

By the Committee on Transportation and Senator Casas

306-1712-99

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; amending s. 20.23, F.S.;
4 changing the name of the Office of Construction
5 to the Office of Highway Operations; amending
6 s. 206.46, F.S.; increasing the amount that may
7 be transferred into the Right-of-Way
8 Acquisition and Bridge Construction Trust Fund;
9 creating s. 215.615, F.S.; authorizing the
10 department and local governments to enter into
11 an interlocal agreement to provide financing
12 for fixed guideway projects; amending s.
13 206.606, F.S.; providing funding for the Center
14 for Urban Transportation Research; creating s.
15 215.616, F.S.; authorizing bonding of federal
16 aid; amending s. 316.1895, F.S.; authorizing
17 local governments to request the Department of
18 Transportation to install and maintain speed
19 zones for federally funded Headstart programs
20 located on roads maintained by the department;
21 amending s. 316.1936; defining the term "public
22 highway"; providing that it is unlawful to
23 possess an open container or consume an
24 alcoholic beverage while seated in the
25 passenger area of a motor vehicle that is
26 parked or stopped within a public highway;
27 creating s. 316.0815, F.S.; providing the duty
28 to yield to public transit vehicles reentering
29 the flow of traffic; amending s. 316.302, F.S.;
30 updating references to the current federal
31 safety regulations; amending s. 316.3025, F.S.;

1 updating references to the current federal
2 safety regulations; amending s. 316.545, F.S.;
3 providing a maximum penalty for operating a
4 commercial motor vehicle when the registration
5 or license plate has not been expired for more
6 than 180 days; amending s. 334.0445, F.S.;
7 extending the current authorization for the
8 department's model classification plan;
9 amending s. 335.0415, F.S.; clarifying the
10 jurisdiction and responsibility for operation
11 and maintenance of roads; amending s. 335.093,
12 F.S.; authorizing the department to designate
13 public roads as scenic highways; amending s.
14 337.11, F.S.; authorizing the department to
15 enter into contracts for construction or
16 maintenance of roadway and bridge elements
17 without competitive bidding under certain
18 circumstances; deleting the provision for the
19 owner-controlled insurance plan; amending s.
20 337.16, F.S.; eliminating intermediate
21 delinquency as grounds for suspension or
22 revocation of a contractor's certificate of
23 qualification to bid on construction contracts
24 in excess of a specified amount; amending s.
25 337.162, F.S.; providing that department
26 appraisers are not obligated to report
27 violations of state professional licensing laws
28 to the Department of Business and Professional
29 Regulation; amending s. 337.18, F.S.; deleting
30 the schedule of contract amount categories
31 utilized to calculate liquidated damages to be

1 paid by a contractor; allowing the department
2 to adjust the categories; requiring that surety
3 bonds posted by successful bidders on
4 department construction contracts be payable to
5 the department; amending s. 337.185, F.S.;
6 raising the limit for binding arbitration
7 contract disputes; authorizing the secretary of
8 the department to select an alternate or
9 substitute to serve as the department member of
10 the board for any hearing; amending the fee
11 schedule for arbitration to cover the cost of
12 administration and compensation of the board;
13 authorizing the department to acquire and
14 negotiate for the sale of replacement housing;
15 amending s. 337.25, F.S.; authorizing the
16 department to purchase options to purchase land
17 for transportation facilities; amending s.
18 337.251, F.S.; authorizing a fixed guideway
19 transportation system operating within the
20 department's right-of-way to operate at any
21 safe speed; amending s. 337.403, F.S.;
22 authorizing the department to contract directly
23 with utility companies for clearing and
24 grubbing; amending s. 338.223, F.S.; defining
25 the terms "hardship purchase" and "protective
26 purchase"; amending s. 338.229, F.S.;
27 restricting the sale, transfer, lease, or other
28 disposition of operations on any portion of the
29 turnpike system; amending s. 338.251, F.S.;
30 providing that funds repaid by the
31 Tampa-Hillsborough County Expressway Authority

1 to the Toll Facilities Revolving Trust Fund are
2 to be loaned back to the authority for
3 specified purposes; amending s. 339.155, F.S.;
4 providing planning factors; clarifying the
5 roles of the long-range and short-range
6 components of the Florida Transportation Plan;
7 amending s. 339.175, F.S.; providing planning
8 factors; providing that the designation or
9 redesignation of a metropolitan planning
10 organization must be approved by the
11 Legislature; requiring a recommendation for
12 redesignation; clarifying geographic boundaries
13 of metropolitan planning organizations;
14 providing that metropolitan planning
15 organization plans must provide for the
16 development and operation of intermodal
17 transportation systems and facilities; amending
18 s. 341.041, F.S.; authorizing the creation and
19 maintenance of a common self-retention
20 insurance fund to support public transit
21 projects; amending s. 341.302, F.S.;
22 authorizing the department to secure and
23 administer federal loans for rail projects;
24 authorizing the department to conduct hazardous
25 materials inspections at manufacturer's and
26 shipper's facilities on Florida rail lines;
27 amending s. 373.4137, F.S.; providing for the
28 mitigation of impacts to wetlands and other
29 sensitive habitats; amending s. 479.01, F.S.;
30 defining the terms "commercial or industrial
31 zone" and "unzoned commercial or industrial

1 area"; providing that communication towers are
2 not commercial or industrial activities;
3 amending s. 479.07, F.S.; modifying the process
4 for reinstatement of an outdoor advertising
5 sign permit; amending s. 479.16, F.S.;
6 clarifying that certain signs not in excess of
7 16 square feet are exempt from the permitting
8 process; providing an effective date.

9

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

11

12 Section 1. Paragraph (d) of subsection (3) of section
13 20.23, Florida Statutes, 1998 Supplement, is amended to read:

14 20.23 Department of Transportation.--There is created
15 a Department of Transportation which shall be a decentralized
16 agency.

17 (3)

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

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

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

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

28 d. Performing other activities of a statewide nature.

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

31

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 Highway Operations ~~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(6). The heads of such offices are exempt from part II
12 of chapter 110. No office or organization shall be created at
13 a level equal to or higher than a division without specific
14 legislative authority.

