

By the Committees on Fiscal Policy, Transportation and Senator Casas

309-1995-99

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. 320.20, F.S.,  
7 relating to the disposition of motor vehicle  
8 license tax moneys; providing for a portion of  
9 such moneys to be deposited in the State  
10 Transportation Trust Fund and used to fund the  
11 Florida Seaport Transportation and Economic  
12 Development Program and seaport intermodal  
13 access projects of statewide significance;  
14 providing for distributing such funds on a  
15 matching basis; authorizing such funds to be  
16 used for the payment of bonds and other forms  
17 of indebtedness; requiring that certain  
18 distributions of funds be approved by the  
19 Florida Seaport Transportation and Economic  
20 Development Council; amending s. 334.0445,  
21 F.S.; extending the current authorization for  
22 the department's model classification plan;  
23 amending s. 335.0415, F.S.; clarifying the  
24 jurisdiction and responsibility for operation  
25 and maintenance of roads; amending s. 335.093,  
26 F.S.; authorizing the department to designate  
27 public roads as scenic highways; amending s.  
28 337.11, F.S.; authorizing the department to  
29 enter into contracts for construction or  
30 maintenance of roadway and bridge elements  
31 without competitive bidding under certain

1           circumstances; deleting the provision for the  
2           owner-controlled insurance plan; amending s.  
3           337.16, F.S.; eliminating intermediate  
4           delinquency as grounds for suspension or  
5           revocation of a contractor's certificate of  
6           qualification to bid on construction contracts  
7           in excess of a specified amount; amending s.  
8           337.162, F.S.; providing that department  
9           appraisers are not obligated to report  
10          violations of state professional licensing laws  
11          to the Department of Business and Professional  
12          Regulation; amending s. 337.18, F.S.; deleting  
13          the schedule of contract amount categories  
14          utilized to calculate liquidated damages to be  
15          paid by a contractor; allowing the department  
16          to adjust the categories; requiring that surety  
17          bonds posted by successful bidders on  
18          department construction contracts be payable to  
19          the department; amending s. 337.185, F.S.;  
20          raising the limit for binding arbitration  
21          contract disputes; authorizing the secretary of  
22          the department to select an alternate or  
23          substitute to serve as the department member of  
24          the board for any hearing; amending the fee  
25          schedule for arbitration to cover the cost of  
26          administration and compensation of the board;  
27          authorizing the department to acquire and  
28          negotiate for the sale of replacement housing;  
29          amending s. 337.25, F.S.; authorizing the  
30          department to purchase options to purchase land  
31          for transportation facilities; amending s.

1 337.251, F.S.; authorizing a fixed guideway  
2 transportation system operating within the  
3 department's right-of-way to operate at any  
4 safe speed; amending s. 337.403, F.S.;  
5 authorizing the department to contract directly  
6 with utility companies for clearing and  
7 grubbing; amending s. 337.408, F.S.; reviving  
8 standards for installation of bus benches and  
9 transit shelters; amending s. 338.223, F.S.;  
10 defining the terms "hardship purchase" and  
11 "protective purchase"; amending s. 338.229,  
12 F.S.; restricting the sale, transfer, lease, or  
13 other disposition of operations on any portion  
14 of the turnpike system; amending s. 338.251,  
15 F.S.; providing that funds repaid by the  
16 Tampa-Hillsborough County Expressway Authority  
17 to the Toll Facilities Revolving Trust Fund are  
18 to be loaned back to the authority for  
19 specified purposes; amending s. 339.155, F.S.;  
20 providing planning factors; clarifying the  
21 roles of the long-range and short-range  
22 components of the Florida Transportation Plan;  
23 amending s. 339.175, F.S.; providing planning  
24 factors; requiring a recommendation for  
25 redesignation; clarifying geographic boundaries  
26 of metropolitan planning organizations;  
27 providing that metropolitan planning  
28 organization plans must provide for the  
29 development and operation of intermodal  
30 transportation systems and facilities; amending  
31 s. 341.041, F.S.; authorizing the creation and

1 maintenance of a common self-retention  
2 insurance fund to support public transit  
3 projects; amending s. 341.302, F.S.;  
4 authorizing the department to secure and  
5 administer federal loans for rail projects;  
6 authorizing the department to conduct hazardous  
7 materials inspections at manufacturer's and  
8 shipper's facilities on Florida rail lines;  
9 amending s. 373.4137, F.S.; providing for the  
10 mitigation of impacts to wetlands and other  
11 sensitive habitats; amending s. 479.01, F.S.;  
12 defining the terms "commercial or industrial  
13 zone" and "unzoned commercial or industrial  
14 area"; providing that communication towers are  
15 not commercial or industrial activities;  
16 amending s. 479.07, F.S.; modifying the process  
17 for reinstatement of an outdoor advertising  
18 sign permit; amending s. 479.16, F.S.;  
19 clarifying that certain signs not in excess of  
20 16 square feet are exempt from the permitting  
21 process; providing an effective date.

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

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

30 (3)

31

1 (d)1. Policy, program, or operations offices shall be  
2 established within the central office for the purposes of:  
3 a. Developing policy and procedures and monitoring  
4 performance to ensure compliance with these policies and  
5 procedures;  
6 b. Performing statewide activities which it is more  
7 cost-effective to perform in a central location;  
8 c. Assessing and ensuring the accuracy of information  
9 within the department's financial management information  
10 systems; and  
11 d. Performing other activities of a statewide nature.  
12 2. The following offices are established and shall be  
13 headed by a manager, each of whom shall be appointed by and  
14 serve at the pleasure of the secretary. The positions shall be  
15 classified at a level equal to a division director:  
16 a. The Office of Administration;  
17 b. The Office of Policy Planning;  
18 c. The Office of Design;  
19 d. The Office of Highway Operations ~~Construction~~;  
20 e. The Office of Right-of-Way;  
21 f. The Office of Toll Operations; and  
22 g. The Office of Information Systems.  
23 3. Other offices may be established in accordance with  
24 s. 20.04(6). The heads of such offices are exempt from part II  
25 of chapter 110. No office or organization shall be created at  
26 a level equal to or higher than a division without specific  
27 legislative authority.  
28 4. During the construction of a major transportation  
29 improvement project or as determined by the district  
30 secretary, the department may provide assistance to a business  
31 entity significantly impacted by the project if the entity is

1 a for-profit entity that has been in business for 3 years  
2 prior to the beginning of construction and has direct or  
3 shared access to the transportation project being constructed.  
4 The assistance program shall be in the form of additional  
5 guarantees to assist the impacted business entity in receiving  
6 loans pursuant to Title 13 C.F.R. part 120. However, in no  
7 instance shall the combined guarantees be greater than 90  
8 percent of the loan. The department shall adopt rules to  
9 implement this subparagraph.

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

12 206.46 State Transportation Trust Fund.--

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

30 (3) Through fiscal year 1999-2000, a minimum of 14.3  
31 percent of all state revenues deposited into the State

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

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

12 206.606 Distribution of certain proceeds.--

13 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
14 206.87(1)(e) shall be deposited in the Fuel Tax Collection  
15 Trust Fund created by s. 206.875. Such moneys, exclusive of  
16 the service charges imposed by s. 215.20, and exclusive of  
17 refunds granted pursuant to s. 206.41, shall be distributed  
18 monthly to the State Transportation Trust Fund, except that:

19 (d) \$1.5 million per year shall be transferred to the  
20 Board of Regents and shall be spent solely for purposes of s.  
21 334.065.

