

By the Committee on Transportation and Representative  
Russell

1                                   A bill to be entitled  
2           An act relating to transportation; amending s.  
3           20.23, F.S.; revising language with respect to  
4           the organization of the department; deleting  
5           responsibilities assigned to the secretary;  
6           providing that the secretary or his or her  
7           designee shall submit a report on major actions  
8           at each meeting of the Florida Transportation  
9           Commission; revising language with respect to  
10          assistant secretaries; creating the Office of  
11          Comptroller; deleting language with respect to  
12          the inspector general and comptroller; amending  
13          s. 110.205, F.S.; correcting cross references,  
14          to conform; amending s. 206.46, F.S.; raising  
15          the statutory cap on the department's required  
16          debt service coverage for right-of-way  
17          acquisition and bridge construction; amending  
18          s. 255.20, F.S.; exempting certain  
19          transportation projects for certain competitive  
20          bidding requirements; amending s. 311.07, F.S.;  
21          raising from \$8 million to \$10 million the  
22          minimum amount of funds the department makes  
23          available to the Florida Seaport Transportation  
24          Program; adding seaport security projects to  
25          the types of projects eligible for these funds;  
26          exempting seaport security projects from  
27          matching requirements; amending s. 316.302,  
28          F.S.; revising a date concerning commercial  
29          motor vehicles to conform to federal  
30          regulations; amending s. 316.3025, F.S.;  
31          updating a cross reference to federal trucking

1 regulations; amending s. 316.515, F.S.;  
2 deleting a requirement for a department permit  
3 with respect to the height of automobile  
4 transporters; amending s. 316.535, F.S.; adding  
5 weight requirements for certain commercial  
6 trucks; amending s. 316.545, F.S.; correcting a  
7 cross reference; amending s. 330.27, F.S.;  
8 revising definitions relating to aviation;  
9 providing definitions; amending s. 330.29,  
10 F.S.; clarifying the department's rulemaking  
11 authority with respect to airports; amending s.  
12 330.30, F.S.; eliminating airport license fees;  
13 revising language with respect to the  
14 department's site approval process; eliminating  
15 on-site inspections of private airports;  
16 creating a registration process for private  
17 airports; providing conditions; deleting  
18 obsolete language; amending s. 330.35, F.S.;  
19 deleting obsolete language with respect to  
20 airport zoning; amending s. 330.36, F.S.;  
21 providing conditions under which municipalities  
22 may prohibit or otherwise regulate seaplanes;  
23 amending s. 332.004, F.S.; adding off-airport  
24 noise mitigation projects to the projects  
25 eligible for federal and state matching funds;  
26 amending s. 334.044, F.S.; authorizing the  
27 department to expend promotional money on  
28 scenic highway projects; authorizing the  
29 department to delegate its drainage permitting  
30 responsibilities to other governmental entities  
31 under certain circumstances; amending s.

1           334.30, F.S.; clarifying existing program for  
2           public-private transportation projects;  
3           deleting requirement for legislative approval  
4           except for projects requiring more than \$50  
5           million from the State Transportation Trust  
6           Fund; specifying notice and selection  
7           requirements for projects under this section;  
8           allowing Internal Revenue Service Code chapter  
9           63-20 corporations to participate in these  
10          public-private transportation projects;  
11          providing conditions for using loans from Toll  
12          Facilities Revolving Trust Fund; deleting  
13          obsolete language; creating s. 335.066, F.S.;  
14          creating the Safe Paths to Schools Program;  
15          directing the department to establish the  
16          program and to authorize establishment of a  
17          grant program for purposes of funding the  
18          program; authorizing the department to adopt  
19          rules to administer the program; amending s.  
20          335.141, F.S.; eliminating the requirement that  
21          the department regulate all train speeds;  
22          amending s. 336.41, F.S.; clarifying that a  
23          contract already qualified by the Department of  
24          Transportation is presumed qualified to bid on  
25          county road projects; amending s. 336.44, F.S.;  
26          replacing the term "competent" with  
27          "responsible bidder"; amending s. 337.107,  
28          F.S.; authorizing the department to enter into  
29          design-build contracts that include  
30          right-of-acquisition services; amending s.  
31          337.11, F.S.; raising the cap on certain

1 contracts into which the department can enter  
2 without first obtaining bids; adding  
3 enhancement projects to the types of projects  
4 that can be combined into a design-build  
5 contract; specifying that construction on  
6 design-build projects may not begin until  
7 certain conditions have been met; amending s.  
8 337.14, F.S.; clarifying that contractors  
9 qualified by the Department of Transportation  
10 are presumed qualified to bid on projects for  
11 expressway authorities; amending s. 337.401,  
12 F.S.; providing that for projects on public  
13 roads or rail corridors under the department's  
14 jurisdiction, a utility relocation schedule and  
15 relocation agreement may be executed in lieu of  
16 a written permit; amending s. 337.408, F.S.;  
17 specifying dimensions of bus benches, transit  
18 shelters, and waste receptacles; giving the  
19 Department of Transportation rulemaking  
20 authority pertaining to regulating these  
21 structures; amending s. 339.08, F.S.;  
22 clarifying language with respect to the use of  
23 moneys in the State Transportation Trust Fund;  
24 amending s. 339.12, F.S.; providing that local  
25 governments which perform projects for the  
26 department are reimbursed promptly; specifying  
27 that certain counties that use revenues from a  
28 1-cent local option sales tax for state  
29 transportation improvement projects not be  
30 penalized by receiving fewer state  
31 transportation funds; amending s. 339.135,

1 F.S.; conforming language with respect to the  
2 tentative work program; increasing the  
3 statutory budgetary amendment caps for certain  
4 activities; amending s. 341.051, F.S.; deleting  
5 obsolete language; amending s. 341.302, F.S.;  
6 deleting language requiring the department to  
7 perform certain railroad regulation tasks which  
8 are federal responsibilities; amending s.  
9 348.0003, F.S.; giving a county governing body  
10 authority to set qualifications, terms of  
11 office, and obligations for the members of  
12 expressway authorities within their  
13 jurisdictions; amending ss. 348.0012, 348.754,  
14 348.7543, 348.7544, 348.7545, 348.755, and  
15 348.765, F.S.; giving the Orlando-Orange County  
16 Expressway Authority the ability to issue  
17 bonds, rather than issuance through the state  
18 Division of Bond Finance; amending s. 373.4137,  
19 F.S.; allowing transportation authorities  
20 created pursuant to chs. 348 and 349, F.S., to  
21 create environmental impact inventories and  
22 participate in a mitigation program to offset  
23 adverse impacts caused by their transportation  
24 projects; amending s. 479.15, F.S.; revising  
25 language with respect to harmony of regulations  
26 concerning lawfully erected signs; creating s.  
27 479.25, F.S.; authorizing local governments to  
28 enter into agreements which allow outdoor signs  
29 to be erected above sound barriers; creating s.  
30 70.20, F.S.; creating process for governmental  
31 entities and sign owners to enter into

1 relocation and reconstruction agreements  
2 related to outdoor advertising signs; providing  
3 for just compensation to sign owners under  
4 certain conditions; amending s. 496.425, F.S.;  
5 redefining the term "facility"; creating s.  
6 496.4256, F.S.; providing that a governmental  
7 entity or authority that owns or operates  
8 welcome centers, wayside parks, service plazas,  
9 or rest areas on the state highway system are  
10 not required to issue a permit to, or grant  
11 access to, any person for the purpose of  
12 soliciting funds; repealing s. 316.3027, F.S.;  
13 relating to identification requirements on  
14 certain commercial motor vehicles; repealing s.  
15 316.610(3), F.S.; relating to certain  
16 inspections of certain commercial motor  
17 vehicles; providing an effective date.

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

20  
21 Section 1. Section 20.23, Florida Statutes, is amended  
22 to read:

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

26 (1)(a)~~1~~. The head of the Department of Transportation  
27 is the Secretary of Transportation. The secretary shall be  
28 appointed by the Governor from among three persons nominated  
29 by the Florida Transportation Commission and shall be subject  
30 to confirmation by the Senate. The secretary shall serve at  
31 the pleasure of the Governor.

1        (b)2. The secretary shall be a proven, effective  
2 administrator who by a combination of education and experience  
3 shall clearly possess a broad knowledge of the administrative,  
4 financial, and technical aspects of the development,  
5 operation, and regulation of transportation systems and  
6 facilities or comparable systems and facilities.

7        ~~(b)1. The secretary shall employ all personnel of the~~  
8 ~~department. He or she shall implement all laws, rules,~~  
9 ~~policies, and procedures applicable to the operation of the~~  
10 ~~department and may not by his or her actions disregard or act~~  
11 ~~in a manner contrary to any such policy. The secretary shall~~  
12 ~~represent the department in its dealings with other state~~  
13 ~~agencies, local governments, special districts, and the~~  
14 ~~Federal Government. He or she shall have authority to sign~~  
15 ~~and execute all documents and papers necessary to carry out~~  
16 ~~his or her duties and the operations of the department. At~~  
17 ~~each meeting of the Florida Transportation Commission, the~~  
18 ~~secretary shall submit a report of major actions taken by him~~  
19 ~~or her as official representative of the department.~~

20        ~~2. The secretary shall cause the annual department~~  
21 ~~budget request, the Florida Transportation Plan, and the~~  
22 ~~tentative work program to be prepared in accordance with all~~  
23 ~~applicable laws and departmental policies and shall submit the~~  
24 ~~budget, plan, and program to the Florida Transportation~~  
25 ~~Commission. The commission shall perform an in-depth~~  
26 ~~evaluation of the budget, plan, and program for compliance~~  
27 ~~with all applicable laws and departmental policies. If the~~  
28 ~~commission determines that the budget, plan, or program is not~~  
29 ~~in compliance with all applicable laws and departmental~~  
30 ~~policies, it shall report its findings and recommendations~~

31

1 ~~regarding such noncompliance to the Legislature and the~~  
2 ~~Governor.~~

3 (c)~~3~~. The secretary shall provide to the Florida  
4 Transportation Commission or its staff, such assistance,  
5 information, and documents as are requested by the commission  
6 or its staff to enable the commission to fulfill its duties  
7 and responsibilities.

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

18 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and  
19 the assistant secretaries shall be exempt from the provisions  
20 of part III of chapter 110 and shall receive compensation  
21 commensurate with their qualifications and competitive with  
22 compensation for comparable responsibility in the private  
23 sector. When the salary of any assistant secretary exceeds  
24 the limits established in part III of chapter 110, the  
25 Governor shall approve said salary.

26 (2)(a)1. The Florida Transportation Commission is  
27 hereby created and shall consist of nine members appointed by  
28 the Governor subject to confirmation by the Senate. Members  
29 of the commission shall serve terms of 4 years each.

30 2. Members shall be appointed in such a manner as to  
31 equitably represent all geographic areas of the state. Each



1 member must be a registered voter and a citizen of the state.  
2 Each member of the commission must also possess business  
3 managerial experience in the private sector.

4           3. A member of the commission shall represent the  
5 transportation needs of the state as a whole and may not  
6 subordinate the needs of the state to those of any particular  
7 area of the state.

8           4. The commission is assigned to the Office of the  
9 Secretary of the Department of Transportation for  
10 administrative and fiscal accountability purposes, but it  
11 shall otherwise function independently of the control and  
12 direction of the department.

13           (b) The commission shall have the primary functions  
14 to:

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

18           2. Periodically review the status of the state  
19 transportation system including highway, transit, rail,  
20 seaport, intermodal development, and aviation components of  
21 the system and recommend improvements therein to the Governor  
22 and the Legislature.

23           3. Perform an in-depth evaluation of the annual  
24 department budget request, the Florida Transportation Plan,  
25 and the tentative work program for compliance with all  
26 applicable laws and established departmental policies. Except  
27 as specifically provided in s. 339.135(4)(c)2., (d), and (f),  
28 the commission may not consider individual construction  
29 projects, but shall consider methods of accomplishing the  
30 goals of the department in the most effective, efficient, and  
31 businesslike manner.

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

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

9           6. Perform an in-depth evaluation of the factors  
10 causing disruption of project schedules in the adopted work  
11 program and recommend to the Legislature and the Governor  
12 methods to eliminate or reduce the disruptive effects of these  
13 factors.

14           7. Recommend to the Governor and the Legislature  
15 improvements to the department's organization in order to  
16 streamline and optimize the efficiency of the department. In  
17 reviewing the department's organization, the commission shall  
18 determine if the current district organizational structure is  
19 responsive to Florida's changing economic and demographic  
20 development patterns. The initial report by the commission  
21 must be delivered to the Governor and Legislature by December  
22 15, 2000, and each year thereafter, as appropriate. The  
23 commission may retain such experts as are reasonably necessary  
24 to effectuate this subparagraph, and the department shall pay  
25 the expenses of such experts.

26           (c) The commission or a member thereof may not enter  
27 into the day-to-day operation of the department and is  
28 specifically prohibited from taking part in:

- 29           1. The awarding of contracts.  
30           2. The selection of a consultant or contractor or the  
31 prequalification of any individual consultant or contractor.

1 However, the commission may recommend to the secretary  
2 standards and policies governing the procedure for selection  
3 and prequalification of consultants and contractors.

4         3. The selection of a route for a specific project.  
5         4. The specific location of a transportation facility.  
6         5. The acquisition of rights-of-way.  
7         6. The employment, promotion, demotion, suspension,  
8 transfer, or discharge of any department personnel.  
9         7. The granting, denial, suspension, or revocation of  
10 any license or permit issued by the department.

11         (d)1. The chair of the commission shall be selected by  
12 the commission members and shall serve a 1-year term.

13         2. The commission shall hold a minimum of 4 regular  
14 meetings annually, and other meetings may be called by the  
15 chair upon giving at least 1 week's notice to all members and  
16 the public pursuant to chapter 120. Other meetings may also be  
17 held upon the written request of at least four other members  
18 of the commission, with at least 1 week's notice of such  
19 meeting being given to all members and the public by the chair  
20 pursuant to chapter 120. Emergency meetings may be held  
21 without notice upon the request of all members of the  
22 commission. At each meeting of the commission, the secretary  
23 or his or her designee shall submit a report of major actions  
24 taken by him or her as official representative of the  
25 department.

26         3. A majority of the membership of the commission  
27 constitutes a quorum at any meeting of the commission. An  
28 action of the commission is not binding unless the action is  
29 taken pursuant to an affirmative vote of a majority of the  
30 members present, but not fewer than four members of the  
31

1 commission at a meeting held pursuant to subparagraph 2., and  
2 the vote is recorded in the minutes of that meeting.