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

17 206.46 State Transportation Trust Fund.--

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

1 primarily from the motor and diesel fuel taxes transferred to
2 the State Transportation Trust Fund from the Fuel Tax
3 Collection Trust Fund.

4 (3)(a) Through fiscal year 1999-2000, a minimum of
5 14.3 percent of all state revenues deposited into the State
6 Transportation Trust Fund shall be committed annually by the
7 department for public transportation projects in accordance
8 with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and
9 chapter 343. Beginning in fiscal year 2000-2001, and each year
10 thereafter, a minimum of 15 percent of all state revenues
11 deposited into the State Transportation Trust Fund shall be
12 committed annually by the department for public transportation
13 projects in accordance with chapter 311, ss. 332.002-332.007,
14 ~~and~~ chapter 341, and chapter 343.

15 Section 3. Paragraph (d) is added to subsection (1) of
16 section 206.606, Florida Statutes, 1998 Supplement, to read:

17 206.606 Distribution of certain proceeds.--

18 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
19 206.87(1)(e) shall be deposited in the Fuel Tax Collection
20 Trust Fund created by s. 206.875. Such moneys, exclusive of
21 the service charges imposed by s. 215.20, and exclusive of
22 refunds granted pursuant to s. 206.41, shall be distributed
23 monthly to the State Transportation Trust Fund, except that:

24 (d) \$1.5 million per year shall be transferred to the
25 Board of Regents and shall be spent solely for purposes of s.
26 334.065.

27 Section 4. Effective July 1, 1999, paragraph (d) is
28 added to subsection (1) of section 206.606, Florida Statutes,
29 1998 Supplement, as amended by section 3 of chapter 98-114,
30 Laws of Florida, to read:

31 206.606 Distribution of certain proceeds.--

1 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
2 206.87(1)(e) shall be deposited in the Fuel Tax Collection
3 Trust Fund. Such moneys, after deducting the service charges
4 imposed by s. 215.20, the refunds granted pursuant to s.
5 206.41, and the administrative costs incurred by the
6 department in collecting, administering, enforcing, and
7 distributing the tax, which administrative costs may not
8 exceed 2 percent of collections, shall be distributed monthly
9 to the State Transportation Trust Fund, except that:

10 (d) \$1.5 million per year shall be transferred to the
11 Board of Regents and shall be spent solely for the purposes of
12 s. 334.065.

13 Section 5. Section 215.615, Florida Statutes, is
14 created to read:

15 215.615 Fixed-guideway transportation systems
16 funding.--

17 (1) The issuance of revenue bonds by the Division of
18 Bond Finance, on behalf of the Department of Transportation,
19 pursuant to s. 11, Art. VII of the State Constitution, is
20 authorized, pursuant to the State Bond Act, to finance or
21 refinance fixed capital expenditures for fixed-guideway
22 transportation systems, as defined in s. 341.031, including
23 facilities appurtenant thereto, costs of issuance, and other
24 amounts relating to such financing or refinancing. Fifty
25 percent of the bonding capacity shall be held in reserve. The
26 remainder of such revenue bonds shall be matched on a 50-50
27 basis with funds from sources other than revenues of the
28 Department of Transportation, in a manner acceptable to the
29 Department of Transportation.

30 (a) The department and any participating commuter rail
31 authority or regional transportation authority established

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

20 (b) Revenue bonds issued pursuant to this subsection
21 shall not constitute a general obligation of, or a pledge of
22 the full faith and credit of, the State of Florida. Bonds
23 issued pursuant to this section shall be payable from funds
24 available pursuant to s. 206.46(3)(a), subject to annual
25 appropriation. The amount of revenues available for debt
26 service shall never exceed a maximum of 2 percent of all state
27 revenues deposited into the State Transportation Trust Fund.

28 (c) The projects to be financed or refinanced with the
29 proceeds of the revenue bonds issued hereunder are designated
30 as state fixed capital outlay projects for purposes of s.
31 11(d), Art. VII of the State Constitution, and the specific

1 projects to be financed or refinanced shall be determined by
2 the Department of Transportation in accordance with state law
3 and appropriations from the State Transportation Trust Fund.
4 Each project to be financed with the proceeds of the bonds
5 issued pursuant to this subsection must first be approved by
6 the Legislature by an act of general law.

7 (d) Any complaint for validation of bonds issued
8 pursuant to this section shall be filed in the circuit court
9 of the county where the seat of state government is situated,
10 the notice required to be published by s. 75.06 shall be
11 published only in the county where the complaint is filed, and
12 the complaint and order of the circuit court shall be served
13 only on the state attorney of the circuit in which the action
14 is pending.

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

21 (f) This subsection supersedes any inconsistent
22 provisions in existing law.

23
24 Notwithstanding this subsection, the lien of revenue bonds
25 issued pursuant to this subsection on moneys deposited into
26 the State Transportation Trust Fund shall be subordinate to
27 the lien on such moneys of bonds issued under ss. 215.605,
28 320.20, and 215.616, and any pledge of such moneys to pay
29 operating and maintenance expenses under subsection (5) and
30 chapter 348, as may be amended.

31

1 (2) To be eligible for participation, fixed-guideway
2 transportation system projects must comply with the major
3 capital investment policy guidelines and criteria established
4 by the Department of Transportation under chapter 341; must be
5 found to be consistent, to the maximum extent feasible, with
6 approved local government comprehensive plans of the local
7 governments in which such projects are located; and must be
8 included in the work program of the Department of
9 Transportation pursuant to the provisions under s. 339.135.
10 The department shall certify that the expected useful life of
11 the transportation improvements will equal or exceed the
12 maturity date of the debt to be issued.

13 Section 6. Section 216.616, Florida Statutes, is
14 created to read:

15 216.616 State bonds for federal aid highway
16 construction.--

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

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

30 (3) The term of the bonds shall not exceed a term of
31 12 years. Prior to the issuance of bonds, the Department of

1 Transportation shall determine that annual debt service on all
2 bonds issued pursuant to this section does not exceed 10
3 percent of annual apportionments to the department for federal
4 highway aid in accordance with the provisions of Title 23 of
5 the United States Code.

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

12 (5) The state does covenant with the holders of bonds
13 issued under this section that it will not repeal, impair, or
14 amend this section in any manner which will materially and
15 adversely affect the rights of bondholders as long as the
16 bonds authorized by this section are outstanding.

