

By the Committees on Fiscal Policy, Transportation and Senator
Webster

309-1909-00

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, 337.14, F.S.; providing that any
9 contractor prequalified by the State of Florida
10 is presumed qualified to bid on projects in
11 excess of \$250,000 for county and expressway
12 authority projects; amending s. 336.025, F.S.;
13 expanding the authorized uses of the local
14 option fuel tax; amending s. 337.025, F.S.;
15 authorizing highway maintenance projects to be
16 included in the innovative highway program;
17 amending s. 337.11, F.S.; authorizing the
18 department to combine the right-of-way phase of
19 certain projects into a single contract;
20 amending s. 337.14, F.S.; extending the period
21 of validity of contractor prequalification;
22 amending s. 337.175, F.S.; providing for
23 retainage flexibility; amending s. 338.161,
24 F.S.; authorizing the department to promote the
25 use of toll facilities; amending s. 338.165,
26 F.S.; providing an exemption for high-occupancy
27 toll lanes; amending s. 339.12, F.S.;
28 increasing the current cap on the local
29 government advance reimbursement program;
30 amending s. 339.135, F.S.; deleting an obsolete
31 requirement for identification of advanced

1 right-of-way acquisition projects in the
2 tentative work program; amending s. 339.155,
3 F.S.; clarifying the public participation
4 process in transportation planning; conforming
5 provisions to federal requirements; amending s.
6 339.175, F.S.; providing duties of the
7 Metropolitan Planning Technical Advisory
8 Committee; providing for a coordinating
9 committee in certain metropolitan planning
10 organizations; amending s. 341.051, F.S.;
11 deleting an obsolete provision for public
12 transit capital projects; amending s. 343.56,
13 F.S.; authorizing the use of certain federal
14 funds to pay principal and interest on bonds;
15 amending s. 373.4137, F.S.; providing a
16 technical correction; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

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

27 (2)

28 (b) The commission shall have the primary functions

29 to:

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

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

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

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

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

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

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1 7. Recommend to the Governor and the Legislature
2 improvements to the department's organization in order to
3 streamline and optimize the efficiency of the department. The
4 initial report by the commission must be delivered to the
5 Governor and Legislature by December 15, 2000, and each year
6 thereafter, as appropriate. The commission may retain such
7 experts as are reasonably necessary to effectuate this
8 subparagraph, and the department shall pay the expenses of
9 such experts.

10 (3)

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

20 1. Assistant Secretary for Transportation Policy.--

21 a. Development of the Florida Transportation Plan and
22 other policy planning;

23 b. Development of statewide modal systems plans,
24 including public transportation systems;

25 c. Design of transportation facilities;

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

27 e. Acquisition and management of transportation
28 rights-of-way; ~~and-~~

29 f. Administration of motor carrier compliance and
30 safety.

31 2. Assistant Secretary for District Operations.--

- 1 a. Administration of the nine ~~eight~~ districts; and
2 b. Implementation of the decentralization of the
3 department. ~~and~~
4 c. ~~Administration of motor carrier compliance and~~
5 ~~safety.~~
6 3. Assistant Secretary for Finance and
7 Administration.--
8 a. Financial planning and management;
9 b. Information systems;
10 c. Accounting systems;
11 d. Administrative functions; and
12 e. Administration of toll operations.
13 (d)1. Policy, program, or operations offices shall be
14 established within the central office for the purposes of:
15 a. Developing policy and procedures and monitoring
16 performance to ensure compliance with these policies and
17 procedures;
18 b. Performing statewide activities which it is more
19 cost-effective to perform in a central location;
20 c. Assessing and ensuring the accuracy of information
21 within the department's financial management information
22 systems; and
23 d. Performing other activities of a statewide nature.
24 2. The following offices are established and shall be
25 headed by a manager, each of whom shall be appointed by and
26 serve at the pleasure of the secretary. The positions shall be
27 classified at a level equal to a division director:
28 a. The Office of Administration;
29 b. The Office of Policy Planning;
30 c. The Office of Design;
31 d. The Office of Highway Operations;

- 1 e. The Office of Right-of-Way;
2 f. The Office of Toll Operations; ~~and~~
3 g. The Office of Information Systems; ~~and~~;
4 h. The Office of Motor Carrier Compliance.

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

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

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

1 the decisionmaking process, the department shall provide for
2 maximum decentralization to the districts. However, before
3 making a decision to centralize or decentralize department
4 operations or relocate the turnpike district, the department
5 must first determine if the decision would be cost-effective
6 and in the public's best interest. The department shall
7 periodically evaluate such decisions to ensure that they are
8 appropriate.

