

By the Committee on Transportation and Senator Webster

306-1733-00

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 s.
8 206.8745, F.S.; providing for a refund of tax
9 paid on undyed diesel fuel consumed by the
10 engine of a qualified motor coach during idle
11 time for certain purposes; defining "motor
12 coach"; providing restrictions on refunds;
13 providing for proper documentation; granting
14 the Department of Revenue authority to adopt
15 rules; amending s. 311.07, F.S.; expanding the
16 use of certain seaport funds; amending ss.
17 316.302, 316.516, 316.545, F.S.; updating
18 cross-references to the current federal safety
19 regulations; deleting references to weight and
20 safety officers; amending s. 316.515, F.S.;
21 deleting a reference to an automobile
22 transporter height limit; repealing s.
23 316.610(3), F.S., relating to commercial motor
24 vehicle inspections; amending s. 330.30, F.S.;
25 removing the requirement for joint submission
26 of applications for airport site approval and
27 for an airport license; amending s. 332.004,
28 F.S.; expanding the definition of the term
29 "airport or aviation development project" to
30 include off-site airport noise mitigation
31 projects; amending s. 334.044, F.S.;

1 authorizing the department to purchase
2 promotional items for use in certain public
3 awareness campaigns; amending s. 335.02, F.S.;
4 providing a maximum-lane policy; amending ss.
5 335.141, 341.302, F.S.; repealing the
6 department's authority to regulate train
7 operating speeds; amending ss. 336.41, 336.44,
8 255.20, 348.0004, 348.219, 348.243, 348.53,
9 348.754, 348.83, 348.943, 348.953, 348.968,
10 349.04, F.S.; providing that any contractor
11 prequalified by the State of Florida is
12 presumed qualified to bid on projects in excess
13 of \$250,000 for county and expressway authority
14 projects; amending s. 336.025, F.S.; expanding
15 the authorized uses of the local option fuel
16 tax; amending s. 337.11, F.S.; authorizing the
17 department to combine the right-of-way phase of
18 certain projects into a single contract;
19 amending s. 337.14, F.S.; extending the period
20 of validity of contractor prequalification;
21 amending s. 337.175, F.S.; providing for
22 retainage flexibility; amending s. 338.161,
23 F.S.; authorizing the department to promote the
24 use of toll facilities; amending s. 338.165,
25 F.S.; providing an exemption for high-occupancy
26 toll lanes; amending s. 339.12, F.S.;
27 increasing the current cap on the local
28 government advance reimbursement program;
29 amending s. 339.135, F.S.; deleting an obsolete
30 requirement for identification of advanced
31 right-of-way acquisition projects in the

1 tentative work program; amending s. 339.155,
2 F.S.; clarifying the public participation
3 process in transportation planning; conforming
4 provisions to federal requirements; amending s.
5 341.051, F.S.; deleting an obsolete provision
6 for public transit capital projects; amending
7 s. 373.4137, F.S.; providing a technical
8 correction; providing an effective date.

9

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

11

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

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

18 (2)

19 (b) The commission shall have the primary functions
20 to:

21 1. Recommend major transportation policies for the
22 Governor's approval, and assure that approved policies and any
23 revisions thereto are properly executed.

24 2. Periodically review the status of the state
25 transportation system including highway, transit, rail,
26 seaport, intermodal development, and aviation components of
27 the system and recommend improvements therein to the Governor
28 and the Legislature.

29 3. Perform an in-depth evaluation of the annual
30 department budget request, the Florida Transportation Plan,
31 and the tentative work program for compliance with all

1 applicable laws and established departmental policies. Except
2 as specifically provided in s. 339.135(4)(c)2., (d), and (f),
3 the commission may not consider individual construction
4 projects, but shall consider methods of accomplishing the
5 goals of the department in the most effective, efficient, and
6 businesslike manner.

7 4. Monitor the financial status of the department on a
8 regular basis to assure that the department is managing
9 revenue and bond proceeds responsibly and in accordance with
10 law and established policy.

11 5. Monitor on at least a quarterly basis, the
12 efficiency, productivity, and management of the department,
13 using performance and production standards developed by the
14 commission pursuant to s. 334.045.

15 6. Perform an in-depth evaluation of the factors
16 causing disruption of project schedules in the adopted work
17 program and recommend to the Legislature and the Governor
18 methods to eliminate or reduce the disruptive effects of these
19 factors.

20 7. Recommend to the Governor and the Legislature
21 improvements to the department's organization in order to
22 streamline and optimize the efficiency of the department. The
23 initial report by the commission must be delivered to the
24 Governor and Legislature by December 15, 2000, and each year
25 thereafter, as appropriate. The commission may retain such
26 experts as are reasonably necessary to effectuate this
27 subparagraph, and the department shall pay the expenses of
28 such experts.

29 (3)

30 (c) The secretary shall appoint an Assistant Secretary
31 for Transportation Policy, an Assistant Secretary for Finance

1 and Administration, and an Assistant Secretary for District
2 Operations, each of whom shall serve at the pleasure of the
3 secretary. The positions are responsible for developing,
4 monitoring, and enforcing policy and managing major technical
5 programs. The responsibilities and duties of these positions
6 include, but are not limited to, the following functional
7 areas:

8 1. Assistant Secretary for Transportation Policy.--

9 a. Development of the Florida Transportation Plan and
10 other policy planning;

11 b. Development of statewide modal systems plans,
12 including public transportation systems;

13 c. Design of transportation facilities;

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

15 e. Acquisition and management of transportation
16 rights-of-way; ~~and~~;

17 f. Administration of motor carrier compliance and
18 safety.

19 2. Assistant Secretary for District Operations.--

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

21 b. Implementation of the decentralization of the
22 department. ~~and~~

23 ~~c. Administration of motor carrier compliance and~~
24 ~~safety.~~

25 3. Assistant Secretary for Finance and
26 Administration.--

27 a. Financial planning and management;

28 b. Information systems;

29 c. Accounting systems;

30 d. Administrative functions; and

31 e. Administration of toll operations.

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;
20 e. The Office of Right-of-Way;
21 f. The Office of Toll Operations; ~~and~~
22 g. The Office of Information Systems; ~~and~~
23 h. The Office of Motor Carrier Compliance.
24 3. Other offices may be established in accordance with
25 s. 20.04(7). The heads of such offices are exempt from part II
26 of chapter 110. No office or organization shall be created at
27 a level equal to or higher than a division without specific
28 legislative authority.
29 4. During the construction of a major transportation
30 improvement project or as determined by the district
31 secretary, the department may provide assistance to a business

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

11 (4)(a) The operations of the department shall be
12 organized into nine ~~eight~~ districts, including a turnpike
13 district, each headed by a district secretary. The district
14 secretaries shall report to the Assistant Secretary for
15 District Operations. The headquarters of the districts shall
16 be located in Polk, Columbia, Washington, Broward, Volusia,
17 Dade, Hillsborough, Duval, and Leon Counties. The turnpike
18 district must be relocated to Orange County in the year 2000.
19 In order to provide for efficient operations and to expedite
20 the decisionmaking process, the department shall provide for
21 maximum decentralization to the districts. However, before
22 making a decision to centralize or decentralize department
23 operations or relocate the turnpike district, the department
24 must first determine if the decision would be cost-effective
25 and in the public's best interest. The department shall
26 periodically evaluate such decisions to ensure that they are
27 appropriate.