22 Section 4. Effective July 1, 1999, paragraph (d) is  
23 added to subsection (1) of section 206.606, Florida Statutes,  
24 1998 Supplement, as amended by section 3 of chapter 98-114,  
25 Laws of Florida, to read:

26 206.606 Distribution of certain proceeds.--

27 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
28 206.87(1)(e) shall be deposited in the Fuel Tax Collection  
29 Trust Fund. Such moneys, after deducting the service charges  
30 imposed by s. 215.20, the refunds granted pursuant to s.  
31 206.41, and the administrative costs incurred by the



1 department in collecting, administering, enforcing, and  
2 distributing the tax, which administrative costs may not  
3 exceed 2 percent of collections, shall be distributed monthly  
4 to the State Transportation Trust Fund, except that:

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

8 Section 5. Section 215.615, Florida Statutes, is  
9 created to read:

10 215.615 Fixed-guideway transportation systems  
11 funding.--

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

25 (a) The department and any participating commuter rail  
26 authority or regional transportation authority established  
27 under chapter 343, local governments, or local governments  
28 collectively by interlocal agreement having jurisdiction of a  
29 fixed-guideway transportation system may enter into an  
30 interlocal agreement to promote the efficient and  
31 cost-effective financing or refinancing of fixed-guideway

1 transportation system projects by revenue bonds issued  
2 pursuant to this subsection. The terms of such interlocal  
3 agreements shall include provisions for the Department of  
4 Transportation to request the issuance of the bonds on behalf  
5 of the parties; shall provide that each party to the agreement  
6 is contractually liable for an equal share of funding an  
7 amount equal to the debt service requirements of such bonds;  
8 and shall include any other terms, provisions or covenants  
9 necessary to the making of and full performance under such  
10 interlocal agreement. Repayments made to the department under  
11 any interlocal agreement are not pledged to the repayment of  
12 bonds issued hereunder, and failure of the local governmental  
13 authority to make such payment shall not affect the obligation  
14 of the department to pay debt service on the bonds.

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

23 (c) The projects to be financed or refinanced with the  
24 proceeds of the revenue bonds issued hereunder are designated  
25 as state fixed capital outlay projects for purposes of s.  
26 11(d), Art. VII of the State Constitution, and the specific  
27 projects to be financed or refinanced shall be determined by  
28 the Department of Transportation in accordance with state law  
29 and appropriations from the State Transportation Trust Fund.  
30 Each project to be financed with the proceeds of the bonds

31

1 issued pursuant to this subsection must first be approved by  
2 the Legislature by an act of general law.

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

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

17 (f) This subsection supersedes any inconsistent  
18 provisions in existing law.

19  
20 Notwithstanding this subsection, the lien of revenue bonds  
21 issued pursuant to this subsection on moneys deposited into  
22 the State Transportation Trust Fund shall be subordinate to  
23 the lien on such moneys of bonds issued under ss. 215.605,  
24 320.20, and 215.616, and any pledge of such moneys to pay  
25 operating and maintenance expenses under subsection (5) and  
26 chapter 348, as may be amended.

27 (2) To be eligible for participation, fixed-guideway  
28 transportation system projects must comply with the major  
29 capital investment policy guidelines and criteria established  
30 by the Department of Transportation under chapter 341; must be  
31 found to be consistent, to the maximum extent feasible, with

1 approved local government comprehensive plans of the local  
2 governments in which such projects are located; and must be  
3 included in the work program of the Department of  
4 Transportation pursuant to the provisions under s. 339.135.  
5 The department shall certify that the expected useful life of  
6 the transportation improvements will equal or exceed the  
7 maturity date of the debt to be issued.

8 Section 6. Section 215.616, Florida Statutes, is  
9 created to read:

10 215.616 State bonds for federal aid highway  
11 construction.--

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

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

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

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

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

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

20           Section 7. Section 316.0815, Florida Statutes, is  
21 created to read:

22           316.0815 Duty to yield to public transit vehicles.--

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

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

30           Section 8. Present subsections (2), (3), (4), (5),  
31 (6), (7), (8), and (9) of section 316.1895, Florida Statutes,

1 are redesignated as subsections (3), (4), (5), (6), (7), (8),  
2 (9), and (10), respectively, and a new subsection (2) is added  
3 to that section to read:

4 316.1895 Establishment of school speed zones,  
5 enforcement; designation.--

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

12 Section 9. Subsections (1) and (2) of section  
13 316.1936, Florida Statutes, are amended to read:

14 316.1936 Possession of open containers of alcoholic  
15 beverages in vehicles prohibited; penalties.--

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

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

20 (b) "Public highway" or the "right-of-way of a public  
21 highway" means the entire width between and immediately  
22 adjacent to the boundary lines of every way publicly  
23 maintained when any part thereof is open to the use of the  
24 public for purposes of vehicular travel.

25 (2)(a) It is unlawful and punishable as provided in  
26 this section for any person to possess an open container of an  
27 alcoholic beverage or consume an alcoholic beverage while  
28 operating a vehicle in the state or while a passenger in or on  
29 a vehicle being operated in the state.

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

1 alcoholic beverage or consume an alcoholic beverage while  
2 seated in the passenger area of a motor vehicle which is  
3 parked or stopped within a public highway.

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

7 316.302 Commercial motor vehicles; safety regulations;  
8 transporters and shippers of hazardous materials;  
9 enforcement.--

10 (1)

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

18 (2)

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

27 (f) A person who operates a commercial motor vehicle  
28 having a declared gross vehicle weight of less than 26,000  
29 pounds solely in intrastate commerce and who is not  
30 transporting hazardous materials, or who is transporting  
31 petroleum products as defined in s. 376.301 ~~s. 376.301(29)~~, is

1 exempt from subsection (1). However, such person must comply  
2 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.  
3 396.3(a)(1) and ~~s.~~396.9.

4 Section 11. Paragraph (c) of subsection (3) of section  
5 316.3025, Florida Statutes, is amended to read:

6 316.3025 Penalties.--

7 (3)

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

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

11 2. A violation of the shipping paper requirements of  
12 49 C.F.R. parts 171-179;

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

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

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

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

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

18 Section 12. Paragraph (b) of subsection (2) of section  
19 316.545, Florida Statutes, is amended to read:

20 316.545 Weight and load unlawful; special fuel and  
21 motor fuel tax enforcement; inspection; penalty; review.--

22 (2)

23 (b) The officer shall inspect the license plate or  
24 registration certificate of the commercial vehicle, as defined  
25 in s. 316.003(66), to determine if its gross weight is in  
26 compliance with the declared gross vehicle weight. If its  
27 gross weight exceeds the declared weight, the penalty shall be  
28 5 cents per pound on the difference between such weights. In  
29 those cases when the commercial vehicle, as defined in s.  
30 316.003(66), is being operated over the highways of the state  
31 with an expired registration or with no registration from this



1 or any other jurisdiction or is not registered under the  
2 applicable provisions of chapter 320, the penalty herein shall  
3 apply on the basis of 5 cents per pound on that scaled weight  
4 which exceeds 35,000 pounds on laden truck tractor-semitrailer  
5 combinations or tandem trailer truck combinations, 10,000  
6 pounds on laden straight trucks or straight truck-trailer  
7 combinations, or 10,000 pounds on any unladen commercial motor  
8 vehicle. If the license plate or registration has not been  
9 expired for more than 90 days, the penalty imposed under this  
10 paragraph may not exceed \$1,000.In the case of special mobile  
11 equipment as defined in s. 316.003(48), which qualifies for  
12 the license tax provided for in s. 320.08(5)(b), being  
13 operated on the highways of the state with an expired  
14 registration or otherwise not properly registered under the  
15 applicable provisions of chapter 320, a penalty of \$75 shall  
16 apply in addition to any other penalty which may apply in  
17 accordance with this chapter. A vehicle found in violation of  
18 this section may be detained until the owner or operator  
19 produces evidence that the vehicle has been properly  
20 registered. Any costs incurred by the retention of the  
21 vehicle shall be the sole responsibility of the owner. A  
22 person who has been assessed a penalty pursuant to this  
23 paragraph for failure to have a valid vehicle registration  
24 certificate pursuant to the provisions of chapter 320 is not  
25 subject to the delinquent fee authorized in s. 320.07 if such  
26 person obtains a valid registration certificate within 10  
27 working days after such penalty was assessed.