9 Section 2. Subsection (8) is added to section
10 206.8745, Florida Statutes, to read:

11 206.8745 Credits and refund claims.--

12 (8) Undyed, tax-paid diesel fuel purchased in this
13 state and consumed by the engine of a qualified motor coach
14 during idle time for the purpose of running climate control
15 systems and maintaining electrical systems for the motor coach
16 is subject to a refund. As used in this subsection, the term
17 "qualified motor coach" means a privately owned vehicle that
18 is designed to carry nine or more passengers, that has a gross
19 vehicle weight of at least 33,000 pounds, that is used
20 exclusively in the commercial application of transporting
21 passengers for compensation, and that has the capacity to
22 measure diesel fuel consumed in Florida during idling,
23 separate from diesel fuel consumed to propel the vehicle in
24 this state, by way of an on-board computer.

25 (a) The purchaser may make one claim for refund per
26 calendar year.

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

30 (c) The purchaser must submit original or copies of
31 original purchase invoices showing the taxes paid, or, in lieu

1 of original invoices, a purchaser may submit a schedule of
2 purchases containing the information required by s.
3 206.41(5)(b)1.

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

7
8 The Department of Revenue may adopt rules to administer this
9 subsection.

10 Section 3. Paragraph (b) of subsection (3) of section
11 311.07, Florida Statutes, is amended to read:

12 311.07 Florida seaport transportation and economic
13 development funding.--

14 (3)

15 (b) Projects eligible for funding by grants under the
16 program are limited to the following port facilities or port
17 transportation projects:

18 1. Transportation facilities within the jurisdiction
19 of the port.

20 2. The dredging or deepening of channels, turning
21 basins, or harbors.

22 3. The construction or rehabilitation of wharves,
23 docks, structures, jetties, piers, storage facilities, cruise
24 terminals, automated people mover systems, or any facilities
25 necessary or useful in connection with any of the foregoing.

26 4. The acquisition of container cranes or other
27 mechanized equipment used in the movement of cargo or
28 passengers in international commerce.

29 5. The acquisition of land to be used for port
30 purposes.

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1 6. The acquisition, improvement, enlargement, or
2 extension of existing port facilities.

3 7. Environmental protection projects which are
4 necessary because of requirements imposed by a state agency as
5 a condition of a permit or other form of state approval; which
6 are necessary for environmental mitigation required as a
7 condition of a state, federal, or local environmental permit;
8 which are necessary for the acquisition of spoil disposal
9 sites and improvements to existing and future spoil sites; or
10 which result from the funding of eligible projects listed
11 herein.

12 8. Transportation facilities as defined in s.
13 334.03(31) which are not otherwise part of the Department of
14 Transportation's adopted work program.

15 9. Seaport intermodal access projects identified in
16 the 5-year Florida Seaport Mission Plan as provided in s.
17 311.09(3).

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

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

26 316.302 Commercial motor vehicles; safety regulations;
27 transporters and shippers of hazardous materials;
28 enforcement.--

29 (1)

30 (b) Except as otherwise provided in this section, all
31 owners or drivers of commercial motor vehicles that are

1 engaged in intrastate commerce are subject to the rules and
2 regulations contained in 49 C.F.R. parts 382, 385, and
3 390-397, with the exception of 49 C.F.R. s. 390.5 as it
4 relates to the definition of bus, as such rules and
5 regulations existed on March 1, 2000 ~~1999~~.

6 (5) The Department of Transportation may adopt and
7 revise rules to assure the safe operation of commercial motor
8 vehicles. The Department of Transportation may enter into
9 cooperative agreements as provided in 49 C.F.R. part 388.
10 Department of Transportation personnel may conduct motor
11 carrier and shipper terminal audits only for the purpose of
12 determining compliance with 49 C.F.R. parts 171, 172, 173,
13 177, 178, 180, 382, 385, 391, 393, 396, and 397; 49 C.F.R. s.
14 395.1(e)(5); and s. 627.7415.

15 (8) Any Department of Transportation law enforcement
16 officer ~~agent of the Department of Transportation described in~~
17 ~~s. 316.545(9)~~, any member of the Florida Highway Patrol, or
18 any person employed by a sheriff's office or municipal police
19 department who is authorized to enforce the traffic laws of
20 this state pursuant to s. 316.640 may enforce the provisions
21 of this section. Any law enforcement officer who is ~~of the~~
22 ~~Department of Transportation described in s. 316.545(9)~~, any
23 ~~member of the Florida Highway Patrol, or any law enforcement~~
24 ~~officer employed by a sheriff's office or municipal police~~
25 ~~department~~ authorized to enforce the traffic laws of this
26 state pursuant to s. 316.640 and, ~~who~~ has reason to believe
27 that a vehicle or driver is operating in an unsafe condition,
28 may require the driver to stop and submit to an inspection of
29 the vehicle or the driver's records. Any person who fails to
30 comply with an officer's request to submit to an inspection
31 under this subsection is guilty of a violation of s. 843.02 if