28 Section 2. Subsection (8) is added to section
29 206.8745, Florida Statutes, to read:

30 206.8745 Credits and refund claims.--

31

1 (8) Undyed, tax-paid diesel fuel purchased in this
2 state and consumed by the engine of a qualified motor coach
3 during idle time for the purpose of running climate control
4 systems and maintaining electrical systems for the motor coach
5 is subject to a refund. As used in this subsection, the term
6 "qualified motor coach" means a privately owned vehicle that
7 is designed to carry nine or more passengers, that has a gross
8 vehicle weight of at least 33,000 pounds, that is used
9 exclusively in the commercial application of transporting
10 passengers for compensation, and that has the capacity to
11 measure diesel fuel consumed in Florida during idling,
12 separate from diesel fuel consumed to propel the vehicle in
13 this state, by way of an on-board computer.

14 (a) The purchaser may make one claim for refund per
15 calendar year.

16 (b) The annual refund claim must be submitted before
17 April 1 of the year following the year in which the tax was
18 paid and after December 31, 2000.

19 (c) The purchaser must submit original or copies of
20 original purchase invoices showing the taxes paid, or, in lieu
21 of original invoices, a purchaser may submit a schedule of
22 purchases containing the information required by s.
23 206.41(5)(b)1.

24 (d) The purchaser must remit, as an offset to the
25 refund, sales tax due under chapter 212 based on the purchase
26 price of the fuel, net of the state tax refunded.

27
28 The Department of Revenue may adopt rules to administer this
29 subsection.

30 Section 3. Paragraph (b) of subsection (3) of section
31 311.07, Florida Statutes, is amended to read:

1 311.07 Florida seaport transportation and economic
2 development funding.--

3 (3)

4 (b) Projects eligible for funding by grants under the
5 program are limited to the following port facilities or port
6 transportation projects:

7 1. Transportation facilities within the jurisdiction
8 of the port.

9 2. The dredging or deepening of channels, turning
10 basins, or harbors.

11 3. The construction or rehabilitation of wharves,
12 docks, structures, jetties, piers, storage facilities, cruise
13 terminals, automated people mover systems, or any facilities
14 necessary or useful in connection with any of the foregoing.

15 4. The acquisition of container cranes or other
16 mechanized equipment used in the movement of cargo or
17 passengers in international commerce.

18 5. The acquisition of land to be used for port
19 purposes.

20 6. The acquisition, improvement, enlargement, or
21 extension of existing port facilities.

22 7. Environmental protection projects which are
23 necessary because of requirements imposed by a state agency as
24 a condition of a permit or other form of state approval; which
25 are necessary for environmental mitigation required as a
26 condition of a state, federal, or local environmental permit;
27 which are necessary for the acquisition of spoil disposal
28 sites and improvements to existing and future spoil sites; or
29 which result from the funding of eligible projects listed
30 herein.

31

1 8. Transportation facilities as defined in s.
2 334.03(31) which are not otherwise part of the Department of
3 Transportation's adopted work program.

4 9. Seaport intermodal access projects identified in
5 the 5-year Florida Seaport Mission Plan as provided in s.
6 311.09(3).

7 10. Construction or rehabilitation of port facilities
8 as defined in s. 315.02 in ports listed in s. 311.09(1) with
9 operating revenues of \$5 million or less, provided that such
10 projects create economic development opportunities, capital
11 improvements, and positive financial returns to such ports.

12 Section 4. Paragraph (b) of subsection (1) and
13 subsections (5) and (8) of section 316.302, Florida Statutes,
14 are amended to read:

15 316.302 Commercial motor vehicles; safety regulations;
16 transporters and shippers of hazardous materials;
17 enforcement.--

18 (1)

19 (b) Except as otherwise provided in this section, all
20 owners or drivers of commercial motor vehicles that are
21 engaged in intrastate commerce are subject to the rules and
22 regulations contained in 49 C.F.R. parts 382, 385, and
23 390-397, with the exception of 49 C.F.R. s. 390.5 as it
24 relates to the definition of bus, as such rules and
25 regulations existed on March 1, 2000 ~~1999~~.

26 (5) The Department of Transportation may adopt and
27 revise rules to assure the safe operation of commercial motor
28 vehicles. The Department of Transportation may enter into
29 cooperative agreements as provided in 49 C.F.R. part 388.
30 Department of Transportation personnel may conduct motor
31 carrier and shipper terminal audits only for the purpose of

1 determining compliance with 49 C.F.R. parts 171, 172, 173,
2 177, 178, 180, 382, 385,391, 393, 396, and 397; 49 C.F.R. s.
3 395.1(e)(5); and s. 627.7415.

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

1 Section 5. Subsection (2) of section 316.515, Florida
2 Statutes, is amended to read:

3 316.515 Maximum width, height, length.--

4 (2) HEIGHT LIMITATION.--No vehicle may exceed a height
5 of 13 feet 6 inches, inclusive of load carried thereon.

6 However, an automobile transporter may, ~~with a permit from the~~
7 ~~Department of Transportation,~~ measure a height not to exceed
8 14 feet, inclusive of the load carried thereon.

9 Section 6. Subsection (1) of section 316.516, Florida
10 Statutes, is amended to read:

11 316.516 Width, height, and length; inspection;
12 penalties.--

13 (1) Any law enforcement officer, as prescribed in s.
14 316.640, ~~or any weight and safety officer of the Department of~~
15 ~~Transportation, as prescribed in s. 316.545(1),~~ who has reason
16 to believe that the width, height, or length of a vehicle or
17 combination of vehicles and the load thereon is not in
18 conformance with s. 316.515 is authorized to require the
19 driver to stop and submit such vehicle and load to measurement
20 of its width, height, or length.

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

23 316.545 Weight and load unlawful; special fuel and
24 motor fuel tax enforcement; inspection; penalty; review.--

25 (1) Any law enforcement ~~weight and safety~~ officer of
26 the Department of Transportation having reason to believe that
27 the weight of a vehicle and load is unlawful is authorized to
28 require the driver to stop and submit to a weighing of the
29 same by means of either portable or fixed scales and may
30 require that such vehicle be driven to the nearest weigh
31 station or public scales, provided such a facility is within 5

1 highway miles. Upon a request by the vehicle driver, the
2 officer shall weigh the vehicle at fixed scales rather than by
3 portable scales if such a facility is available within 5
4 highway miles. Anyone who refuses to submit to such weighing
5 obstructs an officer pursuant to s. 843.02 and is guilty of a
6 misdemeanor of the first degree, punishable as provided in s.
7 775.082 or s. 775.083. Anyone who knowingly and willfully
8 resists, obstructs, or opposes a law enforcement ~~weight and~~
9 ~~safety~~ officer while refusing to submit to such weighing by
10 resisting the officer with violence to the officer's person
11 pursuant to s. 843.01 is guilty of a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (9) Any agent of the Department of Transportation who
15 is employed as a ~~for the purpose of being a weight and safety~~
16 ~~officer and who meets the qualifications established by law~~
17 ~~for law enforcement~~ officer ~~officers~~ shall have the same
18 arrest powers as are granted any law enforcement officer.
19 However, the primary purpose of such officers shall be the
20 enforcement for the purpose of enforcing the provisions of
21 weight, load, safety, commercial motor vehicle registration,
22 and fuel tax compliance laws.