3 4. The chair shall cause to be made a complete record  
4 of the proceedings of the commission, which record shall be  
5 open for public inspection.

6 (e) The meetings of the commission shall be held in  
7 the central office of the department in Tallahassee unless the  
8 chair determines that special circumstances warrant meeting at  
9 another location.

10 (f) Members of the commission are entitled to per diem  
11 and travel expenses pursuant to s. 112.061.

12 (g) A member of the commission may not have any  
13 interest, direct or indirect, in any contract, franchise,  
14 privilege, or other benefit granted or awarded by the  
15 department during the term of his or her appointment and for 2  
16 years after the termination of such appointment.

17 (h) The commission shall appoint an executive director  
18 and assistant executive director, who shall serve under the  
19 direction, supervision, and control of the commission. The  
20 executive director, with the consent of the commission, shall  
21 employ such staff as are necessary to perform adequately the  
22 functions of the commission, within budgetary limitations.  
23 All employees of the commission are exempt from part II of  
24 chapter 110 and shall serve at the pleasure of the commission.  
25 The salaries and benefits of all employees of the commission  
26 shall be set in accordance with the Selected Exempt Service;  
27 provided, however, that the commission shall have complete  
28 authority for fixing the salary of the executive director and  
29 assistant executive director.

30 (i) The commission shall develop a budget pursuant to  
31 chapter 216. The budget is not subject to change by the

1 department, but such budget shall be submitted to the Governor  
2 along with the budget of the department.

3 (3)(a) The central office shall establish departmental  
4 policies, rules, procedures, and standards and shall monitor  
5 the implementation of such policies, rules, procedures, and  
6 standards in order to ensure uniform compliance and quality  
7 performance by the districts and central office units that  
8 implement transportation programs. Major transportation  
9 policy initiatives or revisions shall be submitted to the  
10 commission for review. ~~The central office monitoring function  
11 shall be based on a plan that clearly specifies what areas  
12 will be monitored, activities and criteria used to measure  
13 compliance, and a feedback process that assures monitoring  
14 findings are reported and deficiencies corrected. The  
15 secretary is responsible for ensuring that a central office  
16 monitoring function is implemented, and that it functions  
17 properly. In conjunction with its monitoring function, the  
18 central office shall provide such training and administrative  
19 support to the districts as the department determines to be  
20 necessary to ensure that the department's programs are carried  
21 out in the most efficient and effective manner.~~

22 ~~(b) The resources necessary to ensure the efficiency,  
23 effectiveness, and quality of performance by the department of  
24 its statutory responsibilities shall be allocated to the  
25 central office.~~

26 (b)(c) The secretary shall appoint an Assistant  
27 Secretary for Transportation Policy and an Assistant  
28 Secretary for Finance and Administration, ~~and an Assistant  
29 Secretary for District Operations~~, each of whom shall serve at  
30 the pleasure of the secretary. ~~The positions are responsible  
31 for developing, monitoring, and enforcing policy and managing~~

1 ~~major technical programs. The responsibilities and duties of~~  
2 ~~these positions include, but are not limited to, the following~~  
3 ~~functional areas:~~  
4       ~~1. Assistant Secretary for Transportation Policy.--~~  
5           ~~a. Development of the Florida Transportation Plan and~~  
6 ~~other policy planning;~~  
7           ~~b. Development of statewide modal systems plans,~~  
8 ~~including public transportation systems;~~  
9           ~~c. Design of transportation facilities;~~  
10          ~~d. Construction of transportation facilities;~~  
11          ~~e. Acquisition and management of transportation~~  
12 ~~rights-of-way; and~~  
13          ~~f. Administration of motor carrier compliance and~~  
14 ~~safety.~~  
15       ~~2. Assistant Secretary for District Operations.--~~  
16           ~~a. Administration of the eight districts; and~~  
17           ~~b. Implementation of the decentralization of the~~  
18 ~~department.~~  
19       ~~3. Assistant Secretary for Finance and~~  
20 ~~Administration.--~~  
21           ~~a. Financial planning and management;~~  
22           ~~b. Information systems;~~  
23           ~~c. Accounting systems;~~  
24           ~~d. Administrative functions; and~~  
25           ~~e. Administration of toll operations.~~  
26       ~~(d)1. Policy, program, or operations offices shall be~~  
27 ~~established within the central office for the purposes of:~~  
28           ~~a. Developing policy and procedures and monitoring~~  
29 ~~performance to ensure compliance with these policies and~~  
30 ~~procedures;~~  
31

1           ~~b. Performing statewide activities which it is more~~  
2 ~~cost-effective to perform in a central location;~~

3           ~~c. Assessing and ensuring the accuracy of information~~  
4 ~~within the department's financial management information~~  
5 ~~systems; and~~

6           ~~d. Performing other activities of a statewide nature.~~

7           1.2. The following offices are established and shall  
8 be headed by a manager, each of whom shall be appointed by and  
9 serve at the pleasure of the secretary. The positions shall be  
10 classified at a level equal to a division director:

11           a. The Office of Administration;

12           b. The Office of Policy Planning;

13           c. The Office of Design;

14           d. The Office of Highway Operations;

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

16           f. The Office of Toll Operations;

17           g. The Office of Information Systems; ~~and~~

18           h. The Office of Motor Carrier Compliance; ~~;~~

19           i. The Office of Management and Budget; and

20           j. The Office of Comptroller.

21           ~~2.3.~~ Other offices may be established in accordance  
22 with s. 20.04(7). The heads of such offices are exempt from  
23 part II of chapter 110. No office or organization shall be  
24 created at a level equal to or higher than a division without  
25 specific legislative authority.

26           ~~3.4.~~ During the construction of a major transportation  
27 improvement project or as determined by the district  
28 secretary, the department may provide assistance to a business  
29 entity significantly impacted by the project if the entity is  
30 a for-profit entity that has been in business for 3 years  
31 prior to the beginning of construction and has direct or

1 shared access to the transportation project being constructed.  
2 The assistance program shall be in the form of additional  
3 guarantees to assist the impacted business entity in receiving  
4 loans pursuant to Title 13 C.F.R. part 120. However, in no  
5 instance shall the combined guarantees be greater than 90  
6 percent of the loan. The department shall adopt rules to  
7 implement this subparagraph.

8 ~~(e) The Assistant Secretary for Finance and~~  
9 ~~Administration must possess a broad knowledge of the~~  
10 ~~administrative, financial, and technical aspects of a complete~~  
11 ~~cost-accounting system, budget preparation and management, and~~  
12 ~~management information systems. The Assistant Secretary for~~  
13 ~~Finance and Administration must be a proven, effective manager~~  
14 ~~with specialized skills in financial planning and management.~~  
15 ~~The Assistant Secretary for Finance and Administration shall~~  
16 ~~ensure that financial information is processed in a timely,~~  
17 ~~accurate, and complete manner.~~

18 ~~(f)1. Within the central office there is created an~~  
19 ~~Office of Management and Budget. The head of the Office of~~  
20 ~~Management and Budget is responsible to the Assistant~~  
21 ~~Secretary for Finance and Administration and is exempt from~~  
22 ~~part II of chapter 110.~~

23 ~~2. The functions of the Office of Management and~~  
24 ~~Budget include, but are not limited to:~~

25 ~~a. Preparation of the work program;~~

26 ~~b. Preparation of the departmental budget; and~~

27 ~~c. Coordination of related policies and procedures.~~

28 ~~3. The Office of Management and Budget shall also be~~  
29 ~~responsible for developing uniform implementation and~~  
30 ~~monitoring procedures for all activities performed at the~~  
31 ~~district level involving the budget and the work program.~~



1            (c)(g) The secretary shall ~~may~~ appoint an inspector  
2 general pursuant to s. 20.055 who shall be directly  
3 responsible to the secretary and shall serve at the pleasure  
4 of the secretary.

5            ~~(h)1. The secretary shall appoint an inspector general~~  
6 ~~pursuant to s. 20.055. To comply with recommended professional~~  
7 ~~auditing standards related to independence and objectivity,~~  
8 ~~the inspector general shall be appointed to a position within~~  
9 ~~the Career Service System and may be removed by the secretary~~  
10 ~~with the concurrence of the Transportation Commission. In~~  
11 ~~order to attract and retain an individual who has the proven~~  
12 ~~technical and administrative skills necessary to comply with~~  
13 ~~the requirements of this section, the agency head may appoint~~  
14 ~~the inspector general to a classification level within the~~  
15 ~~Career Service System that is equivalent to that provided for~~  
16 ~~in part III of chapter 110. The inspector general may be~~  
17 ~~organizationally located within another unit of the department~~  
18 ~~for administrative purposes, but shall function independently~~  
19 ~~and be directly responsible to the secretary pursuant to s.~~  
20 ~~20.055. The duties of the inspector general shall include, but~~  
21 ~~are not restricted to, reviewing, evaluating, and reporting on~~  
22 ~~the policies, plans, procedures, and accounting, financial,~~  
23 ~~and other operations of the department and recommending~~  
24 ~~changes for the improvement thereof, as well as performing~~  
25 ~~audits of contracts and agreements between the department and~~  
26 ~~private entities or other governmental entities. The inspector~~  
27 ~~general shall give priority to reviewing major parts of the~~  
28 ~~department's accounting system and central office monitoring~~  
29 ~~function to determine whether such systems effectively ensure~~  
30 ~~accountability and compliance with all laws, rules, policies,~~  
31 ~~and procedures applicable to the operation of the department.~~

1 ~~The inspector general shall also give priority to assessing~~  
2 ~~the department's management information systems as required by~~  
3 ~~s. 282.318. The internal audit function shall use the~~  
4 ~~necessary expertise, in particular, engineering, financial,~~  
5 ~~and property appraising expertise, to independently evaluate~~  
6 ~~the technical aspects of the department's operations. The~~  
7 ~~inspector general shall have access at all times to any~~  
8 ~~personnel, records, data, or other information of the~~  
9 ~~department and shall determine the methods and procedures~~  
10 ~~necessary to carry out his or her duties. The inspector~~  
11 ~~general is responsible for audits of departmental operations~~  
12 ~~and for audits of consultant contracts and agreements, and~~  
13 ~~such audits shall be conducted in accordance with generally~~  
14 ~~accepted governmental auditing standards. The inspector~~  
15 ~~general shall annually perform a sufficient number of audits~~  
16 ~~to determine the efficiency and effectiveness, as well as~~  
17 ~~verify the accuracy of estimates and charges, of contracts~~  
18 ~~executed by the department with private entities and other~~  
19 ~~governmental entities. The inspector general has the sole~~  
20 ~~responsibility for the contents of his or her reports, and a~~  
21 ~~copy of each report containing his or her findings and~~  
22 ~~recommendations shall be furnished directly to the secretary~~  
23 ~~and the commission.~~

24 ~~2. In addition to the authority and responsibilities~~  
25 ~~herein provided, the inspector general is required to report~~  
26 ~~to the:~~

27 ~~a. Secretary whenever the inspector general makes a~~  
28 ~~preliminary determination that particularly serious or~~  
29 ~~flagrant problems, abuses, or deficiencies relating to the~~  
30 ~~administration of programs and operations of the department~~  
31 ~~have occurred. The secretary shall review and assess the~~

1 ~~correctness of the preliminary determination by the inspector~~  
2 ~~general. If the preliminary determination is substantiated,~~  
3 ~~the secretary shall submit such report to the appropriate~~  
4 ~~committees of the Legislature within 7 calendar days, together~~  
5 ~~with a report by the secretary containing any comments deemed~~  
6 ~~appropriate. Nothing in this section shall be construed to~~  
7 ~~authorize the public disclosure of information which is~~  
8 ~~specifically prohibited from disclosure by any other provision~~  
9 ~~of law.~~

10 ~~b. Transportation Commission and the Legislature any~~  
11 ~~actions by the secretary that prohibit the inspector general~~  
12 ~~from initiating, carrying out, or completing any audit after~~  
13 ~~the inspector general has decided to initiate, carry out, or~~  
14 ~~complete such audit. The secretary shall, within 30 days~~  
15 ~~after transmission of the report, set forth in a statement to~~  
16 ~~the Transportation Commission and the Legislature the reasons~~  
17 ~~for his or her actions.~~

18 ~~(i)1. The secretary shall appoint a comptroller who is~~  
19 ~~responsible to the Assistant Secretary for Finance and~~  
20 ~~Administration. This position is exempt from part II of~~  
21 ~~chapter 110.~~

22 ~~2. The comptroller is the chief financial officer of~~  
23 ~~the department and must be a proven, effective administrator~~  
24 ~~who by a combination of education and experience clearly~~  
25 ~~possesses a broad knowledge of the administrative, financial,~~  
26 ~~and technical aspects of a complex cost-accounting system.~~  
27 ~~The comptroller must also have a working knowledge of~~  
28 ~~generally accepted accounting principles. At a minimum, the~~  
29 ~~comptroller must hold an active license to practice public~~  
30 ~~accounting in Florida pursuant to chapter 473 or an active~~  
31 ~~license to practice public accounting in any other state. In~~

1 ~~addition to the requirements of the Florida Fiscal Accounting~~  
2 ~~Management Information System Act, the comptroller is~~  
3 ~~responsible for the development, maintenance, and modification~~  
4 ~~of an accounting system that will in a timely manner~~  
5 ~~accurately reflect the revenues and expenditures of the~~  
6 ~~department and that includes a cost-accounting system to~~  
7 ~~properly identify, segregate, allocate, and report department~~  
8 ~~costs. The comptroller shall supervise and direct preparation~~  
9 ~~of a detailed 36-month forecast of cash and expenditures and~~  
10 ~~is responsible for managing cash and determining cash~~  
11 ~~requirements. The comptroller shall review all comparative~~  
12 ~~cost studies that examine the cost-effectiveness and~~  
13 ~~feasibility of contracting for services and operations~~  
14 ~~performed by the department. The review must state that the~~  
15 ~~study was prepared in accordance with generally accepted~~  
16 ~~cost-accounting standards applied in a consistent manner using~~  
17 ~~valid and accurate cost data.~~

18         3. ~~The department shall by rule or internal management~~  
19 ~~memoranda as required by chapter 120 provide for the~~  
20 ~~maintenance by the comptroller of financial records and~~  
21 ~~accounts of the department as will afford a full and complete~~  
22 ~~check against the improper payment of bills and provide a~~  
23 ~~system for the prompt payment of the just obligations of the~~  
24 ~~department, which records must at all times disclose:~~

25             a. ~~The several appropriations available for the use of~~  
26 ~~the department;~~

27             b. ~~The specific amounts of each such appropriation~~  
28 ~~budgeted by the department for each improvement or purpose;~~

29             c. ~~The apportionment or division of all such~~  
30 ~~appropriations among the several counties and districts, when~~  
31 ~~such apportionment or division is made;~~

1           ~~d. The amount or portion of each such apportionment~~  
2 ~~against general contractual and other liabilities then~~  
3 ~~created;~~  
4           ~~e. The amount expended and still to be expended in~~  
5 ~~connection with each contractual and other obligation of the~~  
6 ~~department;~~  
7           ~~f. The expense and operating costs of the various~~  
8 ~~activities of the department;~~  
9           ~~g. The receipts accruing to the department and the~~  
10 ~~distribution thereof;~~  
11           ~~h. The assets, investments, and liabilities of the~~  
12 ~~department; and~~  
13           ~~i. The cash requirements of the department for a~~  
14 ~~36-month period.~~  
15           ~~4. The comptroller shall maintain a separate account~~  
16 ~~for each fund administered by the department.~~  
17           ~~5. The comptroller shall perform such other related~~  
18 ~~duties as designated by the department.~~  
19           (d)(j) The secretary shall appoint a general counsel  
20 who shall be employed full time and shall be directly  
21 responsible to the secretary and shall serve at the pleasure  
22 of the secretary. The general counsel is responsible for all  
23 legal matters of the department. The department may employ as  
24 many attorneys as it deems necessary to advise and represent  
25 the department in all transportation matters.  
26           (e)(k) The secretary shall appoint a state  
27 transportation planner who shall report to the Assistant  
28 Secretary for Transportation Policy. The state transportation  
29 planner's responsibilities shall include, but are not limited  
30 to, policy planning, systems planning, and transportation  
31

1 ~~statistics.~~ This position shall be classified at a level  
2 equal to a deputy assistant secretary.