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

25 Section 7. Section 316.0815, Florida Statutes, is
26 created to read:

27 316.0815 Duty to yield to public transit vehicles.--

28 (1) The driver of a vehicle shall yield the
29 right-of-way to a publicly owned transit bus traveling in the
30 same direction which has signalled and is reentering the
31 traffic flow from a specifically designated pullout bay.

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

4 Section 8. Present subsections (2), (3), (4), (5),
5 (6), (7), (8), and (9) of section 316.1895, Florida Statutes,
6 are redesignated as subsections (3), (4), (5), (6), (7), (8),
7 (9), and (10), respectively, and a new subsection (2) is added
8 to that section to read:

9 316.1895 Establishment of school speed zones,
10 enforcement; designation.--

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

17 Section 9. Subsections (1) and (2) of section
18 316.1936, Florida Statutes, are amended to read:

19 316.1936 Possession of open containers of alcoholic
20 beverages in vehicles prohibited; penalties.--

21 (1) As used in this section, the term:

22 (a) "Open container" means any container which is
23 immediately capable of being consumed from, or the seal of
24 which has been broken.

25 (b) "Public highway" or the "right-of-way of a public
26 highway" means the entire width between and immediately
27 adjacent to the boundary lines of every way publicly
28 maintained when any part thereof is open to the use of the
29 public for purposes of vehicular travel.

30 (2)(a) It is unlawful and punishable as provided in
31 this section for any person to possess an open container of an

1 alcoholic beverage or consume an alcoholic beverage while
2 operating a vehicle in the state or while a passenger in or on
3 a vehicle being operated in the state.

4 (b) It is unlawful and punishable as provided in this
5 section for any person to possess an open container of an
6 alcoholic beverage or consume an alcoholic beverage while
7 seated in the passenger area of a motor vehicle which is
8 parked or stopped within a public highway.

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

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

15 (1)

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

23 (2)

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

1 (f) A person who operates a commercial motor vehicle
2 having a declared gross vehicle weight of less than 26,000
3 pounds solely in intrastate commerce and who is not
4 transporting hazardous materials, or who is transporting
5 petroleum products as defined in s. 376.301 ~~s. 376.301(29)~~, is
6 exempt from subsection (1). However, such person must comply
7 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
8 396.3(a)(1) and ~~s.~~396.9.

9 Section 11. Paragraph (c) of subsection (3) of section
10 316.3025, Florida Statutes, is amended to read:

11 316.3025 Penalties.--

12 (3)

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

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

16 2. A violation of the shipping paper requirements of
17 49 C.F.R. parts 171-179;

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

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

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

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

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

23 Section 12. Paragraph (b) of subsection (2) of section
24 316.545, Florida Statutes, is amended to read:

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

27 (2)

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

1 gross weight exceeds the declared weight, the penalty shall be
2 5 cents per pound on the difference between such weights. In
3 those cases when the commercial vehicle, as defined in s.
4 316.003(66), is being operated over the highways of the state
5 with an expired registration or with no registration from this
6 or any other jurisdiction or is not registered under the
7 applicable provisions of chapter 320, the penalty herein shall
8 apply on the basis of 5 cents per pound on that scaled weight
9 which exceeds 35,000 pounds on laden truck tractor-semitrailer
10 combinations or tandem trailer truck combinations, 10,000
11 pounds on laden straight trucks or straight truck-trailer
12 combinations, or 10,000 pounds on any unladen commercial motor
13 vehicle. If the license plate or registration has not been
14 expired for more than 180 days, the penalty imposed under this
15 paragraph may not exceed \$1,000.In the case of special mobile
16 equipment as defined in s. 316.003(48), which qualifies for
17 the license tax provided for in s. 320.08(5)(b), being
18 operated on the highways of the state with an expired
19 registration or otherwise not properly registered under the
20 applicable provisions of chapter 320, a penalty of \$75 shall
21 apply in addition to any other penalty which may apply in
22 accordance with this chapter. A vehicle found in violation of
23 this section may be detained until the owner or operator
24 produces evidence that the vehicle has been properly
25 registered. Any costs incurred by the retention of the
26 vehicle shall be the sole responsibility of the owner. A
27 person who has been assessed a penalty pursuant to this
28 paragraph for failure to have a valid vehicle registration
29 certificate pursuant to the provisions of chapter 320 is not
30 subject to the delinquent fee authorized in s. 320.07 if such
31

1 person obtains a valid registration certificate within 10
2 working days after such penalty was assessed.

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

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

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

21 Section 14. Subsection (1) of section 335.0415,
22 Florida Statutes, is amended to read:

23 335.0415 Public road jurisdiction and transfer
24 process.--

25 (1) The jurisdiction of public roads and the
26 responsibility for operation and maintenance within the
27 right-of-way of any road within the state, county, and
28 municipal road system shall be that which existed on June 10,
29 1995 ~~exists on July 1, 1995.~~

30 Section 15. Subsection (1) of section 335.093, Florida
31 Statutes, is amended to read:

1 335.093 Scenic highway designation.--

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

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

12 337.11 Contracting authority of department; bids;
13 emergency repairs, supplemental agreements, and change orders;
14 combined design and construction contracts; progress payments;
15 records; requirements of vehicle registration.--

16 (6)

17 (c) When the department determines that it is in the
18 best interest of the public for reasons of public concern,
19 economy, improved operations or safety, and only when
20 circumstances dictate rapid completion of the work, the
21 department may, up to the threshold amount provided in s.
22 287.017 for CATEGORY FOUR, enter into contracts for
23 construction and maintenance without advertising and receiving
24 competitive bids. The department may enter into such contracts
25 only upon a determination that the work is necessary for one
26 of the following reasons:

27 1. To ensure timely completion of projects or
28 avoidance of undue delay for other projects;

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

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

4
5 The department shall make a good-faith effort to obtain two or
6 more quotes, if available, from qualified contractors before
7 entering into any contract. The department shall give
8 consideration to disadvantaged business enterprise
9 participation. However, when the work exists within the limits
10 of an existing contract, the department shall make a
11 good-faith effort to negotiate and enter into a contract with
12 the prime contractor on the existing contract.

