

By Senator Webster

306-571C-00

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; amending s. 20.23, F.S.;
4 providing for a change in administrative
5 duties; providing for an additional district
6 office; providing additional responsibilities
7 of the Transportation Commission; amending ss.
8 316.302, 316.516, 316.545, F.S.; updating
9 cross-references to the current federal safety
10 regulations; deleting references to weight and
11 safety officers; repealing s. 316.610(3), F.S.,
12 relating to commercial motor vehicle
13 inspections; amending s. 330.30, F.S.; removing
14 the requirement for joint submission of
15 applications for airport site approval and for
16 an airport license; amending s. 334.044, F.S.;
17 authorizing the department to purchase
18 promotional items for use in certain public
19 awareness campaigns; amending s. 335.02, F.S.;
20 providing a maximum-lane policy; amending ss.
21 335.141, 341.302, F.S.; repealing the
22 department's authority to regulate train
23 operating speeds; amending s. 337.11, F.S.;
24 authorizing the department to combine the
25 right-of-way phase of certain projects into a
26 single contract; amending s. 337.14, F.S.;
27 extending the period of validity of contractor
28 prequalification; amending s. 337.175, F.S.;
29 providing for retainage flexibility; amending
30 s. 338.161, F.S.; authorizing the department to
31 promote the use of toll facilities; amending s.

1 338.165, F.S.; providing an exemption for
2 high-occupancy toll lanes; amending s. 339.12,
3 F.S.; increasing the current cap on the local
4 government advance reimbursement program;
5 amending s. 339.135, F.S.; deleting an obsolete
6 requirement for identification of advanced
7 right-of-way acquisition projects in the
8 tentative work program; amending s. 339.155,
9 F.S.; clarifying the public participation
10 process in transportation planning; conforming
11 to federal requirements; amending s. 341.051,
12 F.S.; deleting an obsolete provision for public
13 transit capital projects; amending s. 373.4137,
14 F.S.; providing a technical correction;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Paragraph (b) of subsection (2), paragraphs
20 (c) and (d) of subsection (3), and paragraph (a) of subsection
21 (4) of section 20.23, Florida Statutes, are amended to read:

22 20.23 Department of Transportation.--There is created
23 a Department of Transportation which shall be a decentralized
24 agency.

25 (2)

26 (b) The commission shall have the primary functions
27 to:

28 1. Recommend major transportation policies for the
29 Governor's approval, and assure that approved policies and any
30 revisions thereto are properly executed.

31

1 2. Periodically review the status of the state
2 transportation system including highway, transit, rail,
3 seaport, intermodal development, and aviation components of
4 the system and recommend improvements therein to the Governor
5 and the Legislature.

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

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

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

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

28 7. Recommend to the Governor and the Legislature
29 improvements to the department's organization in order to
30 streamline and optimize the efficiency of the department. The
31 initial report by the commission must be delivered to the

1 Governor and Legislature by December 15, 2000, and each year
2 thereafter, as appropriate. The commission may retain such
3 experts as are reasonably necessary to effectuate this
4 subparagraph, and the department shall pay the expenses of
5 such experts.

6 (3)

7 (c) The secretary shall appoint an Assistant Secretary
8 for Transportation Policy, an Assistant Secretary for Finance
9 and Administration, and an Assistant Secretary for District
10 Operations, each of whom shall serve at the pleasure of the
11 secretary. The positions are responsible for developing,
12 monitoring, and enforcing policy and managing major technical
13 programs. The responsibilities and duties of these positions
14 include, but are not limited to, the following functional
15 areas:

16 1. Assistant Secretary for Transportation Policy.--

17 a. Development of the Florida Transportation Plan and
18 other policy planning;

19 b. Development of statewide modal systems plans,
20 including public transportation systems;

21 c. Design of transportation facilities;

22 d. Construction of transportation facilities; ~~and~~

23 e. Acquisition and management of transportation
24 rights-of-way; and-

25 f. Administration of motor carrier compliance and
26 safety.

27 2. Assistant Secretary for District Operations.--

28 a. Administration of the nine ~~eight~~ districts; and

29 b. Implementation of the decentralization of the
30 department. ~~and~~

31

1 ~~c. Administration of motor carrier compliance and~~
2 ~~safety.~~

3 3. Assistant Secretary for Finance and
4 Administration.--

5 a. Financial planning and management;

6 b. Information systems;

7 c. Accounting systems;

8 d. Administrative functions; and

9 e. Administration of toll operations.

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

12 a. Developing policy and procedures and monitoring
13 performance to ensure compliance with these policies and
14 procedures;

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

17 c. Assessing and ensuring the accuracy of information
18 within the department's financial management information
19 systems; and

20 d. Performing other activities of a statewide nature.