3 (f)~~(h)~~ The secretary shall appoint a state highway  
4 engineer ~~who shall report to the Assistant Secretary for~~  
5 ~~Transportation Policy. The state highway engineer's~~  
6 ~~responsibilities shall include, but are not limited to,~~  
7 ~~design, construction, and maintenance of highway facilities;~~  
8 ~~acquisition and management of transportation rights-of-way;~~  
9 ~~traffic engineering; and materials testing.~~ This position  
10 shall be classified at a level equal to a deputy assistant  
11 secretary.

12 (g)~~(m)~~ The secretary shall appoint a state public  
13 transportation administrator ~~who shall report to the Assistant~~  
14 ~~Secretary for Transportation Policy. The state public~~  
15 ~~transportation administrator's responsibilities shall include,~~  
16 ~~but are not limited to, the administration of statewide~~  
17 ~~transit, rail, intermodal development, and aviation programs.~~  
18 This position shall be classified at a level equal to a deputy  
19 assistant secretary. ~~The department shall also assign to the~~  
20 ~~public transportation administrator an organizational unit the~~  
21 ~~primary function of which is to administer the high-speed rail~~  
22 ~~program.~~

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

1 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 (b) The primary responsibility for the implementation  
10 of the department's transportation programs shall be delegated  
11 by the secretary to the district secretaries, and sufficient  
12 authority shall be vested in each district to ensure adequate  
13 control of the resources commensurate with the delegated  
14 responsibility. Each district secretary shall also be  
15 accountable for ensuring their district's quality of  
16 performance and compliance with all laws, rules, policies, and  
17 procedures related to the operation of the department.

18 (c) Each district secretary may appoint a district  
19 director for planning and programming, a district director for  
20 production, and a district director for operations. These  
21 positions are exempt from part II of chapter 110.

22 (d) Within each district, offices shall be established  
23 for managing major functional responsibilities of the  
24 department. ~~The offices may include planning, design,~~  
25 ~~construction, right of way, maintenance, and public~~  
26 ~~transportation.~~ The heads of these offices shall be exempt  
27 from part II of chapter 110.

28 (e) The district director for the Fort Myers Urban  
29 Office of the Department of Transportation is responsible for  
30 developing the 5-year Transportation Plan for Charlotte,  
31 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort

1 Myers Urban Office also is responsible for providing policy,  
2 direction, local government coordination, and planning for  
3 those counties.

4 (5) Notwithstanding the provisions of s. 110.205, the  
5 Department of Management Services is authorized to exempt  
6 positions within the Department of Transportation which are  
7 comparable to positions within the Senior Management Service  
8 pursuant to s. 110.205(2)(i) or positions which are comparable  
9 to positions in the Selected Exempt Service under s.  
10 110.205(2)(1).

11 ~~(6) To facilitate the efficient and effective~~  
12 ~~management of the department in a businesslike manner, the~~  
13 ~~department shall develop a system for the submission of~~  
14 ~~monthly management reports to the Florida Transportation~~  
15 ~~Commission and secretary from the district secretaries. The~~  
16 ~~commission and the secretary shall determine which reports are~~  
17 ~~required to fulfill their respective responsibilities under~~  
18 ~~this section. A copy of each such report shall be submitted~~  
19 ~~monthly to the appropriations and transportation committees of~~  
20 ~~the Senate and the House of Representatives. Recommendations~~  
21 ~~made by the Auditor General in his or her audits of the~~  
22 ~~department that relate to management practices, systems, or~~  
23 ~~reports shall be implemented in a timely manner. However, if~~  
24 ~~the department determines that one or more of the~~  
25 ~~recommendations should be altered or should not be~~  
26 ~~implemented, it shall provide a written explanation of such~~  
27 ~~determination to the Legislative Auditing Committee within 6~~  
28 ~~months after the date the recommendations were published.~~

29 (6)(7) The department is authorized to contract with  
30 local governmental entities and with the private sector if the  
31 department first determines that:



1 (a) Consultants can do the work at less cost than  
2 state employees;

3 (b) State employees can do the work at less cost, but  
4 sufficient positions have not been approved by the Legislature  
5 as requested in the department's most recent legislative  
6 budget request;

7 (c) The work requires specialized expertise, and it  
8 would not be economical for the state to acquire, and then  
9 maintain, the expertise after the work is done;

10 (d) The workload is at a peak level, and it would not  
11 be economical to acquire, and then keep, extra personnel after  
12 the workload decreases; or

13 (e) The use of such entities is clearly in the  
14 public's best interest.

15  
16 Such contracts shall require compliance with applicable  
17 federal and state laws, and clearly specify the product or  
18 service to be provided.

19 Section 2. Paragraphs (i) and (l) of subsection (2) of  
20 section 110.205, Florida Statutes, are amended to read:

21 110.205 Career service; exemptions.--

22 (2) EXEMPT POSITIONS.--The exempt positions which are  
23 not covered by this part include the following, provided that  
24 no position, except for positions established for a limited  
25 period of time pursuant to paragraph (h), shall be exempted if  
26 the position reports to a position in the career service:

27 (i) The appointed secretaries, assistant secretaries,  
28 deputy secretaries, and deputy assistant secretaries of all  
29 departments; the executive directors, assistant executive  
30 directors, deputy executive directors, and deputy assistant  
31 executive directors of all departments; and the directors of

1 all divisions and those positions determined by the department  
2 to have managerial responsibilities comparable to such  
3 positions, which positions include, but are not limited to,  
4 program directors, assistant program directors, district  
5 administrators, deputy district administrators, the Director  
6 of Central Operations Services of the Department of Children  
7 and Family Services, and the State Transportation Planner,  
8 State Highway Engineer, State Public Transportation  
9 Administrator, district secretaries, district directors of  
10 planning and programming, production, and operations, and the  
11 managers of the offices specified in s. 20.23(3)(b)1.~~(d)2.~~, of  
12 the Department of Transportation. Unless otherwise fixed by  
13 law, the department shall set the salary and benefits of these  
14 positions in accordance with the rules of the Senior  
15 Management Service.

16 (1) All assistant division director, deputy division  
17 director, and bureau chief positions in any department, and  
18 those positions determined by the department to have  
19 managerial responsibilities comparable to such positions,  
20 which positions include, but are not limited to, positions in  
21 the Department of Health, the Department of Children and  
22 Family Services, and the Department of Corrections that are  
23 assigned primary duties of serving as the superintendent or  
24 assistant superintendent, or warden or assistant warden, of an  
25 institution; positions in the Department of Corrections that  
26 are assigned primary duties of serving as the circuit  
27 administrator or deputy circuit administrator; positions in  
28 the Department of Transportation that are assigned primary  
29 duties of serving as regional toll managers and managers of  
30 offices as defined in s. 20.23(3)(b)2.~~(d)3.~~ and (4)(d);  
31 positions in the Department of Environmental Protection that

1 are assigned the duty of an Environmental Administrator or  
2 program administrator; those positions described in s. 20.171  
3 as included in the Senior Management Service; and positions in  
4 the Department of Health that are assigned the duties of  
5 Environmental Administrator, Assistant County Health  
6 Department Director, and County Health Department Financial  
7 Administrator. Unless otherwise fixed by law, the department  
8 shall set the salary and benefits of these positions in  
9 accordance with the rules established for the Selected Exempt  
10 Service.

11 Section 3. Subsection (2) of section 206.46, Florida  
12 Statutes, is amended to read:

13 206.46 State Transportation Trust Fund.--

14 (2) Notwithstanding any other provisions of law, from  
15 the revenues deposited into the State Transportation Trust  
16 Fund a maximum of 7 percent in each fiscal year shall be  
17 transferred into the Right-of-Way Acquisition and Bridge  
18 Construction Trust Fund created in s. 215.605, as needed to  
19 meet the requirements of the documents authorizing the bonds  
20 issued or proposed to be issued under ss. 215.605 and 337.276  
21 or at a minimum amount sufficient to pay for the debt service  
22 coverage requirements of outstanding bonds. Notwithstanding  
23 the 7 percent annual transfer authorized in this subsection,  
24 the annual amount transferred under this subsection shall not  
25 exceed an amount necessary to provide the required debt  
26 service coverage levels for a maximum debt service not to  
27 exceed ~~\$200~~\$135 million. Such transfer shall be payable  
28 primarily from the motor and diesel fuel taxes transferred to  
29 the State Transportation Trust Fund from the Fuel Tax  
30 Collection Trust Fund.

31

1           Section 4. Paragraph (a) of subsection (1) of section  
2 255.20, Florida Statutes, is amended to read:

3           255.20 Local bids and contracts for public  
4 construction works; specification of state-produced lumber.--

5           (1) A county, municipality, special district as  
6 defined in chapter 189, or other political subdivision of the  
7 state seeking to construct or improve a public building,  
8 structure, or other public construction works must  
9 competitively award to an appropriately licensed contractor  
10 each project that is estimated in accordance with generally  
11 accepted cost-accounting principles to have total construction  
12 project costs of more than \$200,000. For electrical work,  
13 local government must competitively award to an appropriately  
14 licensed contractor each project that is estimated in  
15 accordance with generally accepted cost-accounting principles  
16 to have a cost of more than \$50,000. As used in this section,  
17 the term "competitively award" means to award contracts based  
18 on the submission of sealed bids, proposals submitted in  
19 response to a request for proposal, proposals submitted in  
20 response to a request for qualifications, or proposals  
21 submitted for competitive negotiation. This subsection  
22 expressly allows contracts for construction management  
23 services, design/build contracts, continuation contracts based  
24 on unit prices, and any other contract arrangement with a  
25 private sector contractor permitted by any applicable  
26 municipal or county ordinance, by district resolution, or by  
27 state law. For purposes of this section, construction costs  
28 include the cost of all labor, except inmate labor, and  
29 include the cost of equipment and materials to be used in the  
30 construction of the project. Subject to the provisions of  
31 subsection (3), the county, municipality, special district, or

1 other political subdivision may establish, by municipal or  
2 county ordinance or special district resolution, procedures  
3 for conducting the bidding process.

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

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

10 a. An immediate danger to the public health or safety;  
11 b. Other loss to public or private property which  
12 requires emergency government action; or  
13 c. An interruption of an essential governmental  
14 service.

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

18 3. To construction, remodeling, repair, or improvement  
19 to a public electric or gas utility system when such work on  
20 the public utility system is performed by personnel of the  
21 system.

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

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

27 6. When the project is undertaken exclusively as part  
28 of a public educational program.

29 7. When the funding source of the project will be  
30 diminished or lost because the time required to competitively  
31

1 award the project after the funds become available exceeds the  
2 time within which the funding source must be spent.

3           8. When the local government has competitively awarded  
4 a project to a private sector contractor and the contractor  
5 has abandoned the project before completion or the local  
6 government has terminated the contract.

7           9. When the governing board of the local government,  
8 after public notice, conducts a public meeting under s.  
9 286.011 and finds by a majority vote of the governing board  
10 that it is in the public's best interest to perform the  
11 project using its own services, employees, and equipment. The  
12 public notice must be published at least 14 days prior to the  
13 date of the public meeting at which the governing board takes  
14 final action to apply this subparagraph. The notice must  
15 identify the project, the estimated cost of the project, and  
16 specify that the purpose for the public meeting is to consider  
17 whether it is in the public's best interest to perform the  
18 project using the local government's own services, employees,  
19 and equipment. In deciding whether it is in the public's best  
20 interest for local government to perform a project using its  
21 own services, employees, and equipment, the governing board  
22 may consider the cost of the project, whether the project  
23 requires an increase in the number of government employees, an  
24 increase in capital expenditures for public facilities,  
25 equipment or other capital assets, the impact on local  
26 economic development, the impact on small and minority  
27 business owners, the impact on state and local tax revenues,  
28 whether the private sector contractors provide health  
29 insurance and other benefits equivalent to those provided by  
30 the local government, and any other factor relevant to what is  
31 in the public's best interest.

1           10. When the governing board of the local government  
2 determines upon consideration of specific substantive criteria  
3 and administrative procedures that it is in the best interest  
4 of the local government to award the project to an  
5 appropriately licensed private sector contractor according to  
6 procedures established by and expressly set forth in a  
7 charter, ordinance, or resolution of the local government  
8 adopted prior to July 1, 1994. The criteria and procedures  
9 must be set out in the charter, ordinance, or resolution and  
10 must be applied uniformly by the local government to avoid  
11 award of any project in an arbitrary or capricious manner.  
12 This exception shall apply when all of the following occur:

13           a. When the governing board of the local government,  
14 after public notice, conducts a public meeting under s.  
15 286.011 and finds by a two-thirds vote of the governing board  
16 that it is in the public's best interest to award the project  
17 according to the criteria and procedures established by  
18 charter, ordinance, or resolution. The public notice must be  
19 published at least 14 days prior to the date of the public  
20 meeting at which the governing board takes final action to  
21 apply this subparagraph. The notice must identify the  
22 project, the estimated cost of the project, and specify that  
23 the purpose for the public meeting is to consider whether it  
24 is in the public's best interest to award the project using  
25 the criteria and procedures permitted by the preexisting  
26 ordinance.

