policy
3 shall include the following:

4 1. Methods to be used to determine consistency of a
5 transit project with the approved local government
6 comprehensive plans of the units of local government in which
7 the project is located.

8 2. Methods for evaluating the level of local
9 commitment to a transit project, which is to be demonstrated
10 through system planning and the development of a feasible plan
11 to fund operating cost through fares, value capture techniques
12 such as joint development and special districts, or other
13 local funding mechanisms.

14 3. Methods for evaluating alternative transit systems
15 including an analysis of technology and alternative methods
16 for providing transit services in the corridor.

17
18 ~~The department shall present such investment policy to both~~
19 ~~the Senate Transportation Committee and the House Public~~
20 ~~Transportation Committee along with recommended legislation by~~
21 ~~March 1, 1991.~~

22 (c) The department is authorized to fund up to 100
23 percent of the cost of any eligible transit capital project or
24 commuter assistance project that is statewide in scope or
25 involves more than one county where no other governmental
26 entity or appropriate jurisdiction exists.

27 (d) The department is authorized to advance up to 80
28 percent of the capital cost of any eligible project that will
29 assist Florida's transit systems in becoming fiscally
30 self-sufficient. Such advances shall be reimbursed to the
31

1 department on an appropriate schedule not to exceed 5 years
2 after the date of provision of the advances.

3 (e) The department is authorized to fund up to 100
4 percent of the capital and net operating costs of statewide
5 transit service development projects or transit corridor
6 projects. All transit service development projects shall be
7 specifically identified by way of a departmental appropriation
8 request, and transit corridor projects shall be identified as
9 part of the planned improvements on each transportation
10 corridor designated by the department. The project
11 objectives, the assigned operational and financial
12 responsibilities, the timeframe required to develop the
13 required service, and the criteria by which the success of the
14 project will be judged shall be documented by the department
15 for each such transit service development project or transit
16 corridor project.

17 (f) The department is authorized to fund up to 50
18 percent of the capital and net operating costs of transit
19 service development projects that are local in scope and that
20 will improve system efficiencies, ridership, or revenues. All
21 such projects shall be identified in the appropriation request
22 of the department through a specific program of projects, as
23 provided for in s. 341.041, that is selectively applied in the
24 following functional areas and is subject to the specified
25 times of duration:

26 1. Improving system operations, including, but not
27 limited to, realigning route structures, increasing system
28 average speed, decreasing deadhead mileage, expanding area
29 coverage, and improving schedule adherence, for a period of up
30 to 3 years;

31

1 2. Improving system maintenance procedures, including,
2 but not limited to, effective preventive maintenance programs,
3 improved mechanics training programs, decreasing service
4 repair calls, decreasing parts inventory requirements, and
5 decreasing equipment downtime, for a period of up to 3 years;

6 3. Improving marketing and consumer information
7 programs, including, but not limited to, automated information
8 services, organized advertising and promotion programs, and
9 signing of designated stops, for a period of up to 2 years;
10 and

11 4. Improving technology involved in overall
12 operations, including, but not limited to, transit equipment,
13 fare collection techniques, electronic data processing
14 applications, and bus locators, for a period of up to 2 years.
15

16 For purposes of this section,the term "net operating costs"
17 means all operating costs of a project less any federal funds,
18 fares, or other sources of income to the project.

19 Section 94. Subsection (1) of section 341.321, Florida
20 Statutes, is reenacted to read:

21 341.321 Development of high-speed rail transportation
22 system; legislative findings, policy, purpose, and intent.--

23 (1) The intent of ss. 341.3201-341.386 is to further
24 and advance the goals and purposes of the 1984 High Speed Rail
25 Transportation Commission Act; to ensure a harmonious
26 relationship between that act and the various growth
27 management laws enacted by the Legislature including the Local
28 Government Comprehensive Planning and Land Development
29 Regulation Act, ss. 163.3161-163.3215, the Florida State
30 Comprehensive Planning Act of 1972, as amended, ss.
31 186.001-186.031, the Florida Regional Planning Council Act,

1 ss. 186.501-186.513, and the State Comprehensive Plan, chapter
2 187; to promote the implementation of these acts in an
3 effective manner; and to encourage and enhance the
4 establishment of a high-speed rail transportation system
5 connecting the major urban areas of the state as expeditiously
6 as is economically feasible. Furthermore, it is the intent of
7 the Legislature that any high-speed rail line and transit
8 station be consistent to the maximum extent feasible with
9 local comprehensive plans, and that any other development
10 associated with the rail line and transit station shall
11 ultimately be consistent with comprehensive plans. The
12 Legislature therefore reaffirms these enactments and further
13 finds:

14 (a) That the implementation of a high-speed rail
15 transportation system in the state will result in overall
16 social and environmental benefits, improvements in ambient air
17 quality, better protection of water quality, greater
18 preservation of wildlife habitat, less use of open space, and
19 enhanced conservation of natural resources and energy.