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

25 a. The Office of Administration;

26 b. The Office of Policy Planning;

27 c. The Office of Design;

28 d. The Office of Highway Operations;

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

30 f. The Office of Toll Operations; ~~and~~

31 g. The Office of Information Systems; and

1 h. The Office of Motor Carrier Compliance.

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

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

20 (4)(a) The operations of the department shall be
21 organized into nine ~~eight~~ districts, including a turnpike
22 district, each headed by a district secretary. The district
23 secretaries shall report to the Assistant Secretary for
24 District Operations. The headquarters of the districts shall
25 be located in Polk, Columbia, Washington, Broward, Volusia,
26 Dade, Hillsborough, Duval, and Leon Counties. The turnpike
27 district must be relocated to Orange County in the year 2000.
28 In order to provide for efficient operations and to expedite
29 the decisionmaking process, the department shall provide for
30 maximum decentralization to the districts. However, before
31 making a decision to centralize or decentralize department

1 operations or relocate the turnpike district, the department
2 must first determine if the decision would be cost-effective
3 and in the public's best interest. The department shall
4 periodically evaluate such decisions to ensure that they are
5 appropriate.

6 Section 2. Paragraph (b) of subsection (1) and
7 subsections (5) and (8) of section 316.302, Florida Statutes,
8 are amended to read:

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

12 (1)

13 (b) Except as otherwise provided in this section, all
14 owners or drivers of commercial motor vehicles that are
15 engaged in intrastate commerce are subject to the rules and
16 regulations contained in 49 C.F.R. parts 382, 385, and
17 390-397, with the exception of 49 C.F.R. s. 390.5 as it
18 relates to the definition of bus, as such rules and
19 regulations existed on March 1, 2000 ~~1999~~.

20 (5) The Department of Transportation may adopt and
21 revise rules to assure the safe operation of commercial motor
22 vehicles. The Department of Transportation may enter into
23 cooperative agreements as provided in 49 C.F.R. part 388.
24 Department of Transportation personnel may conduct motor
25 carrier and shipper terminal audits only for the purpose of
26 determining compliance with 49 C.F.R. parts 171, 172, 173,
27 177, 178, 180, 382, 385,391, 393, 396, and 397; 49 C.F.R. s.
28 395.1(e)(5); and s. 627.7415.

29 (8) Any Department of Transportation law enforcement
30 officer ~~agent of the Department of Transportation described in~~
31 ~~s. 316.545(9)~~, any member of the Florida Highway Patrol, or

1 any person employed by a sheriff's office or municipal police
2 department who is authorized to enforce the traffic laws of
3 this state pursuant to s. 316.640 may enforce the provisions
4 of this section. Any law enforcement officer who is ~~of the~~
5 ~~Department of Transportation described in s. 316.545(9), any~~
6 ~~member of the Florida Highway Patrol, or any law enforcement~~
7 ~~officer employed by a sheriff's office or municipal police~~
8 ~~department~~ authorized to enforce the traffic laws of this
9 state pursuant to s. 316.640 and, who has reason to believe
10 that a vehicle or driver is operating in an unsafe condition,
11 may require the driver to stop and submit to an inspection of
12 the vehicle or the driver's records. Any person who fails to
13 comply with an officer's request to submit to an inspection
14 under this subsection is guilty of a violation of s. 843.02 if
15 the driver resists the officer without violence or a violation
16 of s. 843.01 if the driver resists the officer with violence.
17 If the vehicle is found to be in an unsafe condition, or if
18 any required part or equipment is not present or is not in
19 proper repair or adjustment, and the continued operation would
20 probably present an unduly hazardous operating condition, the
21 officer may require the vehicle to be immediately repaired or
22 removed from use. However, if continued operation would not
23 present an unduly hazardous operating condition, the officer
24 may give written notice to require proper repair and
25 adjustment of the vehicle within 14 days.

26 Section 3. Subsection (1) of section 316.516, Florida
27 Statutes, is amended to read:

28 316.516 Width, height, and length; inspection;
29 penalties.--

30 (1) Any law enforcement officer, as prescribed in s.
31 316.640, ~~or any weight and safety officer of the Department of~~

1 ~~Transportation, as prescribed in s. 316.545(1)~~, who has reason
2 to believe that the width, height, or length of a vehicle or
3 combination of vehicles and the load thereon is not in
4 conformance with s. 316.515 is authorized to require the
5 driver to stop and submit such vehicle and load to measurement
6 of its width, height, or length.