23 Section 8. Subsection (3) of section 316.610, Florida
24 Statutes, is repealed.

25 Section 9. Paragraph (a) of subsection (1) and
26 paragraph (a) of subsection (2) of section 330.30, Florida
27 Statutes, are amended to read:

28 330.30 Approval of airport sites and licensing of
29 airports; fees.--

30 (1) SITE APPROVALS; REQUIREMENTS, FEES, EFFECTIVE
31 PERIOD, REVOCATION.--

1 (a) Except as provided in paragraph (c) of subsection
2 (2) and in subsection (3), the owner or lessee of any proposed
3 airport shall, prior to the acquisition of the site or prior
4 to the construction or establishment of the proposed airport,
5 obtain approval of the airport site from the department.
6 Applications for approval of a site must ~~and for an original~~
7 ~~license shall~~ be ~~jointly~~ made on a form prescribed by the
8 department and must ~~shall~~ be accompanied by a site approval
9 fee of \$100. The department, after inspection of the airport
10 site, shall grant the site approval if it is satisfied:
11 1. That the site is adequate for the proposed airport;
12 2. That the proposed airport, if constructed or
13 established, will conform to minimum standards of safety and
14 will comply with applicable county or municipal zoning
15 requirements;
16 3. That all nearby airports, municipalities, and
17 property owners have been notified and any comments submitted
18 by them have been given adequate consideration; and
19 4. That safe air-traffic patterns can be worked out
20 for the proposed airport and for all existing airports and
21 approved airport sites in its vicinity.

22 (2) LICENSES; REQUIREMENTS, FEES, RENEWAL,
23 REVOCATION.--

24 (a) Except as provided in subsection (3), the owner or
25 lessee of an airport in this state must obtain a license prior
26 to the operation of aircraft on the airport. An application
27 for such license must ~~shall~~ be made on a form prescribed by
28 the department ~~and shall be accomplished jointly with an~~
29 ~~application for site approval~~. Upon completing ~~granting~~ ~~site~~
30 ~~approval, making~~ a favorable ~~final~~ airport inspection report
31 indicating compliance with all license requirements, and

1 receiving the appropriate license fee, the department shall
2 issue a license to the applicant, subject to any reasonable
3 conditions that the department may deem necessary to protect
4 the public health, safety, or welfare.

5 Section 10. Section 332.004, Florida Statutes, is
6 amended to read:

7 332.004 Definitions of terms used in ss.

8 332.003-332.007.--As used in ss. 332.003-332.007, the term:

9 (1) "Airport" means any area of land or water, or any
10 manmade object or facility located therein, which is used, or
11 intended for public use, for the landing and takeoff of
12 aircraft, and any appurtenant areas which are used, or
13 intended for public use, for airport buildings or other
14 airport facilities or rights-of-way.

15 (2) "Airport hazard" means any structure or object of
16 natural growth located on or in the vicinity of a public-use
17 airport, or any use of land near such airport, which obstructs
18 or causes an obstruction to the airspace required for the
19 flight of aircraft in landing or taking off at such airport or
20 is otherwise hazardous to landing or taking off at such
21 airport.

22 (3) "Airport master planning" means the development,
23 for planning purposes, of information and guidance to
24 determine the extent, type, and nature of development needed
25 at a specific airport.

26 (4) "Airport or aviation development project" or
27 "development project" means any activity associated with the
28 design, construction, purchase, improvement, or repair of a
29 public-use airport or portion thereof, including, but not
30 limited to: the purchase of equipment; the acquisition of
31 land, including land required as a condition of a federal,

1 state, or local permit or agreement for environmental
2 mitigation; off-site airport noise mitigation projects; the
3 removal, lowering, relocation, marking, and lighting of
4 airport hazards; the installation of navigation aids used by
5 aircraft in landing at or taking off from a public airport;
6 the installation of safety equipment required by rule or
7 regulation for certification of the airport under s. 612 of
8 the Federal Aviation Act of 1958, and amendments thereto; and
9 the improvement of access to the airport by road or rail
10 system which is on airport property and which is consistent,
11 to the maximum extent feasible, with the approved local
12 government comprehensive plan of the units of local government
13 in which the airport is located.

14 (5) "Airport or aviation discretionary capacity
15 improvement projects" or "discretionary capacity improvement
16 projects" means capacity improvements which are consistent, to
17 the maximum extent feasible, with the approved local
18 government comprehensive plans of the units of local
19 government in which the airport is located, and which enhance
20 intercontinental capacity at airports which:

21 (a) Are international airports with United States
22 Customs Service;

23 (b) Had one or more regularly scheduled
24 intercontinental flights during the previous calendar year or
25 have an agreement in writing for installation of one or more
26 regularly scheduled intercontinental flights upon the
27 commitment of funds for stipulated airport capital
28 improvements; and

29 (c) Have available or planned public ground
30 transportation between the airport and other major
31 transportation facilities.

1 (6) "Aviation system planning" means the development
2 of comprehensive aviation plans designed to achieve and
3 facilitate the establishment of a statewide, integrated
4 aviation system in order to meet the current and future
5 aviation needs of this state.

6 (7) "Eligible agency" means a political subdivision of
7 the state or an authority which owns or seeks to develop a
8 public-use airport.

9 (8) "Federal aid" means funds made available from the
10 Federal Government for the accomplishment of airport or
11 aviation development projects.

12 (9) "Florida airport system" means all existing
13 public-use airports that are owned and operated within the
14 state and those public-use airports which will be developed
15 and made operational in the future.

16 (10) "Landing area" means that area used or intended
17 to be used for the landing, takeoff, or surface maneuvering of
18 an aircraft.

19 (11) "Planning agency" means any agency authorized by
20 the laws of the state or by a political subdivision to engage
21 in area planning for the areas in which assistance under this
22 act is contemplated.

23 (12) "Project" means a project for the accomplishment
24 of airport or aviation development or airport master planning.

25 (13) "Project cost" means any cost involved in
26 accomplishing a project.

27 (14) "Public-use airport" means any publicly owned
28 airport which is used or to be used for public purposes.

29 (15) "Sponsor" means any eligible agency which, either
30 individually or jointly with one or more eligible agencies,
31 submits to the department an application for financial

1 assistance for an airport development project in accordance
2 with this act.

3 Section 11. Section 334.044, Florida Statutes, is
4 amended to read:

5 334.044 Department; powers and duties.--The department
6 shall have the following general powers and duties:

7 (1) To assume the responsibility for coordinating the
8 planning of a safe, viable, and balanced state transportation
9 system serving all regions of the state, and to assure the
10 compatibility of all components, including multimodal
11 facilities.

12 (2) To adopt rules pursuant to ss. 120.536(1) and
13 120.54 to implement the provisions of law conferring duties
14 upon it.

15 (3) To adopt an official seal.

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

20 (5) To purchase, lease, or otherwise acquire property
21 and materials, including the purchase of promotional items as
22 part of public information and education campaigns for the
23 promotion of traffic and train safety awareness, alternatives
24 to single occupant vehicle travel, and commercial motor
25 vehicle safety; to purchase, lease or otherwise acquire
26 equipment and supplies; and to sell, exchange, or otherwise
27 dispose of any property that ~~which~~ is no longer needed by the
28 department.

29 (6) To acquire, by the exercise of the power of
30 eminent domain as provided by law, all property or property
31 rights, whether public or private, which it finds ~~may~~

1 ~~determine~~ are necessary to the performance of its duties and
2 the execution of its powers.

3 (7) To enter into contracts and agreements.

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

5 (9) To employ and train staff, and to contract with
6 qualified consultants. For the purposes of chapters 471 and
7 472, the department shall be considered a firm.

8 (10)(a) To develop and adopt uniform minimum standards
9 and criteria for the design, construction, maintenance, and
10 operation of public roads pursuant to the provisions of s.
11 336.045.

12 (b) The department shall periodically review its
13 construction, design, and maintenance standards to ensure that
14 such standards are cost-effective and consistent with
15 applicable federal regulations and state law.

16 (11) To establish a numbering system for public roads,
17 to functionally classify such roads, and to assign
18 jurisdictional responsibility.

19 (12) To coordinate the planning of the development of
20 public transportation facilities within the state and the
21 provision of related transportation services as authorized by
22 law.