13 ~~(16) The department is authorized to undertake and~~
14 ~~contract to provide an owner controlled insurance plan (OCIP)~~
15 ~~on any construction project or group of related construction~~
16 ~~projects if the head of the department determines that an OCIP~~
17 ~~will be both cost-effective for the department and otherwise~~
18 ~~in its best interests. Such OCIP may provide insurance~~
19 ~~coverage for the department and for worker's compensation and~~
20 ~~employers liability and general liability and builders risk~~
21 ~~for contractors and subcontractors, for and in conjunction~~
22 ~~with any or all work performed on such projects. The~~
23 ~~department may directly purchase such coverage in the manner~~
24 ~~provided for the purchase of commodities pursuant to s.~~
25 ~~287.057, or self-insure, or use a combination thereof, any~~
26 ~~other statutory provisions or limitations on self-insurance or~~
27 ~~purchase of insurance notwithstanding. The department's~~
28 ~~authority hereunder includes the purchase of risk management,~~
29 ~~risk and loss control, safety management, investigative and~~
30 ~~claims adjustment services, advancement of funds for payment~~
31 ~~of claims, and other services reasonably necessary to process~~

1 ~~and pay claims under and administer the OCIP. In addition to~~
2 ~~any prequalification required under s. 337.14, no contractor~~
3 ~~shall be prequalified to bid on an OCIP project unless the~~
4 ~~contractor's casualty and loss experience and safety record~~
5 ~~meets the minimum requirements for OCIP coverage issuance on~~
6 ~~the project, were the contractor to be awarded the project.~~
7 ~~Exercise of the department's authority under this subsection~~
8 ~~shall not be deemed a waiver of sovereign immunity.~~

9 Section 17. Paragraph (a) of subsection (1) of section
10 337.16, Florida Statutes, is amended to read:

11 337.16 Disqualification of delinquent contractors from
12 bidding; determination of contractor nonresponsibility;
13 denial, suspension, and revocation of certificates of
14 qualification; grounds; hearing.--

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

26 (a) A contractor is delinquent when ~~unsatisfactory~~
27 ~~progress is being made on a construction project or when the~~
28 allowed contract time has expired and the contract work is not
29 complete. ~~Unsatisfactory progress shall be determined in~~
30 ~~accordance with the contract provisions.~~

31

1 Section 18. Subsection (2) of section 337.162, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 337.162 Professional services.--Professional services
4 provided to the department that fall below acceptable
5 professional standards may result in transportation project
6 delays, overruns, and reduced facility life. To minimize these
7 effects and ensure that quality services are received, the
8 Legislature hereby declares that licensed professionals shall
9 be held accountable for the quality of the services they
10 provide to the department.

11 (2) Any person who is employed by the department and
12 who is licensed by the Department of Business and Professional
13 Regulation and who, through the course of his or her
14 employment, has knowledge or reason to believe that any person
15 has violated the provisions of state professional licensing
16 laws or rules shall submit a complaint about the violations to
17 the Department of Business and Professional Regulation.
18 Failure to submit a complaint about the violations may be
19 grounds for disciplinary action pursuant to part I of chapter
20 455 and the state licensing law applicable to that licensee.
21 However, licensees under part II of chapter 475 are exempt
22 from the provisions of s. 455.227(1)(i).The complaint
23 submitted to the Department of Business and Professional
24 Regulation and maintained by the department is confidential
25 and exempt from s. 119.07(1).

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

28 337.18 Surety bonds; requirement with respect to
29 contract award; defaults; damage assessments.--

30 (1) A surety bond shall be required of the successful
31 bidder in an amount equal to the awarded contract price. For a

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

19 (2) The department shall provide in its contracts for
20 the determination of default on the part of any contractor for
21 cause attributable to such contractor. The department shall
22 have no liability for anticipated profits for unfinished work
23 on a contract which has been determined to be in default.
24 Every contract let by the department for the performance of
25 work shall contain a provision for payment to the department
26 by the contractor of liquidated damages due to failure of the
27 contractor to complete the contract work within the time
28 stipulated in the contract or within such additional time as
29 may have been granted by the department. The contractual
30 provision shall include a reasonable estimate of the damages
31 that would be incurred by the department as a result of such

1 failure. The department shall establish a schedule of daily
2 liquidated damage charges, based on original contract amounts,
3 for construction contracts entered into by the department,
4 which schedule shall be incorporated by reference into the
5 contract. The department shall update the schedule of
6 liquidated damages at least once every 2 years, but no more
7 often than once a year. The schedule shall, at a minimum, be
8 based on the average construction, engineering, and inspection
9 costs experienced by the department on contracts over the 2
10 preceding fiscal years. The schedule shall also include
11 anticipated costs of project-related delays and inconveniences
12 to the department and traveling public. Anticipated costs may
13 include, but are not limited to, road user costs, a portion of
14 the projected revenues that will be lost due to failure to
15 timely open a project to revenue-producing traffic, costs
16 resulting from retaining detours for an extended time, and
17 other similar costs. ~~The schedule shall be divided into the~~
18 ~~following categories, based on the original contract amounts:~~

- 19 ~~(a) \$50,000 and under;~~
20 ~~(b) Over \$50,000 but less than \$250,000;~~
21 ~~(c) \$250,000 or more but less than \$500,000;~~
22 ~~(d) \$500,000 or more but less than \$2.5 million;~~
23 ~~(e) \$2.5 million or more but less than \$5 million;~~
24 ~~(f) \$5 million or more but less than \$10 million;~~
25 ~~(g) \$10 million or more but less than \$15 million;~~
26 ~~(h) \$15 million or more but less than \$20 million; and~~
27 ~~(i) \$20 million and over.~~

28
29 Any such liquidated damages paid to the department shall be
30 deposited to the credit of the fund from which payment for the
31 work contracted was authorized.

1 Section 20. Subsections (1), (2), (3), (7), and (8) of
2 section 337.185, Florida Statutes, are amended to read:

3 337.185 State Arbitration Board.--

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

22 (2) The board shall be composed of three members. One
23 member shall be appointed by the head of the department, and
24 one member shall be elected by those construction companies
25 who are under contract with the department. The third member
26 shall be chosen by agreement of the other two members.