20 (b) That a high-speed rail transportation system, when
21 used in conjunction with sound land use planning, becomes a
22 vigorous force in achieving growth management goals and in
23 encouraging the use of public transportation to augment and
24 implement land use and growth management goals and objectives.

25 (c) That urban and social benefits include
26 revitalization of blighted or economically depressed areas,
27 the redirection of growth in a carefully and comprehensively
28 planned manner, and the creation of numerous employment
29 opportunities within inner-city areas.

30 (d) That transportation benefits include improved
31 travel times and more reliable travel, hence increased

1 productivity. High-speed rail is far safer than other modes of
2 transportation and, therefore, travel-related deaths and
3 injuries can be reduced, and millions of dollars can be saved
4 from avoided accidents.

5 Section 95. Subsection (2) of section 341.3333,
6 Florida Statutes, is amended to read:

7 341.3333 Application for franchise; confidentiality of
8 application and trade secrets.--

9 (2) Each applicant, in response to the request for
10 proposals, shall file its application with the department at
11 the location and within the time and date limitations
12 specified in the request for proposals. Applications filed
13 before the deadline shall be kept sealed by the department
14 until the time and date specified for opening. Such sealed
15 applications shall be confidential and exempt from the
16 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
17 Constitution until such time as the department provides notice
18 of a decision or intended decision pursuant to s. 120.57(3)(a)
19 or until 10 days after application opening, whichever is
20 earlier. Thereafter, the applications are public. However,
21 the applicant may segregate the trade secret portions of the
22 application and request that the department maintain those
23 portions as confidential and exempt from the provisions of s.
24 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon
25 award of a franchise, the franchisee may segregate portions of
26 materials required to be submitted by the department and
27 request that the department maintain those portions as
28 confidential and exempt from the provisions of s. 119.07(1)
29 and s. 24(a), Art. I of the State Constitution. Such portions
30 designated by an applicant or by the franchisee shall remain
31 confidential and exempt from the provisions of s. 119.07(1)

1 only if the department finds that the information satisfies
2 the criteria established in s. 119.15(4)(b)3~~119.14(4)(b)3~~.

3 Section 96. Paragraphs (a) and (c) of subsection (2)
4 of section 341.352, Florida Statutes, are amended to read:

5 341.352 Certification hearing.--

6 (2)(a) The parties to the certification proceeding
7 are:

8 1. The franchisee.

9 ~~2. The Department of Commerce.~~

10 2.3. The Department of Environmental Protection.

11 3.4. The Department of Transportation.

12 4.5. The Department of Community Affairs.

13 5.6. The Game and Fresh Water Fish Commission.

14 6.7. Each water management district.

15 7.8. Each local government.

16 8.9. Each regional planning council.

17 9.10. Each metropolitan planning organization.

18 (c) Notwithstanding the provisions of chapter 120 to
19 the contrary, after the filing with the administrative law
20 judge of a notice of intent to be a party by an agency or
21 corporation or association described in subparagraph 1. or
22 subparagraph 2., or a petition for intervention by a person
23 described in subparagraph 3., no later than 30 days prior to
24 the date set for the certification hearing, any of the
25 following entities also shall be a party to the proceeding:

26 1. Any state agency not listed in paragraph (a), as to
27 matters within its jurisdiction.

28 2. Any domestic nonprofit corporation or association
29 that is formed, in whole or in part, to promote conservation
30 of natural beauty; to protect the environment, personal
31 health, or other biological values; to preserve historical

1 sites; to promote consumer interests; to represent labor,
2 commercial, or industrial groups; to promote economic
3 development; or to promote the orderly development, or
4 maintain the residential integrity, of the area in which the
5 proposed high-speed rail transportation system is to be
6 located.