1 the driver resists the officer without violence or a violation
2 of s. 843.01 if the driver resists the officer with violence.
3 If the vehicle is found to be in an unsafe condition, or if
4 any required part or equipment is not present or is not in
5 proper repair or adjustment, and the continued operation would
6 probably present an unduly hazardous operating condition, the
7 officer may require the vehicle to be immediately repaired or
8 removed from use. However, if continued operation would not
9 present an unduly hazardous operating condition, the officer
10 may give written notice to require proper repair and
11 adjustment of the vehicle within 14 days.

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

14 316.515 Maximum width, height, length.--

15 (2) HEIGHT LIMITATION.--No vehicle may exceed a height
16 of 13 feet 6 inches, inclusive of load carried thereon.
17 However, an automobile transporter may, ~~with a permit from the~~
18 ~~Department of Transportation,~~ measure a height not to exceed
19 14 feet, inclusive of the load carried thereon.

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

22 316.516 Width, height, and length; inspection;
23 penalties.--

24 (1) Any law enforcement officer, as prescribed in s.
25 316.640, ~~or any weight and safety officer of the Department of~~
26 ~~Transportation, as prescribed in s. 316.545(1),~~ who has reason
27 to believe that the width, height, or length of a vehicle or
28 combination of vehicles and the load thereon is not in
29 conformance with s. 316.515 is authorized to require the
30 driver to stop and submit such vehicle and load to measurement
31 of its width, height, or length.

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

3 316.545 Weight and load unlawful; special fuel and
4 motor fuel tax enforcement; inspection; penalty; review.--

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

25 (9) Any agent of the Department of Transportation who
26 is employed as a ~~for the purpose of being a weight and safety~~
27 ~~officer and who meets the qualifications established by law~~
28 ~~for law enforcement~~ officer ~~officers~~ shall have the same
29 arrest powers as are granted any law enforcement officer.
30 However, the primary purpose of such officers shall be the
31 enforcement ~~for the purpose of enforcing the provisions of~~

1 weight, load, safety, commercial motor vehicle registration,
2 and fuel tax compliance laws.

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

5 Section 9. Paragraph (a) of subsection (1) and
6 paragraph (a) of subsection (2) of section 330.30, Florida
7 Statutes, are amended to read:

8 330.30 Approval of airport sites and licensing of
9 airports; fees.--

10 (1) SITE APPROVALS; REQUIREMENTS, FEES, EFFECTIVE
11 PERIOD, REVOCATION.--

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

22 1. That the site is adequate for the proposed airport;

23 2. That the proposed airport, if constructed or
24 established, will conform to minimum standards of safety and
25 will comply with applicable county or municipal zoning
26 requirements;

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

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

4 (2) LICENSES; REQUIREMENTS, FEES, RENEWAL,
5 REVOCATION.--

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

18 Section 10. Section 332.004, Florida Statutes, is
19 amended to read:

20 332.004 Definitions of terms used in ss.

21 332.003-332.007.--As used in ss. 332.003-332.007, the term:

22 (1) "Airport" means any area of land or water, or any
23 manmade object or facility located therein, which is used, or
24 intended for public use, for the landing and takeoff of
25 aircraft, and any appurtenant areas which are used, or
26 intended for public use, for airport buildings or other
27 airport facilities or rights-of-way.

28 (2) "Airport hazard" means any structure or object of
29 natural growth located on or in the vicinity of a public-use
30 airport, or any use of land near such airport, which obstructs
31 or causes an obstruction to the airspace required for the

1 flight of aircraft in landing or taking off at such airport or
2 is otherwise hazardous to landing or taking off at such
3 airport.

4 (3) "Airport master planning" means the development,
5 for planning purposes, of information and guidance to
6 determine the extent, type, and nature of development needed
7 at a specific airport.

8 (4) "Airport or aviation development project" or
9 "development project" means any activity associated with the
10 design, construction, purchase, improvement, or repair of a
11 public-use airport or portion thereof, including, but not
12 limited to: the purchase of equipment; the acquisition of
13 land, including land required as a condition of a federal,
14 state, or local permit or agreement for environmental
15 mitigation; off-site airport noise mitigation projects; the
16 removal, lowering, relocation, marking, and lighting of
17 airport hazards; the installation of navigation aids used by
18 aircraft in landing at or taking off from a public airport;
19 the installation of safety equipment required by rule or
20 regulation for certification of the airport under s. 612 of
21 the Federal Aviation Act of 1958, and amendments thereto; and
22 the improvement of access to the airport by road or rail
23 system which is on airport property and which is consistent,
24 to the maximum extent feasible, with the approved local
25 government comprehensive plan of the units of local government
26 in which the airport is located.