27 Whenever the third member has a conflict of interest regarding
28 affiliation with one of the parties, the other two members
29 shall select an alternate member for that hearing. The head
30 of the department may select an alternative or substitute to
31 serve as the department member for any hearing or term.Each

1 member shall serve a 2-year term. The board shall elect a
2 chair, each term, who shall be the administrator of the board
3 and custodian of its records.

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

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

30 (8) The party requesting arbitration shall pay a fee
31 to the board in accordance with a schedule established by it,

1 not to exceed \$500 per claim which is \$25,000 or less, not to
2 exceed \$1,000 per claim which is in excess of \$25,000 but not
3 exceeding \$50,000, not to exceed \$1,500 per claim which is in
4 excess of \$50,000 but not exceeding \$100,000, not to exceed
5 \$2,000 per claim which is in excess of \$100,000 but not
6 exceeding \$200,000, ~~and~~ not to exceed \$3,000~~\$2,500~~ per claim
7 which is in excess of \$200,000 but not exceeding \$300,000
8 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of
9 \$300,000 but not exceeding \$400,000, and not to exceed \$5,000
10 per claim which is in excess of \$400,000, to cover the cost of
11 administration and compensation of the board.

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

15 337.25 Acquisition, lease, and disposal of real and
16 personal property.--

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

26 (4) The department may sell, in the name of the state,
27 any land, building, or other property, real or personal, which
28 was acquired under the provisions of subsection (1) and which
29 the department has determined is not needed for the
30 construction, operation, and maintenance of a transportation
31 facility. With the exception of any parcel governed by

1 paragraph (c), paragraph (d), paragraph (f), paragraph (g), or
2 paragraph (i), the department shall afford first right of
3 refusal to the local government in the jurisdiction of which
4 the parcel is situated. When such a determination has been
5 made, property may be disposed of in the following manner:

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

16 Section 22. Subsection (9) is added to section
17 337.251, Florida Statutes, to read:

18 337.251 Lease of property for joint public-private
19 development and areas above or below department property.--

20 (9) Notwithstanding s. 341.327, a fixed-guideway
21 transportation system authorized by the department to be
22 wholly or partially within the department's right-of-way
23 pursuant to a lease granted under this section may operate at
24 any safe speed.

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

27 337.403 Relocation of utility; expenses.--

28 (1) Any utility heretofore or hereafter placed upon,
29 under, over, or along any public road or publicly owned rail
30 corridor that is found by the authority to be unreasonably
31 interfering in any way with the convenient, safe, or

1 continuous use, or the maintenance, improvement, extension, or
2 expansion, of such public road or publicly owned rail corridor
3 shall, upon 30 days' written notice to the utility or its
4 agent by the authority, be removed or relocated by such
5 utility at its own expense except as provided in paragraphs
6 (a), and (b), and (c).

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

21 (b) When a joint agreement between the department and
22 the utility is executed for utility improvement, relocation,
23 or removal work to be accomplished as part of a contract for
24 construction of a transportation facility, the department may
25 participate in those utility improvement, relocation, or
26 removal costs that exceed the department's official estimate
27 of the cost of such work by more than 10 percent. The amount
28 of such participation shall be limited to the difference
29 between the official estimate of all the work in the joint
30 agreement plus 10 percent and the amount awarded for this work
31 in the construction contract for such work. The department may

1 not participate in any utility improvement, relocation, or
2 removal costs that occur as a result of changes or additions
3 during the course of the contract.

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

10 Section 24. Paragraph (b) of subsection (2) of section
11 338.223, Florida Statutes, is amended to read:

12 338.223 Proposed turnpike projects.--

13 (2)

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

1 Environmental Protection 30 days before final agency
2 acceptance as set forth in s. 119.07(3)(n), which notice shall
3 allow the Department of Environmental Protection to comment.
4 Hardship and protective purchases of right-of-way shall not
5 influence the environmental feasibility of a project,
6 including the decision relative to the need to construct the
7 project or the selection of a specific location. Costs to
8 acquire and dispose of property acquired as hardship and
9 protective purchases are considered costs of doing business
10 for the department and are not to be considered in the
11 determination of environmental feasibility for the project.

12 Section 25. Section 338.229, Florida Statutes, is
13 amended to read:

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

1 turnpike system which reduces the revenue available for
2 payment to bondholders.

3 Section 26. Subsection (10) of section 338.251,
4 Florida Statutes, 1998 Supplement, is amended to read:

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

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

1 Tampa-Hillsborough County Expressway Authority pursuant to
2 this section which have been or will be repaid on or after
3 July 1, 1998, to the Toll Facilities Revolving Trust Fund on
4 behalf of the Tampa-Hillsborough County Expressway Authority
5 shall thereupon and forthwith be appropriated for and advanced
6 to the Tampa-Hillsborough County Expressway Authority for
7 funding the design of and the advanced right-of-way
8 acquisition for the Brandon area feeder roads, capital
9 improvements to increase capacity to the expressway system,
10 and Lee Roy Selmon Crosstown Expressway System Widening as
11 authorized under s. 348.565.

12 Section 27. Section 339.155, Florida Statutes, is
13 amended to read:

14 339.155 Transportation planning.--

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

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

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

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

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

17 1. Support the economic vitality of the United States,
18 Florida, and the metropolitan areas, especially by enabling
19 global competitiveness, productivity, and efficiency;

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

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

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

26 5. Enhance the integration and connectivity of the
27 transportation system, across and between modes throughout
28 Florida, for people and freight;

29 6. Promote efficient system management and operation;

30 and

31

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

3 (b) Additionally, the department shall consider:

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

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

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

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

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

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

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

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

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

1 ~~comprehensive plans so as to contribute to the management of~~
2 ~~orderly and coordinated community development.~~

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

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

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

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

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

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

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

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

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

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

1 ~~corridors for which action is most needed to prevent~~
2 ~~destruction or loss.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (5) ADDITIONAL TRANSPORTATION PLANS.--

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

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

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

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

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

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

30 (c) Opportunity for design hearings:
31

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

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

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

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

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

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

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

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

30 339.175 Metropolitan planning organization.--It is the
31 intent of the Legislature to encourage and promote the safe

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

26 (1) DESIGNATION.--

27 (a)1. An M.P.O. shall be designated for each urbanized
28 area of the state. Such designation shall first be approved
29 by the Legislature by general law. Upon approval of the
30 Legislature such designation shall be accomplished by
31 agreement between the Governor and units of general-purpose

1 local government representing at least 75 percent of the
2 population of the urbanized area; however, the unit of
3 general-purpose local government that represents the central
4 city or cities within the M.P.O. jurisdiction, as defined by
5 the United States Bureau of the Census, must be a party to
6 such agreement.