7 3. Any person whose substantial interests are affected
8 and being determined by the proceeding.

9 Section 97. Subsection (3) of section 343.64, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 343.64 Powers and duties.--

12 (3) The authority shall, ~~by February 1, 1993,~~ develop
13 and adopt a plan for the development of the Central Florida
14 Commuter Rail. Such plan shall address the authority's plan
15 for the development of public and private revenue sources,
16 funding of capital and operating costs, the service to be
17 provided, and the extent to which counties within the area of
18 operation of the authority are to be served. The plan shall
19 be reviewed and updated annually. The plan shall be
20 consistent, to the maximum extent feasible, with the approved
21 local government comprehensive plans of the units of local
22 government served by the authority.

23 Section 98. Subsection (3) of section 343.74, Florida
24 Statutes, is amended to read:

25 343.74 Powers and duties.--

26 (3) The authority shall, ~~by February 1, 1992,~~ develop
27 and adopt a plan for the development of the Tampa Bay Commuter
28 Rail or Commuter Ferry Service. Such plan shall address the
29 authority's plan for the development of public and private
30 revenue sources, funding of operating and capital costs, the
31 service to be provided and the extent to which counties within

1 the authority are to be served. The plan shall be reviewed and
2 updated annually. Such plan shall be consistent, to the
3 maximum extent feasible, with the approved local government
4 comprehensive plan of the units of local government served by
5 the authority.

6 Section 99. Paragraph (c) of subsection (2) of section
7 348.0005, Florida Statutes, is amended to read:

8 348.0005 Bonds.--

9 (2)

10 (c) Said bonds shall be sold by the authority at
11 public sale by competitive bid. However, if the authority,
12 after receipt of a written recommendation from a financial
13 adviser, shall determine by official action after public
14 hearing by a two-thirds vote of all voting members of the
15 authority that a negotiated sale of the bonds is in the best
16 interest of the authority, the authority may negotiate for
17 sale of the bonds with the underwriter or underwriters
18 designated by the authority and the county in which the
19 authority exists. The authority shall provide specific
20 findings in a resolution as to the reasons requiring the
21 negotiated sale, which resolution shall incorporate and have
22 attached thereto the written recommendation of the financial
23 adviser required by this subsection~~(4)~~.

24 Section 100. Section 348.0009, Florida Statutes, is
25 amended to read:

26 348.0009 Cooperation with other units, boards,
27 agencies, and individuals.--Express authority and power is
28 given and granted to any county, municipality, drainage
29 district, road and bridge district, school district, or other
30 political subdivision, board, commission, or individual in or
31 of this state to enter into contracts, leases, conveyances, or

1 other agreements within the provisions and purposes of the
2 Florida Expressway Authority Act with an authority. An
3 authority may enter into contracts, leases, conveyances, and
4 other agreements, to the extent consistent with chapters 334,
5 335, 338, and 339, ~~and 340~~, and other provisions of the laws
6 of the state and with 23 U.S.C. ss. 101 et seq., with any
7 political subdivision, agency, or instrumentality of the state
8 and any and all federal agencies, corporations, and
9 individuals, for the purpose of carrying out the provisions of
10 the Florida Expressway Authority Act.

11 Section 101. Section 348.248, Florida Statutes, is
12 amended to read:

13 348.248 Cooperation with other units, boards,
14 agencies, and individuals.--Express authority and power is
15 given and granted to any county, municipality, drainage
16 district, road and bridge district, school district, or other
17 political subdivision, board, commission, or individual in or
18 of this state to make and enter into contracts, leases,
19 conveyances, or other agreements within the provisions and
20 purposes of this part with the authority. The authority is
21 expressly authorized to make and enter into contracts, leases,
22 conveyances, and other agreements, to the extent consistent
23 with chapters 334, 335, 338, and 339, ~~and 340~~ and other
24 provisions of the laws of this state and with 23 U.S.C. ss.
25 101 et seq., with any political subdivision, agency, or
26 instrumentality of this state and any and all federal
27 agencies, corporations, and individuals, for the purpose of
28 carrying out the provisions of this part.