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

26 (14) To establish, control, and prohibit points of
27 ingress to, and egress from, the State Highway System, the
28 turnpike, and other transportation facilities under the
29 department's jurisdiction as necessary to ensure the safe,
30 efficient, and effective maintenance and operation of such
31 facilities.

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

4 (a) Such regulation shall be through a permitting
5 process designed to ensure the safety and integrity of the
6 Department of Transportation facilities and to prevent an
7 unreasonable burden on lower properties.

8 (b) The department is specifically authorized to adopt
9 rules which set forth the purpose; necessary definitions;
10 permit exceptions; permit and assurance requirements; permit
11 application procedures; permit forms; general conditions for a
12 drainage permit; provisions for suspension or revocation of a
13 permit; and provisions for department recovery of fines,
14 penalties, and costs incurred due to permittee actions. In
15 order to avoid duplication and overlap with other units of
16 government, the department shall accept a surface water
17 management permit issued by a water management district, the
18 Department of Environmental Protection, a surface water
19 management permit issued by a delegated local government, or a
20 permit issued pursuant to an approved Stormwater Management
21 Plan or Master Drainage Plan; provided issuance is based on
22 requirements equal to or more stringent than those of the
23 department.

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

28 (17) To designate limited access facilities on the
29 State Highway System and turnpike projects; to plan,
30 construct, maintain, and operate service roads in connection
31

1 with such facilities; and to regulate, reconstruct, or realign
2 any existing public road as a service road.

3 (18) To establish and maintain bicycle and pedestrian
4 ways.

5 (19) To encourage and promote the development of
6 multimodal transportation alternatives.

7 (20) To conduct research studies, and to collect data
8 necessary for the improvement of the state transportation
9 system.

10 (21) To conduct research and demonstration projects
11 relative to innovative transportation technologies.

12 (22) To cooperate with and assist local governments in
13 the development of a statewide transportation system and in
14 the development of the individual components of the system.

15 (23) To cooperate with the transportation department
16 or duly authorized commission or authority of any state in the
17 development and construction of transportation facilities
18 physically connecting facilities of this state with those
19 facilities of any adjoining state.

20 (24) To identify, obtain, and administer all federal
21 funds available to the department for all transportation
22 purposes.

23 (25) To do all things necessary to obtain the full
24 benefits of the national Highway Safety Act of 1966, and in so
25 doing, to cooperate with federal and state agencies, public
26 and private agencies, interested organizations, and
27 individuals to effectuate the purposes of that act, and any
28 and all amendments thereto. The Governor shall have the
29 ultimate state responsibility for dealing with the Federal
30 Government in respect to programs and activities initiated
31

1 pursuant to the national Highway Safety Act of 1966, and any
2 amendments thereto.

3 (26) To provide for the conservation of natural
4 roadside growth and scenery and for the implementation and
5 maintenance of roadside beautification programs. To accomplish
6 this, for fiscal years 1999-2000, 2000-2001, and 2001-2002 no
7 less than 1 percent, and for subsequent fiscal years no less
8 than 1.5 percent of the amount contracted for construction
9 projects shall be allocated by the department to
10 beautification programs. Except where prohibited by federal
11 law or federal regulation and to the extent practical, a
12 minimum of 50 percent of these funds shall be used to purchase
13 large plant materials with the remaining funds for other plant
14 materials and these materials shall be purchased from
15 Florida-based nurseryman stock on a uniform competitive bid
16 basis. The department will develop grades and standards for
17 landscaping materials purchased through this process. To
18 accomplish these activities, the department may contract with
19 nonprofit organizations having the primary purpose of
20 developing youth employment opportunities.

21 (27) To conduct studies and provide coordination to
22 assess the needs associated with landside ingress and egress
23 to port facilities, and to coordinate with local governmental
24 entities to ensure that port facility access routes are
25 properly integrated with other transportation facilities.

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

30 (29) To advance funds for projects in the department's
31 adopted work program to governmental entities prior to

1 commencement of the project or project phase when the advance
2 has been authorized by the department's comptroller and is
3 made pursuant to a written agreement between the department
4 and a governmental entity.

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

7 Section 12. Subsection (3) of section 335.02, Florida
8 Statutes, is amended to read:

9 335.02 Authority to designate transportation
10 facilities and rights-of-way and establish lanes; procedure
11 for redesignation and relocation.--

12 (3) The department may establish standards for lanes
13 on the State Highway System, including the Florida Intrastate
14 Highway System established pursuant to s. 338.001. In
15 determining the number of lanes for any regional corridor or
16 section of highway on the State Highway System to be funded by
17 the department with state or federal funds, the department
18 shall evaluate all alternatives and seek to achieve the
19 highest degree of efficient mobility for corridor users. In
20 conducting the analysis, the department must give
21 consideration to the following factors consistent with sound
22 engineering principles:

23 (a) Overall economic importance of the corridor as a
24 trade or tourism corridor;

25 (b) Safety of corridor users, including the importance
26 of the corridor for evacuation purposes;

27 (c) Cost-effectiveness of alternative methods of
28 increasing the mobility of corridor users;

29 (d) Current and projected traffic volumes on the
30 corridor;

31 (e) Multimodal alternatives;

1 (f) Use of intelligent transportation technology in
2 increasing the efficiency of the corridor;

3 (g) Compliance with state and federal policies related
4 to clean-air environmental impacts, growth management, livable
5 communities, and energy conservation;

6 (h) Addition of special-use lanes, such as exclusive
7 truck lanes, high-occupancy-vehicle toll lanes, and exclusive
8 interregional traffic lanes;

9 (i) Availability and cost of rights-of-way, including
10 associated costs, and the most effective use of existing
11 rights-of-way;

12 (j) Regional economic and transportation objectives,
13 where articulated;

14 (k) The future land use plan element of local
15 government comprehensive plans, as appropriate, including
16 designated urban infill and redevelopment areas;

17 (l) The traffic circulation element, if applicable, of
18 local government comprehensive plans, including designated
19 transportation corridors and public transportation corridors;
20 and

21 (m) The approved metropolitan planning organization's
22 long-range transportation plan, as appropriate.

23
24 This subsection does not preclude a number of lanes in excess
25 of 10 lanes, but an additional factor that must be considered
26 before the department may determine that the number of lanes
27 should be more than 10 is the capacity to accommodate in the
28 future alternative forms of transportation within existing or
29 potential rights-of-way.~~The standards may include the maximum~~
30 ~~number of lanes to be provided by state funds and access~~
31 ~~requirements for such facilities.~~

1 Section 13. Subsections (3), (4), and (5) of section
2 335.141, Florida Statutes, are amended to read:

3 335.141 Regulation of public railroad-highway grade
4 crossings; reduction of hazards.--

5 ~~(3) The department is authorized to regulate the speed~~
6 ~~limits of railroad traffic on a municipal, county, regional,~~
7 ~~or statewide basis. Such speed limits shall be established by~~
8 ~~order of the department, which order is subject to the~~
9 ~~provisions of chapter 120. The department shall have the~~
10 ~~authority to adopt reasonable rules to carry out the~~
11 ~~provisions of this subsection. Such rules shall, at a minimum,~~
12 ~~provide for public input prior to the issuance of any such~~
13 ~~order.~~

14 (3)~~(4)~~ Jurisdiction to enforce such orders shall be as
15 provided in s. 316.640, and any penalty for violation thereof
16 shall be imposed upon the railroad company guilty of such
17 violation. Nothing herein shall prevent a local governmental
18 entity from enacting ordinances relating to the blocking of
19 streets by railroad engines and cars.

20 (4)~~(5)~~ Any local governmental entity or other public
21 or private agency planning a public event, such as a parade or
22 race, that involves the crossing of a railroad track shall
23 notify the railroad as far in advance of the event as possible
24 and in no case less than 72 hours in advance of the event so
25 that the coordination of the crossing may be arranged by the
26 agency and railroad to assure the safety of the railroad
27 trains and the participants in the event.