7 Section 4. Subsections (1) and (9) of section 316.545,
8 Florida Statutes, are amended to read:

9 316.545 Weight and load unlawful; special fuel and
10 motor fuel tax enforcement; inspection; penalty; review.--

11 (1) Any law enforcement ~~weight and safety~~ officer of
12 the Department of Transportation having reason to believe that
13 the weight of a vehicle and load is unlawful is authorized to
14 require the driver to stop and submit to a weighing of the
15 same by means of either portable or fixed scales and may
16 require that such vehicle be driven to the nearest weigh
17 station or public scales, provided such a facility is within 5
18 highway miles. Upon a request by the vehicle driver, the
19 officer shall weigh the vehicle at fixed scales rather than by
20 portable scales if such a facility is available within 5
21 highway miles. Anyone who refuses to submit to such weighing
22 obstructs an officer pursuant to s. 843.02 and is guilty of a
23 misdemeanor of the first degree, punishable as provided in s.
24 775.082 or s. 775.083. Anyone who knowingly and willfully
25 resists, obstructs, or opposes a law enforcement ~~weight and~~
26 ~~safety~~ officer while refusing to submit to such weighing by
27 resisting the officer with violence to the officer's person
28 pursuant to s. 843.01 is guilty of a felony of the third
29 degree, punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084.

31

1 (9) Any agent of the Department of Transportation who
2 is employed as a ~~for the purpose of being a weight and safety~~
3 ~~officer and who meets the qualifications established by law~~
4 ~~for law enforcement officer~~ officers shall have the same
5 arrest powers as are granted any law enforcement officer.
6 However, the primary purpose of such officers shall be the
7 enforcement for the purpose of enforcing the provisions of
8 weight, load, safety, commercial motor vehicle registration,
9 and fuel tax compliance laws.

10 Section 5. Subsection (3) of section 316.610, Florida
11 Statutes, is repealed.

12 Section 6. Paragraph (a) of subsection (1) and
13 paragraph (a) of subsection (2) of section 330.30, Florida
14 Statutes, are amended to read:

15 330.30 Approval of airport sites and licensing of
16 airports; fees.--

17 (1) SITE APPROVALS; REQUIREMENTS, FEES, EFFECTIVE
18 PERIOD, REVOCATION.--

19 (a) Except as provided in paragraph (c) of subsection
20 (2) and in subsection (3), the owner or lessee of any proposed
21 airport shall, prior to the acquisition of the site or prior
22 to the construction or establishment of the proposed airport,
23 obtain approval of the airport site from the department.
24 Applications for approval of a site must ~~and for an original~~
25 ~~license shall~~ be ~~jointly~~ made on a form prescribed by the
26 department and must ~~shall~~ be accompanied by a site approval
27 fee of \$100. The department, after inspection of the airport
28 site, shall grant the site approval if it is satisfied:

- 29 1. That the site is adequate for the proposed airport;
30 2. That the proposed airport, if constructed or
31 established, will conform to minimum standards of safety and

1 will comply with applicable county or municipal zoning
2 requirements;

3 3. That all nearby airports, municipalities, and
4 property owners have been notified and any comments submitted
5 by them have been given adequate consideration; and

6 4. That safe air-traffic patterns can be worked out
7 for the proposed airport and for all existing airports and
8 approved airport sites in its vicinity.

9 (2) LICENSES; REQUIREMENTS, FEES, RENEWAL,
10 REVOCATION.--

11 (a) Except as provided in subsection (3), the owner or
12 lessee of an airport in this state must obtain a license prior
13 to the operation of aircraft on the airport. An application
14 for such license must ~~shall~~ be made on a form prescribed by
15 the department ~~and shall be accomplished jointly with an~~
16 ~~application for site approval.~~ Upon completing ~~granting site~~
17 ~~approval,~~ making a favorable ~~final~~ airport inspection report
18 indicating compliance with all license requirements, and
19 receiving the appropriate license fee, the department shall
20 issue a license to the applicant, subject to any reasonable
21 conditions that the department may deem necessary to protect
22 the public health, safety, or welfare.

23 Section 7. Section 334.044, Florida Statutes, is
24 amended to read:

25 334.044 Department; powers and duties.--The department
26 shall have the following general powers and duties:

27 (1) To assume the responsibility for coordinating the
28 planning of a safe, viable, and balanced state transportation
29 system serving all regions of the state, and to assure the
30 compatibility of all components, including multimodal
31 facilities.

1 (2) To adopt rules pursuant to ss. 120.536(1) and
2 120.54 to implement the provisions of law conferring duties
3 upon it.

4 (3) To adopt an official seal.

5 (4) To maintain its headquarters in Tallahassee and
6 its district offices and necessary field offices at such
7 places within the state as it may designate, and to purchase,
8 build, or lease suitable buildings for such uses.