27 (5) "Airport or aviation discretionary capacity
28 improvement projects" or "discretionary capacity improvement
29 projects" means capacity improvements which are consistent, to
30 the maximum extent feasible, with the approved local
31 government comprehensive plans of the units of local

1 government in which the airport is located, and which enhance
2 intercontinental capacity at airports which:

3 (a) Are international airports with United States
4 Customs Service;

5 (b) Had one or more regularly scheduled
6 intercontinental flights during the previous calendar year or
7 have an agreement in writing for installation of one or more
8 regularly scheduled intercontinental flights upon the
9 commitment of funds for stipulated airport capital
10 improvements; and

11 (c) Have available or planned public ground
12 transportation between the airport and other major
13 transportation facilities.

14 (6) "Aviation system planning" means the development
15 of comprehensive aviation plans designed to achieve and
16 facilitate the establishment of a statewide, integrated
17 aviation system in order to meet the current and future
18 aviation needs of this state.

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

22 (8) "Federal aid" means funds made available from the
23 Federal Government for the accomplishment of airport or
24 aviation development projects.

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

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

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

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

7 (13) "Project cost" means any cost involved in
8 accomplishing a project.

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

11 (15) "Sponsor" means any eligible agency which, either
12 individually or jointly with one or more eligible agencies,
13 submits to the department an application for financial
14 assistance for an airport development project in accordance
15 with this act.

16 Section 11. Section 334.044, Florida Statutes, is
17 amended to read:

18 334.044 Department; powers and duties.--The department
19 shall have the following general powers and duties:

20 (1) To assume the responsibility for coordinating the
21 planning of a safe, viable, and balanced state transportation
22 system serving all regions of the state, and to assure the
23 compatibility of all components, including multimodal
24 facilities.

25 (2) To adopt rules pursuant to ss. 120.536(1) and
26 120.54 to implement the provisions of law conferring duties
27 upon it.

28 (3) To adopt an official seal.

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

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

12 (6) To acquire, by the exercise of the power of
13 eminent domain as provided by law, all property or property
14 rights, whether public or private, which it finds ~~may~~
15 ~~determine~~ are necessary to the performance of its duties and
16 the execution of its powers.

17 (7) To enter into contracts and agreements.

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

19 (9) To employ and train staff, and to contract with
20 qualified consultants. For the purposes of chapters 471 and
21 472, the department shall be considered a firm.

22 (10)(a) To develop and adopt uniform minimum standards
23 and criteria for the design, construction, maintenance, and
24 operation of public roads pursuant to the provisions of s.
25 336.045.

26 (b) The department shall periodically review its
27 construction, design, and maintenance standards to ensure that
28 such standards are cost-effective and consistent with
29 applicable federal regulations and state law.

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1 (11) To establish a numbering system for public roads,
2 to functionally classify such roads, and to assign
3 jurisdictional responsibility.

4 (12) To coordinate the planning of the development of
5 public transportation facilities within the state and the
6 provision of related transportation services as authorized by
7 law.

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

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

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

20 (a) Such regulation shall be through a permitting
21 process designed to ensure the safety and integrity of the
22 Department of Transportation facilities and to prevent an
23 unreasonable burden on lower properties.

24 (b) The department is specifically authorized to adopt
25 rules which set forth the purpose; necessary definitions;
26 permit exceptions; permit and assurance requirements; permit
27 application procedures; permit forms; general conditions for a
28 drainage permit; provisions for suspension or revocation of a
29 permit; and provisions for department recovery of fines,
30 penalties, and costs incurred due to permittee actions. In
31 order to avoid duplication and overlap with other units of

1 government, the department shall accept a surface water
2 management permit issued by a water management district, the
3 Department of Environmental Protection, a surface water
4 management permit issued by a delegated local government, or a
5 permit issued pursuant to an approved Stormwater Management
6 Plan or Master Drainage Plan; provided issuance is based on
7 requirements equal to or more stringent than those of the
8 department.

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

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

18 (18) To establish and maintain bicycle and pedestrian
19 ways.

20 (19) To encourage and promote the development of
21 multimodal transportation alternatives.

22 (20) To conduct research studies, and to collect data
23 necessary for the improvement of the state transportation
24 system.

25 (21) To conduct research and demonstration projects
26 relative to innovative transportation technologies.

27 (22) To cooperate with and assist local governments in
28 the development of a statewide transportation system and in
29 the development of the individual components of the system.

