

By the Committee on Transportation and Senator Webster

306-1664-00

1 A bill to be entitled
2 An act relating to rulemaking authority
3 regarding transportation (RAB); amending s.
4 20.23, F.S.; authorizing the Florida Department
5 of Transportation to adopt rules for the
6 delegation of authority beyond the assistant
7 secretaries; amending s. 334.187, F.S.;
8 authorizing the Florida Department of
9 Transportation to adopt rules relating to the
10 use of prepaid escrow accounts; amending s.
11 334.044, F.S.; authorizing the Florida
12 Department of Transportation to adopt rules
13 relating to approval of aggregate and other
14 material sources; amending s. 337.18, F.S.;
15 authorizing the Florida Department of
16 Transportation to adopt rules related to surety
17 bonds; amending s. 338.155, F.S.; authorizing
18 the Florida Department of Transportation to
19 adopt rules relating to guaranteed toll
20 accounts; amending s. 339.09, F.S.; authorizing
21 the Florida Department of Transportation to
22 adopt rules related to the expenditure of
23 transportation revenues; amending s. 427.013,
24 F.S.; authorizing the Commission for the
25 Transportation Disadvantaged to adopt rules
26 related to developing operational standards;
27 amending s. 427.0135, F.S.; granting authority
28 for rules adopted by the Commission for the
29 Transportation Disadvantaged related to member
30 departments; amending s. 427.015, F.S.;
31 granting authority for rules adopted by the

1 Commission for the Transportation Disadvantaged
2 related to community transportation
3 coordinators; providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. Paragraph (c) of subsection (1) of section
8 20.23, Florida Statutes, is amended to read:

9 20.23 Department of Transportation.--There is created
10 a Department of Transportation which shall be a decentralized
11 agency.

12 (1)

13 (c) The secretary shall appoint three assistant
14 secretaries who shall be directly responsible to the secretary
15 and who shall perform such duties as are specified in this
16 section and such other duties as are assigned by the
17 secretary. The secretary may delegate to any assistant
18 secretary the authority to act in the absence of the
19 secretary. The department has the authority to adopt rules
20 necessary for the delegation of authority beyond the assistant
21 secretaries.The assistant secretaries shall serve at the
22 pleasure of the secretary.

23 Section 2. Subsection (4) is added to section 334.187,
24 Florida Statutes, to read:

25 334.187 Guarantee of obligations to the department.--

26 (4) The department is authorized to adopt rules
27 relating to the use of prepaid escrow accounts for purchases
28 from the department.

29 Section 3. Section 334.044, Florida Statutes, is
30 amended to read:
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1 334.044 Department; powers and duties.--The department
2 shall have the following general powers and duties:

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

8 (2) To adopt rules pursuant to ss. 120.536(1) and
9 120.54 to implement the provisions of law conferring duties
10 upon it.

11 (3) To adopt an official seal.

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

16 (5) To purchase, lease, or otherwise acquire property,
17 materials, equipment, and supplies, and to sell, exchange, or
18 otherwise dispose of any property which is no longer needed by
19 the department.

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

25 (7) To enter into contracts and agreements.

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

27 (9) To employ and train staff, and to contract with
28 qualified consultants. For the purposes of chapters 471 and
29 472, the department shall be considered a firm.

30 (10)(a) To develop and adopt uniform minimum standards
31 and criteria for the design, construction, maintenance, and

1 operation of public roads pursuant to the provisions of s.
2 336.045.

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

7 (c) The department is authorized to adopt rules
8 relating to approval of aggregate and other material sources.

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

12 (12) To coordinate the planning of the development of
13 public transportation facilities within the state and the
14 provision of related transportation services as authorized by
15 law.

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

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

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

28 (a) Such regulation shall be through a permitting
29 process designed to ensure the safety and integrity of the
30 Department of Transportation facilities and to prevent an
31 unreasonable burden on lower properties.