28 Section 14. Subsection (4) is added to section 336.41,
29 Florida Statutes, to read:

30 336.41 Counties; employing labor and providing road
31 equipment; definitions.--

1 (4) For contracts in excess of \$250,000, the
2 commissioners may require that persons interested in bidding
3 first be certified as qualified to perform the work. Any
4 contractor prequalified by the state shall be presumed
5 qualified to perform work contemplated by such
6 prequalification. Any determinations of qualification or
7 responsibility shall be subject to due process protections.
8 Notwithstanding any other statute or regulation, any person
9 aggrieved by such a determination shall have the rights
10 afforded by chapter 120 relating to agency determinations of a
11 substantial interest of a party.

12 Section 15. Subsection (2) of section 336.44, Florida
13 Statutes, is amended to read:

14 336.44 Counties; contracts for construction of roads;
15 procedure; contractor's bond.--

16 (2) Such contracts shall be let to the lowest
17 responsible ~~competent~~ bidder, after publication of notice for
18 bids containing specifications furnished by the commissioners
19 in a newspaper published in the county where such contract is
20 made, at least once each week for 2 consecutive weeks prior to
21 the making of such contract.

22 Section 16. Paragraph (a) of subsection (1) of section
23 255.20, Florida Statutes, is amended to read:

24 255.20 Local bids and contracts for public
25 construction works; specification of state-produced lumber.--

26 (1) A county, municipality, special district as
27 defined in chapter 189, or other political subdivision of the
28 state seeking to construct or improve a public building,
29 structure, or other public construction works must
30 competitively award to an appropriately licensed contractor
31 each project that is estimated in accordance with generally

1 | accepted cost-accounting principles to have total construction
2 | project costs of more than \$200,000. For electrical work,
3 | local government must competitively award to an appropriately
4 | licensed contractor each project that is estimated in
5 | accordance with generally accepted cost-accounting principles
6 | to have a cost of more than \$50,000. As used in this section,
7 | the term "competitively award" means to award contracts based
8 | on the submission of sealed bids, proposals submitted in
9 | response to a request for proposal, proposals submitted in
10 | response to a request for qualifications, or proposals
11 | submitted for competitive negotiation. This subsection
12 | expressly allows contracts for construction management
13 | services, design/build contracts, continuation contracts based
14 | on unit prices, and any other contract arrangement with a
15 | private sector contractor permitted by any applicable
16 | municipal or county ordinance, by district resolution, or by
17 | state law. For purposes of this section, construction costs
18 | include the cost of all labor, except inmate labor, and
19 | include the cost of equipment and materials to be used in the
20 | construction of the project. Subject to the provisions of
21 | subsection (3), the county, municipality, special district, or
22 | other political subdivision may establish, by municipal or
23 | county ordinance or special district resolution, procedures
24 | for conducting the bidding process.

25 | (a) The provisions of this subsection do not apply:

26 | 1. When the project is undertaken to replace,
27 | reconstruct, or repair an existing facility damaged or
28 | destroyed by a sudden unexpected turn of events, such as an
29 | act of God, riot, fire, flood, accident, or other urgent
30 | circumstances, and such damage or destruction creates:

31 | a. An immediate danger to the public health or safety;

1 b. Other loss to public or private property which
2 requires emergency government action; or

3 c. An interruption of an essential governmental
4 service.

5 2. When, after notice by publication in accordance
6 with the applicable ordinance or resolution, the governmental
7 entity does not receive any responsive bids or responses.

8 3. To construction, remodeling, repair, or improvement
9 to a public electric or gas utility system when such work on
10 the public utility system is performed by personnel of the
11 system.

12 4. To construction, remodeling, repair, or improvement
13 by a utility commission whose major contracts are to construct
14 and operate a public electric utility system.

15 5. When the project is undertaken as repair or
16 maintenance of an existing public facility.

17 6. When the project is undertaken exclusively as part
18 of a public educational program.

19 7. When the funding source of the project will be
20 diminished or lost because the time required to competitively
21 award the project after the funds become available exceeds the
22 time within which the funding source must be spent.

23 8. When the local government has competitively awarded
24 a project to a private sector contractor and the contractor
25 has abandoned the project before completion or the local
26 government has terminated the contract.

27 9. When the governing board of the local government,
28 after public notice, conducts a public meeting under s.
29 286.011 and finds by a majority vote of the governing board
30 that it is in the public's best interest to perform the
31 project using its own services, employees, and equipment. The

1 public notice must be published at least 14 days prior to the
2 date of the public meeting at which the governing board takes
3 final action to apply this subparagraph. The notice must
4 identify the project, the estimated cost of the project, and
5 specify that the purpose for the public meeting is to consider
6 whether it is in the public's best interest to perform the
7 project using the local government's own services, employees,
8 and equipment. In deciding whether it is in the public's best
9 interest for local government to perform a project using its
10 own services, employees, and equipment, the governing board
11 may consider the cost of the project, whether the project
12 requires an increase in the number of government employees, an
13 increase in capital expenditures for public facilities,
14 equipment or other capital assets, the impact on local
15 economic development, the impact on small and minority
16 business owners, the impact on state and local tax revenues,
17 whether the private sector contractors provide health
18 insurance and other benefits equivalent to those provided by
19 the local government, and any other factor relevant to what is
20 in the public's best interest.

21 10. When the governing board of the local government
22 determines upon consideration of specific substantive criteria
23 and administrative procedures that it is in the best interest
24 of the local government to award the project to an
25 appropriately licensed private sector contractor according to
26 procedures established by and expressly set forth in a
27 charter, ordinance, or resolution of the local government
28 adopted prior to July 1, 1994. The criteria and procedures
29 must be set out in the charter, ordinance, or resolution and
30 must be applied uniformly by the local government to avoid
31

1 award of any project in an arbitrary or capricious manner.
2 This exception shall apply when all of the following occur:
3 a. When the governing board of the local government,
4 after public notice, conducts a public meeting under s.
5 286.011 and finds by a two-thirds vote of the governing board
6 that it is in the public's best interest to award the project
7 according to the criteria and procedures established by
8 charter, ordinance, or resolution. The public notice must be
9 published at least 14 days prior to the date of the public
10 meeting at which the governing board takes final action to
11 apply this subparagraph. The notice must identify the
12 project, the estimated cost of the project, and specify that
13 the purpose for the public meeting is to consider whether it
14 is in the public's best interest to award the project using
15 the criteria and procedures permitted by the preexisting
16 ordinance.
17 b. In the event the project is to be awarded by any
18 method other than a competitive selection process, the
19 governing board must find evidence that:
20 (I) There is one appropriately licensed contractor who
21 is uniquely qualified to undertake the project because that
22 contractor is currently under contract to perform work that is
23 affiliated with the project; or
24 (II) The time to competitively award the project will
25 jeopardize the funding for the project, or will materially
26 increase the cost of the project or will create an undue
27 hardship on the public health, safety, or welfare.
28 c. In the event the project is to be awarded by any
29 method other than a competitive selection process, the
30 published notice must clearly specify the ordinance or
31

1 resolution by which the private sector contractor will be
2 selected and the criteria to be considered.

3 d. In the event the project is to be awarded by a
4 method other than a competitive selection process, the
5 architect or engineer of record has provided a written
6 recommendation that the project be awarded to the private
7 sector contractor without competitive selection; and the
8 consideration by, and the justification of, the government
9 body are documented, in writing, in the project file and are
10 presented to the governing board prior to the approval
11 required in this paragraph.