28 Section 13. Present subsections (4) and (5) of section  
29 320.20, Florida Statutes, are redesignated as subsections (5)  
30 and (6), respectively, and a new subsection (4) is added to  
31 that section, to read:

1           320.20 Disposition of license tax moneys.--The revenue  
2 derived from the registration of motor vehicles, including any  
3 delinquent fees and excluding those revenues collected and  
4 distributed under the provisions of s. 320.081, must be  
5 distributed monthly, as collected, as follows:

6           (4) Notwithstanding any other provision of law except  
7 subsections (1), (2), (3), and (5), on July 1, 1999, and  
8 annually thereafter, \$10 million shall be deposited in the  
9 State Transportation Trust Fund solely for the purposes of  
10 funding the Florida Seaport Transportation and Economic  
11 Development Program as provided in chapter 311 and for funding  
12 seaport intermodal access projects of statewide significance  
13 as provided in s. 341.053. Such revenues shall be distributed  
14 to any port listed in s. 311.09(1), to be used for funding  
15 projects on a matching basis as follows:

16           (a) For seaport intermodal access projects, as  
17 described in s. 341.053(5), which are identified in the 5-year  
18 Florida Seaport Mission Plan as provided in s. 311.09(3).  
19 Funding for such projects shall require a 25 percent match of  
20 the funds received under this subsection. Matching funds shall  
21 come from any port funds, federal funds, local funds, or  
22 private funds;

23           (b) For seaport intermodal access projects that  
24 involve the dredging or deepening of channels, turning basins,  
25 or harbors or the rehabilitation of wharves, docks, or similar  
26 structures. Funding for such projects shall require a 25  
27 percent match of the funds received under this subsection.  
28 Matching funds shall come from any port funds, federal funds,  
29 local funds, or private funds; or

30           (c) For seaport projects, as described in s.  
31 311.07(3)(b), including on-port gateway road/rail intermodal

1 projects. Funding for such projects shall require a 50 percent  
2 match of the funds received under this subsection. Matching  
3 funds shall come from any port funds, federal funds, local  
4 funds, or private funds.

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

1 Department of Transportation may perform such acts as are  
2 required to facilitate and implement the provisions of this  
3 subsection. To better enable the ports to cooperate to their  
4 mutual advantage, the governing body of each port may exercise  
5 powers provided to municipalities or counties in s.  
6 163.01(7)(d), subject to the provisions of chapter 311 and  
7 special acts, if any, pertaining to a port. The use of funds  
8 provided pursuant to this subsection is limited to eligible  
9 projects listed in this subsection. The provisions of s.  
10 311.07(4) do not apply to any funds received pursuant to this  
11 subsection.

12 Section 14. Subsection (1) of section 334.0445,  
13 Florida Statutes, 1998 Supplement, is amended to read:

14 334.0445 Model career service classification and  
15 compensation plan.--

16 (1) Effective July 1, 1994, the Legislature grants to  
17 the Department of Transportation in consultation with the  
18 Department of Management Services, the Executive Office of the  
19 Governor, legislative appropriations committees, legislative  
20 personnel committees, and the affected certified bargaining  
21 unions, the authority on a pilot basis to develop and  
22 implement a model career service classification and  
23 compensation system. Such system shall be developed for use by  
24 all state agencies. Authorization for this program will be  
25 through June 30, 2002 ~~for 3 fiscal years beginning July 1,~~  
26 ~~1994, and ending June 30, 1997;~~ however, the department may  
27 elect or be directed by the Legislature to return to the  
28 current system at anytime during this period if the model  
29 system does not meet the stated goals and objectives.

30 Section 15. Subsection (1) of section 335.0415,  
31 Florida Statutes, is amended to read:

1           335.0415 Public road jurisdiction and transfer  
2 process.--

3           (1) The jurisdiction of public roads and the  
4 responsibility for operation and maintenance within the  
5 right-of-way of any road within the state, county, and  
6 municipal road system shall be that which existed on June 10,  
7 1995 ~~exists on July 1, 1995.~~

8           Section 16. Subsection (1) of section 335.093, Florida  
9 Statutes, is amended to read:

10           335.093 Scenic highway designation.--

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

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

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

25           (6)

26           (c) When the department determines that it is in the  
27 best interest of the public for reasons of public concern,  
28 economy, improved operations or safety, and only when  
29 circumstances dictate rapid completion of the work, the  
30 department may, up to the threshold amount provided in s.  
31 287.017 for CATEGORY FOUR, enter into contracts for

1 construction and maintenance without advertising and receiving  
2 competitive bids. However, if legislation is enacted by the  
3 Legislature which changes the category thresholds, the  
4 threshold amount shall remain at \$60,000. The department may  
5 enter into such contracts only upon a determination that the  
6 work is necessary for one of the following reasons:

7 1. To ensure timely completion of projects or  
8 avoidance of undue delay for other projects;

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

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

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

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

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

20           Section 18. Paragraph (a) of subsection (1) of section  
21 337.16, Florida Statutes, is amended to read:

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

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

1 also be disapproved as a subcontractor during the period of  
2 suspension or revocation, except when a prime contractor's bid  
3 has used prices of a subcontractor who becomes disqualified  
4 after the bid and before the request for authorization to  
5 sublet is presented.

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

11 Section 19. Subsection (2) of section 337.162, Florida  
12 Statutes, 1998 Supplement, is amended to read:

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

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



1 from the provisions of s. 455.227(1)(i).The complaint  
2 submitted to the Department of Business and Professional  
3 Regulation and maintained by the department is confidential  
4 and exempt from s. 119.07(1).

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

7 337.18 Surety bonds; requirement with respect to  
8 contract award; defaults; damage assessments.--

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

29 (2) The department shall provide in its contracts for  
30 the determination of default on the part of any contractor for  
31 cause attributable to such contractor. The department shall

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

- 1       ~~(d) \$500,000 or more but less than \$2.5 million;~~  
2       ~~(e) \$2.5 million or more but less than \$5 million;~~  
3       ~~(f) \$5 million or more but less than \$10 million;~~  
4       ~~(g) \$10 million or more but less than \$15 million;~~  
5       ~~(h) \$15 million or more but less than \$20 million; and~~  
6       ~~(i) \$20 million and over.~~

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

11       Section 21. Subsections (1), (2), (3), (7), and (8) of  
12 section 337.185, Florida Statutes, are amended to read:

13       337.185 State Arbitration Board.--

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

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

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

24           (7) The members ~~member~~ of the board ~~elected by~~  
25 ~~construction companies and the third member of the board~~ may  
26 receive compensation for the performance of their duties  
27 hereunder, from administrative fees received by the board,  
28 except that no employee of the department may receive  
29 compensation from the board. The compensation amount shall be  
30 determined by the board, but shall not exceed \$125 per hour,  
31 up to a maximum of \$1,000~~\$750~~ per day for each member

1 authorized to receive compensation. Nothing in this section  
2 shall prevent the member elected by construction companies  
3 from being an employee of an association affiliated with the  
4 industry, even if the sole responsibility of that member is  
5 service on the board. Travel expenses for the industry member  
6 may be paid by an industry association, if necessary. The  
7 board may allocate funds annually for clerical and other  
8 administrative services.