27           b. In the event the project is to be awarded by any  
28 method other than a competitive selection process, the  
29 governing board must find evidence that:

30           (I) There is one appropriately licensed contractor who  
31 is uniquely qualified to undertake the project because that

1 contractor is currently under contract to perform work that is  
2 affiliated with the project; or

3 (II) The time to competitively award the project will  
4 jeopardize the funding for the project, or will materially  
5 increase the cost of the project or will create an undue  
6 hardship on the public health, safety, or welfare.

7 c. In the event the project is to be awarded by any  
8 method other than a competitive selection process, the  
9 published notice must clearly specify the ordinance or  
10 resolution by which the private sector contractor will be  
11 selected and the criteria to be considered.

12 d. In the event the project is to be awarded by a  
13 method other than a competitive selection process, the  
14 architect or engineer of record has provided a written  
15 recommendation that the project be awarded to the private  
16 sector contractor without competitive selection; and the  
17 consideration by, and the justification of, the government  
18 body are documented, in writing, in the project file and are  
19 presented to the governing board prior to the approval  
20 required in this paragraph.

21 11. To projects subject to chapter 336.

22 Section 5. Subsection (2) and paragraphs (a) and (b)  
23 of subsection (3) of section 311.07, Florida Statutes, are  
24 amended to read:

25 311.07 Florida seaport transportation and economic  
26 development funding.--

27 (2) A minimum of ~~\$10~~<sup>\$8</sup> million per year shall be made  
28 available from the State Transportation Trust Fund to fund the  
29 Florida Seaport Transportation and Economic Development  
30 Program.

31



1           (3)(a) Program funds shall be used to fund approved  
2 projects on a 50-50 matching basis with any of the deepwater  
3 ports, as listed in s. 403.021(9)(b), which is governed by a  
4 public body or any other deepwater port which is governed by a  
5 public body and which complies with the water quality  
6 provisions of s. 403.061, the comprehensive master plan  
7 requirements of s. 163.3178(2)(k), the local financial  
8 management and reporting provisions of part III of chapter  
9 218, and the auditing provisions of s. 11.45(3)(a)5. Program  
10 funds also may be used by the Seaport Transportation and  
11 Economic Development Council to develop ~~with the Florida Trade~~  
12 ~~Data Center~~ such trade data information products which will  
13 assist Florida's seaports and international trade.

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

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

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

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

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

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

30           6. The acquisition, improvement, enlargement, or  
31 extension of existing port facilities.

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

10           8. Transportation facilities as defined in s.  
11 334.03(31) which are not otherwise part of the Department of  
12 Transportation's adopted work program.

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

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

22           11. Seaport security projects identified pursuant to  
23 s. 311.12. Seaport security projects are not subject to the  
24 matching fund requirements of paragraph (a).

25           Section 6. Paragraph (b) of subsection (1) of section  
26 316.302, Florida Statutes, is amended to read:

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

30           (1)

31

1 (b) Except as otherwise provided in this section, all  
2 owners or drivers of commercial motor vehicles that are  
3 engaged in intrastate commerce are subject to the rules and  
4 regulations contained in 49 C.F.R. parts 382, 385, and  
5 390-397, with the exception of 49 C.F.R. s. 390.5 as it  
6 relates to the definition of bus, as such rules and  
7 regulations existed on October 1, 2000 ~~March 1, 1999~~.

8 Section 7. Paragraph (a) of subsection (3) of section  
9 316.3025, Florida Statutes, is amended to read:

10 316.3025 Penalties.--

11 (3)(a) A civil penalty of \$50 may be assessed for a  
12 violation of 49 C.F.R. s. 390.21 ~~s. 316.3027~~.

13 Section 8. Subsection (2) of section 316.515, Florida  
14 Statutes, is amended to read:

15 316.515 Maximum width, height, length.--

16 (2) HEIGHT LIMITATION.--No vehicle may exceed a height  
17 of 13 feet 6 inches, inclusive of load carried thereon.  
18 However, an automobile transporter may, ~~with a permit from the~~  
19 ~~Department of Transportation,~~ measure a height not to exceed  
20 14 feet, inclusive of the load carried thereon.

21 Section 9. Subsection (6) of section 316.535, Florida  
22 Statutes, is renumbered as subsection (7), present subsection  
23 (7) is renumbered as subsection (8) and amended, and a new  
24 subsection (6) is added to said section to read:

25 316.535 Maximum weights.--

26 (6) Dump trucks, concrete mixing trucks, trucks  
27 engaged in waste collection and disposal, and fuel oil and  
28 gasoline trucks designed and constructed for special type work  
29 or use, when operated as a single unit, shall be subject to  
30 all safety and operational requirements of law, except that  
31 any such vehicle need not conform to the axle spacing

1 requirements of this section provided that such vehicle shall  
2 be limited to a total gross load, including the weight of the  
3 vehicle, of 20,000 pounds per axle plus scale tolerances and  
4 shall not exceed 550 pounds per inch width tire surface plus  
5 scale tolerances. No vehicle operating pursuant to this  
6 section shall exceed a gross weight, including the weight of  
7 the vehicle and scale tolerances, of 70,000 pounds. Any  
8 vehicle violating the weight provisions of this section shall  
9 be penalized as provided in s. 316.545.

10 ~~(7)(6)~~ The Department of Transportation shall adopt  
11 rules to implement this section, shall enforce this section  
12 and the rules adopted hereunder, and shall publish and  
13 distribute tables and other publications as deemed necessary  
14 to inform the public.

15 ~~(8)(7)~~ Except as hereinafter provided, no vehicle or  
16 combination of vehicles exceeding the gross weights specified  
17 in subsections (3), (4), ~~and~~ (5), and (6) shall be permitted  
18 to travel on the public highways within the state.

19 Section 10. Paragraph (a) of subsection (2) of section  
20 316.545, Florida Statutes, is amended to read:

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

23 (2)(a) Whenever an officer, upon weighing a vehicle or  
24 combination of vehicles with load, determines that the axle  
25 weight or gross weight is unlawful, the officer may require  
26 the driver to stop the vehicle in a suitable place and remain  
27 standing until a determination can be made as to the amount of  
28 weight thereon and, if overloaded, the amount of penalty to be  
29 assessed as provided herein. However, any gross weight over  
30 and beyond 6,000 pounds beyond the maximum herein set shall be  
31 unloaded and all material so unloaded shall be cared for by

1 the owner or operator of the vehicle at the risk of such owner  
2 or operator. Except as otherwise provided in this chapter, to  
3 facilitate compliance with and enforcement of the weight  
4 limits established in s. 316.535, weight tables published  
5 pursuant to s. 316.535(7)~~(6)~~ shall include a 10-percent scale  
6 tolerance and shall thereby reflect the maximum scaled weights  
7 allowed any vehicle or combination of vehicles. As used in  
8 this section, scale tolerance means the allowable deviation  
9 from legal weights established in s. 316.535. Notwithstanding  
10 any other provision of the weight law, if a vehicle or  
11 combination of vehicles does not exceed the gross, external  
12 bridge, or internal bridge weight limits imposed in s. 316.535  
13 and the driver of such vehicle or combination of vehicles can  
14 comply with the requirements of this chapter by shifting or  
15 equalizing the load on all wheels or axles and does so when  
16 requested by the proper authority, the driver shall not be  
17 held to be operating in violation of said weight limits.

18 Section 11. Section 330.27, Florida Statutes, is  
19 amended to read:

20 330.27 Definitions, when used in ss. 330.29-330.36,  
21 330.38, 330.39.--

22 (1) "Aircraft" means a powered or unpowered machine or  
23 device capable of atmosphere flight ~~any motor vehicle or~~  
24 ~~contrivance now known, or hereafter invented, which is used or~~  
25 ~~designed for navigation of or flight in the air, except a~~  
26 parachute or other such device ~~contrivance designed for such~~  
27 ~~navigation but~~ used primarily as safety equipment.

28 (2) "Airport" means an ~~any~~ area of land or water, ~~or~~  
29 ~~any manmade object or facility located thereon, which is used~~  
30 for, or intended to be used for, use, for the landing and  
31 takeoff of aircraft, including ~~and any~~ appurtenant areas,

1 ~~which are used, or intended for use, for airport buildings, or~~  
2 ~~other airport facilities, or rights-of-way necessary to~~  
3 facilitate such use or intended use, ~~together with all airport~~  
4 ~~buildings and facilities located thereon.~~

5 ~~(3) "Airport hazard" means any structure, object of~~  
6 ~~natural growth, or use of land which obstructs the airspace~~  
7 ~~required for the flight of aircraft in landing or taking off~~  
8 ~~at an airport or which is otherwise hazardous to such landing~~  
9 ~~or taking off.~~

10 ~~(4) "Aviation" means the science and art of flight and~~  
11 ~~includes, but is not limited to, transportation by aircraft;~~  
12 ~~the operation, construction, repair, or maintenance of~~  
13 ~~aircraft, aircraft power plants, and accessories, including~~  
14 ~~the repair, packing, and maintenance of parachutes; the~~  
15 ~~design, establishment, construction, extension, operation,~~  
16 ~~improvement, repair, or maintenance of airports or other air~~  
17 ~~navigation facilities; and instruction in flying or ground~~  
18 ~~subjects pertaining thereto.~~

19 ~~(3)(5) "Department" means the Department of~~  
20 ~~Transportation.~~

21 ~~(4)(6) "Limited airport" means any an airport,~~  
22 ~~publicly or privately owned, limited exclusively to the~~  
23 ~~specific conditions stated on the site approval order or~~  
24 ~~license.~~

25 ~~(7) "Operation of aircraft" or "operate aircraft"~~  
26 ~~means the use, navigation, or piloting of aircraft in the~~  
27 ~~airspace over this state or upon any airport within this~~  
28 ~~state.~~

29 ~~(8) "Political subdivision" means any county,~~  
30 ~~municipality, district, port or aviation commission or~~  
31

1 ~~authority, or similar entity authorized to establish or~~  
2 ~~operate an airport in this state.~~

3       (5)(9) "Private airport" means an airport, publicly or  
4 privately owned, which is not open or available for use by the  
5 public. A private airport is registered with the department  
6 for use of the person or persons registering the facility used  
7 ~~primarily by the licensee but may be made~~ which is available  
8 to others for use by invitation of the registrant licensee.  
9 ~~Services may be provided if authorized by the department.~~

10       (6)(10) "Public airport" means an airport, publicly or  
11 privately owned, which ~~meets minimum safety and service~~  
12 ~~standards and is open for use by the public~~ as listed in the  
13 current United States Government Flight Information  
14 Publication, Airport Facility Directory. A public airport is  
15 licensed by the department as meeting minimum safety  
16 standards.

17       (7)(11) "Temporary airport" means any ~~an~~ airport,  
18 ~~publicly or privately owned,~~ that will be used for a period of  
19 less than 90 days with no more than 10 operations per day.

20       (8)(12) "Ultralight aircraft" means any  
21 ~~heavier-than-air, motorized aircraft~~ meeting ~~which meets~~ the  
22 ~~criteria for maximum weight, fuel capacity, and airspeed~~  
23 ~~established for such aircraft~~ by the Federal Aviation  
24 Regulation Administration under Part 103 of the Federal  
25 Aviation Regulations.

26       Section 12. Section 330.29, Florida Statutes, is  
27 amended to read:

28       330.29 Administration and enforcement; rules;  
29 standards for airport sites and airports.--It is the duty of  
30 the department to:  
31

1           (1) Administer and enforce the provisions of this  
2 chapter.

3           (2) Establish minimum standards for airport sites and  
4 airports under its licensing and registration jurisdiction.

5           (3) Establish and maintain a state aviation data  
6 system to facilitate licensing and registration of all  
7 airports.

8           (4)~~(3)~~ Adopt rules pursuant to ss. 120.536(1) and  
9 120.54 to implement the provisions of this chapter.

10           Section 13. Section 330.30, Florida Statutes, is  
11 amended to read:

12           330.30 Approval of airport sites and licensing of  
13 airports; ~~fees.~~--

14           (1) SITE APPROVALS; REQUIREMENTS, ~~FEES~~, EFFECTIVE  
15 PERIOD, REVOCATION.--

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

26           1. That the site is suitable ~~adequate~~ for the airport  
27 as proposed ~~airport~~;

28           2. That the airport as proposed ~~airport~~, ~~if~~  
29 ~~constructed or established,~~ will conform to minimum standards  
30 ~~of safety~~ and will comply with the applicable local government  
31



1 land development regulation or county or municipal zoning  
2 requirements;

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

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

10 (b) Site approval shall be granted for public airports  
11 only after a favorable department inspection of the proposed  
12 site.

13 (c) Site approval shall be granted for private  
14 airports only after receipt of documentation the department  
15 deems necessary to satisfy the conditions in paragraph (a).

16 (d)~~(b)~~ Site approval may be granted subject to any  
17 reasonable conditions ~~which~~ the department deems ~~may deem~~  
18 necessary to protect the public health, safety, or welfare.

19 (e) ~~Such~~ Approval shall remain valid ~~in effect~~ for a  
20 ~~period of 2 years after the date of issue issuance of the site~~  
21 ~~approval order~~, unless ~~sooner~~ revoked by the department or  
22 ~~unless, prior to the expiration of the 2-year period,~~ a public  
23 airport license is issued or private airport registration  
24 granted for an airport located on the approved site has been  
25 issued pursuant to subsection (2) prior to the expiration  
26 date.