9 (5) To purchase, lease, or otherwise acquire property
10 and materials, including the purchase of promotional items as
11 part of public information and education campaigns for the
12 promotion of traffic and train safety awareness, alternatives
13 to single occupant vehicle travel, and commercial motor
14 vehicle safety; to purchase, lease or otherwise acquire
15 equipment, and supplies; and to sell, exchange, or otherwise
16 dispose of any property that ~~which~~ is no longer needed by the
17 department.

18 (6) To acquire, by the exercise of the power of
19 eminent domain as provided by law, all property or property
20 rights, whether public or private, which it finds ~~may~~
21 ~~determine~~ are necessary to the performance of its duties and
22 the execution of its powers.

23 (7) To enter into contracts and agreements.

24 (8) To sue and be sued as provided by law.

25 (9) To employ and train staff, and to contract with
26 qualified consultants. For the purposes of chapters 471 and
27 472, the department shall be considered a firm.

28 (10)(a) To develop and adopt uniform minimum standards
29 and criteria for the design, construction, maintenance, and
30 operation of public roads pursuant to the provisions of s.
31 336.045.

1 (b) The department shall periodically review its
2 construction, design, and maintenance standards to ensure that
3 such standards are cost-effective and consistent with
4 applicable federal regulations and state law.

5 (11) To establish a numbering system for public roads,
6 to functionally classify such roads, and to assign
7 jurisdictional responsibility.

8 (12) To coordinate the planning of the development of
9 public transportation facilities within the state and the
10 provision of related transportation services as authorized by
11 law.

12 (13) To designate existing and to plan proposed
13 transportation facilities as part of the State Highway System,
14 and to construct, maintain, and operate such facilities.

15 (14) To establish, control, and prohibit points of
16 ingress to, and egress from, the State Highway System, the
17 turnpike, and other transportation facilities under the
18 department's jurisdiction as necessary to ensure the safe,
19 efficient, and effective maintenance and operation of such
20 facilities.

21 (15) To regulate and prescribe conditions for the
22 transfer of stormwater to the state right-of-way as a result
23 of manmade changes to adjacent properties.

24 (a) Such regulation shall be through a permitting
25 process designed to ensure the safety and integrity of the
26 Department of Transportation facilities and to prevent an
27 unreasonable burden on lower properties.

28 (b) The department is specifically authorized to adopt
29 rules which set forth the purpose; necessary definitions;
30 permit exceptions; permit and assurance requirements; permit
31 application procedures; permit forms; general conditions for a

1 drainage permit; provisions for suspension or revocation of a
2 permit; and provisions for department recovery of fines,
3 penalties, and costs incurred due to permittee actions. In
4 order to avoid duplication and overlap with other units of
5 government, the department shall accept a surface water
6 management permit issued by a water management district, the
7 Department of Environmental Protection, a surface water
8 management permit issued by a delegated local government, or a
9 permit issued pursuant to an approved Stormwater Management
10 Plan or Master Drainage Plan; provided issuance is based on
11 requirements equal to or more stringent than those of the
12 department.

13 (16) To plan, acquire, lease, construct, maintain, and
14 operate toll facilities; to authorize the issuance and
15 refunding of bonds; and to fix and collect tolls or other
16 charges for travel on any such facilities.

17 (17) To designate limited access facilities on the
18 State Highway System and turnpike projects; to plan,
19 construct, maintain, and operate service roads in connection
20 with such facilities; and to regulate, reconstruct, or realign
21 any existing public road as a service road.

22 (18) To establish and maintain bicycle and pedestrian
23 ways.

24 (19) To encourage and promote the development of
25 multimodal transportation alternatives.

26 (20) To conduct research studies, and to collect data
27 necessary for the improvement of the state transportation
28 system.

29 (21) To conduct research and demonstration projects
30 relative to innovative transportation technologies.

31

1 (22) To cooperate with and assist local governments in
2 the development of a statewide transportation system and in
3 the development of the individual components of the system.

4 (23) To cooperate with the transportation department
5 or duly authorized commission or authority of any state in the
6 development and construction of transportation facilities
7 physically connecting facilities of this state with those
8 facilities of any adjoining state.

9 (24) To identify, obtain, and administer all federal
10 funds available to the department for all transportation
11 purposes.

12 (25) To do all things necessary to obtain the full
13 benefits of the national Highway Safety Act of 1966, and in so
14 doing, to cooperate with federal and state agencies, public
15 and private agencies, interested organizations, and
16 individuals to effectuate the purposes of that act, and any
17 and all amendments thereto. The Governor shall have the
18 ultimate state responsibility for dealing with the Federal
19 Government in respect to programs and activities initiated
20 pursuant to the national Highway Safety Act of 1966, and any
21 amendments thereto.