30 (23) To cooperate with the transportation department
31 or duly authorized commission or authority of any state in the

1 development and construction of transportation facilities
2 physically connecting facilities of this state with those
3 facilities of any adjoining state.

4 (24) To identify, obtain, and administer all federal
5 funds available to the department for all transportation
6 purposes.

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

17 (26) To provide for the conservation of natural
18 roadside growth and scenery and for the implementation and
19 maintenance of roadside beautification programs. To accomplish
20 this, for fiscal years 1999-2000, 2000-2001, and 2001-2002 no
21 less than 1 percent, and for subsequent fiscal years no less
22 than 1.5 percent of the amount contracted for construction
23 projects shall be allocated by the department to
24 beautification programs. Except where prohibited by federal
25 law or federal regulation and to the extent practical, a
26 minimum of 50 percent of these funds shall be used to purchase
27 large plant materials with the remaining funds for other plant
28 materials and these materials shall be purchased from
29 Florida-based nurseryman stock on a uniform competitive bid
30 basis. The department will develop grades and standards for
31 landscaping materials purchased through this process. To

1 accomplish these activities, the department may contract with
2 nonprofit organizations having the primary purpose of
3 developing youth employment opportunities.

4 (27) To conduct studies and provide coordination to
5 assess the needs associated with landside ingress and egress
6 to port facilities, and to coordinate with local governmental
7 entities to ensure that port facility access routes are
8 properly integrated with other transportation facilities.

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

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

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

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

23 335.02 Authority to designate transportation
24 facilities and rights-of-way and establish lanes; procedure
25 for redesignation and relocation.--

26 (3) The department may establish standards for lanes
27 on the State Highway System, including the Florida Intrastate
28 Highway System established pursuant to s. 338.001. In
29 determining the number of lanes for any regional corridor or
30 section of highway on the State Highway System to be funded by
31 the department with state or federal funds, the department

1 shall evaluate all alternatives and seek to achieve the
2 highest degree of efficient mobility for corridor users. In
3 conducting the analysis, the department must give
4 consideration to the following factors consistent with sound
5 engineering principles:

6 (a) Overall economic importance of the corridor as a
7 trade or tourism corridor;

8 (b) Safety of corridor users, including the importance
9 of the corridor for evacuation purposes;

10 (c) Cost-effectiveness of alternative methods of
11 increasing the mobility of corridor users;

12 (d) Current and projected traffic volumes on the
13 corridor;

14 (e) Multimodal alternatives;

15 (f) Use of intelligent transportation technology in
16 increasing the efficiency of the corridor;

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

20 (h) Addition of special-use lanes, such as exclusive
21 truck lanes, high-occupancy-vehicle toll lanes, and exclusive
22 interregional traffic lanes;

23 (i) Availability and cost of rights-of-way, including
24 associated costs, and the most effective use of existing
25 rights-of-way;

26 (j) Regional economic and transportation objectives,
27 where articulated;

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

31

1 (l) The traffic circulation element, if applicable, of
2 local government comprehensive plans, including designated
3 transportation corridors and public transportation corridors;
4 and

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

7
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 13. 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 14. Subsection (4) is added to section 336.41,
13 Florida Statutes, to read:

14 336.41 Counties; employing labor and providing road
15 equipment; definitions.--

16 (4)(a) For contracts in excess of \$250,000, any
17 governmental entity or authority may require that persons
18 interested in performing work under the contract first be
19 certified or qualified to do the work. Any contractor
20 prequalified and eligible to bid by the Department of
21 Transportation to perform the type of work described under the
22 contract shall be presumed to be qualified to perform the work
23 so described. The governmental entity or authority may
24 provide an appeal process to overcome that presumption with de
25 novo review based on the record below to the circuit court.

26 (b) The governmental entity or authority shall publish
27 prequalification criteria and procedures prior to
28 advertisement or notice of solicitation. Such publications
29 shall include notice of a public hearing for comment on such
30 criteria and procedures prior to adoption. The procedures
31 shall provide for an appeal process within the governmental

1 entity or authority for objections to the prequalification
2 process with de novo review based on the record below to the
3 circuit court.

4 (c) The contracting entity shall also publish for
5 comment, prior to adoption, the selection criteria and
6 procedures to be used by the governmental entity or authority
7 if such procedures would allow selection of other than the
8 lowest responsible bidder. The selection criteria shall
9 include an appeal process within the contracting entity with
10 de novo review based on the record below to the circuit court.