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

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

25 337.25 Acquisition, lease, and disposal of real and  
26 personal property.--

27 (1)(a) The department may purchase, lease, exchange,  
28 or otherwise acquire any land, property interests, or  
29 buildings or other improvements, including personal property  
30 within such buildings or on such lands, necessary to secure or  
31 utilize transportation rights-of-way for existing, proposed,

1 or anticipated transportation facilities on the State Highway  
2 System, on the State Park Road System, in a rail corridor, or  
3 in a transportation corridor designated by the department.  
4 Such property shall be held in the name of the state.

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

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

26 Section 23. Subsection (9) is added to section  
27 337.251, Florida Statutes, to read:

28 337.251 Lease of property for joint public-private  
29 development and areas above or below department property.--

30 (9) Notwithstanding s. 341.327, a fixed-guideway  
31 transportation system authorized by the department to be

1 wholly or partially within the department's right-of-way  
2 pursuant to a lease granted under this section may operate at  
3 any safe speed.

4 Section 24. Subsection (1) of section 337.403, Florida  
5 Statutes, is amended to read:

6 337.403 Relocation of utility; expenses.--

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

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

31

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

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

21           Section 25. Subsection (1) of section 337.408, Florida  
22 Statutes, is amended to read:

23           337.408 Regulation of benches, transit shelters, and  
24 waste disposal receptacles within rights-of-way.--

25           (1) Benches or transit shelters, including advertising  
26 displayed on benches or transit shelters, may be installed  
27 within the right-of-way limits of any municipal, county, or  
28 state road, except a limited access highway; provided that  
29 such benches or transit shelters are for the comfort and ~~or~~  
30 convenience of the general public, or at recognized ~~designated~~  
31 stops on official bus routes; and, provided further, that



1 written authorization has been given to a qualified private  
2 supplier of such service by the municipal government within  
3 whose incorporated limits such benches or transit shelters are  
4 installed, or by the county government within whose  
5 unincorporated limits such benches or transit shelters are  
6 installed. A municipality or county may authorize the  
7 installation, without public bid or limit in period of  
8 service, of benches and transit shelters together with  
9 advertising displayed thereon, within the right-of-way limits  
10 of such roads. Any contract for the installation of benches or  
11 transit shelters or advertising on benches or transit shelters  
12 which was entered into before April 8, 1992, without public  
13 bidding or limit in period of service, is ratified and  
14 affirmed. Such benches or transit shelters may not interfere  
15 with right-of-way preservation and maintenance. Any bench or  
16 transit shelter located on a sidewalk within the right-of-way  
17 limits of any road on the State Highway System or the county  
18 road system shall be located so as to leave at least 36 inches  
19 clearance for pedestrians and persons in wheelchairs. Such  
20 clearance shall be measured in a direction perpendicular to  
21 the centerline of the road.

22 Section 26. Paragraph (b) of subsection (2) of section  
23 338.223, Florida Statutes, is amended to read:

24 338.223 Proposed turnpike projects.--

25 (2)

26 (b) In accordance with the legislative intent  
27 expressed in s. 337.273, and after the requirements of  
28 paragraph (1)(c) have been met, the department may acquire  
29 lands and property before making a final determination of the  
30 economic feasibility of a project. The requirements of  
31 paragraph (1)(c) do not apply to hardship and protective

1 purchases of advance right-of-way by the department.The cost  
2 of advance acquisition of right-of-way may be paid from bonds  
3 issued under s. 337.276 or from turnpike revenues. For  
4 purposes of this paragraph, the term "hardship purchase" means  
5 purchase from a property owner of a residential dwelling of  
6 not more than four units who is at a disadvantage due to  
7 health impairment, job loss, or significant loss of rental  
8 income. For purposes of this paragraph, the term "protective  
9 purchase" means that a purchase to limit development,  
10 building, or other intensification of land uses within the  
11 area right-of-way is needed for transportation facilities. The  
12 department shall give written notice to the Department of  
13 Environmental Protection 30 days before final agency  
14 acceptance as set forth in s. 119.07(3)(n), which notice shall  
15 allow the Department of Environmental Protection to comment.  
16 Hardship and protective purchases of right-of-way shall not  
17 influence the environmental feasibility of a project,  
18 including the decision relative to the need to construct the  
19 project or the selection of a specific location. Costs to  
20 acquire and dispose of property acquired as hardship and  
21 protective purchases are considered costs of doing business  
22 for the department and are not to be considered in the  
23 determination of environmental feasibility for the project.

24 Section 27. Section 338.229, Florida Statutes, is  
25 amended to read:

26 338.229 Pledge to bondholders not to restrict certain  
27 rights of department.--The state does pledge to, and agree  
28 with, the holders of the bonds issued pursuant to ss.  
29 338.22-338.241 ~~ss. 338.22-338.244~~ that the state will not  
30 limit or restrict the rights vested in the department to  
31 construct, reconstruct, maintain, and operate any turnpike

1 project as defined in ss. 338.22-338.241 ~~ss. 338.22-338.244~~ or  
2 to establish and collect such tolls or other charges as may be  
3 convenient or necessary to produce sufficient revenues to meet  
4 the expenses of maintenance and operation of the turnpike  
5 system and to fulfill the terms of any agreements made with  
6 the holders of bonds authorized by this act and that the state  
7 will not in any way impair the rights or remedies of the  
8 holders of such bonds until the bonds, together with interest  
9 on the bonds, are fully paid and discharged. In implementing  
10 this section, the department is specifically authorized to  
11 provide for further restrictions on the sale, transfer, lease,  
12 or other disposition or operation of any portion of the  
13 turnpike system which reduces the revenue available for  
14 payment to bondholders.

15 Section 28. Subsection (10) of section 338.251,  
16 Florida Statutes, 1998 Supplement, is amended to read:

17 338.251 Toll Facilities Revolving Trust Fund.--The  
18 Toll Facilities Revolving Trust Fund is hereby created for the  
19 purpose of encouraging the development and enhancing the  
20 financial feasibility of revenue-producing road projects  
21 undertaken by local governmental entities in a county or  
22 combination of contiguous counties.