27 (f) The department may extend a site approval ~~may be~~  
28 ~~extended~~ for up to a maximum of 2 years for ~~upon~~ good cause  
29 ~~shown by the owner or lessee of the airport site.~~

30 (g)~~(c)~~ The department may revoke a site ~~such~~ approval  
31 if it determines:

1           1. That ~~there has been an abandonment of the site~~ has  
2 been abandoned as an airport ~~site~~;

3           2. That ~~there has been a failure within a reasonable~~  
4 ~~time to develop~~ the site has not been developed as an airport  
5 within a reasonable time period or development does not to  
6 comply with the conditions of the site approval;

7           3. That except as required for in-flight emergencies  
8 ~~the operation of aircraft~~ have operated ~~of a nonemergency~~  
9 ~~nature has occurred~~ on the site; or

10           4. That, ~~because of changed physical or legal~~  
11 ~~conditions or circumstances,~~ the site is no longer usable for  
12 the aviation purposes due to physical or legal changes in  
13 conditions that were the subject of ~~for which the approval was~~  
14 ~~granted.~~

15           (2) LICENSES AND REGISTRATIONS; REQUIREMENTS, FEES,  
16 RENEWAL, REVOCATION.--

17           (a) Except as provided in subsection (3), the owner or  
18 lessee of any an airport in this state must have either a  
19 public airport ~~obtain a~~ license or private airport  
20 registration prior to the operation of aircraft to or from the  
21 facility on the airport. ~~An~~ Application for a ~~such~~ license or  
22 registration shall be made on a form prescribed by the  
23 department ~~and shall be accomplished jointly with an~~  
24 ~~application for site approval.~~ Upon granting site approval;  
25 ~~making a favorable final airport inspection report indicating~~  
26 ~~compliance with all license requirements, and receiving the~~  
27 ~~appropriate license fee, the department shall issue a license~~  
28 ~~to the applicant, subject to any reasonable conditions that~~  
29 ~~the department may deem necessary to protect the public~~  
30 ~~health, safety, or welfare.~~

31

1           1. For a public airport, the department shall issue a  
2 license after a final airport inspection finds the facility to  
3 be in compliance with all requirements for the license. The  
4 license may be subject to any reasonable conditions that the  
5 department may deem necessary to protect the public health,  
6 safety, or welfare.

7           2. For a private airport, the department shall provide  
8 controlled electronic access to the state aviation facility  
9 data system to permit the applicant to complete the  
10 registration process. Registration shall be completed upon  
11 self-certification by the registrant of operational and  
12 configuration data deemed necessary by the department.

13           (b) The department is authorized to license a public  
14 ~~an~~ airport that does not meet all of the minimum standards  
15 only if it determines that such exception is justified by  
16 unusual circumstances or is in the interest of public  
17 convenience and does not endanger the public health, safety,  
18 or welfare. Such a license shall bear the designation  
19 "special" and shall state the conditions subject to which the  
20 license is granted.

21           (c) The department may authorize a site to be used as  
22 a temporary airport if it finds, after inspection of the site,  
23 that the airport will not endanger the public health, safety,  
24 or welfare. A temporary airport will not require a license or  
25 registration. Such Authorization to use a site for a temporary  
26 airport will be valid for ~~shall expire~~ not more later than 30  
27 90 days after issuance and is not renewable.

28           ~~(d) The license fees for the four categories of~~  
29 ~~airport licenses are:~~

30           ~~1. Public airport: \$100.~~

31           ~~2. Private airport: \$70.~~

1           ~~3. Limited airport: \$50.~~

2           ~~4. Temporary airport: \$25.~~

3

4 ~~Airports owned or operated by the state, a county, or a~~  
5 ~~municipality and emergency helistops operated by licensed~~  
6 ~~hospitals are required to be licensed but are exempt from the~~  
7 ~~payment of site approval fees and annual license fees.~~

8           ~~(d)(e)~~1. Each public airport license will expire no  
9 later than 1 year after the effective date of the license,  
10 except that the expiration date of a license may be adjusted  
11 to provide a maximum license period of 18 months to facilitate  
12 airport inspections, recognize seasonal airport operations, or  
13 improve administrative efficiency. ~~If the expiration date for~~  
14 ~~a public airport is adjusted, the appropriate license fee~~  
15 ~~shall be determined by prorating the annual fee based on the~~  
16 ~~length of the adjusted license period.~~

17           2. Registration ~~The license period for private all~~  
18 ~~airports other than public airports will remain valid provided~~  
19 specific elements of airport data, established by the  
20 department, are periodically recertified by the airport  
21 registrant. The ability to recertify private airport  
22 registration data shall be available at all times by  
23 electronic submittal. Recertification shall be required each  
24 12 months. A private airport registration that has not been  
25 recertified in the 12-month period following the last  
26 certification shall expire. The expiration date of the current  
27 registration period will be clearly identifiable from the  
28 state aviation facility data system.~~be set by the department,~~  
29 ~~but shall not exceed a period of 5 years. In determining the~~  
30 ~~license period for such airports, the department shall~~  
31 ~~consider the number of based aircraft, the airport location~~

1 ~~relative to adjacent land uses and other airports, and any~~  
2 ~~other factors deemed by the department to be critical to~~  
3 ~~airport operation and safety.~~

4           3. The effective date and expiration date shall be  
5 shown on public airport licenses ~~stated on the face of the~~  
6 license. Upon receiving an application for renewal of a public  
7 airport license on a form prescribed by the department and,  
8 making a favorable inspection report indicating compliance  
9 with all applicable requirements and conditions, ~~and receiving~~  
10 ~~the appropriate annual license fee~~, the department shall renew  
11 the license, subject to any conditions deemed necessary to  
12 protect the public health, safety, or welfare.

13           4. The department may require a new site approval for  
14 any ~~an~~ airport if the license or registration ~~of the airport~~  
15 has expired ~~not been renewed by the expiration date~~.

16           5. If the renewal application for a public airport  
17 license has ~~and fees have~~ not been received by the department  
18 or no private airport registration recertification has been  
19 accomplished within 15 days after the date of expiration ~~of~~  
20 ~~the license~~, the department may close the airport.

21           ~~(e)~~(f) The department may revoke any airport  
22 registration, license, or license renewal thereof, or refuse  
23 to allow registration or issue a registration or license  
24 renewal, if it determines:

25           1. That the site ~~there~~ has been abandoned as an ~~an~~  
26 ~~abandonment of the airport as such~~;

27           2. That the airport does not ~~there has been a failure~~  
28 ~~to comply with the registration, license, license renewal, or~~  
29 site conditions of the license or renewal thereof; or

30           3. That, ~~because of changed physical or legal~~  
31 ~~conditions or circumstances~~, the airport has become either

1 unsafe or unusable for flight operation due to physical or  
2 legal changes in conditions that were the subject of approval  
3 ~~the aeronautical purposes for which the license or renewal was~~  
4 ~~issued.~~

5 (3) EXEMPTIONS.--The provisions of this section do not  
6 apply to:

7 (a) An airport owned or operated by the United States.

8 (b) An ultralight aircraft landing area; ~~except that~~  
9 ~~any public ultralight airport located~~ more than within 5  
10 nautical miles from a ~~of another~~ public airport or military  
11 airport, except ~~or~~ any ultralight landing area with more than  
12 10 ultralight aircraft operating from the site ~~is subject to~~  
13 ~~the provisions of this section.~~

14 (c) A helistop used solely in conjunction with a  
15 construction project undertaken pursuant to the performance of  
16 a state contract if the purpose of the helicopter operations  
17 at the site is to expedite construction.

18 ~~(d) An airport under the jurisdiction or control of a~~  
19 ~~county or municipal aviation authority or a county or~~  
20 ~~municipal port authority or the Spaceport Florida Authority;~~  
21 ~~however, the department shall license any such airport if such~~  
22 ~~authority does not elect to exercise its exemption under this~~  
23 ~~subsection.~~

24 ~~(d)(e)~~ A helistop used by mosquito control or  
25 emergency services, not to include areas where permanent  
26 facilities are installed, such as hospital landing sites.

27 ~~(e)(f)~~ An airport which meets the criteria of s.  
28 330.27(11) used exclusively for aerial application or spraying  
29 of crops on a seasonal basis, not to include any licensed  
30 airport where permanent crop aerial application or spraying  
31 facilities are installed, if the period of operation does not

1 exceed 30 days per calendar year. Such proposed airports,  
2 which will be located within 3 miles of existing airports or  
3 approved airport sites, shall work out safe air-traffic  
4 patterns with such existing airports or approved airport  
5 sites, by memorandums of understanding, or by letters of  
6 agreement between the parties representing the airports or  
7 sites.

8 Section 14. Subsection (2) of section 330.35, Florida  
9 Statutes, is amended to read:

10 330.35 Airport zoning, ~~approach zone~~ protection.--

11 (2) Airports licensed for ~~general~~ public use under the  
12 provisions of s. 330.30 are eligible for airport zoning  
13 ~~approach zone~~ protection, ~~and the procedure shall be the same~~  
14 as ~~is~~ prescribed in chapter 333.

15 Section 15. Subsection (2) of section 330.36, Florida  
16 Statutes, is amended to read:

17 330.36 Prohibition against county or municipal  
18 licensing of airports; regulation of seaplane landings.--

19 (2) A municipality may prohibit or otherwise regulate,  
20 for specified public health and safety purposes, the landing  
21 of seaplanes in and upon any public waters of the state which  
22 are located within the limits or jurisdiction of, or bordering  
23 on, the municipality upon adoption of zoning requirements in  
24 compliance with the provisions of subsection (1).

25 Section 16. Subsection (4) of section 332.004, Florida  
26 Statutes, is amended to read:

27 332.004 Definitions of terms used in ss.

28 332.003-332.007.--As used in ss. 332.003-332.007, the term:

29 (4) "Airport or aviation development project" or  
30 "development project" means any activity associated with the  
31 design, construction, purchase, improvement, or repair of a

1 public-use airport or portion thereof, including, but not  
2 limited to: the purchase of equipment; the acquisition of  
3 land, including land required as a condition of a federal,  
4 state, or local permit or agreement for environmental  
5 mitigation; off-airport noise mitigation projects; the  
6 removal, lowering, relocation, marking, and lighting of  
7 airport hazards; the installation of navigation aids used by  
8 aircraft in landing at or taking off from a public airport;  
9 the installation of safety equipment required by rule or  
10 regulation for certification of the airport under s. 612 of  
11 the Federal Aviation Act of 1958, and amendments thereto; and  
12 the improvement of access to the airport by road or rail  
13 system which is on airport property and which is consistent,  
14 to the maximum extent feasible, with the approved local  
15 government comprehensive plan of the units of local government  
16 in which the airport is located.

17 Section 17. Subsection (5) and paragraph (b) of  
18 subsection (15) of section 334.044, Florida Statutes, are  
19 amended to read:

20 334.044 Department; powers and duties.--The department  
21 shall have the following general powers and duties:

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

31



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

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

24           Section 18. Section 334.30, Florida Statutes, is  
25 amended to read:

26           334.30 Public-private ~~Private~~ transportation  
27 facilities.--The Legislature hereby finds and declares that  
28 there is a public need for rapid construction of safe and  
29 efficient transportation facilities for the purpose of travel  
30 within the state, and that it is in the public's interest to  
31 provide for public-private partnership agreements to

1 effectuate the construction of additional safe, convenient,  
2 and economical transportation facilities.

3 (1) The department may receive or solicit proposals  
4 ~~and, with legislative approval by a separate bill for each~~  
5 ~~facility,~~ enter into agreements with private entities, or  
6 consortia thereof, for the building, operation, ownership, or  
7 financing of transportation facilities. The department is  
8 authorized to adopt rules to implement this section and shall  
9 by rule establish an application fee for the submission of  
10 proposals under this section. The fee must be sufficient to  
11 pay the costs of evaluating the proposals. The department may  
12 engage the services of private consultants to assist in the  
13 evaluation. Before ~~seeking legislative~~ approval, the  
14 department must determine that the proposed project:

15 (a) Is in the public's best interest. ~~†~~

16 (b) Would not require state funds to be used unless  
17 there is an overriding state interest. However, the department  
18 may use state resources for a transportation facility project  
19 that is on the State Highway System or that provides for  
20 increased mobility on the state's transportation system. ~~† and~~

21 (c) Would have adequate safeguards in place to ensure  
22 that no additional costs or service disruptions would be  
23 realized by the traveling public and citizens of the state in  
24 the event of default or cancellation of the agreement by the  
25 department.

26  
27 ~~The department shall ensure that all reasonable costs to the~~  
28 ~~state and substantially affected local governments and~~  
29 ~~utilities, related to the private transportation facility, are~~  
30 ~~borne by the private entity.~~

31

1       (2) The use of funds from the State Transportation  
2 Trust Fund is limited to advancing projects already programmed  
3 in the adopted 5-year work program or to no more than a  
4 statewide total of \$50 million in capital costs for all  
5 projects not programmed in the adopted 5-year work program.

6       (3) The department may request proposals for  
7 public-private transportation proposals or, if the department  
8 receives a proposal, shall publish a notice in a newspaper of  
9 general circulation at least once a week for 2 weeks, stating  
10 that the department has received the proposal and will accept,  
11 for 60 days after the initial date of publication, other  
12 proposals for the same project purpose. A copy of the notice  
13 must be mailed to each local government in the affected area.  
14 Notwithstanding any other provision of law, entities selected  
15 by the department in this manner shall be deemed to have  
16 complied with open competition provisions of law.

17       (4) A separate bill for projects requiring legislative  
18 approval shall be required for each facility requesting funds  
19 from the State Transportation Trust Fund in excess of a  
20 statewide total of \$50 million in capital cost for all  
21 projects not programmed in the 5-year work program.

22       (5)(2) Agreements entered into pursuant to this  
23 section may authorize the private entity to impose tolls or  
24 fares for the use of the facility. However, the amount and  
25 use of toll or fare revenues may be regulated by the  
26 department to avoid unreasonable costs to users of the  
27 facility.

28       (6)(3) Each ~~private~~ transportation facility  
29 constructed pursuant to this section shall comply with all  
30 requirements of federal, state, and local laws; state,  
31 regional, and local comprehensive plans; department rules,

1 policies, procedures, and standards for transportation  
2 facilities; and any other conditions which the department  
3 determines to be in the public's best interest.

4 ~~(7)(4)~~ The department may exercise any power possessed  
5 by it, including eminent domain, with respect to the  
6 development and construction of state transportation projects  
7 to facilitate the development and construction of  
8 transportation projects pursuant to this section. For  
9 public-private facilities located on the State Highway System,  
10 the department may pay all or part of the cost of operating  
11 and maintaining the facility. For facilities not located on  
12 the State Highway System, the department may provide services  
13 to the private entity and-agreements for maintenance, law  
14 enforcement, and other services ~~entered into pursuant to this~~  
15 ~~section~~ shall provide for full reimbursement for services  
16 rendered.

17 ~~(8)(5)~~ Except as herein provided, the provisions of  
18 this section are not intended to amend existing laws by  
19 granting additional powers to, or further restricting, local  
20 governmental entities from regulating and entering into  
21 cooperative arrangements with the private sector for the  
22 planning, construction, and operation of transportation  
23 facilities.