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

13 336.44 Counties; contracts for construction of roads;
14 procedure; contractor's bond.--

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

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

23 255.20 Local bids and contracts for public
24 construction works; specification of state-produced lumber.--

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

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

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

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

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

31

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. Subsection (9) is added to section 337.14,
14 Florida Statutes, to read:

15 337.14 Application for qualification; certificate of
16 qualification; restrictions; request for hearing.--

17 (9)(a) Notwithstanding any other law to the contrary,
18 for contracts in excess of \$250,000, an authority created
19 pursuant to chapter 348 or chapter 349 may require that
20 persons interested in performing work under the contract first
21 be certified or qualified to do the work. Any contractor
22 prequalified and eligible to bid by the Department of
23 Transportation to perform the type of work described under the
24 contract shall be presumed to be qualified to perform the work
25 so described. The governmental entity or authority may
26 provide an appeal process to overcome that presumption with de
27 novo review based on the record below to the circuit court.

28 (b) The authority shall publish prequalification
29 criteria and procedures prior to advertisement or notice of
30 solicitation. Such publications shall include notice of a
31 public hearing for comment on such criteria and procedures

1 prior to adoption. The procedures shall provide for an appeal
2 process within the authority for objections to the
3 prequalification process with de novo review based on the
4 record below to the circuit court.

5 (c) The contracting entity shall also publish for
6 comment, prior to adoption, the selection criteria and
7 procedures to be used by the governmental entity or authority
8 if such procedures would allow selection of other than the
9 lowest responsible bidder. The selection criteria shall
10 include an appeal process within the contracting entity with
11 de novo review based on the record below to the circuit court.
12 The provisions of this subsection shall only apply to
13 contracts which are advertised for prequalification by an
14 authority on or after July 1, 2000.

15 Section 18. Paragraph (b) of subsection (1) of section
16 336.025, Florida Statutes, is amended to read:

17 336.025 County transportation system; levy of local
18 option fuel tax on motor fuel and diesel fuel.--

19 (1)

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

28 1. The tax shall be levied before July 1, to be
29 effective January 1 of the following year. However, levies of
30 the tax which were in effect on July 1, 1996, and which expire
31

1 on August 31 of any year may be reimposed effective September
2 1 of the year of expiration.

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

26 3. County and municipal governments shall utilize
27 moneys received pursuant to this paragraph only for
28 transportation expenditures needed to meet the requirements of
29 the capital improvements element of an adopted comprehensive
30 plan. For purposes of this paragraph, expenditures for the
31 construction of new roads, or the reconstruction or

1 resurfacing of existing paved roads, or the paving of existing
2 graded roads when undertaken in part to relieve or mitigate
3 existing or potential adverse environmental impacts, shall be
4 deemed to increase capacity and such projects shall be
5 included in the capital improvements element of an adopted
6 comprehensive plan. Expenditures for purposes of this
7 paragraph shall not include routine maintenance of roads.

8 Section 19. Section 337.025, Florida Statutes, is
9 amended to read:

10 337.025 Innovative highway projects; department to
11 establish program.--The department is authorized to establish
12 a program for highway projects demonstrating innovative
13 techniques of highway construction, maintenance, and finance
14 which have the intended effect of controlling time and cost
15 increases on construction projects. Such techniques may
16 include, but are not limited to, state-of-the-art technology
17 for pavement, safety, and other aspects of highway
18 construction and maintenance; innovative bidding and financing
19 techniques; accelerated construction procedures; and those
20 techniques that have the potential to reduce project life
21 cycle costs. To the maximum extent practical, the department
22 must use the existing process to award and administer
23 construction and maintenance contracts. When specific
24 innovative techniques are to be used, the department is not
25 required to adhere to those provisions of law that would
26 prevent, preclude, or in any way prohibit the department from
27 using the innovative technique. However, prior to using an
28 innovative technique that is inconsistent with another
29 provision of law, the department must document in writing the
30 need for the exception and identify what benefits the
31 traveling public and the affected community are anticipated to

1 receive. The department may enter into no more than \$120
2 million in contracts annually for the purposes authorized by
3 this section.

4 Section 20. Paragraph (a) of subsection (7) of section
5 337.11, Florida Statutes, is amended to read:

6 337.11 Contracting authority of department; bids;
7 emergency repairs, supplemental agreements, and change orders;
8 combined design and construction contracts; progress payments;
9 records; requirements of vehicle registration.--

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

25 Section 21. Subsection (4) of section 337.14, Florida
26 Statutes, is amended to read:

27 337.14 Application for qualification; certificate of
28 qualification; restrictions; request for hearing.--

29 (4) If the applicant is found to possess the
30 prescribed qualifications, the department shall issue to him
31 or her a certificate of qualification that ~~which~~, unless

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

16 Section 22. Section 337.175, Florida Statutes, is
17 amended to read:

18 337.175 Retainage.--The department may ~~shall~~ provide
19 in its construction contracts for retaining a portion of the
20 amount due a contractor for work that the contractor has
21 completed, until completion and final acceptance of the
22 project by the department. If the department allows ~~However,~~
23 contractors may ~~shall be allowed to~~ substitute securities as
24 provided by s. 255.052, or ~~to~~ substitute certificates of
25 deposit or irrevocable letters of credit approved by the
26 department comptroller in lieu of retainage.