22 (26) To provide for the conservation of natural
23 roadside growth and scenery and for the implementation and
24 maintenance of roadside beautification programs. To accomplish
25 this, for fiscal years 1999-2000, 2000-2001, and 2001-2002 no
26 less than 1 percent, and for subsequent fiscal years no less
27 than 1.5 percent of the amount contracted for construction
28 projects shall be allocated by the department to
29 beautification programs. Except where prohibited by federal
30 law or federal regulation and to the extent practical, a
31 minimum of 50 percent of these funds shall be used to purchase

1 large plant materials with the remaining funds for other plant
2 materials and these materials shall be purchased from
3 Florida-based nurseryman stock on a uniform competitive bid
4 basis. The department will develop grades and standards for
5 landscaping materials purchased through this process. To
6 accomplish these activities, the department may contract with
7 nonprofit organizations having the primary purpose of
8 developing youth employment opportunities.

9 (27) To conduct studies and provide coordination to
10 assess the needs associated with landside ingress and egress
11 to port facilities, and to coordinate with local governmental
12 entities to ensure that port facility access routes are
13 properly integrated with other transportation facilities.

14 (28) To require persons to affirm the truth of
15 statements made in any application for a license, permit, or
16 certification issued by the department or in any contract
17 documents submitted to the department.

18 (29) To advance funds for projects in the department's
19 adopted work program to governmental entities prior to
20 commencement of the project or project phase when the advance
21 has been authorized by the department's comptroller and is
22 made pursuant to a written agreement between the department
23 and a governmental entity.

24 (30) To take any other action necessary to carry out
25 the powers and duties expressly granted in this code.

26 Section 8. Subsection (3) of section 335.02, Florida
27 Statutes, is amended to read:

28 335.02 Authority to designate transportation
29 facilities and rights-of-way and establish lanes; procedure
30 for redesignation and relocation.--
31

1 (3) The department may establish standards for lanes
2 on the State Highway System, including the Florida Intrastate
3 Highway System established pursuant to s. 338.001. In
4 determining the number of lanes for any regional corridor or
5 section of highway on the State Highway System to be funded by
6 the department with state and federal funds, the department
7 shall evaluate all alternatives and seek to achieve the
8 highest degree of efficient mobility for corridor users. In
9 conducting the analysis, the department must give
10 consideration to the following factors consistent with sound
11 engineering principles:
12 (a) Overall economic importance of the corridor as a
13 trade or tourism corridor;
14 (b) Safety of corridor users, including the importance
15 of the corridor for evacuation purposes;
16 (c) Cost-effectiveness of alternative methods of
17 increasing the mobility of corridor users;
18 (d) Current and projected traffic volumes on the
19 corridor;
20 (e) Multimodal alternatives;
21 (f) Use of intelligent transportation technology in
22 increasing the efficiency of the corridor;
23 (g) Compliance with state and federal policies related
24 to clean-air environmental impacts, growth management, livable
25 communities, and energy conservation;
26 (h) Addition of special-use lanes, such as exclusive
27 truck lanes, high-occupancy-vehicle toll lanes, and exclusive
28 interregional traffic lanes;
29 (i) Availability and cost of rights-of-way, including
30 associated costs, and the most effective use of existing
31 rights-of-way; and

1 (j) Regional economic and transportation objectives,
2 where articulated.

3
4 The department shall make the analysis available to affected
5 metropolitan planning organizations and local governments in
6 the region for comment. The department shall consider all
7 comments before making final decisions based on the analysis.
8 This subsection does not preclude a number of lanes in excess
9 of 10 lanes, but an additional factor that must be considered
10 before the department may determine that the number of lanes
11 should be more than 10 is the capacity to accommodate in the
12 future alternative forms of transportation within existing or
13 potential rights-of-way.~~The standards may include the maximum~~
14 ~~number of lanes to be provided by state funds and access~~
15 ~~requirements for such facilities.~~

16 Section 9. Subsections (3), (4), and (5) of section
17 335.141, Florida Statutes, are amended to read:

18 335.141 Regulation of public railroad-highway grade
19 crossings; reduction of hazards.--

20 ~~(3) The department is authorized to regulate the speed~~
21 ~~limits of railroad traffic on a municipal, county, regional,~~
22 ~~or statewide basis. Such speed limits shall be established by~~
23 ~~order of the department, which order is subject to the~~
24 ~~provisions of chapter 120. The department shall have the~~
25 ~~authority to adopt reasonable rules to carry out the~~
26 ~~provisions of this subsection. Such rules shall, at a minimum,~~
27 ~~provide for public input prior to the issuance of any such~~
28 ~~order.~~

29 (3)(4) Jurisdiction to enforce such orders shall be as
30 provided in s. 316.640, and any penalty for violation thereof
31 shall be imposed upon the railroad company guilty of such

1 ~~violation.~~ Nothing herein shall prevent a local governmental
2 entity from enacting ordinances relating to the blocking of
3 streets by railroad engines and cars.