29 Section 102. Section 348.948, Florida Statutes, is
30 amended to read:

31

1 348.948 Cooperation with other units, boards,
 2 agencies, and individuals.--Express authority and power is
 3 given and granted to any county, municipality, drainage
 4 district, road and bridge district, school district, or other
 5 political subdivision, board, commission, or individual in or
 6 of this state to make and enter into contracts, leases,
 7 conveyances, or other agreements within the provisions and
 8 purposes of this part with the authority. The authority is
 9 expressly authorized to make and enter into contracts, leases,
 10 conveyances, and other agreements, to the extent consistent
 11 with chapters 334, 335, 338, and 339, ~~and 340~~ and other
 12 provisions of the laws of this state and with 23 U.S.C. ss.
 13 101 et seq., with any political subdivision, agency, or
 14 instrumentality of this state and any and all federal
 15 agencies, corporations, and individuals, for the purpose of
 16 carrying out the provisions of this part.

17 Section 103. Subsection (3) of section 349.05, Florida
 18 Statutes, is amended to read:

19 349.05 Bonds of the authority.--

20 (3) The authority may employ fiscal agents as provided
 21 by this chapter or the State Board of Administration may, upon
 22 request by the authority, act as fiscal agent for the
 23 authority in the issuance of any bonds that may be issued
 24 pursuant to this chapter part, and the State Board of
 25 Administration may, upon request by the authority, take over
 26 the management, control, administration, custody, and payment
 27 of any or all debt services or funds or assets now or
 28 hereafter available for any bonds issued pursuant to this
 29 chapter part. The authority may enter into deeds of trust,
 30 indentures, or other agreements with its fiscal agent, or with
 31 any bank or trust company within or without the state, as

1 security for such bonds, and may, under such agreements,
2 assign and pledge all or any of the revenues, rates, fees,
3 rentals, or other charges or receipts of the authority,
4 including all or any portion of the Duval County gasoline tax
5 funds received by the authority pursuant to the terms of any
6 lease-purchase agreement between the authority and the
7 department, thereunder. Such deed of trust, indenture, or
8 other agreement, may contain such provisions as is customary
9 in such instruments or, as the authority may authorize,
10 including, but without limitation, provisions as to:

11 (a) The completion, improvement, operation, extension,
12 maintenance, repair, and lease of, or lease-purchase agreement
13 relating to, the Jacksonville Expressway System, and the
14 duties of the authority and others, including the department,
15 with reference thereto;

16 (b) The application of funds and the safeguarding of
17 funds on hand or on deposit;

18 (c) The rights and remedies of the trustee and the
19 holders of the bonds; and

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

22 Section 104. Section 378.411, Florida Statutes, is
23 amended to read:

24 378.411 Certification to receive notices of intent to
25 mine, to review and to inspect for compliance.--

26 (1) By petition to the secretary, a local government
27 ~~or the Department of Transportation~~ may request certification
28 to receive notices of intent to mine, to review, and to
29 conduct compliance inspections.

30
31

1 (2) In deciding whether to grant certification to a
2 local government, the secretary shall determine whether the
3 following criteria are being met:

4 (a) The petitioning local government has adopted and
5 effectively implemented a local government comprehensive plan.

6 (b) The local government has adequate review
7 procedures and the financial and staffing resources necessary
8 to assume responsibility for adequate review and inspection.

9 (c) The local government has a record of effectively
10 reviewing, inspecting, and enforcing compliance with local
11 ordinances and state laws.

12 ~~(3) In deciding whether to grant certification to the~~
13 ~~Department of Transportation, the secretary shall request all~~
14 ~~information necessary to determine the capability of the~~
15 ~~Department of Transportation to meet the requirements of this~~
16 ~~part.~~

17 (3)~~(4)~~ In making his or her determination, the
18 secretary shall consult with the Department of Community
19 Affairs, the appropriate regional planning council, and the
20 appropriate water management district.

21 (4)~~(5)~~ The secretary shall evaluate the performance of
22 a local government ~~or the Department of Transportation~~ on a
23 regular basis to ensure compliance with this section. All or
24 part of the certification may be rescinded if the secretary
25 determines that the certification is not being carried out
26 pursuant to the requirements of this part.

27 (5)~~(6)~~ The department shall establish the
28 certification procedure by rule.

29 Section 105. Paragraph (b) of subsection (1) of
30 section 427.012, Florida Statutes, is amended to read:

31

1 427.012 The Commission for the Transportation
2 Disadvantaged.--There is created the Commission for the
3 Transportation Disadvantaged in the Department of
4 Transportation.