27 Section 23. Subsection (1) of section 338.161, Florida
28 Statutes, is amended to read:

29 338.161 Authority of department to advertise and
30 promote electronic toll collection.--

31

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

4 Promotions may include discounts and free products.

5 Section 24. Subsection (6) of section 338.165, Florida
6 Statutes, is amended to read:

7 338.165 Continuation of tolls.--

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

12 Section 25. Paragraph (c) of subsection (4) of section
13 339.12, Florida Statutes, is amended to read:

14 339.12 Aid and contributions by governmental entities
15 for department projects; federal aid.--

16 (4)

17 (c) The department may ~~is authorized to~~ enter into
18 agreements under this subsection for a project or project
19 phase not included in the adopted work program. As used in
20 this paragraph, the term "project phase" means acquisition of
21 rights-of-way, construction, construction inspection, and
22 related support phases. The project or project phase must be
23 a high priority of the governmental entity. Reimbursement for
24 a project or project phase must be made from funds
25 appropriated by the Legislature pursuant to s. 339.135(5). All
26 other provisions of this subsection apply to agreements
27 entered into under this paragraph. ~~At no time shall~~ The total
28 amount of project agreements for projects or project phases
29 not included in the adopted work program may not at any time
30 exceed \$100~~\$50~~ million.

31

1 Section 26. Paragraph (b) of subsection (4) of section
2 339.135, Florida Statutes, is amended to read:

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

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

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

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

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

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

23 4.5. The tentative work program must include a
24 balanced 36-month forecast of cash and expenditures and a
25 5-year finance plan supporting the tentative work program.

26 Section 27. Paragraph (c) of subsection (6) of section
27 339.155, Florida Statutes, is amended to read:

28 339.155 Transportation planning.--

29 (6) PROCEDURES FOR PUBLIC PARTICIPATION IN
30 TRANSPORTATION PLANNING.--

31 (c) Opportunity for design hearings:

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

5 The affected property owners shall be:

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

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

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

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

22 Section 28. Paragraph (e) of subsection (5) of section
23 339.175, Florida Statutes, is amended and paragraph (i) is
24 added to that subsection to read:

25 339.175 Metropolitan planning organization.--It is the
26 intent of the Legislature to encourage and promote the safe
27 and efficient management, operation, and development of
28 surface transportation systems that will serve the mobility
29 needs of people and freight within and through urbanized areas
30 of this state while minimizing transportation-related fuel
31 consumption and air pollution. To accomplish these objectives,

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

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

27 (e) Each M.P.O. shall appoint a technical advisory
28 committee that includes planners; engineers; representatives
29 of local aviation authorities, port authorities, and public
30 transit authorities or representatives of aviation
31 departments, seaport departments, and public transit

1 departments of municipal or county governments, as applicable;
2 the school superintendent of each county within the
3 jurisdiction of the M.P.O. or the superintendent's designee;
4 and other appropriate representatives of affected local
5 governments. In addition to any other duties assigned to it by
6 the M.P.O. or by state or federal law, the technical advisory
7 committee is responsible for considering safe access to
8 schools in its review of transportation project priorities,
9 long-range transportation plans, and transportation
10 improvement programs, and shall advise the M.P.O. on such
11 matters. In addition, the technical advisory committee shall
12 coordinate its actions with local school boards and other
13 local programs and organizations within the metropolitan area
14 which participate in school safety activities, such as locally
15 established community traffic safety teams. Local school
16 boards must provide the appropriate M.P.O. with information
17 concerning future school sites and in the coordination of
18 transportation service.~~identifying projects contained in the~~
19 ~~long-range transportation plan or transportation improvement~~
20 ~~program which deserve to be classified as a school safety~~
21 ~~concern. Upon receipt of the recommendation from the technical~~
22 ~~advisory committee that a project should be so classified, the~~
23 ~~M.P.O. must vote on whether to classify a particular project~~
24 ~~as a school safety concern. If the M.P.O. votes that a~~
25 ~~project should be classified as a school safety concern, the~~
26 ~~local governmental entity responsible for the project must~~
27 ~~consider at least two alternatives before making a decision~~
28 ~~about project location or alignment.~~
29 (i) Any group of M.P.O.s which have created a
30 Chairmen's Coordinating Committee as of the effective date of
31 this act, and are located within the same Regional Planning