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

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

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

26 (18) To establish and maintain bicycle and pedestrian
27 ways.

28 (19) To encourage and promote the development of
29 multimodal transportation alternatives.

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1 (20) To conduct research studies, and to collect data
2 necessary for the improvement of the state transportation
3 system.

4 (21) To conduct research and demonstration projects
5 relative to innovative transportation technologies.

6 (22) To cooperate with and assist local governments in
7 the development of a statewide transportation system and in
8 the development of the individual components of the system.

9 (23) To cooperate with the transportation department
10 or duly authorized commission or authority of any state in the
11 development and construction of transportation facilities
12 physically connecting facilities of this state with those
13 facilities of any adjoining state.

14 (24) To identify, obtain, and administer all federal
15 funds available to the department for all transportation
16 purposes.

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

27 (26) To provide for the conservation of natural
28 roadside growth and scenery and for the implementation and
29 maintenance of roadside beautification programs. To accomplish
30 this, for fiscal years 1999-2000, 2000-2001, and 2001-2002 no
31 less than 1 percent, and for subsequent fiscal years no less

1 than 1.5 percent of the amount contracted for construction
2 projects shall be allocated by the department to
3 beautification programs. Except where prohibited by federal
4 law or federal regulation and to the extent practical, a
5 minimum of 50 percent of these funds shall be used to purchase
6 large plant materials with the remaining funds for other plant
7 materials and these materials shall be purchased from
8 Florida-based nurseryman stock on a uniform competitive bid
9 basis. The department will develop grades and standards for
10 landscaping materials purchased through this process. To
11 accomplish these activities, the department may contract with
12 nonprofit organizations having the primary purpose of
13 developing youth employment opportunities.

14 (27) To conduct studies and provide coordination to
15 assess the needs associated with landside ingress and egress
16 to port facilities, and to coordinate with local governmental
17 entities to ensure that port facility access routes are
18 properly integrated with other transportation facilities.

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

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

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

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1 Section 4. Subsection (1) of section 337.18, Florida
2 Statutes, is amended to read:

3 337.18 Surety bonds; requirement with respect to
4 contract award; defaults; damage assessments.--

5 (1) A surety bond shall be required of the successful
6 bidder in an amount equal to the awarded contract price. For a
7 project for which the contract price is \$150,000 or less, the
8 department may waive the requirement for all or a portion of a
9 surety bond if it determines the project is of a noncritical
10 nature and nonperformance will not endanger public health,
11 safety, or property. The department may require alternate
12 means of security if a surety bond is waived. The surety on
13 such bond shall be a surety company authorized to do business
14 in the state. All bonds shall be payable to the department and
15 conditioned for the prompt, faithful, and efficient
16 performance of the contract according to plans and
17 specifications and within the time period specified, and for
18 the prompt payment of all persons furnishing labor, material,
19 equipment, and supplies therefor; however, whenever an
20 improvement, demolition, or removal contract price is \$25,000
21 or less, the security may, in the discretion of the bidder, be
22 in the form of a cashier's check, bank money order of any
23 state or national bank, certified check, or postal money
24 order. The department shall adopt rules to implement this
25 subsection. Such rules shall include provisions under which
26 the department will refuse to accept bonds on contracts when a
27 surety wrongfully fails or refuses to settle or provide a
28 defense for claims or actions arising under a contract for
29 which the surety previously furnished a bond.