23 (10) Any repayment of prior or future advances made  
24 from the State Transportation Trust Fund which were used to  
25 fund any project phase of a toll facility, shall be deposited  
26 in the Toll Facilities Revolving Trust Fund. However, when  
27 funds advanced to the Seminole County Expressway Authority  
28 pursuant to this section are repaid to the Toll Facilities  
29 Revolving Trust Fund by or on behalf of the Seminole County  
30 Expressway Authority, those funds shall thereupon and  
31 forthwith be appropriated for and advanced to the Seminole

1 County Expressway Authority for funding the design of and the  
2 advanced right-of-way acquisition for that segment of the  
3 Seminole County Expressway extending from U.S. Highway 17/92  
4 to Interstate Highway 4. Notwithstanding subsection (6), when  
5 funds previously advanced to the Orlando-Orange County  
6 Expressway Authority are repaid to the Toll Facilities  
7 Revolving Trust Fund by or on behalf of the Orlando-Orange  
8 County Expressway Authority, those funds may thereupon and  
9 forthwith be appropriated for and advanced to the Seminole  
10 County Expressway Authority for funding that segment of the  
11 Seminole County Expressway extending from U.S. Highway 17/92  
12 to Interstate Highway 4. Any funds advanced to the  
13 Tampa-Hillsborough County Expressway Authority pursuant to  
14 this section which have been or will be repaid on or after  
15 July 1, 1998, to the Toll Facilities Revolving Trust Fund on  
16 behalf of the Tampa-Hillsborough County Expressway Authority  
17 shall thereupon and forthwith be appropriated for and advanced  
18 to the Tampa-Hillsborough County Expressway Authority for  
19 funding the design of and the advanced right-of-way  
20 acquisition for the Brandon area feeder roads, capital  
21 improvements to increase capacity to the expressway system,  
22 and Lee Roy Selmon Crosstown Expressway System Widening as  
23 authorized under s. 348.565.

24 Section 29. Section 339.155, Florida Statutes, is  
25 amended to read:

26 339.155 Transportation planning.--

27 (1) THE FLORIDA TRANSPORTATION PLAN.--The department  
28 shall develop and annually update a statewide transportation  
29 plan, to be known as the Florida Transportation Plan. The  
30 plan shall be designed so as to be easily read and understood  
31 by the general public.

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

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

19           ~~(a)~~ The Florida Transportation Plan shall consider the  
20 ~~needs of the entire state transportation system, examine the~~  
21 ~~use of all modes of transportation to effectively and~~  
22 ~~efficiently meet such needs, and provide for the~~  
23 ~~interconnection of all types of modes in a comprehensive~~  
24 ~~intermodal transportation system. In developing the Florida~~  
25 ~~Transportation Plan, the department shall carry out a~~  
26 transportation planning process that provides for  
27 consideration of projects and strategies that will consider  
28 the following:

29           1. Support the economic vitality of the United States,  
30 Florida, and the metropolitan areas, especially by enabling  
31 global competitiveness, productivity, and efficiency;

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

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

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

7           5. Enhance the integration and connectivity of the  
8 transportation system, across and between modes throughout  
9 Florida, for people and freight;

10           6. Promote efficient system management and operation;  
11 and

12           7. Emphasize the preservation of the existing  
13 transportation system.

14           (b) Additionally, the department shall consider:

15           1. With respect to nonmetropolitan areas, the concerns  
16 of local elected officials representing units of general  
17 purpose local government;

18           2. The concerns of Indian tribal governments and  
19 federal land management agencies that have jurisdiction over  
20 land within the boundaries of Florida; and

21           3. Coordination of transportation plans, programs, and  
22 planning activities with related planning activities being  
23 carried out outside of metropolitan planning areas.

24           ~~(c)(a)~~ The results of the management systems required  
25 pursuant to federal laws and regulations.

26           ~~(d)(b)~~ Any federal, state, or local energy use goals,  
27 objectives, programs, or requirements.

28           ~~(e)(c)~~ Strategies for incorporating bicycle  
29 transportation facilities and pedestrian walkways in projects  
30 where appropriate throughout the state.

31

1           (f)~~(d)~~ International border crossings and access to  
2 ports, airports, intermodal transportation facilities, major  
3 freight distribution routes, national parks, recreation and  
4 scenic areas, monuments and historic sites, and military  
5 installations.

6           (g)~~(e)~~ The transportation needs of nonmetropolitan  
7 areas through a process that includes consultation with local  
8 elected officials with jurisdiction over transportation.

9           (h)~~(f)~~ Consistency of the plan, to the maximum extent  
10 feasible, with strategic regional policy plans, metropolitan  
11 planning organization plans, and approved local government  
12 comprehensive plans so as to contribute to the management of  
13 orderly and coordinated community development.

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

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

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

19           (l)~~(j)~~ Transportation system management and investment  
20 strategies designed to make the most efficient use of existing  
21 transportation facilities.

22           (m)~~(k)~~ The total social, economic, energy, and  
23 environmental effects of transportation decisions on the  
24 community and region.

25           (n)~~(l)~~ Methods to manage traffic congestion and to  
26 prevent traffic congestion from developing in areas where it  
27 does not yet occur, including methods which reduce motor  
28 vehicle travel, particularly single-occupant vehicle travel.

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

31

1           (p)~~(n)~~ The effect of transportation decisions on land  
2 use and land development, including the need for consistency  
3 between transportation decisionmaking and the provisions of  
4 all applicable short-range and long-range land use and  
5 development plans.

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

9           (r)~~(p)~~ Preservation and management of rights-of-way  
10 for construction of future transportation projects, including  
11 identification of unused rights-of-way which may be needed for  
12 future transportation corridors, and identification of those  
13 corridors for which action is most needed to prevent  
14 destruction or loss.

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

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

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

21           (v)~~(t)~~ Investment strategies to improve adjoining  
22 state and local roads that support rural economic growth and  
23 tourism development, federal agency renewable resources  
24 management, and multipurpose land management practices,  
25 including recreation development.

26           (w)~~(u)~~ The concerns of Indian tribal governments  
27 having jurisdiction over lands within the boundaries of the  
28 state.

29           (x)~~(v)~~ A seaport or airport master plan, which has  
30 been incorporated into an approved local government  
31 comprehensive plan, and the linkage of transportation modes



1 described in such plan which are needed to provide for the  
2 movement of goods and passengers between the seaport or  
3 airport and the other transportation facilities.

4 (y)~~(w)~~ The joint use of transportation corridors and  
5 major transportation facilities for alternate transportation  
6 and community uses.

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

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

19 (a) A long-range component documenting the goals and  
20 long-term objectives necessary to implement the results of the  
21 department's findings from its examination of the criteria  
22 listed in subsection (2). The long-range component must be  
23 developed in cooperation with the metropolitan planning  
24 organizations and reconciled, to the maximum extent feasible,  
25 with the long-range plans developed by metropolitan planning  
26 organizations pursuant to s. 339.175. The plan must also be  
27 developed in consultation with affected local officials in  
28 nonmetropolitan areas and with any affected Indian tribal  
29 governments.The plan must provide an examination of  
30 transportation issues likely to arise during at least a  
31 20-year period. The long-range component shall be updated at

1 least once every 5 years, or more often as necessary, to  
2 reflect substantive changes to federal or state law.

3 (b) A short-range component documenting the short-term  
4 objectives and strategies necessary to implement the goals and  
5 long-term objectives contained in the long-range component.

6 The short-range component must define the relationship between  
7 the long-range goals and the short-range objectives, specify  
8 those objectives against which the department's achievement of  
9 such goals will be measured, and identify transportation  
10 strategies necessary to efficiently achieve the goals and  
11 objectives in the plan. It must provide a policy framework  
12 within which the department's legislative budget request, the  
13 strategic information resource management plan, and the work  
14 program are developed.The short-range component shall serve

15 as the department's annual agency strategic plan pursuant to  
16 s. 186.021. The short-range component shall be developed  
17 consistent with the requirements of s. 186.022 and consistent  
18 with available and forecasted state and federal funds. In  
19 addition to those entities listed in s. 186.022, the  
20 short-range component shall also be submitted to the Florida  
21 Transportation Commission.