24 (9) The department shall have the authority to create,  
25 or assist in the creation of, tax-exempt, public-purpose  
26 chapter 63-20 corporations as provided for under the Internal  
27 Revenue Code, for the purpose of shielding the state from  
28 possible financing risks for projects under this section.  
29 Chapter 63-20 corporations may receive State Transportation  
30 Trust Fund grants from the department. The department shall be  
31 empowered to enter into public-private partnership agreements

1 with chapter 63-20 corporations for projects under this  
2 section.

3 (10) The department may lend funds from the Toll  
4 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
5 chapter 63-20 corporations that propose projects containing  
6 toll facilities. To be eligible, the chapter 63-20 corporation  
7 must meet the provisions of s. 338.251 and must also provide  
8 credit support, such as a letter of credit or other means  
9 acceptable to the department, to ensure the loans will be  
10 repaid as required by law.

11 (11)~~(6)~~ Notwithstanding s. 341.327, a fixed-guideway  
12 transportation system authorized by the department to be  
13 wholly or partially within the department's right-of-way  
14 pursuant to a lease granted under s. 337.251 may operate at  
15 any safe speed.

16 Section 19. Section 335.066, Florida Statutes, is  
17 created to read:

18 335.066 Safe Paths to Schools Program.--

19 (1) There is hereby established within the Department  
20 of Transportation the Safe Paths to Schools Program to  
21 consider the planning and construction of bicycle and  
22 pedestrian ways to provide safe transportation for children  
23 from neighborhoods to schools, parks, and the state's  
24 greenways and trails system.

25 (2) As part of the Safe Paths to Schools Program, the  
26 department may establish a grant program to fund local,  
27 regional, and state bicycle and pedestrian projects that  
28 support the program.

29 (3) The department may adopt appropriate rules for the  
30 administration of the Safe Paths to Schools Program.

31

1           Section 20. Subsections (3), (4), and (5) of section  
2 335.141, Florida Statutes, are amended to read:

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

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

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

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

28           Section 21. Subsection (4) is added to section 336.41,  
29 Florida Statutes, to read:

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

1       (4)(a) For contracts in excess of \$250,000, any  
2 governmental entity or authority may require that persons  
3 interested in performing work under the contract first be  
4 certified or qualified to do the work. Any contractor  
5 prequalified and considered eligible to bid by the department  
6 to perform the type of work described under the contract shall  
7 be presumed to be qualified to perform the work so described.  
8 Any contractor may be considered ineligible to bid by the  
9 governmental entity or authority if the contractor is behind  
10 an approved progress schedule by 10 percent or more on another  
11 project for that entity or authority at the time of the  
12 advertisement of the work. The governmental entity or  
13 authority may provide an appeal process to overcome that  
14 presumption with de novo review based on the record below to  
15 the circuit court.

16       (b) The governmental entity or authority shall publish  
17 prequalification criteria and procedures prior to  
18 advertisement or notice of solicitation. Such publications  
19 shall include notice of a public hearing for comment on such  
20 criteria and procedures prior to adoption. The procedures  
21 shall provide for an appeal process within the governmental  
22 entity or authority for objections to the prequalification  
23 process with de novo review based on the record below to the  
24 circuit court.

25       (c) The contracting entity shall also publish for  
26 comment, prior to adoption, the selection criteria and  
27 procedures to be used by the governmental entity or authority  
28 if such procedures would allow selection of other than the  
29 lowest responsible bidder. The selection criteria shall  
30 include an appeal process within the contracting entity with  
31 de novo review based on the record below to the circuit court.

1           Section 22. Subsection (2) of section 336.44, Florida  
2 Statutes, is amended to read:

3           336.44 Counties; contracts for construction of roads;  
4 procedure; contractor's bond.--

5           (2) Such contracts shall be let to the lowest  
6 responsible ~~competent~~ bidder, after publication of notice for  
7 bids containing specifications furnished by the commissioners  
8 in a newspaper published in the county where such contract is  
9 made, at least once each week for 2 consecutive weeks prior to  
10 the making of such contract.

11           Section 23. Section 337.107, Florida Statutes, is  
12 amended to read:

13           337.107 Contracts for right-of-way services.--The  
14 department may enter into contracts pursuant to s. 287.055 or  
15 s. 337.025 for right-of-way services on transportation  
16 corridors and transportation facilities or the department may  
17 include right-of-way services as part of design-build  
18 contracts awarded pursuant to s. 337.11. Right-of-way  
19 services include negotiation and acquisition services,  
20 appraisal services, demolition and removal of improvements,  
21 and asbestos-abatement services.

22           Section 24. Paragraph (c) of subsection (6) and  
23 paragraph (a) of subsection (7) of section 337.11, Florida  
24 Statutes, are amended to read:

25           337.11 Contracting authority of department; bids;  
26 emergency repairs, supplemental agreements, and change orders;  
27 combined design and construction contracts; progress payments;  
28 records; requirements of vehicle registration.--

29           (6)

30           (c) When the department determines that it is in the  
31 best interest of the public for reasons of public concern,



1 economy, improved operations or safety, and only when  
2 circumstances dictate rapid completion of the work, the  
3 department may, up to the ~~threshold~~ amount of \$120,000  
4 ~~provided in s. 287.017 for CATEGORY FOUR~~, enter into contracts  
5 for construction and maintenance without advertising and  
6 receiving competitive bids. ~~However, if legislation is enacted~~  
7 ~~by the Legislature which changes the category thresholds, the~~  
8 ~~threshold amount shall remain at \$60,000.~~The department may  
9 enter into such contracts only upon a determination that the  
10 work is necessary for one of the following reasons:

- 11 1. To ensure timely completion of projects or  
12 avoidance of undue delay for other projects;
- 13 2. To accomplish minor repairs or construction and  
14 maintenance activities for which time is of the essence and  
15 for which significant cost savings would occur; or
- 16 3. To accomplish nonemergency work necessary to ensure  
17 avoidance of adverse conditions that affect the safe and  
18 efficient flow of traffic.

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

28 (7)(a) If the head of the department determines that  
29 it is in the best interests of the public, the department may  
30 combine the design and construction phases of a building, a  
31 major bridge, an enhancement project, or a rail corridor

1 project into a single contract. Such contract is referred to  
2 as a design-build contract. Design-build contracts may be  
3 advertised and awarded notwithstanding the requirements of  
4 paragraph (c) of subsection (3). However, construction  
5 activities may not begin on any portion of such projects until  
6 title to the necessary rights-of-way and easements for the  
7 construction of such portion of the project has vested in the  
8 state or a local governmental entity and all railroad crossing  
9 and utility agreements have been executed. Title to  
10 rights-of-way vests in the state when the title has been  
11 dedicated to the public or acquired by prescription.

12 Section 25. Subsection (4) of section 337.14, Florida  
13 Statutes, is amended, and subsection (9) is added to said  
14 section, to read:

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

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

1 request the information a second time. If the applicant fails  
2 to comply with the second request within a reasonable period  
3 of time as specified therein, the application shall be denied.

4 (9)(a) Notwithstanding any other law to the contrary,  
5 for contracts in excess of \$250,000, an authority created  
6 pursuant to chapter 348 or chapter 349 may require that  
7 persons interested in performing work under contract first be  
8 certified or qualified to do the work. Any contractor may be  
9 considered ineligible to bid by the governmental entity or  
10 authority if the contractor is behind an approved progress  
11 schedule for the governmental entity or authority by 10  
12 percent or more at the time of advertisement of the work. Any  
13 contractor prequalified and considered eligible by the  
14 department to bid to perform the type of work described under  
15 the contract shall be presumed to be qualified to perform the  
16 work so described. The governmental entity or authority may  
17 provide an appeal process to overcome that presumption with de  
18 novo review based on the record below to the circuit court.

19 (b) With respect to contractors not prequalified with  
20 the department, the authority shall publish prequalification  
21 criteria and procedures prior to advertisement or notice of  
22 solicitation. Such publications shall include notice of a  
23 public hearing for comment on such criteria and procedures  
24 prior to adoption. The procedures shall provide for an appeal  
25 process within the authority for objections to the  
26 prequalification process with de novo review based on the  
27 record below to the circuit court.

28 (c) An authority may establish criteria and procedures  
29 whereunder contractor selection may occur on a basis other  
30 than the lowest responsible bidder. Prior to adoption, the  
31 authority shall publish for comment the proposed criteria and

1 procedures. Review of the adopted criteria and procedures  
2 shall be by de novo review based on the record below to the  
3 circuit court.

4 Section 26. Subsections (2) and (3) of section  
5 337.408, Florida Statutes, are amended to read:

6 337.408 Regulation of benches, transit shelters, and  
7 waste disposal receptacles within rights-of-way.--

8 (2) Waste disposal receptacles of less than 110  
9 gallons in capacity, ~~including advertising displayed on such~~  
10 ~~waste disposal receptacles,~~ may be installed within the  
11 right-of-way limits of any municipal, county, or state road,  
12 except a limited access highway; provided that written  
13 authorization has been given to a qualified private supplier  
14 of such service by the appropriate municipal or county  
15 government. A municipality or county may authorize the  
16 installation, without public bid, of waste disposal  
17 receptacles together with advertising displayed thereon within  
18 the right-of-way limits of such roads. Such waste disposal  
19 receptacles may not interfere with right-of-way preservation  
20 and maintenance.

21 (3) The department has the authority to adopt rules  
22 pertaining to benches, transit shelters, and waste disposal  
23 receptacles necessary to implement this section and to direct  
24 the immediate relocation or removal of any bench, transit  
25 shelter, or waste disposal receptacle which endangers life or  
26 property. Advertising displayed on any bench, transit shelter,  
27 or waste disposal receptacle shall not exceed the following  
28 maximum allowable dimensions for each display: bench display,  
29 72 inches long and 24 inches in height; transit shelter  
30 display, 72 inches in height and 60 inches in width; and waste  
31 disposal receptacle, 36 inches in height and 24 inches in

1 width. Not more than one display on a bench, transit shelter,  
2 or waste disposal receptacle shall be permitted to face in the  
3 same direction at the same location.~~except that~~ Transit bus  
4 benches which have been placed in service prior to April 1,  
5 1992, do not have to comply with bench size and advertising  
6 display size requirements which have been established by the  
7 department prior to March 1, 1992. Any transit bus bench that  
8 was in service prior to April 1, 1992, may be replaced with a  
9 bus bench of the same size or smaller, if the bench is damaged  
10 or destroyed or otherwise becomes unusable.

11 Section 27. Subsection (2) of section 337.401, Florida  
12 Statutes, is amended to read:

13 337.401 Use of right-of-way for utilities subject to  
14 regulation; permit; fees.--

15 (2) The authority may grant to any person who is a  
16 resident of this state, or to any corporation which is  
17 organized under the laws of this state or licensed to do  
18 business within this state, the use of a right-of-way for the  
19 utility in accordance with such rules or regulations as the  
20 authority may adopt. No utility shall be installed, located,  
21 or relocated unless authorized by a written permit issued by  
22 the authority. However, for public roads or publicly owned  
23 rail corridors under the jurisdiction of the department, a  
24 utility relocation schedule and relocation agreement may be  
25 executed in lieu of a written permit.The permit shall require  
26 the permitholder to be responsible for any damage resulting  
27 from the issuance of such permit. The authority may initiate  
28 injunctive proceedings as provided in s. 120.69 to enforce  
29 provisions of this subsection or any rule or order issued or  
30 entered into pursuant thereto.

31

1           Section 28. Subsections (1) and (2) of section 339.08,  
2 Florida Statutes, are amended to read:

3           339.08 Use of moneys in State Transportation Trust  
4 Fund.--

5           (1) The department shall expend ~~by rule provide for~~  
6 ~~the expenditure of the~~ moneys in the State Transportation  
7 Trust Fund accruing to the department, in accordance with its  
8 annual budget.

9           (2) ~~These rules must restrict~~ The use of such moneys  
10 shall be restricted to the following purposes:

11           (a) To pay administrative expenses of the department,  
12 including administrative expenses incurred by the several  
13 state transportation districts, but excluding administrative  
14 expenses of commuter rail authorities that do not operate rail  
15 service.

16           (b) To pay the cost of construction of the State  
17 Highway System.

18           (c) To pay the cost of maintaining the State Highway  
19 System.

20           (d) To pay the cost of public transportation projects  
21 in accordance with chapter 341 and ss. 332.003-332.007.

22           (e) To reimburse counties or municipalities for  
23 expenditures made on projects in the State Highway System as  
24 authorized by s. 339.12(4) upon legislative approval.

25           (f) To pay the cost of economic development  
26 transportation projects in accordance with s. 288.063.

27           (g) To lend or pay a portion of the operating,  
28 maintenance, and capital costs of a revenue-producing  
29 transportation project that is located on the State Highway  
30 System or that is demonstrated to relieve traffic congestion  
31 on the State Highway System.

1           (h) To match any federal-aid funds allocated for any  
2 other transportation purpose, including funds allocated to  
3 projects not located in the State Highway System.

4           (i) To pay the cost of county road projects selected  
5 in accordance with the Small County Road Assistance Program  
6 created in s. 339.2816.

7           (j) To pay the cost of county or municipal road  
8 projects selected in accordance with the County Incentive  
9 Grant Program created in s. 339.2817 and the Small County  
10 Outreach Program created in s. 339.2818.

11           (k) To provide loans and credit enhancements for use  
12 in constructing and improving highway transportation  
13 facilities selected in accordance with the state-funded  
14 infrastructure bank created in s. 339.55.

15           (l) To fund the Transportation Outreach Program  
16 created in s. 339.137.

17           (m) To pay other lawful expenditures of the  
18 department.

19           Section 29. Subsection (5) of section 339.12, Florida  
20 Statutes, is amended, and subsection (10) is added to said  
21 section, to read:

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

24           (5) The department and the governing body of a  
25 governmental entity may enter into an agreement by which the  
26 governmental entity agrees to perform a highway project or  
27 project phase in the department's adopted work program that is  
28 not revenue producing or any public transportation project in  
29 the adopted work program. By specific provision in the  
30 written agreement between the department and the governing  
31 body of the governmental entity, the department may agree to

1 ~~compensate~~ ~~reimburse~~ the governmental entity the actual cost  
2 for the project or project phase contained in the adopted work  
3 program. ~~Compensation~~ ~~Reimbursement~~ to the governmental entity  
4 for such project or project phases must be made from funds  
5 appropriated by the Legislature, and compensation  
6 ~~reimbursement~~ for the cost of the project or project phase is  
7 to begin in the year the project or project phase is scheduled  
8 in the work program as of the date of the agreement.