4 ~~(4)(5)~~ Any local governmental entity or other public
5 or private agency planning a public event, such as a parade or
6 race, that involves the crossing of a railroad track shall
7 notify the railroad as far in advance of the event as possible
8 and in no case less than 72 hours in advance of the event so
9 that the coordination of the crossing may be arranged by the
10 agency and railroad to assure the safety of the railroad
11 trains and the participants in the event.

12 Section 10. Paragraph (a) of subsection (7) of section
13 337.11, Florida Statutes, is amended to read:

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

18 (7)(a) If the head of the department determines that
19 it is in the best interests of the public, the department may
20 combine the design and construction phases of a building, a
21 major bridge, or a rail corridor project into a single
22 contract. Such contract is referred to as a design-build
23 contract. Design-build contracts may be advertised and awarded
24 notwithstanding the requirements of paragraph (3)(c). However,
25 construction activities may not begin on any portion of such
26 projects until title to the necessary rights-of-way and
27 easements for the construction of such portion of the project
28 has vested in the state or a local governmental entity and any
29 railroad crossing or utility agreements applicable to such
30 portion of the project have been executed. Title to
31

1 rights-of-way vests in the state when the title has been
2 dedicated to the public or acquired by prescription.

3 Section 11. Subsection (4) of section 337.14, Florida
4 Statutes, is amended to read:

5 337.14 Application for qualification; certificate of
6 qualification; restrictions; request for hearing.--

7 (4) If the applicant is found to possess the
8 prescribed qualifications, the department shall issue to him
9 or her a certificate of qualification that ~~which~~, unless
10 thereafter revoked by the department for good cause, will be
11 valid for a period of 18 ~~16~~ months after ~~from~~ the date of the
12 applicant's financial statement or such shorter period as the
13 department prescribes ~~may prescribe~~. If ~~In the event~~ the
14 department finds that an application is incomplete or contains
15 inadequate information or information that ~~which~~ cannot be
16 verified, the department may request in writing that the
17 applicant provide the necessary information to complete the
18 application or provide the source from which any information
19 in the application may be verified. If the applicant fails to
20 comply with the initial written request within a reasonable
21 period of time as specified therein, the department shall
22 request the information a second time. If the applicant fails
23 to comply with the second request within a reasonable period
24 of time as specified therein, the application shall be denied.

25 Section 12. Section 337.175, Florida Statutes, is
26 amended to read:

27 337.175 Retainage.--The department may ~~shall~~ provide
28 in its construction contracts for retaining a portion of the
29 amount due a contractor for work that the contractor has
30 completed, until completion and final acceptance of the
31 project by the department. If the department allows ~~However,~~

1 contractors may ~~shall be allowed to~~ substitute securities as
2 provided by s. 255.052, or to substitute certificates of
3 deposit or irrevocable letters of credit approved by the
4 department comptroller in lieu of retainage.

5 Section 13. Subsection (1) of section 338.161, Florida
6 Statutes, is amended to read:

7 338.161 Authority of department to advertise and
8 promote electronic toll collection.--

9 (1) The department is authorized to incur expenses for
10 paid advertising, marketing, and promotion of toll facilities
11 and electronic toll collection products and services.
12 Promotions may include discounts and free products.

13 Section 14. Subsection (6) of section 338.165, Florida
14 Statutes, is amended to read:

15 338.165 Continuation of tolls.--

16 (6) Notwithstanding the provisions of subsection (1),
17 and not including high-occupancy toll lanes, no tolls may be
18 charged for use of an interstate highway where tolls were not
19 charged as of July 1, 1997.

20 Section 15. Paragraph (c) of subsection (4) of section
21 339.12, Florida Statutes, is amended to read:

22 339.12 Aid and contributions by governmental entities
23 for department projects; federal aid.--

24 (4)

25 (c) The department may ~~is authorized to~~ enter into
26 agreements under this subsection for a project or project
27 phase not included in the adopted work program. As used in
28 this paragraph, the term "project phase" means acquisition of
29 rights-of-way, construction, construction inspection, and
30 related support phases. The project or project phase must be
31 a high priority of the governmental entity. Reimbursement for

1 a project or project phase must be made from funds
2 appropriated by the Legislature pursuant to s. 339.135(5). All
3 other provisions of this subsection apply to agreements
4 entered into under this paragraph. ~~At no time shall~~ The total
5 amount of project agreements for projects or project phases
6 not included in the adopted work program may not at any time
7 exceed \$100\$50 million.