22 (4) ANNUAL PERFORMANCE REPORT.--The department shall  
23 develop an annual performance report evaluating the operation  
24 of the department for the preceding fiscal year. The report,  
25 which shall meet the requirements of s. 186.022, shall also  
26 include a summary of the financial operations of the  
27 department and shall annually evaluate how well the adopted  
28 work program meets the short-term objectives contained in the  
29 short-range component of the Florida Transportation Plan. In  
30 addition to the entities listed in s. 186.022, this  
31 performance report shall also be submitted to the Florida

1 Transportation Commission and the legislative appropriations  
2 and transportation committees.

3 (5) ADDITIONAL TRANSPORTATION PLANS.--

4 (a) Upon request by local governmental entities, the  
5 department may in its discretion develop and design  
6 transportation corridors, arterial and collector streets,  
7 vehicular parking areas, and other support facilities which  
8 are consistent with the plans of the department for major  
9 transportation facilities. The department may render to local  
10 governmental entities or their planning agencies such  
11 technical assistance and services as are necessary so that  
12 local plans and facilities are coordinated with the plans and  
13 facilities of the department.

14 (b) Each regional planning council, as provided for in  
15 s. 186.504, or any successor agency thereto, shall develop, as  
16 an element of its strategic regional policy plan,  
17 transportation goals and policies. The transportation goals  
18 and policies shall be consistent, to the maximum extent  
19 feasible, with the goals and policies of the metropolitan  
20 planning organization and the Florida Transportation Plan.  
21 The transportation goals and policies of the regional planning  
22 council will be advisory only and shall be submitted to the  
23 department and any affected metropolitan planning organization  
24 for their consideration and comments. Metropolitan planning  
25 organization plans and other local transportation plans shall  
26 be developed consistent, to the maximum extent feasible, with  
27 the regional transportation goals and policies. The regional  
28 planning council shall review urbanized area transportation  
29 plans and any other planning products stipulated in s. 339.175  
30 and provide the department and respective metropolitan  
31 planning organizations with written recommendations which the

1 department and the metropolitan planning organizations shall  
2 take under advisement. Further, the regional planning  
3 councils shall directly assist local governments which are not  
4 part of a metropolitan area transportation planning process in  
5 the development of the transportation element of their  
6 comprehensive plans as required by s. 163.3177.

7 (6) PROCEDURES FOR PUBLIC PARTICIPATION IN  
8 TRANSPORTATION PLANNING.--

9 (a) During the development of the long-range component  
10 of the Florida Transportation Plan and prior to substantive  
11 revisions, and prior to adoption of all subsequent amendments,  
12 the department shall provide citizens, affected public  
13 agencies, representatives of transportation agency employees,  
14 other affected employee representatives, private providers of  
15 transportation, and other known interested parties with an  
16 opportunity to comment on the proposed plan or revisions  
17 amendments. These opportunities ~~This hearing shall include~~  
18 ~~presentation and discussion of the factors listed in~~  
19 ~~subsection (2) and~~ shall include, at a minimum, publishing a  
20 notice in the Florida Administrative Weekly and within a  
21 newspaper of general circulation within the area of each  
22 department district office. ~~These notices shall be published~~  
23 ~~twice prior to the day of the hearing, with the first notice~~  
24 ~~appearing at least 14 days prior to the hearing.~~

25 (b) During development of major transportation  
26 improvements, such as those increasing the capacity of a  
27 facility through the addition of new lanes or providing new  
28 access to a limited or controlled access facility or  
29 construction of a facility in a new location, the department  
30 shall hold one or more hearings prior to the selection of the  
31 facility to be provided; prior to the selection of the site or

1 | corridor of the proposed facility; and prior to the selection  
2 | of and commitment to a specific design proposal for the  
3 | proposed facility. Such public hearings shall be conducted so  
4 | as to provide an opportunity for effective participation by  
5 | interested persons in the process of transportation planning  
6 | and site and route selection and in the specific location and  
7 | design of transportation facilities. The various factors  
8 | involved in the decision or decisions and any alternative  
9 | proposals shall be clearly presented so that the persons  
10 | attending the hearing may present their views relating to the  
11 | decision or decisions which will be made.

12 |         (c) Opportunity for design hearings:

13 |             1. The department, prior to holding a design hearing,  
14 | shall duly notice all affected property owners of record, as  
15 | recorded in the property appraiser's office, by mail at least  
16 | 20 days prior to the date set for the hearing. The affected  
17 | property owners shall be:

18 |                 a. Those whose property lies in whole or in part  
19 | within 300 feet on either side of the centerline of the  
20 | proposed facility.

21 |                 b. Those who the department determines will be  
22 | substantially affected environmentally, economically,  
23 | socially, or safetywise.

24 |             2. For each subsequent hearing, the department shall  
25 | daily publish notice at least 14 days immediately prior to the  
26 | hearing date in a newspaper of general circulation for the  
27 | area affected.

28 |             3. A copy of the notice of opportunity for the hearing  
29 | shall be furnished to the United States Department of  
30 | Transportation and to the appropriate departments of the state  
31 | government at the time of publication.

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

6           5. The opportunity for a hearing shall be afforded in  
7 each case in which the department is in doubt as to whether a  
8 hearing is required.

9           Section 30. Section 339.175, Florida Statutes, is  
10 amended to read:

11           339.175 Metropolitan planning organization.--It is the  
12 intent of the Legislature to encourage and promote the safe  
13 and efficient management, operation, and development of  
14 surface transportation systems ~~embracing various modes of~~  
15 ~~transportation in a manner~~ that will serve maximize the  
16 mobility needs of people and freight goods within and through  
17 urbanized areas of this state while minimizing and minimize,  
18 ~~to the maximum extent feasible, and together with applicable~~  
19 ~~regulatory government agencies,~~ transportation-related fuel  
20 consumption and air pollution. To accomplish these  
21 objectives, metropolitan planning organizations, referred to  
22 in this section as M.P.O.'s, shall develop, in cooperation  
23 with the state and public transit operators, transportation  
24 plans and programs for metropolitan areas. The plans and  
25 programs for each metropolitan area must provide for the  
26 development and integrated management and operation of  
27 transportation systems and facilities, including pedestrian  
28 walkways and bicycle transportation facilities that will  
29 function as an intermodal transportation system for the  
30 metropolitan area ~~Such plans and programs must provide for the~~  
31 ~~development of transportation facilities that will function as~~

1 ~~an intermodal transportation system for the metropolitan area.~~

2 The process for developing such plans and programs shall  
3 provide for consideration of all modes of transportation and  
4 shall be continuing, cooperative, and comprehensive, to the  
5 degree appropriate, based on the complexity of the  
6 transportation problems to be addressed.

7 (1) DESIGNATION.--

8 (a)1. An M.P.O. shall be designated for each urbanized  
9 area of the state. Such designation shall be accomplished by  
10 agreement between the Governor and units of general-purpose  
11 local government representing at least 75 percent of the  
12 population of the urbanized area; however, the unit of  
13 general-purpose local government that represents the central  
14 city or cities within the M.P.O. jurisdiction, as defined by  
15 the United States Bureau of the Census, must be a party to  
16 such agreement.

17 2. More than one M.P.O. may be designated within an  
18 existing metropolitan planning area ~~urbanized area~~ only if the  
19 Governor and the existing M.P.O. determine ~~determines~~ that the  
20 size and complexity of the existing metropolitan planning area  
21 makes ~~justifies~~ the designation of more than one M.P.O. for  
22 the area appropriate ~~multiple M.P.O.'s~~.