30 Section 5. Subsection (1) of section 338.155, Florida
31 Statutes, is amended to read:

1 338.155 Payment of toll on toll facilities required;
2 exemptions.--

3 (1) No persons are permitted to use any toll facility
4 without payment of tolls, except employees of the agency
5 operating the toll project when using the toll facility on
6 official state business, state military personnel while on
7 official military business, handicapped persons as provided in
8 this section, persons exempt from toll payment by the
9 authorizing resolution for bonds issued to finance the
10 facility, and persons exempt on a temporary basis where use of
11 such toll facility is required as a detour route. Any Florida
12 highway patrol officer, sheriff, deputy sheriff, or municipal
13 police officer operating a marked official vehicle is exempt
14 from toll payment when on official law enforcement business.
15 The secretary, or the secretary's designee, may suspend the
16 payment of tolls on a toll facility when necessary to assist
17 in emergency evacuation. The failure to pay a prescribed toll
18 constitutes a noncriminal traffic infraction, punishable as a
19 moving violation pursuant to s. 318.18. The department is
20 authorized to adopt rules relating to guaranteed toll
21 accounts.

22 Section 6. Subsection (2) of section 339.09, Florida
23 Statutes, is amended to read:

24 339.09 Use of transportation tax revenues;
25 restrictions.--

26 (2) The department may, in cooperation with the
27 Federal Government, expend transportation tax revenues
28 pursuant to rules adopted by the department, for control of
29 undesirable rodents, relocation assistance, and moving costs
30 of persons displaced by highway construction and other related
31 transportation projects to the extent, but only to the extent,

1 required by federal law to be undertaken by the state to
2 continue to be eligible for federal highway funds.

3 Section 7. Section 427.013, Florida Statutes, is
4 amended to read:

5 427.013 The Commission for the Transportation
6 Disadvantaged; purpose and responsibilities.--The purpose of
7 the commission is to accomplish the coordination of
8 transportation services provided to the transportation
9 disadvantaged. The goal of this coordination shall be to
10 assure the cost-effective provision of transportation by
11 qualified community transportation coordinators or
12 transportation operators for the transportation disadvantaged
13 without any bias or presumption in favor of multioperator
14 systems or not-for-profit transportation operators over single
15 operator systems or for-profit transportation operators. In
16 carrying out this purpose, the commission shall:

17 (1) Compile all available information on the
18 transportation operations for and needs of the transportation
19 disadvantaged in the state.

20 (2) Establish statewide objectives for providing
21 transportation services for the transportation disadvantaged.

22 (3) Develop policies and procedures for the
23 coordination of local government, federal, and state funding
24 for the transportation disadvantaged.

25 (4) Identify barriers prohibiting the coordination and
26 accessibility of transportation services to the transportation
27 disadvantaged and aggressively pursue the elimination of these
28 barriers.

29 (5) Serve as a clearinghouse for information about
30 transportation disadvantaged services, training, funding
31 sources, innovations, and coordination efforts.

1 (6) Assist communities in developing transportation
2 systems designed to serve the transportation disadvantaged.

3 (7) Assure that all procedures, guidelines, and
4 directives issued by member departments are conducive to the
5 coordination of transportation services.

6 (8)(a) Assure that member departments purchase all
7 trips within the coordinated system, unless they use a more
8 cost-effective alternative provider.

9 (b) Provide, by rule, criteria and procedures for
10 member departments to use if they wish to use an alternative
11 provider. Departments must demonstrate either that the
12 proposed alternative provider can provide a trip of acceptable
13 quality for the clients at a lower cost than that provided
14 within the coordinated system, or that the coordinated system
15 cannot accommodate the department's clients.

16 (9) Develop by rule standards for community
17 transportation coordinators and any transportation operator or
18 coordination contractor from whom service is purchased or
19 arranged by the community transportation coordinator covering
20 coordination, operation, safety, insurance, eligibility for
21 service, costs, and utilization of transportation
22 disadvantaged services. These standards and rules must ~~shall~~
23 include, but not be limited to:

24 (a) Inclusion, by rule, of acceptable ranges of trip
25 costs for the various modes and types of transportation
26 services provided.

27 (b) Minimum performance standards for the delivery of
28 services. These standards must ~~should~~ be included in
29 coordinator contracts and transportation operator contracts
30 with clear penalties for repeated or continuing violations.