8 Section 16. Paragraph (b) of subsection (4) of section
9 339.135, Florida Statutes, is amended to read:

10 339.135 Work program; legislative budget request;
11 definitions; preparation, adoption, execution, and
12 amendment.--

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

14 (b)1. A tentative work program, including the ensuing
15 fiscal year and the successive 4 fiscal years, shall be
16 prepared for the State Transportation Trust Fund and other
17 funds managed by the department, unless otherwise provided by
18 law. The tentative work program shall be based on the
19 district work programs and shall set forth all projects by
20 phase to be undertaken during the ensuing fiscal year and
21 planned for the successive 4 fiscal years. The total amount of
22 the liabilities accruing in each fiscal year of the tentative
23 work program may not exceed the revenues available for
24 expenditure during the respective fiscal year based on the
25 cash forecast for that respective fiscal year.

26 2. The tentative work program shall be developed in
27 accordance with the Florida Transportation Plan required in s.
28 339.155 and must comply with the program funding levels
29 contained in the program and resource plan.

30 ~~3. The tentative work program must specifically~~
31 ~~identify advanced right-of-way acquisition projects and must~~

1 ~~separately allocate funds for advanced right-of-way~~
2 ~~acquisition phases in each fiscal year, as provided in s.~~
3 ~~337.276. Each right-of-way phase that is to be funded through~~
4 ~~these programs shall be specifically identified in the work~~
5 ~~program, and the year, if known, in which construction~~
6 ~~utilizing the right-of-way is projected to begin shall be~~
7 ~~identified.~~

8 3.4. The department may include in the tentative work
9 program proposed changes to the programs contained in the
10 previous work program adopted pursuant to subsection (5);
11 however, the department shall minimize changes and adjustments
12 that affect the scheduling of project phases in the 4 common
13 fiscal years contained in the previous adopted work program
14 and the tentative work program. The department, in the
15 development of the tentative work program, shall advance by 1
16 fiscal year all projects included in the second year of the
17 previous year's adopted work program, unless the secretary
18 specifically determines that it is necessary, for specific
19 reasons, to reschedule or delete one or more projects from
20 that year. Such changes and adjustments shall be clearly
21 identified, and the effect on the 4 common fiscal years
22 contained in the previous adopted work program and the
23 tentative work program shall be shown. It is the intent of
24 the Legislature that the first 3 years of the adopted work
25 program stand as the commitment of the state to undertake
26 transportation projects that local governments may rely on for
27 planning purposes and in the development and amendment of the
28 capital improvements elements of their local government
29 comprehensive plans.

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1 ~~4.5.~~ The tentative work program must include a
2 balanced 36-month forecast of cash and expenditures and a
3 5-year finance plan supporting the tentative work program.

4 Section 17. Paragraph (c) of subsection (6) of section
5 339.155, Florida Statutes, is amended to read:

6 339.155 Transportation planning.--

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

9 (c) Opportunity for design hearings:

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

15 a. Those whose property lies in whole or in part
16 within 300 feet on either side of the centerline of the
17 proposed facility.

18 b. Those whom ~~who~~ the department determines will be
19 substantially affected environmentally, economically,
20 socially, or safetywise.

21 2. For each subsequent hearing, the department shall
22 ~~daily~~ publish notice ~~at least 14 days immediately~~ prior to the
23 hearing date in a newspaper of general circulation for the
24 area affected. These notices must be published twice, with the
25 first notice appearing at least 15 days, but no later than 30
26 days, before the hearing.

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

31

1 Section 18. Subsection (5) of section 341.051, Florida
2 Statutes, is amended to read:

3 341.051 Administration and financing of public transit
4 programs and projects.--

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

6 (a) The department may fund up to 50 percent of the
7 nonfederal share of the costs, not to exceed the local share,
8 of any eligible public transit capital project or commuter
9 assistance project that is local in scope; except, however,
10 that departmental participation in the final design,
11 right-of-way acquisition, and construction phases of an
12 individual fixed-guideway project which is not approved for
13 federal funding shall not exceed an amount equal to 12.5
14 percent of the total cost of each phase.

15 ~~(b) The Department of Transportation shall develop a~~
16 ~~major capital investment policy which shall include policy~~
17 ~~criteria and guidelines for the expenditure or commitment of~~
18 ~~state funds for public transit capital projects. The policy~~
19 ~~shall include the following:~~

20 ~~1. Methods to be used to determine consistency of a~~
21 ~~transit project with the approved local government~~
22 ~~comprehensive plans of the units of local government in which~~
23 ~~the project is located.~~

24 ~~2. Methods for evaluating the level of local~~
25 ~~commitment to a transit project, which is to be demonstrated~~
26 ~~through system planning and the development of a feasible plan~~
27 ~~to fund operating cost through fares, value capture techniques~~
28 ~~such as joint development and special districts, or other~~
29 ~~local funding mechanisms.~~

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

4 **(b)**~~(c)~~ The department may ~~is authorized to~~ fund up to
5 100 percent of the cost of any eligible transit capital
6 project or commuter assistance project that is statewide in
7 scope or involves more than one county where no other
8 governmental entity or appropriate jurisdiction exists.