23 (b) Each M.P.O. shall be created and operated under  
24 the provisions of this section pursuant to an interlocal  
25 agreement entered into pursuant to s. 163.01. The signatories  
26 to the interlocal agreement shall be the department and the  
27 governmental entities designated by the Governor for  
28 membership on the M.P.O. If there is a conflict between this  
29 section and s. 163.01, this section prevails.

30 (c) The jurisdictional boundaries of an M.P.O. shall  
31 be determined by agreement between the Governor and the

1 applicable M.P.O. The boundaries must include at least the  
2 metropolitan planning area, which is the existing urbanized  
3 area and the contiguous area expected to become urbanized  
4 within a 20-year forecast period, ~~at a minimum, the~~  
5 ~~metropolitan area~~ and may encompass ~~include~~ the entire  
6 metropolitan statistical area or the consolidated metropolitan  
7 statistical area.

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

21  
22 Each M.P.O. required under this section must be fully  
23 operative no later than 6 months following its designation.

24 (2) VOTING MEMBERSHIP.--

25 (a) The voting membership of an M.P.O. shall consist  
26 of not fewer than 5 or more than 19 apportioned members, the  
27 exact number to be determined on an equitable  
28 geographic-population ratio basis by the Governor, based on an  
29 agreement among the affected units of general-purpose local  
30 government as required by federal rules and regulations. The  
31 Governor, in accordance with 23 U.S.C. s. 134, ~~as amended by~~



1 ~~the Intermodal Surface Transportation Efficiency Act of 1991,~~  
2 may also provide for M.P.O. members who represent  
3 municipalities to alternate with representatives from other  
4 municipalities within the metropolitan planning designated  
5 ~~urban~~ area that do not have members on the M.P.O. County  
6 commission members shall compose not less than one-third of  
7 the M.P.O. membership, except for an M.P.O. with more than 15  
8 members located in a county with a five-member county  
9 commission or an M.P.O. with 19 members located in a county  
10 with no more than 6 county commissioners, in which case county  
11 commission members may compose less than one-third percent of  
12 the M.P.O. membership, but all county commissioners must be  
13 members. All voting members shall be elected officials of  
14 general-purpose governments, except that an M.P.O. may  
15 include, as part of its apportioned voting members, a member  
16 of a statutorily authorized planning board or an official of  
17 an agency that operates or administers a major mode of  
18 transportation. ~~In metropolitan areas in which authorities or~~  
19 ~~other agencies have been, or may be, created by law to perform~~  
20 ~~transportation functions that are not under the jurisdiction~~  
21 ~~of a general-purpose local government represented on the~~  
22 ~~M.P.O., they shall be provided voting membership on the M.P.O.~~  
23 The county commission shall compose not less than 20 percent  
24 of the M.P.O. membership if an official of an agency that  
25 operates or administers a major mode of transportation has  
26 been appointed to an M.P.O.

27 (b) In metropolitan areas in which authorities or  
28 other agencies have been or may be created by law to perform  
29 transportation functions that are not under the jurisdiction  
30 of a general purpose local government represented on the  
31 M.P.O., they shall be provided voting membership on the M.P.O.

1 In all other M.P.O.'s where transportation authorities or  
2 agencies are to be represented by elected officials from  
3 general purpose local governments, the M.P.O. shall establish  
4 a process by which the collective interests of such  
5 authorities or other agencies are expressed and conveyed.

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

21 (3) APPORTIONMENT.--

22 (a) The Governor shall, with the agreement of the  
23 affected units of general-purpose local government as required  
24 by federal rules and regulations, apportion the membership on  
25 the applicable M.P.O. among the various governmental entities  
26 within the area and shall prescribe a method for appointing  
27 alternate members who may vote at any M.P.O. meeting that an  
28 alternate member attends in place of a regular member. An  
29 appointed alternate member must be an elected official serving  
30 the same governmental entity or a general-purpose local  
31 government with jurisdiction within all or part of the area

1 that the regular member serves. The governmental entity so  
2 designated shall appoint the appropriate number of members to  
3 the M.P.O. from eligible officials. Representatives of the  
4 department shall serve as nonvoting members of the M.P.O.  
5 Nonvoting advisers may be appointed by the M.P.O. as deemed  
6 necessary. The Governor shall review the composition of the  
7 M.P.O. membership in conjunction with the decennial census as  
8 prepared by the United States Department of Commerce, Bureau  
9 of Census ~~at least every 5 years~~ and reapportion it as  
10 necessary to comply with subsection (2).

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

28 (c) If a governmental entity fails to fill an assigned  
29 appointment to an M.P.O. within 60 days after notification by  
30 the Governor of its duty to appoint, that appointment shall be  
31

1 made by the Governor from the eligible representatives of that  
2 governmental entity.

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

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

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

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

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

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

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

8           1. Support the economic vitality of the metropolitan  
9 area, especially by enabling global competitiveness,  
10 productivity, and efficiency;

11           2. Increase the safety and security of the  
12 transportation system for motorized and nonmotorized users;

13           3. Increase the accessibility and mobility options  
14 available to people and for freight;

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

17           5. Enhance the integration and connectivity of the  
18 transportation system, across and between modes, for people  
19 and freight;

20           6. Promote efficient system management and operation;  
21 and

22           7. Emphasize the preservation of the existing  
23 transportation system.

24           ~~1. The preservation of existing transportation~~  
25 ~~facilities and, where practical, ways to meet transportation~~  
26 ~~needs by using existing facilities more efficiently;~~

27           ~~2. The consistency of transportation planning with~~  
28 ~~applicable federal, state, and local energy conservation~~  
29 ~~programs, goals, and objectives;~~

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

- 1           ~~4. The likely effect of transportation policy~~  
2 ~~decisions on land use and development and the consistency of~~  
3 ~~transportation plans and programs with all applicable~~  
4 ~~short-term and long-term land use and development plans;~~  
5           ~~5. The programming of transportation enhancement~~  
6 ~~activities as required by federal law;~~  
7           ~~6. The effect of all transportation projects to be~~  
8 ~~undertaken in the metropolitan area, without regard to whether~~  
9 ~~such projects are publicly funded;~~  
10          ~~7. The provision of access to seaports, airports,~~  
11 ~~intermodal transportation facilities, major freight~~  
12 ~~distribution routes, national and state parks, recreation~~  
13 ~~areas, monuments and historic sites, and military~~  
14 ~~installations;~~  
15          ~~8. The need for roads within the metropolitan area to~~  
16 ~~efficiently connect with roads outside the metropolitan area;~~  
17          ~~9. The transportation needs identified through the use~~  
18 ~~of transportation management systems required by federal or~~  
19 ~~state law;~~  
20          ~~10. The preservation of rights-of-way for construction~~  
21 ~~of future transportation projects, including the~~  
22 ~~identification of unused rights-of-way that may be needed for~~  
23 ~~future transportation corridors and the identification of~~  
24 ~~corridors for which action is most needed to prevent~~  
25 ~~destruction or loss;~~  
26          ~~11. Any available methods to enhance the efficient~~  
27 ~~movement of freight;~~  
28          ~~12. The use of life-cycle costs in the design and~~  
29 ~~engineering of bridges, tunnels, or pavement;~~  
30          ~~13. The overall social, economic, energy, and~~  
31 ~~environmental effects of transportation decisions;~~

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

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

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

8           1. Prepare a congestion management system for the  
9 metropolitan area and cooperate with the department in the  
10 development of all other transportation management systems  
11 required by state or federal law;

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

14           3. Assist the department in performing its duties  
15 relating to access management, functional classification of  
16 roads, and data collection;

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

19           5. Represent all the jurisdictional areas within the  
20 metropolitan area in the formulation of transportation plans  
21 and programs required by this section; and

22           6. Perform all other duties required by state or  
23 federal law.