5 (1) The commission shall consist of the following
6 members:

7 (b) The secretary of the Department of Children and
8 Family Health and Rehabilitative Services or the secretary's
9 designee.

10 Section 106. Subsection (16) of section 427.013,
11 Florida Statutes, 1998 Supplement, is amended to read:

12 427.013 The Commission for the Transportation
13 Disadvantaged; purpose and responsibilities.--The purpose of
14 the commission is to accomplish the coordination of
15 transportation services provided to the transportation
16 disadvantaged. The goal of this coordination shall be to
17 assure the cost-effective provision of transportation by
18 qualified community transportation coordinators or
19 transportation operators for the transportation disadvantaged
20 without any bias or presumption in favor of multioperator
21 systems or not-for-profit transportation operators over single
22 operator systems or for-profit transportation operators. In
23 carrying out this purpose, the commission shall:

24 (16) Review and approve memorandums of agreement for
25 the provision ~~provisions~~ of coordinated transportation
26 services.

27 Section 107. Subsection (23) of section 479.01,
28 Florida Statutes, is amended, and subsection (24) of said
29 section is reenacted, to read:

30 479.01 Definitions.--As used in this chapter, the
31 term:

1 (23) "Unzoned commercial or industrial area" means an
2 area within 660 feet of the nearest edge of the right-of-way
3 of the interstate or federal-aid primary system where the land
4 use is not covered by a future land use map or zoning
5 regulation pursuant to subsection (3)~~(2)~~, in which there are
6 located three or more separate and distinct industrial or
7 commercial uses located within a 1,600-foot radius of each
8 other and generally recognized as commercial or industrial by
9 zoning authorities in this state. Certain activities,
10 including, but not limited to, the following, may not be so
11 recognized:

12 (a) Signs.

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

16 (c) Transient or temporary activities.

17 (d) Activities not visible from the main-traveled way.

18 (e) Activities conducted more than 660 feet from the
19 nearest edge of the right-of-way.

20 (f) Activities conducted in a building principally
21 used as a residence.

22 (g) Railroad tracks and minor sidings.

23 (24) "Urban area" has the same meaning as defined in
24 s. 334.03(32).

25 Section 108. Section 951.05, Florida Statutes, is
26 amended to read:

27 951.05 Working county prisoners on roads and bridges
28 or other public works of the county; hiring out to another
29 county.--The board of county commissioners of the several
30 counties may require all county prisoners under sentence
31 confined in the jail of their respective counties for any

1 offense to labor upon the public roads, bridges, farms, or
2 other public works owned and operated by the county, or on
3 other projects for which the governing body of the county
4 could otherwise lawfully expend public funds and which it
5 determines to be necessary for the health, safety, and welfare
6 of the county, or in the event the county commissioners of any
7 county deem it to the best interest of their county, they may
8 hire out their prisoners to any other county in the state to
9 be worked upon the public roads, bridges, or other public
10 works of that county, or on other projects for which the
11 governing body of that county could otherwise lawfully expend
12 public funds and which it determines to be necessary for the
13 health, safety, and welfare of that county, or they may, upon
14 such terms as may be agreed upon between themselves and ~~the~~
15 ~~Division of Road Operations of~~ the Department of
16 Transportation, lease or let said prisoners to the department
17 ~~division~~ instead of keeping them in the county jail where they
18 are sentenced. The money derived from the hire of such
19 prisoners shall be paid to the county hiring out such
20 prisoners and placed to the credit of the fine and forfeiture
21 fund of the county.

22 Section 109. Effective January 1, 2000, section
23 73.015, Florida Statutes, is created to read:

24 73.015 Presuit negotiation.--

25 (1) Effective July 1, 2000, before an eminent domain
26 proceeding is brought under this chapter or chapter 74, the
27 condemning authority must attempt to negotiate in good faith
28 with the fee owner of the parcel to be acquired, must provide
29 the fee owner with a written offer and, if requested, a copy
30 of the appraisal upon which the offer is based, and must

31

1 attempt to reach an agreement regarding the amount of
2 compensation to be paid for the parcel.

3 (a) At the inception of negotiation for acquisition,
4 the condemning authority must notify the fee owner of the
5 following:

6 1. That all or a portion of his or her property is
7 necessary for a project.

8 2. The nature of the project for which the parcel is
9 considered necessary, and the parcel designation of the
10 property to be acquired.