12 11. To projects subject to chapter 336.

13 Section 17. Paragraph (b) of subsection (1) of section
14 348.0004, Florida Statutes, is amended to read:

15 348.0004 Purposes and powers.--

16 (1)

17 (b) Each authority, in the construction of an
18 expressway system, shall construct expressways. For contracts
19 in excess of \$250,000, the authority may require that persons
20 interested in bidding first be certified as qualified to
21 perform the work. Any contractor prequalified by the state
22 shall be presumed qualified to perform work contemplated by
23 such prequalification. Any determinations of qualification or
24 responsibility shall be subject to due process protections.
25 Notwithstanding any other statute or regulation, any person
26 aggrieved by such a determination shall have the rights
27 afforded by chapter 120 relating to agency determinations of a
28 substantial interest of the parties. Construction of an
29 expressway system may be completed in segments, phases, or
30 stages, in a manner which will permit the expansion of these
31 segments, phases, or stages to the desired expressway

1 configuration. Each authority, in the construction of an
2 expressway system, may construct any extensions of, additions
3 to, or improvements to, the expressway system or appurtenant
4 facilities, including all necessary approaches, roads,
5 bridges, and avenues of access, with such changes,
6 modifications, or revisions of the project that are deemed
7 desirable and proper. An authority may only add additional
8 expressways to an expressway system, under the terms and
9 conditions set forth in the Florida Expressway Authority Act,
10 with the prior express written consent of the board of county
11 commissioners of each county located within the geographic
12 boundaries of the authority, and only if such additional
13 expressways lack adequate committed funding for
14 implementation, are financially feasible, and are compatible
15 with the existing plans, projects, and programs of the
16 authority.

17 Section 18. Subsection (2) of section 348.219, Florida
18 Statutes, is amended to read:

19 348.219 Purposes and powers.--

20 (2) It is the express intention of this part that the
21 authority, in the construction of the Brevard County
22 Expressway System, be authorized to construct any extensions,
23 additions, or improvements to such system or appurtenant
24 facilities, including all necessary approaches, roads,
25 bridges, and avenues of access, with such changes,
26 modifications, or revisions of such project as are deemed
27 desirable and proper. For contracts in excess of \$250,000, the
28 authority may require that persons interested in bidding first
29 be certified as qualified to perform the work. Any contractor
30 prequalified by the state shall be presumed qualified to
31 perform work contemplated by such prequalification. Any

1 determinations of qualification or responsibility shall be
2 subject to due process protections. Notwithstanding any other
3 statute or regulation, any person aggrieved by such a
4 determination shall have the rights afforded by chapter 120
5 relating to agency determinations of a substantial interest of
6 the parties.

7 Section 19. Paragraph (b) of subsection (1) of section
8 348.243, Florida Statutes, is amended to read:

9 348.243 Purposes and powers.--

10 (1)

11 (b) It is the express intention of this part that the
12 authority, in the construction of the system, be authorized to
13 construct and shall construct roadways commonly known as the
14 noninterstate funded portions of the I-595/Port Everglades
15 Expressway, the Deerfield Expressway, and the Sawgrass
16 Expressway. Construction of the system may be completed in
17 segments, phases, or stages, in a manner which will permit the
18 expansion of these segments, phases, or stages to the desired
19 expressway configuration. Further, it is the express
20 intention of this part that the authority, in the construction
21 of the system, be authorized to construct any extensions of,
22 additions to, or improvements to the system or appurtenant
23 facilities, including all necessary approaches, roads,
24 bridges, and avenues of access, with such changes,
25 modifications, or revisions of the project that are deemed
26 desirable and proper. The authority may ~~only~~ add additional
27 expressways to the system, under the terms and conditions set
28 forth in this part, only with the prior express written
29 consent of the Broward County Board of County Commissioners,
30 and only in the event that such additional expressways lack
31 adequate committed funding for implementation, are financially

1 feasible, and are compatible with the existing plans,
2 projects, and programs of the authority. For contracts in
3 excess of \$250,000, the authority may require that persons
4 interested in bidding first be certified as qualified to
5 perform the work. Any contractor prequalified by the state
6 shall be presumed qualified to perform work contemplated by
7 such prequalification. Any determinations of qualification or
8 responsibility shall be subject to due process protections.
9 Notwithstanding any other statute or regulation, any person
10 aggrieved by such a determination shall have the rights
11 afforded by chapter 120 relating to agency determinations of a
12 substantial interest of the parties.

13 Section 20. Section 348.53, Florida Statutes, is
14 amended to read:

15 348.53 Purposes of the authority.--The authority is
16 created for the purposes and shall have power to construct,
17 reconstruct, improve, extend, repair, maintain and operate the
18 expressway system. It is hereby found and declared that such
19 purposes are in all respects for the benefit of the people of
20 the State of Florida, City of Tampa and the County of
21 Hillsborough, for the increase of their pleasure, convenience
22 and welfare, for the improvement of their health, to
23 facilitate transportation for their recreation and commerce
24 and for the common defense. The authority shall be performing
25 a public purpose and a governmental function in carrying out
26 its corporate purpose and in exercising the powers granted
27 herein. For contracts in excess of \$250,000, the authority may
28 require that persons interested in bidding first be certified
29 as qualified to perform the work. Any contractor prequalified
30 by the state shall be presumed qualified to perform work
31 contemplated by such prequalification. Any determinations of

1 qualification or responsibility shall be subject to due
2 process protections. Notwithstanding any other statute or
3 regulation, any person aggrieved by such a determination shall
4 have the rights afforded by chapter 120 relating to agency
5 determinations of a substantial interest of the parties.

6 Section 21. Paragraph (b) of subsection (1) of section
7 348.754, Florida Statutes, is amended to read:

8 348.754 Purposes and powers.--

9 (1)

10 (b) It is the express intention of this part that said
11 authority, in the construction of said Orlando-Orange County
12 Expressway System, shall be authorized to construct any
13 extensions, additions or improvements to said system or
14 appurtenant facilities, including all necessary approaches,
15 roads, bridges and avenues of access, with such changes,
16 modifications or revisions of said project as shall be deemed
17 desirable and proper. For contracts in excess of \$250,000, the
18 authority may require that persons interested in bidding first
19 be certified as qualified to perform the work. Any contractor
20 prequalified by the state shall be presumed qualified to
21 perform work contemplated by such prequalification. Any
22 determinations of qualification or responsibility shall be
23 subject to due process protections. Notwithstanding any other
24 statute or regulation, any person aggrieved by such a
25 determination shall have the rights afforded by chapter 120
26 relating to agency determinations of a substantial interest of
27 the parties.

28 Section 22. Paragraph (b) of subsection (1) of section
29 348.83, Florida Statutes, is amended to read:

30 348.83 Purposes and powers.--

31 (1)

1 (b) It is the express intention of this part that said
2 authority, in the construction of the Pasco County Expressway
3 System, shall be authorized to construct any extensions,
4 additions, or improvements to the system or appurtenant
5 facilities, including all necessary approaches, roads,
6 bridges, and avenues of access, with such changes,
7 modifications, or revisions of the project as shall be deemed
8 desirable and proper. For contracts in excess of \$250,000, the
9 authority may require that persons interested in bidding first
10 be certified as qualified to perform the work. Any contractor
11 prequalified by the state shall be presumed qualified to
12 perform work contemplated by such prequalification. Any
13 determinations of qualification or responsibility shall be
14 subject to due process protections. Notwithstanding any other
15 statute or regulation, any person aggrieved by such a
16 determination shall have the rights afforded by chapter 120
17 relating to agency determinations of a substantial interest of
18 the parties.