24           (d) Each M.P.O. shall appoint a technical advisory  
25 committee that includes planners; engineers; representatives  
26 of local aviation authorities, port authorities, and public  
27 transit authorities or representatives of aviation  
28 departments, seaport departments, and public transit  
29 departments of municipal or county governments, as applicable;  
30 the school superintendent of each county within the  
31 jurisdiction of the M.P.O. or the superintendent's designee;

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

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

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

27 (f) The department shall allocate to each M.P.O., for  
28 the purpose of accomplishing its transportation planning and  
29 programming duties, an appropriate amount of federal  
30 transportation planning funds.

31



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

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

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

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

17           (c) Assess capital investment and other measures  
18 necessary to:

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

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

28           (d) Indicate, as appropriate, proposed transportation  
29 enhancement activities, including, but not limited to,  
30 pedestrian and bicycle facilities, scenic easements,  
31 landscaping, historic preservation, mitigation of water

1 pollution due to highway runoff, and control of outdoor  
2 advertising.

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

10

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

20 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.  
21 shall, in cooperation with the state and affected public  
22 transportation operators, develop a transportation improvement  
23 program for the area within the jurisdiction of the M.P.O. In  
24 the development of the transportation improvement program,  
25 each M.P.O. must provide the public, affected public ~~transit~~  
26 agencies, representatives of transportation agency employees,  
27 freight shippers, providers of freight transportation  
28 services, private providers of transportation, representatives  
29 of users of public transit, and other interested parties, ~~and~~  
30 ~~members of the general public~~ with a reasonable opportunity to  
31 comment on the proposed transportation improvement program.

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

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

- 29           1. The approved M.P.O. long-range transportation plan;
- 30           2. The results of the transportation management  
31 systems; and

1           3. The M.P.O.'s public-involvement procedures.  
2           (c) The transportation improvement program must, at a  
3 minimum:  
4           1. Include projects and project phases to be funded  
5 with state or federal funds within the time period of the  
6 transportation improvement program and which are recommended  
7 for advancement during the next fiscal year and 4 subsequent  
8 fiscal years. Such projects and project phases must be  
9 consistent, to the maximum extent feasible, with the approved  
10 local government comprehensive plans of the units of local  
11 government located within the jurisdiction of the M.P.O. For  
12 informational purposes, the transportation improvement program  
13 shall also include a list of projects to be funded from local  
14 or private revenues.  
15           2. Include projects within the metropolitan area which  
16 are proposed for funding under 23 U.S.C. s. 134 of the Federal  
17 Transit Act and which are consistent with the long-range  
18 transportation plan developed under subsection (6).  
19           3. Provide a financial plan that demonstrates how the  
20 transportation improvement program can be implemented;  
21 indicates the resources, both public and private, that are  
22 reasonably expected to be available to accomplish the program;  
23 identifies and recommends any innovative financing techniques  
24 that may be used to fund needed projects and programs; and may  
25 include, for illustrative purposes, additional projects that  
26 would be included in the approved transportation improvement  
27 program if reasonable additional resources beyond those  
28 identified in the financial plan were available. Innovative  
29 financing. ~~Such~~ techniques may include the assessment of  
30 tolls, the use of value capture financing, or the use of value  
31 ~~congestion~~ pricing. The transportation improvement program

1 may include a project or project phase only if full funding  
2 can reasonably be anticipated to be available for the project  
3 or project phase within the time period contemplated for  
4 completion of the project or project phase.

5 4. Group projects and project phases of similar  
6 urgency and anticipated staging into appropriate staging  
7 periods.

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

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

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

27 (d) Projects included in the transportation  
28 improvement program and that have advanced to the design stage  
29 of preliminary engineering may be removed from or rescheduled  
30 in a subsequent transportation improvement program only by the  
31 joint action of the M.P.O. and the department. Except when

1 recommended in writing by the district secretary for good  
2 cause, any project removed from or rescheduled in a subsequent  
3 transportation improvement program shall not be rescheduled by  
4 the M.P.O. in that subsequent program earlier than the 5th  
5 year of such program.

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

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

31

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

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

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

27           (9) AGREEMENTS.--

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

31



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

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

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

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

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

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

27           (b) The council shall consist of one representative  
28 from each M.P.O. and shall elect a chairperson annually from  
29 its number. Each M.P.O. shall also elect an alternate  
30 representative from each M.P.O. to vote in the absence of the  
31 representative. Members of the council do not receive any

1 compensation for their services, but may be reimbursed from  
2 funds made available to council members for travel and per  
3 diem expenses incurred in the performance of their council  
4 duties as provided in s. 112.061.

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

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

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

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

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

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

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

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

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

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

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

16 Section 31. Subsection (14) is added to section  
17 341.041, Florida Statutes, 1998 Supplement, to read:

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

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

27 Section 32. Subsections (6) and (8) of section  
28 341.302, Florida Statutes, are amended to read:

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

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

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

11           (8) Conduct, at a minimum, inspections of track and  
12 rolling stock, train signals and related equipment, hazardous  
13 materials transportation, including the loading, unloading,  
14 and labeling of hazardous materials at shippers', receivers',  
15 and transfer points, and train operating practices to  
16 determine adherence to state and federal standards.  
17 Department personnel may enforce any safety regulation issued  
18 under the Federal Government's preemptive authority over  
19 interstate commerce.

20           Section 33. Paragraph (a) of subsection (2) and  
21 subsections (3), (4), (5), (6), (9), and (10) of section  
22 373.4137, Florida Statutes, are amended to read:

23           373.4137 Mitigation requirements.--

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

5 Section 34. Subsections (3) and (23) of section  
6 479.01, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

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

24 1. ~~(a)~~ Signs.

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

28 3. ~~(c)~~ Transient or temporary activities.

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

31

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

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

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

6           8. Communication towers.

7           Section 35. Paragraphs (b) and (c) of subsection (8)  
8 of section 479.07, Florida Statutes, are amended to read:

9           479.07 Sign permits.--

10           (8)

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

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

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

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

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

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

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

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

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

23 Section 36. Subsection (15) of section 479.16, Florida  
24 Statutes, is amended to read:

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

29 479.11(4)-(8):

30 (15) Signs not in excess of 16 square feet placed at a  
31 road junction with the State Highway System denoting only the

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

11 Section 37. Except as otherwise provided in this act,  
12 this act shall take effect upon becoming a law.

13

14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
15 COMMITTEE SUBSTITUTE FOR  
16 CS/SB 972

17 Provides additional \$10 million on July 1, 1999 and annually  
18 thereafter, for funding the Seaport Transportation and  
Economic Development Program.

19 Provides local governments may authorize the installation of  
20 bus benches without limit to the period of service of the  
contract.

21 Conforms MPO designation to Transportation Equity Act  
22 (TEA-21). Strikes the provision for the Legislature to  
approve new MPOs.

23 Changes the number of days from 180 to 90 days that a  
24 commercial motor vehicle registration or license plate may be  
expired for limiting the maximum penalty charge of \$1000.

25

26 Reinstates the planning factors under the Intermodal Surface  
Transportation Efficiency Act.

27 Caps the amount to \$60,000 for FDOT to enter into contracts  
28 without competitive bids.

29 Authorizes FDOT may provide additional guarantees to assist  
30 certain business entities in receiving loans pursuant to Title  
13 C.F.R. part 120. Provides authority for FDOT to adopt  
rules to implement this section.

31