9 **(c)**~~(d)~~ The department may ~~is authorized to~~ advance up
10 to 80 percent of the capital cost of any eligible project that
11 will assist Florida's transit systems in becoming fiscally
12 self-sufficient. Such advances must ~~shall~~ be reimbursed to
13 the department on an appropriate schedule not to exceed 5
14 years after the date of provision of the advances.

15 **(d)**~~(e)~~ The department may ~~is authorized to~~ fund up to
16 100 percent of the capital and net operating costs of
17 statewide transit service development projects or transit
18 corridor projects. All transit service development projects
19 must ~~shall~~ be specifically identified by way of a departmental
20 appropriation request, and transit corridor projects must
21 ~~shall~~ be identified as part of the planned improvements on
22 each transportation corridor designated by the department.
23 The project objectives, the assigned operational and financial
24 responsibilities, the timeframe required to develop the
25 required service, and the criteria by which the success of the
26 project will be judged must ~~shall~~ be documented by the
27 department for each such transit service development project
28 or transit corridor project.

29 **(e)**~~(f)~~ The department may ~~is authorized to~~ fund up to
30 50 percent of the capital and net operating costs of transit
31 service development projects that are local in scope and that

1 will improve system efficiencies, ridership, or revenues. All
2 such projects must ~~shall~~ be identified in the appropriation
3 request of the department through a specific program of
4 projects, as provided for in s. 341.041, which ~~that~~ is
5 selectively applied in the following functional areas and is
6 subject to the specified times of duration:

7 1. Improving system operations, including, but not
8 limited to, realigning route structures, increasing system
9 average speed, decreasing deadhead mileage, expanding area
10 coverage, and improving schedule adherence, for a period of up
11 to 3 years;

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

17 3. Improving marketing and consumer information
18 programs, including, but not limited to, automated information
19 services, organized advertising and promotion programs, and
20 signing of designated stops, for a period of up to 2 years;
21 and

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

26
27 For purposes of this section, the term "net operating costs"
28 means all operating costs of a project less any federal funds,
29 fares, or other sources of income to the project.

30 Section 19. Subsection (10) of section 341.302,
31 Florida Statutes, is amended to read:

1 341.302 Rail program, duties and responsibilities of
2 the department.--The department, in conjunction with other
3 governmental units and the private sector, shall develop and
4 implement a rail program of statewide application designed to
5 ensure the proper maintenance, safety, revitalization, and
6 expansion of the rail system to assure its continued and
7 increased availability to respond to statewide mobility needs.
8 Within the resources provided pursuant to chapter 216, and as
9 authorized under Title 49 C.F.R. part 212, the department
10 shall:

11 (10) Administer rail operating and construction
12 programs, which programs shall include ~~the regulation of~~
13 ~~maximum train operating speeds~~, the opening and closing of
14 public grade crossings, the construction and rehabilitation of
15 public grade crossings, and the installation of traffic
16 control devices at public grade crossings, ~~the administering~~
17 ~~of the programs by the department~~ including participation in
18 the cost of the programs.

19 Section 20. Subsection (2) of section 373.4137,
20 Florida Statutes, is amended to read:

21 373.4137 Mitigation requirements.--

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

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

1 transportation projects in the next 3 years of the tentative
2 work program. The Department of Transportation may also
3 include in its inventory the habitat impacts of any future
4 transportation project identified in the tentative work
5 program.

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

13 Section 21. This act shall take effect upon becoming a
14 law.

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SENATE SUMMARY

Relates to the Department of Transportation. Provides for a change in administrative duties. Increases the number of district offices from eight to nine. Provides additional responsibilities of the Transportation Commission. Provides for the redistribution of the State Comprehensive Enhanced Transportation System Tax. Updates cross-references to current federal safety regulations. Deletes references to "weight and safety officers." Repeals an obsolete provision relating to commercial motor vehicle inspections. Removes the requirement for joint submission of applications for airport site approval and for an airport license. Authorizes the department to purchase certain promotional items. Provides a maximum-lane policy. Repeals departmental authority to regulate the operating speeds of trains. Authorizes the department to combine the right-of-way phase of certain projects into a single contract. Extends the period of validity of contractor prequalification. Provides for retainage flexibility. Authorizes the department to promote the use of toll facilities. Provides an exemption for high-occupancy toll lanes. Increases the amount of the cap on the local government advance reimbursement program. Deletes an obsolete requirement for identification of advanced right-of-way acquisition projects in the tentative work program. Clarifies the public participation process in transportation planning. Conforms to federal requirements. Deletes an obsolete provision relating to public transit capital projects.