1 Council district which is comprised of 4 adjacent counties,
2 must continue such committee as provided for in this section.
3 Such M.P.O.s on the committee will be represented by two
4 members, appointed by the M.P.O. chairman, to the committee.
5 Such committee must also include one representative from all
6 M.P.O.s contiguous to such Regional Planning Council district.
7 The committee must at a minimum:
8 1. Coordinate local, state, and regional
9 transportation systems.
10 2. Review the impact of local land use decisions on
11 the region.
12 3. Review all proposed projects in the respective
13 transportation improvement plans which effect more than one of
14 the M.P.O.s represented on the committee.
15
16 The committee shall have the authority to object, by a
17 majority vote, to any project within the geographic boundaries
18 of the committee and which is included in a M.P.O.'s
19 transportation improvement plan. The committee may also
20 recommend projects, by a majority vote, to be included in a
21 M.P.O.'s transportation improvement plan. If the committee
22 objects to a project, or if an M.P.O. refuses to include a
23 project recommended by the committee, the effected M.P.O.s
24 must initiate a formal conflict resolution process to reach
25 agreement on such projects. Until the conflict is resolved to
26 the satisfaction of the committee, the department must, to the
27 maximum extent feasible, withhold 10 percent of the state
28 funds from the disputed project of the effected M.P.O.s.
29 Section 29. Subsection (5) of section 341.051, Florida
30 Statutes, is amended to read:
31

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

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

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

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

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

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

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

31

1 **(b)**~~(c)~~ The department may ~~is authorized to~~ fund up to
2 100 percent of the cost of any eligible transit capital
3 project or commuter assistance project that is statewide in
4 scope or involves more than one county where no other
5 governmental entity or appropriate jurisdiction exists.

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

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

26 **(e)**~~(f)~~ The department may ~~is authorized to~~ fund up to
27 50 percent of the capital and net operating costs of transit
28 service development projects that are local in scope and that
29 will improve system efficiencies, ridership, or revenues. All
30 such projects must ~~shall~~ be identified in the appropriation
31 request of the department through a specific program of

1 projects, as provided for in s. 341.041, which ~~that~~ is
2 selectively applied in the following functional areas and is
3 subject to the specified times of duration:

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

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

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

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

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

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

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

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

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

16 Section 31. Section 343.56, Florida Statutes, is
17 amended to read:

18 343.56 Bonds not debts or pledges of credit of
19 state.--Revenue bonds issued under the provisions of this part
20 are not debts of the state or pledges of the faith and credit
21 of the state. Such bonds are payable exclusively from
22 revenues pledged for their payment. All such bonds shall
23 contain a statement on their face that the state is not
24 obligated to pay the same or the interest thereon, except from
25 the revenues pledged for their payment, and that the faith and
26 credit of the state is not pledged to the payment of the
27 principal or interest of such bonds. The issuance of revenue
28 bonds under the provisions of this part does not directly,
29 indirectly, or contingently obligate the state to levy or to
30 pledge any form of taxation whatsoever, or to make any
31 appropriation for their payment. No state funds shall be used

1 to pay the principal or interest of any bonds issued to
2 finance or refinance any portion of the Tri-County Rail
3 system, and all such bonds shall contain a statement on their
4 face to this effect. However, federal funds being passed
5 through the department to the Tri-County Rail system may be
6 used to pay principal and interest of any bonds issued.

7 Section 32. Subsection (2) of section 373.4137,
8 Florida Statutes, is amended to read:

9 373.4137 Mitigation requirements.--

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

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

25 (b) The environmental impact inventory shall include a
26 description of these habitat impacts, including their
27 location, acreage, and type; state water quality
28 classification of impacted wetlands and other surface waters;
29 any other state or regional designations for these habitats;
30 and a survey of threatened species, endangered species, and
31 species of special concern affected by the proposed project.

1 Section 33. This act shall take effect upon becoming a
2 law.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 CS for SB 1368

7 Provides clarification regarding federal funds for the
8 Tri-County Rail.

9 Provides that road contractors who are qualified to bid
10 pursuant to the Florida Department of Transportation (FDOT)
11 Qualification Process are presumed to be qualified for county
12 and Expressway Authority work. Provides an appeal process for
13 the contractor when the county or Expressway Authority objects
14 to the prequalification process.

15 Expands the use of innovative contracting techniques by the
16 Department of Transportation to include maintenance contracts.

17 Clarifies the role of Metropolitan Planning Organizations
18 (MPOs) technical advisory committees with regard to school
19 boards to ensure better coordination in planning
20 transportation projects.

21 Clarifies representation on certain MPOs Chairmen's
22 Coordinating Committee and lessens the penalty on disputed
23 projects.

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