9 (10) Effective January 1, 2004, any county with a  
10 population greater than 50,000 in which at least 15.5 percent  
11 of its total real property is off the ad valorem tax rolls due  
12 to state property tax exemptions, and which dedicates at least  
13 50 percent of its 1-cent local option sales tax proceeds over  
14 the life of the tax for improvements to the State  
15 Transportation System or to local projects directly upgrading  
16 the State Transportation System within the county's boundary,  
17 shall receive maintenance funding from the department at a  
18 level at least equal to the average of the past 10 years of  
19 transportation expenditures for planning, design,  
20 right-of-way, and construction for that county. The  
21 calculation of such maintenance funding shall not include the  
22 State and Federal Bridge Replacement Program, the Interstate  
23 program, seaports, state economic development, toll capital  
24 assistance, small county resurfacing, railroad hazard  
25 elimination, emergency funds, and toll projects. The county  
26 shall have adopted a list of specific state road projects to  
27 be paid for with a 1-cent local option sales tax prior to the  
28 ballot referendum. The county shall enter into a joint project  
29 agreement with the department obligating a 50 percent or  
30 greater portion, over the life of the 1-cent local option  
31 sales tax, to the department for improvements to the State



1 Transportation System. The department shall enter into a  
2 joint project agreement with the county, over the life of the  
3 sales tax, committing to a maintenance level of funding at  
4 least equal to the average of the past 10 years of  
5 transportation expenditures for planning, design,  
6 right-of-way, and construction for that county. The county  
7 government receiving these funds from the department shall  
8 distribute the funds in accordance with ss. 212.055(2)(c)2.  
9 and 218.62. It is not the intent of the Legislature to provide  
10 a windfall for counties. The intent is to hold harmless any  
11 eligible county willing to fund millions of dollars for state  
12 transportation improvements in its jurisdiction with a funding  
13 level to an average of what the department typically  
14 appropriates to that county for state transportation  
15 improvements, less any department projects for the county not  
16 included in the list of state projects the county is funding  
17 through the 1-cent local option sales tax.

18 Section 30. Paragraphs (f) and (g) of subsection (4)  
19 and paragraph (c) of subsection (7) of section 339.135,  
20 Florida Statutes, are amended to read:

21 339.135 Work program; legislative budget request;  
22 definitions; preparation, adoption, execution, and  
23 amendment.--

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

25 (f) The central office shall submit a preliminary copy  
26 of the tentative work program to the Executive Office of the  
27 Governor, the legislative appropriations committees, the  
28 Florida Transportation Commission, and the Department of  
29 Community Affairs at least 14 days prior to the convening of  
30 the regular legislative session. Prior to the statewide  
31 public hearing required by paragraph (g), the Department of

1 Community Affairs shall transmit to the Florida Transportation  
2 Commission a list of those projects and project phases  
3 contained in the tentative work program which are identified  
4 as being inconsistent with approved local government  
5 comprehensive plans. For urbanized areas of metropolitan  
6 planning organizations, the list may not contain any project  
7 or project phase that is scheduled in a transportation  
8 improvement program unless such inconsistency has been  
9 previously reported to the affected metropolitan planning  
10 organization. ~~The commission shall consider the list as part~~  
11 ~~of its evaluation of the tentative work program conducted~~  
12 ~~pursuant to s. 20.23.~~

13 (g) The Florida Transportation Commission shall  
14 conduct a statewide public hearing on the tentative work  
15 program and shall advertise the time, place, and purpose of  
16 the hearing in the Florida Administrative Weekly at least 7  
17 days prior to the hearing. As part of the statewide public  
18 hearing, the commission shall, at a minimum:

19 1. Conduct an in-depth evaluation of the tentative  
20 work program ~~as required in s. 20.23~~ for compliance with  
21 applicable laws and departmental policies; and

22 2. Hear all questions, suggestions, or other comments  
23 offered by the public.

24  
25 By no later than 14 days after the regular legislative session  
26 begins, the commission shall submit to the Executive Office of  
27 the Governor and the legislative appropriations committees a  
28 report that evaluates the tentative work program for:

- 29 a. Financial soundness;  
30 b. Stability;  
31 c. Production capacity;

- 1           d. Accomplishments, including compliance with program  
2 objectives in s. 334.046;
- 3           e. Compliance with approved local government  
4 comprehensive plans;
- 5           f. Objections and requests by metropolitan planning  
6 organizations;
- 7           g. Policy changes and effects thereof;
- 8           h. Identification of statewide or regional projects;  
9 and
- 10          i. Compliance with all other applicable laws.
- 11          (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--
- 12          (c) The department may amend the adopted work program  
13 to transfer appropriations within the department, except that  
14 the following amendments shall be subject to the procedures in  
15 paragraph (d):
- 16           1. Any amendment which deletes any project or project  
17 phase;
- 18           2. Any amendment which adds a project estimated to  
19 cost over \$500,000 ~~\$150,000~~ in funds appropriated by the  
20 Legislature;
- 21           3. Any amendment which advances or defers to another  
22 fiscal year, a right-of-way phase, a construction phase, or a  
23 public transportation project phase estimated to cost over \$1  
24 million ~~\$500,000~~ in funds appropriated by the Legislature,  
25 except an amendment advancing or deferring a phase for a  
26 period of 90 days or less; or
- 27           4. Any amendment which advances or defers to another  
28 fiscal year, any preliminary engineering phase or design phase  
29 estimated to cost over \$500,000 ~~\$150,000~~ in funds appropriated  
30 by the Legislature, except an amendment advancing or deferring  
31 a phase for a period of 90 days or less.

1           Section 31. Subsection (5) of section 341.051, Florida  
2 Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22       4. Improving technology involved in overall  
23 operations, including, but not limited to, transit equipment,  
24 fare collection techniques, electronic data processing  
25 applications, and bus locators, for a period of up to 2 years.  
26

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

30       Section 32. Subsections (7), (8), and (10) of section  
31 341.302, Florida Statutes, are amended to read:

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

11           (7) Develop and administer state standards concerning  
12 the safety and performance of rail systems, ~~hazardous material~~  
13 ~~handling~~, and operations. Such standards shall be developed  
14 jointly with representatives of affected rail systems, with  
15 full consideration given to nationwide industry norms, and  
16 shall define the minimum acceptable standards for safety and  
17 performance.

18           (8) Conduct, at a minimum, inspections of track and  
19 rolling stock, train signals and related equipment,  
20 ~~hazardous materials transportation, including the loading,~~  
21 ~~unloading, and labeling of hazardous materials at shippers,~~  
22 ~~receivers', and transfer points~~ and train operating practices  
23 to determine adherence to state and federal standards.  
24 Department personnel may enforce any safety regulation issued  
25 under the Federal Government's preemptive authority over  
26 interstate commerce.

27           (10) Administer rail operating and construction  
28 programs, which programs shall include ~~the regulation of~~  
29 ~~maximum train operating speeds~~, the opening and closing of  
30 public grade crossings, the construction and rehabilitation of  
31 public grade crossings, and the installation of traffic

1 control devices at public grade crossings, ~~the administering~~  
2 ~~of the programs by the department~~ including participation in  
3 the cost of the programs.

4 Section 33. Paragraph (d) of subsection (2) of section  
5 348.0003, Florida Statutes, is amended to read:

6 348.0003 Expressway authority; formation;  
7 membership.--

8 (2) The governing body of an authority shall consist  
9 of not fewer than five nor more than nine voting members. The  
10 district secretary of the affected department district shall  
11 serve as a nonvoting member of the governing body of each  
12 authority located within the district. Each member of the  
13 governing body must at all times during his or her term of  
14 office be a permanent resident of the county which he or she  
15 is appointed to represent.

16 (d) Notwithstanding any provision to the contrary in  
17 this subsection, in any county as defined in s. 125.011(1),  
18 the governing body of an authority shall consist of up to 13  
19 members, and the following provisions of this paragraph shall  
20 apply specifically to such authority. Except for the district  
21 secretary of the department, the members must be residents of  
22 the county. Seven voting members shall be appointed by the  
23 governing body of the county. At the discretion of the  
24 governing body of the county, up to two of the members  
25 appointed by the governing body of the county may be elected  
26 officials residing in the county. Five voting members of the  
27 authority shall be appointed by the Governor. One member shall  
28 be the district secretary of the department serving in the  
29 district that contains such county. This member shall be an  
30 ex officio voting member of the authority. If the governing  
31 board of an authority includes any member originally appointed



1 by the governing body of the county as a nonvoting member,  
2 when the term of such member expires, that member shall be  
3 replaced by a member appointed by the Governor until the  
4 governing body of the authority is composed of seven members  
5 appointed by the governing body of the county and five members  
6 appointed by the Governor. The qualifications, the terms of  
7 office, and the obligations and rights of members of the  
8 authority shall be determined by resolution or ordinance of  
9 the governing body of the county in a manner that is  
10 consistent with subsections (3) and (4).

11 Section 34. Section 348.0012, Florida Statutes, is  
12 amended to read:

13 348.0012 Exemptions from applicability.--The Florida  
14 Expressway Authority Act does not apply:

15 (1) ~~To in a county in which~~ an expressway authority  
16 which has been created pursuant to parts II-IX of this  
17 chapter; or

18 (2) To a transportation authority created pursuant to  
19 chapter 349.

20 Section 35. Paragraph (b) of subsection (1) of section  
21 348.754, Florida Statutes, is amended to read:

22 348.754 Purposes and powers.--

23 (1)

24 (b) It is the express intention of this part that said  
25 authority, in the construction of said Orlando-Orange County  
26 Expressway System, shall be authorized to acquire, finance,  
27 construct, and equip any extensions, additions, or  
28 improvements to said system, or appurtenant facilities,  
29 including all necessary approaches, roads, bridges, and  
30 avenues of access as the authority shall deem desirable and  
31 proper, together with such changes, modifications, or

1 revisions to ~~of~~ said system or appurtenant facilities project  
2 as the authority shall deem ~~be deemed~~ desirable and proper.

3 Section 36. Section 348.7543, Florida Statutes, is  
4 amended to read:

5 348.7543 Improvements, bond financing authority  
6 for.--Pursuant to s. 11(e), Art. VII of the State  
7 Constitution, the Legislature hereby approves for bond  
8 financing by the Orlando-Orange County Expressway Authority  
9 the cost of acquiring, constructing, equipping, improving, or  
10 refurbishing any expressway system, including improvements to  
11 toll collection facilities, interchanges, future extensions  
12 and additions, necessary approaches, roads, bridges, and  
13 avenues of access to the legislatively approved expressway  
14 ~~system~~, and any other facility appurtenant, necessary, or  
15 incidental to the ~~approved~~ system, all as deemed desirable and  
16 proper by the authority pursuant to s. 348.754(1)(b). Subject  
17 to terms and conditions of applicable revenue bond resolutions  
18 and covenants, such costs financing may be financed in whole  
19 or in part by revenue bonds issued pursuant to s.  
20 348.755(1)(a) or (b) whether currently issued, issued in the  
21 future, or by a combination of such bonds.

22 Section 37. Section 348.7544, Florida Statutes, is  
23 amended to read:

24 348.7544 Northwest Beltway Part A, construction  
25 authorized; financing.--Notwithstanding s. 338.2275, the  
26 Orlando-Orange County Expressway Authority is hereby  
27 authorized to construct, finance, operate, own, and maintain  
28 that portion of the Western Beltway known as the Northwest  
29 Beltway Part A, extending from Florida's Turnpike near Ocoee  
30 north to U.S. 441 near Apopka, as part of the authority's  
31 20-year capital projects plan. This project may be financed

1 with any funds available to the authority for such purpose or  
2 revenue bonds issued by the Division of Bond Finance of the  
3 State Board of Administration on behalf of the authority  
4 pursuant to s. 11, Art. VII of the State Constitution and the  
5 State Bond Act, ss. 215.57-215.83. This project may be  
6 refinanced with bonds issued by the authority pursuant to s.  
7 348.755(1)(d).

8 Section 38. Section 348.7545, Florida Statutes, is  
9 amended to read:

10 348.7545 Western Beltway Part C, construction  
11 authorized; financing.--Notwithstanding s. 338.2275, the  
12 Orlando-Orange County Expressway Authority is authorized to  
13 exercise its condemnation powers, construct, finance, operate,  
14 own, and maintain that portion of the Western Beltway known as  
15 the Western Beltway Part C, extending from Florida's Turnpike  
16 near Ocoee in Orange County southerly through Orange and  
17 Osceola Counties to an interchange with I-4 near the  
18 Osceola-Polk County line, as part of the authority's 20-year  
19 capital projects plan. This project may be financed with any  
20 funds available to the authority for such purpose or revenue  
21 bonds issued by the Division of Bond Finance of the State  
22 Board of Administration on behalf of the authority pursuant to  
23 s. 11, Art. VII of the State Constitution and the State Bond  
24 Act, ss. 215.57-215.83. This project may be refinanced with  
25 bonds issued by the authority pursuant to s. 348.755(1)(d).

26 Section 39. Subsection (1) of section 348.755, Florida  
27 Statutes, is amended to read:

28 348.755 Bonds of the authority.--

29 (1)(a) Bonds may be issued on behalf of the authority  
30 pursuant to the State Bond Act.

31

1        (b) Alternatively, the authority may issue its own  
2 bonds pursuant to the provisions of this part at such times  
3 and in such principal amount as, in the opinion of the  
4 authority, is necessary to provide sufficient moneys for  
5 achieving its purposes; however, such bonds shall not pledge  
6 the full faith and credit of the state. Bonds issued by the  
7 authority pursuant to paragraphs (a) or (b)~~The bonds of the~~  
8 ~~authority issued pursuant to the provisions of this part,~~  
9 whether on original issuance or on refunding, shall be  
10 authorized by resolution of the members thereof and may be  
11 either term or serial bonds, shall bear such date or dates,  
12 mature at such time or times, not exceeding 40 years from  
13 their respective dates, bear interest at such rate or rates,  
14 payable semiannually, be in such denominations, be in such  
15 form, either coupon or fully registered, shall carry such  
16 registration, exchangeability and interchangeability  
17 privileges, be payable in such medium of payment and at such  
18 place or places, be subject to such terms of redemption and be  
19 entitled to such priorities on the revenues, rates, fees,  
20 rentals or other charges or receipts of the authority  
21 including the Orange County gasoline tax funds received by the  
22 authority pursuant to the terms of any lease-purchase  
23 agreement between the authority and the department, as such  
24 resolution or any resolution subsequent thereto may provide.  
25 The bonds shall be executed either by manual or facsimile  
26 signature by such officers as the authority shall determine,  
27 provided that such bonds shall bear at least one signature  
28 which is manually executed thereon, and the coupons attached  
29 to such bonds shall bear the facsimile signature or signatures  
30 of such officer or officers as shall be designated by the  
31 authority and shall have the seal of the authority affixed,

1 imprinted, reproduced or lithographed thereon, all as may be  
2 prescribed in such resolution or resolutions.