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

24 4. The fee owner's statutory rights under ss. 73.091
25 and 73.092.

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

28 (b) The condemning authority must provide a written
29 offer of compensation to the fee owner as to the value of the
30 property sought to be appropriated and, where less than the
31 entire property is sought to be appropriated, any damages to

1 the remainder caused by the taking. The owner must be given at
2 least 30 days after either receipt of the notice or the date
3 the notice is returned as undeliverable by the postal
4 authorities to respond to the offer, before the condemning
5 authority files a condemnation proceeding for the parcel
6 identified in the offer.

7 (c) The notice and written offer must be sent by
8 certified mail, return receipt requested, to the fee owner's
9 last known address listed on the county ad valorem tax roll.
10 Alternatively, the notice and written offer may be personally
11 delivered to the fee owner of the property. If there is more
12 than one owner of a property, notice to one owner constitutes
13 notice to all owners of the property. The return of the notice
14 as undeliverable by the postal authorities constitutes
15 compliance with this provision. The condemning authority is
16 not required to give notice or a written offer to a person who
17 acquires title to the property after the notice required by
18 this section has been given.

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

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

30 (a) The condemning authority must notify the business
31 owner of the following:

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

3 2. The nature of the project for which the parcel is
4 considered necessary, and the parcel designation of the
5 property to be acquired.

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

19 4. The business owner's statutory rights under ss.
20 73.071, 73.091, and 73.092.

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

23 (b) The notice must be made subsequent to or
24 concurrent with the condemning authority's making the written
25 offer of compensation to the fee owner pursuant to subsection
26 (1). The notice must be sent by certified mail, return
27 receipt requested, to the address of the registered agent for
28 the business located on the property to be acquired, or if no
29 agent is registered, by certified mail or personal delivery to
30 the address of the business located on the property to be
31 acquired. Notice to one owner of a multiple ownership

1 business constitutes notice to all business owners of that
 2 business. The return of the notice as undeliverable by the
 3 postal authorities constitutes compliance with these
 4 provisions. The condemning authority is not required to give
 5 notice to a person who acquires an interest in the business
 6 after the notice required by this section has been given.
 7 Once notice has been made to business owners under this
 8 subsection, the condemning authority may file a condemnation
 9 proceeding pursuant to chapter 73 or chapter 74 for the
 10 property identified in the notice.

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

30 1. The business-damage offer must include an
 31 explanation of the nature, extent, and monetary amount of such

1 damage and must be prepared by the owner, a certified public
 2 accountant, or a business damage expert familiar with the
 3 nature of the operations of the owner's business. The
 4 business owner shall also provide to the condemning authority
 5 copies of the owner's business records that substantiate the
 6 good-faith offer to settle the business damage claim. If
 7 additional information is needed beyond data that may be
 8 obtained from business records existing at the time of the
 9 offer, the business owner and condemning authority may agree
 10 on a schedule for the submission of such information.

11 2. As used in this paragraph, the term "business
 12 records" includes, but is not limited to, copies of federal
 13 income tax returns, federal income tax withholding statements,
 14 federal miscellaneous income tax statements, state sales tax
 15 returns, balance sheets, profit and loss statements, and state
 16 corporate income tax returns for the 5 years preceding
 17 notification which are attributable to the business operation
 18 on the property to be acquired, and other records relied upon
 19 by the business owner that substantiate the business-damage
 20 claim.

21 (d) Within 120 days after receipt of the good-faith
 22 business-damage offer and accompanying business records, the
 23 condemning authority must, by certified mail, accept or reject
 24 the business owner's offer or make a counteroffer. Failure of
 25 the condemning authority to respond to the business damage
 26 offer, or rejection thereof pursuant to this section, must be
 27 deemed to be a counteroffer of zero dollars for purposes of
 28 subsequent application of s. 73.092(1).

29 (3) At any time in the presuit negotiation process,
 30 the parties may agree to submit the compensation or
 31 business-damage claims to nonbinding mediation. The parties

1 shall agree upon a mediator certified under s. 44.102. In the
 2 event that there is a settlement reached as a result of
 3 mediation or other mutually acceptable dispute resolution
 4 procedure, the agreement reached shall be in writing. The
 5 written agreement provided for in this section shall
 6 incorporate by reference the right-of-way maps, construction
 7 plans, or other documents related to the taking upon which the
 8 settlement is based. In the event of a settlement, both
 9 parties shall have the same legal rights that would have been
 10 available under law if the matter had been resolved through
 11 eminent domain proceedings in circuit court with the maps,
 12 plans, or other documents having been made a part of the
 13 record.