7 2. More than one M.P.O. may be designated within an
8 existing metropolitan planning area only if the designation is
9 first approved by the Legislature by general law and ~~urbanized~~
10 area only after if the Governor and the existing M.P.O.
11 determine ~~determines~~ that the size and complexity of the
12 existing metropolitan planning area makes ~~justifies~~ the
13 designation of more than one M.P.O. for the area appropriate
14 multiple M.P.O.'s.

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

22 (c) The jurisdictional boundaries of an M.P.O. shall
23 first be approved by the Legislature by general law. Upon
24 approval of the Legislature, the jurisdictional boundaries of
25 the M.P.O. shall be determined by agreement between the
26 Governor and the applicable M.P.O. The boundaries must
27 include at least the metropolitan planning area, which is the
28 existing urbanized area and the contiguous area expected to
29 become urbanized within a 20-year forecast period, ~~at a~~
30 minimum, the metropolitan area and may encompass include the

31

1 entire metropolitan statistical area or the consolidated
2 metropolitan statistical area.

3 (d) An M.P.O. may be redesignated. Such redesignation
4 shall first be approved by the Legislature by general law.
5 Upon approval of the Legislature, such redesignation shall be
6 accomplished by agreement between the Governor and units of
7 general purpose local government which together represent at
8 least 75 percent of the affected population. The Metropolitan
9 Planning Organization Advisory Council and the Office of the
10 Governor shall by December 31, 1999, recommend to the
11 Legislature the redesignation of the existing M.P.O.'s
12 considering industry clusters, regional economic development
13 and regional transportation facilities in order to maximize
14 Florida's transportation investments.

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

28
29 Each M.P.O. required under this section must be fully
30 operative no later than 6 months following its designation.

31 (2) VOTING MEMBERSHIP.--

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

1 operates or administers a major mode of transportation has
2 been appointed to an M.P.O.

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

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

28 (3) APPORTIONMENT.--

29 (a) The Governor shall, with the agreement of the
30 affected units of general-purpose local government as required
31 by federal rules and regulations, apportion the membership on

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

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

1 member. A vacancy shall be filled by the original appointing
2 entity. A member may be reappointed for one or more
3 additional 4-year terms.

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

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

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

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

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

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

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

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

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

17 2. Increase the safety and security of the
18 transportation system for motorized and nonmotorized users;

19 3. Increase the accessibility and mobility options
20 available to people and for freight;

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

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

26 6. Promote efficient system management and operation;
27 and

28 7. Emphasize the preservation of the existing
29 transportation system.
30
31

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

1 ~~corridors for which action is most needed to prevent~~
2 ~~destruction or loss;~~

3 ~~11. Any available methods to enhance the efficient~~
4 ~~movement of freight;~~

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

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

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

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

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

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

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

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

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

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

30 6. Perform all other duties required by state or
31 federal law.

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

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

30 2. Notwithstanding the provisions of subparagraph 1.,
31 an M.P.O. may, with the approval of the department and the

1 applicable federal governmental agency, adopt an alternative
2 program or mechanism to ensure citizen involvement in the
3 transportation planning process.

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

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

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

27 (a) Identify transportation facilities, including, but
28 not limited to, major roadways, airports, seaports, commuter
29 rail systems, transit systems, and intermodal or multimodal
30 terminals that will function as an integrated metropolitan
31 transportation system. The long-range transportation plan

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

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

24 (c) Assess capital investment and other measures
25 necessary to:

26 1. Ensure the preservation of the existing
27 metropolitan transportation system including requirements for
28 the operation, resurfacing, restoration, and rehabilitation of
29 major roadways and requirements for the operation,
30 maintenance, modernization, and rehabilitation of public
31 transportation facilities; and

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

4 (d) Indicate, as appropriate, proposed transportation
5 enhancement activities, including, but not limited to,
6 pedestrian and bicycle facilities, scenic easements,
7 landscaping, historic preservation, mitigation of water
8 pollution due to highway runoff, and control of outdoor
9 advertising.

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

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

27 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.
28 shall, in cooperation with the state and affected public
29 transportation operators, develop a transportation improvement
30 program for the area within the jurisdiction of the M.P.O. In
31 the development of the transportation improvement program,

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

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

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

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

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

9 (c) The transportation improvement program must, at a
10 minimum:

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

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

26 3. Provide a financial plan that demonstrates how the
27 transportation improvement program can be implemented;
28 indicates the resources, both public and private, that are
29 reasonably expected to be available to accomplish the program;
30 identifies ~~and recommends~~ any innovative financing techniques
31 that may be used to fund needed projects and programs; and may

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

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

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

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

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

1 regarding the project in the transportation improvement
2 program.

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

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

22 (f)~~(e)~~ The adopted annual transportation improvement
23 program for M.P.O.'s in nonattainment or maintenance areas
24 must be submitted to the district secretary and the Department
25 of Community Affairs at least 90 days before the submission of
26 the state transportation improvement program by the department
27 to the appropriate federal agencies. The annual transportation
28 improvement program for M.P.O.'s in attainment areas must be
29 submitted to the district secretary and the Department of
30 Community Affairs at least 45 days before the department
31 submits the state transportation improvement program to the

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

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

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

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

1 budget therefor and must comply with applicable state and
2 federal law.

3 (9) AGREEMENTS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

23 Section 29. Subsection (14) is added to section
24 341.041, Florida Statutes, 1998 Supplement, to read:

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

28 (14) Create and maintain a common self-retention
29 insurance fund to support fixed-guideway projects throughout
30 the state when there is a contractual obligation to have the
31 fund in existence in order to provide fixed-guideway services.