19 Section 23. Paragraph (b) of subsection (1) of section
20 348.943, Florida Statutes, is amended to read:

21 348.943 Purposes and powers.--

22 (1)

23 (b) It is the express intention of this part that the
24 authority, in the construction of the system, be authorized to
25 construct any extensions, additions, or improvements to the
26 system or appurtenant facilities, including all necessary
27 approaches, roads, bridges, and avenues of access, with such
28 changes, modifications, or revisions of the project as are
29 deemed desirable and proper. For contracts in excess of
30 \$250,000, the authority may require that persons interested in
31 bidding first be certified as qualified to perform the work.

1 Any contractor prequalified by the state shall be presumed
2 qualified to perform work contemplated by such
3 prequalification. Any determinations of qualification or
4 responsibility shall be subject to due process protections.
5 Notwithstanding any other statute or regulation, any person
6 aggrieved by such a determination shall have the rights
7 afforded by chapter 120 relating to agency determinations of a
8 substantial interest of the parties.

9 Section 24. Paragraph (b) of subsection (1) of section
10 348.953, Florida Statutes, is amended to read:

11 348.953 Purposes and powers.--

12 (1)

13 (b) It is the express intention of this part that said
14 authority, in the construction of the Seminole County
15 Expressway System, shall be authorized to construct any
16 extensions, additions, or improvements to the system or
17 appurtenant facilities, including all necessary approaches,
18 roads, bridges, and avenues of access, with such changes,
19 modifications, or revisions of the project as shall be deemed
20 desirable and proper. For contracts in excess of \$250,000, the
21 authority may require that persons interested in bidding first
22 be certified as qualified to perform the work. Any contractor
23 prequalified by the state shall be presumed qualified to
24 perform work contemplated by such prequalification. Any
25 determinations of qualification or responsibility shall be
26 subject to due process protections. Notwithstanding any other
27 statute or regulation, any person aggrieved by such a
28 determination shall have the rights afforded by chapter 120
29 relating to agency determinations of a substantial interest of
30 the parties.

31

1 Section 25. Paragraph (b) of subsection (1) of section
2 348.968, Florida Statutes, is amended to read:

3 348.968 Purposes and powers.--

4 (1)

5 (b) It is the express intention of this part that the
6 authority, in the construction of the system, be authorized to
7 construct any extensions, additions, or improvements to the
8 system or appurtenant facilities, including all necessary
9 approaches and avenues of access, with such changes,
10 modifications, or revisions of the project as are deemed
11 desirable and proper. For contracts in excess of \$250,000, the
12 authority may require that persons interested in bidding first
13 be certified as qualified to perform the work. Any contractor
14 prequalified by the state shall be presumed qualified to
15 perform work contemplated by such prequalification. Any
16 determinations of qualification or responsibility shall be
17 subject to due process protections. Notwithstanding any other
18 statute or regulation, any person aggrieved by such a
19 determination shall have the rights afforded by chapter 120
20 relating to agency determinations of a substantial interest of
21 the parties.

22 Section 26. Paragraph (b) of subsection (1) of section
23 349.04, Florida Statutes, is amended to read:

24 349.04 Purposes and powers.--

25 (1)

26 (b) The authority may, in addition, acquire, hold,
27 construct, improve, operate, maintain, and lease in the
28 capacity of lessor a mass transit system employing motor cars
29 or buses; street railway systems beneath the surface, on the
30 surface, or above the surface; or any other means determined
31 useful to the rapid transfer of large numbers of people among

1 the locations of residence, commerce, industry, and education
2 in the City of Jacksonville. For contracts in excess of
3 \$250,000, the authority may require that persons interested in
4 bidding first be certified as qualified to perform the work.
5 Any contractor prequalified by the state shall be presumed
6 qualified to perform work contemplated by such
7 prequalification. Any determinations of qualification or
8 responsibility shall be subject to due process protections.
9 Notwithstanding any other statute or regulation, any person
10 aggrieved by such a determination shall have the rights
11 afforded by chapter 120 relating to agency determinations of a
12 substantial interest of the parties.

13 Section 27. Paragraph (b) of subsection (1) of section
14 336.025, Florida Statutes, is amended to read:

15 336.025 County transportation system; levy of local
16 option fuel tax on motor fuel and diesel fuel.--

17 (1)

18 (b) In addition to other taxes allowed by law, there
19 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
20 3-cent, 4-cent, or 5-cent local option fuel tax upon every
21 gallon of motor fuel sold in a county and taxed under the
22 provisions of part I of chapter 206. The tax shall be levied
23 by an ordinance adopted by a majority plus one vote of the
24 membership of the governing body of the county or by
25 referendum.

26 1. The tax shall be levied before July 1, to be
27 effective January 1 of the following year. However, levies of
28 the tax which were in effect on July 1, 1996, and which expire
29 on August 31 of any year may be reimposed effective September
30 1 of the year of expiration.

31

1 2. The county may, prior to levy of the tax, establish
2 by interlocal agreement with one or more municipalities
3 located therein, representing a majority of the population of
4 the incorporated area within the county, a distribution
5 formula for dividing the entire proceeds of the tax among
6 county government and all eligible municipalities within the
7 county. If no interlocal agreement is adopted before the
8 effective date of the tax, tax revenues shall be distributed
9 pursuant to the provisions of subsection (4). If no
10 interlocal agreement exists, a new interlocal agreement may be
11 established prior to June 1 of any year pursuant to this
12 subparagraph. However, any interlocal agreement agreed to
13 under this subparagraph after the initial levy of the tax or
14 change in the tax rate authorized in this section shall under
15 no circumstances materially or adversely affect the rights of
16 holders of outstanding bonds which are backed by taxes
17 authorized by this paragraph, and the amounts distributed to
18 the county government and each municipality shall not be
19 reduced below the amount necessary for the payment of
20 principal and interest and reserves for principal and interest
21 as required under the covenants of any bond resolution
22 outstanding on the date of establishment of the new interlocal
23 agreement.

24 3. County and municipal governments shall utilize
25 moneys received pursuant to this paragraph only for
26 transportation expenditures needed to meet the requirements of
27 the capital improvements element of an adopted comprehensive
28 plan. For purposes of this paragraph, expenditures for the
29 construction of new roads, or the reconstruction or
30 resurfacing of existing paved roads, or the paving of existing
31 graded roads when undertaken in part to relieve or mitigate

1 existing or potential adverse environmental impacts, shall be
2 deemed to increase capacity and such projects shall be
3 included in the capital improvements element of an adopted
4 comprehensive plan. Expenditures for purposes of this
5 paragraph shall not include routine maintenance of roads.

6 Section 28. Paragraph (a) of subsection (7) of section
7 337.11, Florida Statutes, is amended to read:

8 337.11 Contracting authority of department; bids;
9 emergency repairs, supplemental agreements, and change orders;
10 combined design and construction contracts; progress payments;
11 records; requirements of vehicle registration.--

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

27 Section 29. Subsection (4) of section 337.14, Florida
28 Statutes, is amended to read:

29 337.14 Application for qualification; certificate of
30 qualification; restrictions; request for hearing.--

31

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

19 Section 30. Section 337.175, Florida Statutes, is
20 amended to read:

21 337.175 Retainage.--The department may ~~shall~~ provide
22 in its construction contracts for retaining a portion of the
23 amount due a contractor for work that the contractor has
24 completed, until completion and final acceptance of the
25 project by the department. If the department allows ~~However~~,
26 contractors may ~~shall be allowed to~~ substitute securities as
27 provided by s. 255.052, or ~~to~~ substitute certificates of
28 deposit or irrevocable letters of credit approved by the
29 department comptroller in lieu of retainage.