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1 (c) Minimum liability insurance requirements for all
2 transportation services purchased, provided, or coordinated
3 for the transportation disadvantaged through the community
4 transportation coordinator.

5 (10) Adopt rules pursuant to ss. 120.536(1) and 120.54
6 to implement the provisions of ss. 427.011-427.017.

7 (11) Approve the appointment of all community
8 transportation coordinators.

9 (12) Have the authority to apply for and accept funds,
10 grants, gifts, and services from the Federal Government, state
11 government, local governments, or private funding sources.
12 Applications by the commission for local government funds
13 shall be coordinated through the appropriate coordinating
14 board. Funds acquired or accepted under this subsection shall
15 be administered by the commission and shall be used to carry
16 out the commission's responsibilities.

17 (13) Make an annual report to the Governor, the
18 President of the Senate, and the Speaker of the House of
19 Representatives by January 1 of each year.

20 (14) Consolidate, for each state agency, the annual
21 budget estimates for transportation disadvantaged services,
22 and the amounts of each agency's actual expenditures, together
23 with the annual budget estimates of each official planning
24 agency, local government, and directly federally funded agency
25 and issue a report.

26 (15) Prepare a statewide 5-year transportation
27 disadvantaged plan which addresses the transportation problems
28 and needs of the transportation disadvantaged, which is fully
29 coordinated with local transit plans, compatible with local
30 government comprehensive plans, and which ensures that the
31 most cost-effective and efficient method of providing

1 transportation to the disadvantaged is programmed for
2 development.

3 (16) Review and approve memorandums of agreement for
4 the provision of coordinated transportation services.

5 (17) Review, monitor, and coordinate all
6 transportation disadvantaged local government, state, and
7 federal fund requests and plans for conformance with
8 commission policy, without delaying the application process.
9 Such funds shall be available only to those entities
10 participating in an approved coordinated transportation system
11 or entities which have received a commission-approved waiver
12 to obtain all or part of their transportation through another
13 means. This process shall identify procedures for coordinating
14 with the state's intergovernmental coordination and review
15 procedures and s. 216.212(1) and any other appropriate grant
16 review process.

17 (18) Develop an interagency uniform contracting and
18 billing and accounting system that shall be used by all
19 community transportation coordinators and their transportation
20 operators.

21 (19) Develop and maintain a transportation
22 disadvantaged manual.

23 (20) Design and develop transportation disadvantaged
24 training programs.

25 (21) Coordinate all transportation disadvantaged
26 programs with appropriate state, local, and federal agencies
27 and public transit agencies to ensure compatibility with
28 existing transportation systems.

29 (22) Designate the official planning agency in areas
30 outside of the purview of a metropolitan planning
31 organization.

1 (23) Develop need-based criteria that must be used by
2 all community transportation coordinators to prioritize the
3 delivery of nonsponsored transportation disadvantaged services
4 that are purchased with Transportation Disadvantaged Trust
5 Fund moneys.

6 (24) Establish a review procedure to compare the rates
7 proposed by alternate transportation operators with the rates
8 charged by a community transportation coordinator to determine
9 which rate is more cost-effective.

10 (25) Conduct a cost-comparison study of
11 single-coordinator, multicoordinator, and brokered community
12 transportation coordinator networks to ensure that the most
13 cost-effective and efficient method of providing
14 transportation to the transportation disadvantaged is
15 programmed for development.

16 (26) Develop a quality assurance and management review
17 program to monitor, based upon approved commission standards,
18 services contracted for by an agency, and those provided by a
19 community transportation operator pursuant to s. 427.0155.
20 Staff of the quality assurance and management review program
21 shall function independently and be directly responsible to
22 the executive director.

23 (27) Ensure that local community transportation
24 coordinators work cooperatively with local WAGES coalitions
25 established in chapter 414 to provide assistance in the
26 development of innovative transportation services for WAGES
27 participants.