14 (4) If a settlement is reached between the condemning
 15 authority and a property or business owner prior to a lawsuit
 16 being filed, the property or business owner who settles
 17 compensation claims in lieu of condemnation shall be entitled
 18 to recover costs in the same manner as provided in s. 73.091
 19 and attorney's fees in the same manner as provided in s.
 20 73.092, more specifically as follows:

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

26 (b) If business damages are recovered by the business
 27 owner based on the condemning authority accepting the business
 28 owner's initial offer or the business owner accepting the
 29 condemning authority's initial counteroffer, attorney's fees
 30 must be calculated in accordance with s. 73.092(2), (3), (4),
 31 and (5) for the attorney's time incurred in presentation of

1 the business owner's good-faith offer under paragraph (2)(c).
2 Otherwise, attorney's fees for the award of business damages
3 must be calculated as provided in s. 73.092(1), based on the
4 difference between the final judgment or settlement of
5 business damages and the counteroffer to the business owner's
6 offer by the condemning authority.

7 (c) Presuit costs must be presented, calculated, and
8 awarded in the same manner as provided in s. 73.091, after
9 submission by the business or property owner to the condemning
10 authority of all appraisal reports, business damage reports,
11 or other work-products for which recovery is sought, and upon
12 transfer of title of the real property by closing, upon
13 payment of any amounts due for business damages, or upon final
14 judgment.

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

20
21 Investor-owned utilities are exempt from the provisions of
22 this subsection.

23 (5) Evidence of negotiations or of any written or oral
24 statements used in mediation or negotiations between the
25 parties under this section is inadmissible in any condemnation
26 proceeding, except in a proceeding to determine reasonable
27 costs and attorney's fees.

28 Section 110. Effective January 1, 2000, subsection (3)
29 of section 73.071, Florida Statutes, is amended to read:

30 73.071 Jury trial; compensation; severance damages;
31 business damages.--

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

3 (a) The value of the property sought to be
4 appropriated;

5 (b) Where less than the entire property is sought to
6 be appropriated, any damages to the remainder caused by the
7 taking, including, when the action is by the Department of
8 Transportation, county, municipality, board, district or other
9 public body for the condemnation of a right-of-way, and the
10 effect of the taking of the property involved may damage or
11 destroy an established business of more than 4 5 years'
12 standing, owned by the party whose lands are being so taken,
13 located upon adjoining lands owned or held by such party, the
14 probable damages to such business which the denial of the use
15 of the property so taken may reasonably cause; any person
16 claiming the right to recover such special damages shall set
17 forth in his or her written defenses the nature and extent of
18 such damages; and

19 (c) Where the appropriation is of property upon which
20 a mobile home, other than a travel trailer as defined in s.
21 320.01, is located, whether or not the owner of the mobile
22 home is an owner or lessee of the property involved, and the
23 effect of the taking of the property involved requires the
24 relocation of such mobile home, the reasonable removal or
25 relocation expenses incurred by such mobile home owner, not to
26 exceed the replacement value of such mobile home. The
27 compensation paid to a mobile home owner under this paragraph
28 shall preclude an award to a mobile home park owner for such
29 expenses of removal or relocation. Any mobile home owner
30 claiming the right to such removal or relocation expenses
31 shall set forth in his or her written defenses the nature and

1 extent of such expenses. This paragraph shall not apply to
2 any governmental authority exercising its power of eminent
3 domain when reasonable removal or relocation expenses must be
4 paid to mobile home owners under other provisions of law or
5 agency rule applicable to such exercise of power.

6 Section 111. Effective January 1, 2000, the amendments
7 to subsection (3) of section 73.071, Florida Statutes, as
8 contained in this act shall stand repealed effective January
9 1, 2003.

10 Section 112. Effective January 1, 2000, subsection (1)
11 of section 73.091, Florida Statutes, is amended to read:

12 73.091 Costs of the proceedings.--

13 (1) The petitioner shall pay attorney's fees as
14 provided in s. 73.092 as well as all reasonable costs incurred
15 in the defense of the proceedings in the circuit court,
16 including, but not limited to, reasonable appraisal fees and,
17 when business damages are compensable, a reasonable
18 accountant's fee, to be assessed by that court. No prejudgment
19 interest shall be paid on costs or attorney's fees.