30 Section 31. Subsection (1) of section 338.161, Florida
31 Statutes, is amended to read:

1 338.161 Authority of department to advertise and
2 promote electronic toll collection.--

3 (1) The department is authorized to incur expenses for
4 paid advertising, marketing, and promotion of toll facilities
5 and electronic toll collection products and services.

6 Promotions may include discounts and free products.

7 Section 32. Subsection (6) of section 338.165, Florida
8 Statutes, is amended to read:

9 338.165 Continuation of tolls.--

10 (6) Notwithstanding the provisions of subsection (1),
11 and not including high-occupancy toll lanes or express lanes,
12 no tolls may be charged for use of an interstate highway where
13 tolls were not charged as of July 1, 1997.

14 Section 33. Paragraph (c) of subsection (4) of section
15 339.12, Florida Statutes, is amended to read:

16 339.12 Aid and contributions by governmental entities
17 for department projects; federal aid.--

18 (4)

19 (c) The department may ~~is authorized to~~ enter into
20 agreements under this subsection for a project or project
21 phase not included in the adopted work program. As used in
22 this paragraph, the term "project phase" means acquisition of
23 rights-of-way, construction, construction inspection, and
24 related support phases. The project or project phase must be
25 a high priority of the governmental entity. Reimbursement for
26 a project or project phase must be made from funds
27 appropriated by the Legislature pursuant to s. 339.135(5). All
28 other provisions of this subsection apply to agreements
29 entered into under this paragraph. ~~At no time shall~~ The total
30 amount of project agreements for projects or project phases
31

1 not included in the adopted work program may not at any time
2 exceed ~~\$100~~\$50 million.

3 Section 34. Paragraph (b) of subsection (4) of section
4 339.135, Florida Statutes, is amended to read:

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

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

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

21 2. The tentative work program shall be developed in
22 accordance with the Florida Transportation Plan required in s.
23 339.155 and must comply with the program funding levels
24 contained in the program and resource plan.

25 ~~3. The tentative work program must specifically~~
26 ~~identify advanced right-of-way acquisition projects and must~~
27 ~~separately allocate funds for advanced right-of-way~~
28 ~~acquisition phases in each fiscal year, as provided in s.~~
29 ~~337.276. Each right-of-way phase that is to be funded through~~
30 ~~these programs shall be specifically identified in the work~~
31 ~~program, and the year, if known, in which construction~~

1 ~~utilizing the right-of-way is projected to begin shall be~~
2 ~~identified.~~

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

25 4.5. The tentative work program must include a
26 balanced 36-month forecast of cash and expenditures and a
27 5-year finance plan supporting the tentative work program.

28 Section 35. Paragraph (c) of subsection (6) of section
29 339.155, Florida Statutes, is amended to read:

30 339.155 Transportation planning.--

31

1 (6) PROCEDURES FOR PUBLIC PARTICIPATION IN
2 TRANSPORTATION PLANNING.--

3 (c) Opportunity for design hearings:

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

9 a. Those whose property lies in whole or in part
10 within 300 feet on either side of the centerline of the
11 proposed facility.

12 b. Those whom ~~who~~ the department determines will be
13 substantially affected environmentally, economically,
14 socially, or safetywise.

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

21 3. A copy of the notice of opportunity for the hearing
22 must ~~shall~~ be furnished to the United States Department of
23 Transportation and to the appropriate departments of the state
24 government at the time of publication.

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

27 341.051 Administration and financing of public transit
28 programs and projects.--

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

30 (a) The department may fund up to 50 percent of the
31 nonfederal share of the costs, not to exceed the local share,

1 of any eligible public transit capital project or commuter
2 assistance project that is local in scope; except, however,
3 that departmental participation in the final design,
4 right-of-way acquisition, and construction phases of an
5 individual fixed-guideway project which is not approved for
6 federal funding shall not exceed an amount equal to 12.5
7 percent of the total cost of each phase.

8 ~~(b) The Department of Transportation shall develop a~~
9 ~~major capital investment policy which shall include policy~~
10 ~~criteria and guidelines for the expenditure or commitment of~~
11 ~~state funds for public transit capital projects. The policy~~
12 ~~shall include the following:~~

13 ~~1. Methods to be used to determine consistency of a~~
14 ~~transit project with the approved local government~~
15 ~~comprehensive plans of the units of local government in which~~
16 ~~the project is located.~~

17 ~~2. Methods for evaluating the level of local~~
18 ~~commitment to a transit project, which is to be demonstrated~~
19 ~~through system planning and the development of a feasible plan~~
20 ~~to fund operating cost through fares, value capture techniques~~
21 ~~such as joint development and special districts, or other~~
22 ~~local funding mechanisms.~~

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

26 (b)(c) The department may ~~is authorized to~~ fund up to
27 100 percent of the cost of any eligible transit capital
28 project or commuter assistance project that is statewide in
29 scope or involves more than one county where no other
30 governmental entity or appropriate jurisdiction exists.

31

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

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

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

30 1. Improving system operations, including, but not
31 limited to, realigning route structures, increasing system

1 average speed, decreasing deadhead mileage, expanding area
2 coverage, and improving schedule adherence, for a period of up
3 to 3 years;

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

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

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

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

22 Section 37. Subsection (10) of section 341.302,
23 Florida Statutes, is amended to read:

24 341.302 Rail program, duties and responsibilities of
25 the department.--The department, in conjunction with other
26 governmental units and the private sector, shall develop and
27 implement a rail program of statewide application designed to
28 ensure the proper maintenance, safety, revitalization, and
29 expansion of the rail system to assure its continued and
30 increased availability to respond to statewide mobility needs.
31 Within the resources provided pursuant to chapter 216, and as

1 authorized under Title 49 C.F.R. part 212, the department
2 shall:

3 (10) Administer rail operating and construction
4 programs, which programs shall include ~~the regulation of~~
5 ~~maximum train operating speeds~~, the opening and closing of
6 public grade crossings, the construction and rehabilitation of
7 public grade crossings, and the installation of traffic
8 control devices at public grade crossings, ~~the administering~~
9 ~~of the programs by the department~~ including participation in
10 the cost of the programs.

11 Section 38. Subsection (2) of section 373.4137,
12 Florida Statutes, is amended to read:

13 373.4137 Mitigation requirements.--

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

17 (a) By May 1 of each year, the Department of
18 Transportation shall submit to the Department of Environmental
19 Protection and the water management districts a copy of its
20 tentative ~~adopted~~ work program and an inventory of habitats
21 addressed in the rules adopted ~~tentatively~~, pursuant to this
22 part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344,
23 which may be impacted by its plan of construction for
24 transportation projects in the next 3 years of the tentative
25 work program. The Department of Transportation may also
26 include in its inventory the habitat impacts of any future
27 transportation project identified in the tentative work
28 program.

29 (b) The environmental impact inventory shall include a
30 description of these habitat impacts, including their
31 location, acreage, and type; state water quality

1 classification of impacted wetlands and other surface waters;
2 any other state or regional designations for these habitats;
3 and a survey of threatened species, endangered species, and
4 species of special concern affected by the proposed project.

5 Section 39. This act shall take effect upon becoming a
6 law.

7

8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 1368

10

11 The CS provides refunds to certain motor coaches during idle
12 time.

13 The CS authorizes small ports, with operating revenues of \$5
14 million or less, to use seaport funding for construction and
15 rehabilitation of their port facilities.

16 The CS deletes the requirement that an automobile transporter
17 must acquire a permit from FDOT to operate a vehicle with a
18 height of 14 feet.

19 The CS includes off-site airport noise mitigation projects in
20 the definition of the term "airport or aviation development
21 project" or "development project."

22 The CS provides contractor prequalification by the state is
23 presumed to qualify a contractor to bid on county and
24 expressway authority projects.

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