28 Section 8. Section 427.0135, Florida Statutes, is
29 amended to read:

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1 427.0135 Member departments; duties and
2 responsibilities.--Each member department, in carrying out the
3 policies and procedures of the commission, shall:

4 (1)(a) Use the coordinated transportation system for
5 provision of services to its clients, unless each department
6 meets the criteria outlined in rule to use an alternative
7 provider.

8 (b) Subject to the provisions of s. 409.908(18), the
9 Medicaid agency shall purchase transportation services through
10 the community coordinated transportation system unless a more
11 cost-effective method is determined by the agency for Medicaid
12 clients or unless otherwise limited or directed by the General
13 Appropriations Act.

14 (2) Provide the commission, by September 15 of each
15 year, an accounting of all funds spent as well as how many
16 trips were purchased with agency funds.

17 (3) Assist communities in developing coordinated
18 transportation systems designed to serve the transportation
19 disadvantaged. However, a member department may not serve as
20 the community transportation coordinator in any designated
21 service area.

22 (4) Assure that its rules, procedures, guidelines, and
23 directives are conducive to the coordination of transportation
24 funds and services for the transportation disadvantaged.

25 (5) Provide technical assistance, as needed, to
26 community transportation coordinators or transportation
27 operators or participating agencies.

28 Section 9. Subsection (2) of section 427.015, Florida
29 Statutes, is amended to read:

30 427.015 Function of the metropolitan planning
31 organization or designated official planning agency in

1 coordinating transportation for the transportation
2 disadvantaged.--
3 (2) Each metropolitan planning organization or
4 designated official planning agency shall recommend to the
5 commission a single community transportation coordinator.
6 However, a member department may not serve as the community
7 transportation coordinator in any designated service area.The
8 coordinator may provide all or a portion of needed
9 transportation services for the transportation disadvantaged
10 but shall be responsible for the provision of those
11 coordinated services. Based on approved commission evaluation
12 criteria, the coordinator shall subcontract or broker those
13 services that are more cost-effectively and efficiently
14 provided by subcontracting or brokering. The performance of
15 the coordinator shall be evaluated based on the commission's
16 approved evaluation criteria by the coordinating board at
17 least annually. A copy of the evaluation shall be submitted to
18 the metropolitan planning organization or the designated
19 official planning agency, and the commission. The
20 recommendation or termination of any community transportation
21 coordinator shall be subject to approval by the commission.

22 Section 10. This act shall take effect July 1, 2000.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 772

4 The CS authorizes the Florida Department of Transportation
5 (FDOT) to adopt rules necessary for the delegation of
6 authority beyond the assistant secretaries.

6 The CS authorizes the FDOT to adopt rules relating to the use
7 of prepaid escrow accounts for purchases from the FDOT.

8 The CS authorizes the FDOT to adopt rules relating to approval
9 of aggregate and other material sources.

9 The CS authorizes the FDOT to adopt rules relating to surety
10 bonds and contract awards. The section specifies that such
11 rules must include provisions under which FDOT will refuse to
12 accept bonds on contracts when a surety wrongfully fails or
13 refuses to settle or provide a defense for claims or actions
14 arising under a contract for which the surety previously
15 furnished a bond.

13 The CS authorizes the FDOT to adopt rules relating to
14 guaranteed toll accounts.

15 The CS expands FDOT rule authorization for spending
16 transportation funds on relocation assistance and moving costs
17 for persons displaced by highway construction to include other
18 related transportation projects.

17 The CS authorizes the Commission for the Transportation
18 Disadvantaged to develop by rule standards for community
19 transportation coordinators and any transportation operator or
20 coordination contractor from whom service is purchased or
21 arranged by the community transportation coordinator including
22 minimum liability insurance requirements for all
23 transportation services purchased.

21 The CS provides that an agency which is a member of the
22 Commission for the Transportation Disadvantaged may not serve
23 as the community transportation coordinator.

23 The CS provides an effective date of July,2000.

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