1 The maximum limit of the fund is as required by any
2 contractual obligation.

3 Section 30. Subsections (6) and (8) of section
4 341.302, Florida Statutes, are amended to read:

5 341.302 Rail program, duties and responsibilities of
6 the department.--The department, in conjunction with other
7 governmental units and the private sector, shall develop and
8 implement a rail program of statewide application designed to
9 ensure the proper maintenance, safety, revitalization, and
10 expansion of the rail system to assure its continued and
11 increased availability to respond to statewide mobility needs.
12 Within the resources provided pursuant to chapter 216, and as
13 authorized under Title 49 C.F.R. part 212, the department
14 shall:

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

18 (8) Conduct, at a minimum, inspections of track and
19 rolling stock, train signals and related equipment, hazardous
20 materials transportation, including the loading, unloading,
21 and labeling of hazardous materials at shippers', receivers',
22 and transfer points, and train operating practices to
23 determine adherence to state and federal standards.

24 Department personnel may enforce any safety regulation issued
25 under the Federal Government's preemptive authority over
26 interstate commerce.

27 Section 31. Paragraph (a) of subsection (2) and
28 subsections (3), (4), (5), (6), (9), and (10) of section
29 373.4137, Florida Statutes, are amended to read:

30 373.4137 Mitigation requirements.--
31

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

4 (a) By May 1 of each year ~~Beginning July 1996,~~ the
5 Department of Transportation shall submit ~~annually~~ to the
6 Department of Environmental Protection and the water
7 management districts a copy of its adopted work program and an
8 inventory of habitats addressed in the rules adopted pursuant
9 to this part and s. 404 of the Clean Water Act, 33 U.S.C. s.
10 1344, which may be impacted by its plan of construction for
11 transportation projects in the next first 3 years of the
12 adopted work program. The Department of Transportation may
13 also include in its inventory the habitat impacts of any
14 future transportation project identified in the adopted work
15 program. ~~For the July 1996 submittal, the inventory may~~
16 ~~exclude those projects which have received permits pursuant to~~
17 ~~this part and s. 404 of the Clean Water Act, 33 U.S.C. s.~~
18 ~~1344, projects for which mitigation planning or design has~~
19 ~~commenced, or projects for which mitigation has been~~
20 ~~implemented in anticipation of future permitting needs.~~

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

1 ~~with be returned to~~ the Department of Transportation. The
2 Department of Environmental Protection or water management
3 districts may ~~shall~~ request a transfer of funds from the
4 escrow account ~~to the Ecosystem Management and Restoration~~
5 ~~Trust Fund~~ no sooner than 30 days prior to the date the funds
6 are needed to pay for activities associated with development
7 or implementation of the approved mitigation plan described in
8 subsection (4) for the current fiscal year, including, but not
9 limited to, design, engineering, production, and staff
10 support. Actual conceptual plan preparation costs incurred
11 before plan approval may be submitted to the Department of
12 Transportation and the Department of Environmental Protection
13 by November 1 of each year with the plan. The conceptual plan
14 preparation costs of each water management district will be
15 paid based on the amount approved on the mitigation plan and
16 allocated to the current fiscal year projects identified by
17 the water management district contained in the mitigation
18 programs. The amount transferred to the escrow account each
19 year by the Department of Transportation shall correspond to a
20 cost per acre of \$75,000 multiplied by the projected acres of
21 impact identified in the inventory described in subsection (2)
22 ~~within the water management district for that year. The water~~
23 ~~management district may draw from the trust fund no sooner~~
24 ~~than 30 days prior to the date funds are needed to pay for~~
25 ~~activities associated with development or implementation of~~
26 ~~the mitigation plan described in subsection (4).~~ Each May
27 July 1, beginning in 1998, the cost per acre shall be adjusted
28 by the percentage change in the average of the Consumer Price
29 Index issued by the United States Department of Labor for the
30 most recent 12-month period ending September 30, compared to
31 the base year average, which is the average for the 12-month

1 period ending September 30, 1996. At the end of each year,
2 the projected acreage of impact shall be reconciled with the
3 acreage of impact of projects as permitted, including permit
4 modifications, pursuant to this part and s. 404 of the Clean
5 Water Act, 33 U.S.C. s. 1344. The subject, ~~and the following~~
6 year's transfer of funds shall be adjusted accordingly to
7 reflect the overtransfer or undertransfer of funds from the
8 preceding year. The Department of Transportation ~~Environmental~~
9 ~~Protection~~ is authorized to transfer such funds from the
10 escrow account to the Department of Environmental Protection
11 and Ecosystem Management and Restoration Trust Fund ~~to the~~
12 water management districts to carry out the mitigation
13 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, and 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 under s. 373.4136 and associated
6 federal authorization under this part and shall include such
7 purchase as a part of the mitigation plan when such purchase
8 would offset the impact of the transportation project, provide
9 equal benefits to the water resources than other mitigation
10 options being considered, and provide the most cost-effective
11 mitigation option. The mitigation plan shall be preliminarily
12 approved by the water management district governing board and
13 shall be submitted to the secretary of the Department of
14 Environmental Protection for review and final approval. The
15 preliminary approval by the water management district
16 governing board does not constitute a decision that affects
17 substantial interests as provided by s. 120.569.At least 30
18 days prior to preliminary approval, the water management
19 district shall provide a copy of the draft mitigation plan to
20 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 must
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~~
31

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 that the inclusion of such projects
8 would hamper the efficiency or timeliness of the mitigation
9 planning and permitting process, or the Department of
10 Environmental Protection and the water management district are
11 unable to identify mitigation that would offset the impacts of
12 the project.

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

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

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

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

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

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

24 ~~(9) The recommended mitigation plan shall be annually~~
25 ~~submitted to the Executive Office of the Governor and the~~
26 ~~Legislature through the legislative budget request of the~~
27 ~~Department of Environmental Protection in accordance with~~
28 ~~chapter 216. Any funds not directed to implement the~~
29 ~~mitigation plan should, to the greatest extent possible, be~~
30 ~~directed to fund aquatic and exotic plant problems within the~~
31 ~~wetlands and other surface waters.~~

1 ~~(10) By December 1, 1997, the Department of~~
2 ~~Environmental Protection, in consultation with the water~~
3 ~~management districts, shall submit a report to the Governor,~~
4 ~~the President of the Senate, and the Speaker of the House of~~
5 ~~Representatives describing the implementation of this section,~~
6 ~~including the use of public and private mitigation banks and~~
7 ~~other types of mitigation approved in the mitigation plan.~~
8 ~~The report shall also recommend any amendments to this section~~
9 ~~necessary to improve the process for developing and~~
10 ~~implementing mitigation plans for the Department of~~
11 ~~Transportation. The report shall also include a specific~~
12 ~~section on how private and public mitigation banks are~~
13 ~~utilized within the mitigation plans.~~