20 Section 113. Effective January 1, 2000, subsection (1)
21 of section 73.092, Florida Statutes, is amended to read:

22 73.092 Attorney's fees.--

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

27 (a) As used in this section, the term "benefits" means
28 the difference, exclusive of interest, between the final
29 judgment or settlement and the last written offer made by the
30 condemning authority before the defendant hires an attorney.
31 If no written offer is made by the condemning authority before

1 the defendant hires an attorney, benefits must be measured
2 from the first written offer after the attorney is hired.

3 1. In determining attorney's fees, if business records
4 as defined in s. 73.015(2)(c)2. and kept by the owner in the
5 ordinary course of business were provided to the condemning
6 authority to substantiate the business damage offer in s.
7 73.015(2)(c), benefits for amounts awarded for business
8 damages must be based on the difference between the final
9 judgment or settlement and the written counteroffer made by
10 the condemning authority provided in s. 73.015(2)(d).

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

23 ~~1. In determining attorney's fees in prelitigation~~
24 ~~negotiations, benefits do not include amounts awarded for~~
25 ~~business damages unless the business owner provided to the~~
26 ~~condemning authority, upon written request, prior to~~
27 ~~litigation, those financial and business records kept by the~~
28 ~~owner in the ordinary course of business.~~

29 ~~2. In determining attorney's fees subsequent to the~~
30 ~~filing of litigation, if financial and business records kept~~
31 ~~by the owner in the ordinary course of business were not~~

1 ~~provided to the condemning authority prior to litigation,~~
2 ~~benefits for amounts awarded for business damages must be~~
3 ~~based on the first written offer made by the condemning~~
4 ~~authority within 120 days after the filing of the eminent~~
5 ~~domain action. In the event the petitioner makes a discovery~~
6 ~~request for a defendant's financial and business records kept~~
7 ~~in the ordinary course of business within 45 days after the~~
8 ~~filing of that defendant's answer, then the 120-day period~~
9 ~~shall be extended to 60 days after receipt by petitioner of~~
10 ~~those records. If the condemning authority makes no written~~
11 ~~offer to the defendant for business damages within the time~~
12 ~~period provided in this section, benefits for amounts awarded~~
13 ~~for business damages must be based on the difference between~~
14 ~~the final judgment or settlement and the last written offer~~
15 ~~made by the condemning authority before the defendant hired an~~
16 ~~attorney.~~

17 (b) The court may also consider nonmonetary benefits
18 obtained for the client through the efforts of the attorney,
19 to the extent such nonmonetary benefits are specifically
20 identified by the court and can, within a reasonable degree of
21 certainty, be quantified.

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

- 24 1. Thirty-three percent of any benefit up to \$250,000;
25 plus
26 2. Twenty-five percent of any portion of the benefit
27 between \$250,000 and \$1 million; plus
28 3. Twenty percent of any portion of the benefit
29 exceeding \$1 million.

30 Section 114. Effective January 1, 2000, subsection (1)
31 of section 127.01, Florida Statutes, is amended to read:

1 127.01 Counties delegated power of eminent domain;
2 recreational purposes, issue of necessity of taking.--

3 (1)(a) Each county of the state is delegated authority
4 to exercise the right and power of eminent domain; that is,
5 the right to appropriate property, except state or federal,
6 for any county purpose. The absolute fee simple title to all
7 property so taken and acquired shall vest in such county
8 unless the county seeks to condemn a particular right or
9 estate in such property.

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

15 Section 115. Effective January 1, 2000, subsection (2)
16 of section 166.401, Florida Statutes, is amended to read:

17 166.401 Right of eminent domain.--

18 (2) Each municipality is further authorized to
19 exercise the eminent domain power ~~powers~~ granted to the
20 Department of Transportation in s. 337.27(1) ~~and (2)~~ and the
21 transportation corridor protection provisions of s. 337.273.

22 Section 116. Effective January 1, 2000, subsection (2)
23 of section 337.27, section 337.271, subsection (2) of section
24 348.0008, subsection (2) of section 348.759, and subsection
25 (2) of section 348.957, Florida Statutes, are repealed.

26 Section 117. Except as otherwise provided herein, this
27 act shall take effect July 1, 1999.