14 Section 32. Subsections (3) and (23) of section
15 479.01, Florida Statutes, are amended to read:

16 479.01 Definitions.--As used in this chapter, the
17 term:

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

1 ~~the zoning of an area shall determine whether the area is~~
2 ~~designated predominately for commercial or industrial uses.~~

3 (23) "Unzoned commercial or industrial area" means a
4 parcel of land designated by the ~~an area within 660 feet of~~
5 ~~the nearest edge of the right-of-way of the interstate or~~
6 ~~federal-aid primary system where the land use is not covered~~
7 ~~by a future land use map of the comprehensive plan for~~
8 multiple uses that include commercial or industrial uses but
9 are not specifically designated for commercial or industrial
10 uses under the land development regulations ~~or zoning~~
11 ~~regulation pursuant to subsection (2), in which there are~~
12 ~~located~~ three or more separate and distinct conforming
13 industrial or commercial activities are located.

14 (a) These activities must satisfy the following
15 criteria:

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

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

21 3. The commercial industrial activities must be within
22 1,600 feet of each other.

23
24 Distances specified in this paragraph must be measured from
25 the nearest outer edge of the primary building or primary
26 building complex when the individual units of the complex are
27 connected by covered walkways. ~~uses located within a~~
28 ~~1,600-foot radius of each other and generally recognized as~~
29 ~~commercial or industrial by zoning authorities in this state.~~

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31

1 **(b)** Certain activities, including, but not limited to,
2 the following, may not be so recognized as commercial or
3 industrial activities:

4 **1.(a)** Signs.

5 **2.(b)** Agricultural, forestry, ranching, grazing,
6 farming, and related activities, including, but not limited
7 to, wayside fresh produce stands.

8 **3.(c)** Transient or temporary activities.

9 **4.(d)** Activities not visible from the main-traveled
10 way.

11 **5.(e)** Activities conducted more than 660 feet from the
12 nearest edge of the right-of-way.

13 **6.(f)** Activities conducted in a building principally
14 used as a residence.

15 **7.(g)** Railroad tracks and minor sidings.

16 **8.** Communication towers.

17 Section 33. Paragraphs (b) and (c) of subsection (8)
18 of section 479.07, Florida Statutes, are amended to read:

19 479.07 Sign permits.--

20 (8)

21 (b) If a permittee has not submitted his or her fee
22 payment by the expiration date of the licenses or permits, the
23 department shall send a notice of violation to the permittee
24 within 45 days after the expiration date, requiring the
25 payment of the permit fee within 30 days after the date of the
26 notice and payment of a delinquency fee equal to 10 percent of
27 the original amount due or, in the alternative to these
28 payments, requiring the filing of a request for an
29 administrative hearing to show cause why his or her sign
30 should not be subject to immediate removal due to expiration
31 of his or her license or permit. If the permittee submits

1 payment as required by the violation notice, his or her
2 license or permit will be automatically reinstated and such
3 reinstatement will be retroactive to the original expiration
4 date. If the permittee does not respond to the notice of
5 violation within the 30-day period, the department shall,
6 within 30 days, issue a final notice of sign removal and may,
7 following 90 days after the date of the department's final
8 notice of sign removal, remove the sign without incurring any
9 liability as a result of such removal. However, if at any time
10 before removal of the sign within 90 days after the date of
11 the department's final notice of sign removal, the permittee
12 demonstrates that a good-faith ~~good faith~~ error on the part of
13 the permittee resulted in cancellation or nonrenewal of the
14 permit, the department may reinstate the permit if:

15 1. ~~The sign has not yet been disassembled by the~~
16 ~~permittee.~~

17 2. ~~Conflicting applications have not been filed by~~
18 ~~other persons.~~

19 1.3. The permit reinstatement fee of up to \$300 based
20 on the size of the sign is paid;

21 2.4. All other permit renewal and delinquent permit
22 fees due as of the reinstatement date are paid; and

23 3.5. The permittee reimburses the department for all
24 actual costs resulting from the permit cancellation or
25 nonrenewal ~~and sign removal~~.

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

30
31

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

4 Section 34. Subsection (15) of section 479.16, Florida
5 Statutes, is amended to read:

6 479.16 Signs for which permits are not required.--The
7 following signs are exempt from the requirement that a permit
8 for a sign be obtained under the provisions of this chapter
9 but are required to comply with the provisions of s.

10 479.11(4)-(8):

11 (15) Signs not in excess of 16 square feet placed at a
12 road junction with the State Highway System denoting only the
13 distance or direction of a residence or farm operation, or, in
14 a rural area where a hardship is created because a small
15 business is not visible from the road junction with the State
16 Highway System, one sign not in excess of 16 ~~8~~ square feet,
17 denoting only the name of the business and the distance and
18 direction to the business. The small-business-sign provision
19 of this subsection does not apply to charter counties and may
20 not be implemented if the Federal Government notifies the
21 department that implementation will adversely affect the
22 allocation of federal funds to the department.

23 Section 35. Except as otherwise provided in this act,
24 this act shall take effect upon becoming a law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 972

4 The CS provides: funding for the Center for Urban
5 Transportation Research; drivers must yield to public transit
6 vehicles when such vehicles are reentering traffic from a
7 specifically designated pull out lane; the Florida Department
8 of Transportation must install and maintain school zones for
9 prekindergarten early intervention schools which receive
10 federal funding through the Headstart program which are
11 located on state maintained roads; provides a maximum penalty
12 charge of \$1,000 for operating a commercial vehicle where the
13 registration or license plate has not been expired more than
14 180 days; provides that funds repaid by the Tampa-Hillsborough
15 County Expressway Authority are to be loaned back to the
16 authority for specified purposes.

17 Further, the CS: provides that designation or redesignation of
18 an MPO must first be approved by the Legislature by general
19 law; requires the MPO Advisory Council and the Office of the
20 Governor to recommend to the Legislature the redesignation of
21 the existing MPOs by December 31, 1999.