3 (c)(b) Said Bonds issued pursuant to paragraphs (a)  
4 and (b) shall be sold at public sale in the same manner  
5 provided by the State Bond Act. However, if the authority  
6 shall, by official action at a public meeting, determine that  
7 a negotiated sale of such ~~the~~ bonds is in the best interest of  
8 the authority, the authority may negotiate for sale of the  
9 bonds with the underwriter or underwriters designated by the  
10 authority and the Division of Bond Finance of the State Board  
11 of Administration with respect to bonds issued pursuant to  
12 paragraph (b). The authority's determination to negotiate the  
13 sale of such bonds may be based in part upon the written  
14 advice of its financial advisor. Pending the preparation of  
15 definitive bonds, interim certificates may be issued to the  
16 purchaser or purchasers of such bonds and may contain such  
17 terms and conditions as the authority may determine.

18 (d) The authority may issue bonds pursuant to  
19 paragraph (b) to refund any bonds previously issued regardless  
20 of whether the bonds being refunded were issued by the  
21 authority pursuant to this chapter or on behalf of the  
22 authority pursuant to the State Bond Act.

23 Section 40. Section 348.765, Florida Statutes, is  
24 amended to read:

25 348.765 This part complete and additional authority.--

26 (1) The powers conferred by this part shall be in  
27 addition and supplemental to the existing powers of said board  
28 and the department, and this part shall not be construed as  
29 repealing any of the provisions, of any other law, general,  
30 special or local, but to supersede such other laws in the  
31 exercise of the powers provided in this part, and to provide a

1 complete method for the exercise of the powers granted in this  
2 part. The extension and improvement of said Orlando-Orange  
3 County Expressway System, and the issuance of bonds hereunder  
4 to finance all or part of the cost thereof, may be  
5 accomplished upon compliance with the provisions of this part  
6 without regard to or necessity for compliance with the  
7 provisions, limitations, or restrictions contained in any  
8 other general, special or local law, including, but not  
9 limited to, s. 215.821, and no approval of any bonds issued  
10 under this part by the qualified electors or qualified  
11 electors who are freeholders in the state or in said County of  
12 Orange, or in said City of Orlando, or in any other political  
13 subdivision of the state, shall be required for the issuance  
14 of such bonds pursuant to this part.

15 (2) This part shall not be deemed to repeal, rescind,  
16 or modify any other law or laws relating to said State Board  
17 of Administration, said Department of Transportation, or the  
18 Division of Bond Finance of the State Board of Administration,  
19 but shall be deemed to and shall supersede such other law or  
20 laws as are inconsistent with the provisions of this part,  
21 including, but not limited to, s. 215.821.

22 Section 41. Subsections (1) through (6) and subsection  
23 (8) of section 373.4137, Florida Statutes, are amended, and  
24 subsection (9) is added to said section, to read:

25 373.4137 Mitigation requirements.--

26 (1) The Legislature finds that environmental  
27 mitigation for the impact of transportation projects proposed  
28 by the Department of Transportation or a transportation  
29 authority established pursuant to chapter 348 or chapter 349  
30 can be more effectively achieved by regional, long-range  
31 mitigation planning rather than on a project-by-project basis.

1 It is the intent of the Legislature that mitigation to offset  
2 the adverse effects of these transportation projects be funded  
3 by the Department of Transportation and be carried out by the  
4 Department of Environmental Protection and the water  
5 management districts, including the use of mitigation banks  
6 established pursuant to this part.

7 (2) Environmental impact inventories for  
8 transportation projects proposed by the Department of  
9 Transportation or a transportation authority established  
10 pursuant to chapter 348 or chapter 349 shall be developed as  
11 follows:

12 (a) By May 1 of each year, the Department of  
13 Transportation or a transportation authority established  
14 pursuant to chapter 348 or chapter 349 shall submit to the  
15 Department of Environmental Protection and the water  
16 management districts a copy of its adopted work program and an  
17 inventory of habitats addressed in the rules tentatively,  
18 pursuant to this part and s. 404 of the Clean Water Act, 33  
19 U.S.C. s. 1344, which may be impacted by its plan of  
20 construction for transportation projects in the next 3 years  
21 of the tentative work program. The Department of  
22 Transportation or a transportation authority established  
23 pursuant to chapter 348 or chapter 349 may also include in its  
24 inventory the habitat impacts of any future transportation  
25 project identified in the tentative work program.

26 (b) The environmental impact inventory shall include a  
27 description of these habitat impacts, including their  
28 location, acreage, and type; state water quality  
29 classification of impacted wetlands and other surface waters;  
30 any other state or regional designations for these habitats;  
31

1 and a survey of threatened species, endangered species, and  
2 species of special concern affected by the proposed project.

3 (3)(a) To fund the mitigation plan for the projected  
4 impacts identified in the inventory described in subsection  
5 (2), the Department of Transportation shall identify funds  
6 quarterly in an escrow account within the State Transportation  
7 Trust Fund for the environmental mitigation phase of projects  
8 budgeted by the Department of Transportation for the current  
9 fiscal year. The escrow account will be maintained by the  
10 Department of Transportation for the benefit of the Department  
11 of Environmental Protection and the water management  
12 districts. Any interest earnings from the escrow account  
13 shall remain with the Department of Transportation.

14 (b) Each transportation authority established pursuant  
15 to chapter 348 or chapter 349 that chooses to participate in  
16 this program shall create an escrow account within its  
17 financial structure and deposit funds in the account to pay  
18 for the environmental mitigation phase of projects budgeted  
19 for the current fiscal year. The escrow account will be  
20 maintained by the authority for the benefit of the Department  
21 of Environmental Protection and the water management  
22 districts. Any interest earnings from the escrow account shall  
23 remain with the authority.

24 (c) The Department of Environmental Protection or  
25 water management districts may request a transfer of funds  
26 from an ~~the~~ escrow account no sooner than 30 days prior to the  
27 date the funds are needed to pay for activities associated  
28 with development or implementation of the approved mitigation  
29 plan described in subsection (4) for the current fiscal year,  
30 including, but not limited to, design, engineering,  
31 production, and staff support. Actual conceptual plan



1 preparation costs incurred before plan approval may be  
2 submitted to the Department of Transportation or the  
3 appropriate transportation authority and the Department of  
4 Environmental Protection by November 1 of each year with the  
5 plan. The conceptual plan preparation costs of each water  
6 management district will be paid based on the amount approved  
7 on the mitigation plan and allocated to the current fiscal  
8 year projects identified by the water management district.  
9 The amount transferred to the escrow accounts ~~account~~ each  
10 year by the Department of Transportation and participating  
11 transportation authorities established pursuant to chapter 348  
12 or chapter 349 shall correspond to a cost per acre of \$75,000  
13 multiplied by the projected acres of impact identified in the  
14 inventory described in subsection (2). However, the \$75,000  
15 cost per acre does not constitute an admission against  
16 interest by the state or its subdivisions nor is the cost  
17 admissible as evidence of full compensation for any property  
18 acquired by eminent domain or through inverse condemnation.  
19 Each July 1, the cost per acre shall be adjusted by the  
20 percentage change in the average of the Consumer Price Index  
21 issued by the United States Department of Labor for the most  
22 recent 12-month period ending September 30, compared to the  
23 base year average, which is the average for the 12-month  
24 period ending September 30, 1996. At the end of each year,  
25 the projected acreage of impact shall be reconciled with the  
26 acreage of impact of projects as permitted, including permit  
27 modifications, pursuant to this part and s. 404 of the Clean  
28 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of  
29 funds shall be adjusted accordingly to reflect the  
30 overtransfer or undertransfer of funds from the preceding  
31 year. The Department of Transportation and participating

1 transportation authorities established pursuant to chapter 348  
2 or chapter 349 are ~~is~~ authorized to transfer such funds from  
3 the escrow accounts ~~account~~ to the Department of Environmental  
4 Protection and the water management districts to carry out the  
5 mitigation programs.

6 (4) Prior to December 1 of each year, each water  
7 management district, in consultation with the Department of  
8 Environmental Protection, the United States Army Corps of  
9 Engineers, the Department of Transportation, transportation  
10 authorities established pursuant to chapter 348 or chapter  
11 349,and other appropriate federal, state, and local  
12 governments, and other interested parties, including entities  
13 operating mitigation banks, shall develop a plan for the  
14 primary purpose of complying with the mitigation requirements  
15 adopted pursuant to this part and 33 U.S.C. s. 1344. This  
16 plan shall also address significant invasive plant problems  
17 within wetlands and other surface waters. In developing such  
18 plans, the districts shall utilize sound ecosystem management  
19 practices to address significant water resource needs and  
20 shall focus on activities of the Department of Environmental  
21 Protection and the water management districts, such as surface  
22 water improvement and management (SWIM) waterbodies and lands  
23 identified for potential acquisition for preservation,  
24 restoration, and enhancement, to the extent that such  
25 activities comply with the mitigation requirements adopted  
26 under this part and 33 U.S.C. s. 1344. In determining the  
27 activities to be included in such plans, the districts shall  
28 also consider the purchase of credits from public or private  
29 mitigation banks permitted under s. 373.4136 and associated  
30 federal authorization and shall include such purchase as a  
31 part of the mitigation plan when such purchase would offset

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

14 (a) For each transportation project with a funding  
15 request for the next fiscal year, the mitigation plan must  
16 include a brief explanation of why a mitigation bank was or  
17 was not chosen as a mitigation option, including an estimation  
18 of identifiable costs of the mitigation bank and nonbank  
19 options to the extent practicable.

20 (b) Specific projects may be excluded from the  
21 mitigation plan and shall not be subject to this section upon  
22 the agreement of the Department of Transportation, a  
23 transportation authority if applicable, the Department of  
24 Environmental Protection, and the appropriate water management  
25 district that the inclusion of such projects would hamper the  
26 efficiency or timeliness of the mitigation planning and  
27 permitting process, or the Department of Environmental  
28 Protection and the water management district are unable to  
29 identify mitigation that would offset the impacts of the  
30 project.

31

1           (c) Surface water improvement and management or  
2 invasive plant control projects undertaken using the \$12  
3 million advance transferred from the Department of  
4 Transportation to the Department of Environmental Protection  
5 in fiscal year 1996-1997 which meet the requirements for  
6 mitigation under this part and 33 U.S.C. s. 1344 shall remain  
7 available for mitigation until the \$12 million is fully  
8 credited up to and including fiscal year 2004-2005. When these  
9 projects are used as mitigation, the \$12 million advance shall  
10 be reduced by \$75,000 per acre of impact mitigated. For any  
11 fiscal year through and including fiscal year 2004-2005, to  
12 the extent the cost of developing and implementing the  
13 mitigation plans is less than the amount transferred pursuant  
14 to subsection (3), the difference shall be credited towards  
15 the \$12 million advance. Except as provided in this paragraph,  
16 any funds not directed to implement the mitigation plan  
17 should, to the greatest extent possible, be directed to fund  
18 invasive plant control within wetlands and other surface  
19 waters.

20           (5) The water management district shall be responsible  
21 for ensuring that mitigation requirements pursuant to 33  
22 U.S.C. s. 1344 are met for the impacts identified in the  
23 inventory described in subsection (2), by implementation of  
24 the approved plan described in subsection (4) to the extent  
25 funding is provided by the Department of Transportation, or a  
26 transportation authority established pursuant to chapter 348  
27 or chapter 349 if applicable. During the federal permitting  
28 process, the water management district may deviate from the  
29 approved mitigation plan in order to comply with federal  
30 permitting requirements.

31

1           (6) The mitigation ~~plans~~ plan shall be updated  
2 annually to reflect the most current Department of  
3 Transportation work program and project list of a  
4 transportation authority established pursuant to chapter 348  
5 or chapter 349 if applicable and may be amended throughout the  
6 year to anticipate schedule changes or additional projects  
7 which may arise. Each update and amendment of the mitigation  
8 plan shall be submitted to the secretary of the Department of  
9 Environmental Protection for approval. However, such approval  
10 shall not be applicable to a deviation as described in  
11 subsection (5).

12           (8) This section shall not be construed to eliminate  
13 the need for the Department of Transportation or a  
14 transportation authority established pursuant to chapter 348  
15 or chapter 349 to comply with the requirement to implement  
16 practicable design modifications, including realignment of  
17 transportation projects, to reduce or eliminate the impacts of  
18 its transportation projects on wetlands and other surface  
19 waters as required by rules adopted pursuant to this part, or  
20 to diminish the authority under this part to regulate other  
21 impacts, including water quantity or water quality impacts, or  
22 impacts regulated under this part that are not identified in  
23 the inventory described in subsection (2).

24           (9) The process for environmental mitigation for the  
25 impact of transportation projects under this section shall be  
26 available to an expressway, bridge, or transportation  
27 authority established under chapters 348 and 349. Use of this  
28 process may be initiated by an authority depositing the  
29 requisite funds into an escrow account set up by the authority  
30 and filing an environmental impact inventory with the  
31 appropriate water management district. An authority that

1 initiates the environmental mitigation process established by  
2 this section shall comply with subsection (6) by timely  
3 providing the appropriate water management district and the  
4 Department of Environmental Protection with the requisite work  
5 program information. A water management district may draw down  
6 funds from the escrow account in the manner and on the basis  
7 provided in subsection (5).

8 Section 42. Subsection (2) of section 479.15, Florida  
9 Statutes, is amended to read:

10 479.15 Harmony of regulations.--

11 (2) A municipality, county, local zoning authority, or  
12 other local governmental entity may not remove, or cause to be  
13 removed, any lawfully erected sign along any portion of the  
14 interstate or federal-aid primary highway system without first  
15 paying just compensation for such removal. A local  
16 governmental entity may not cause in any way the alteration of  
17 any lawfully erected sign located along any portion of the  
18 interstate or federal-aid primary highway system without  
19 payment of just compensation if such alteration constitutes a  
20 taking under state law. The municipality, county, local zoning  
21 authority, or other local government entity promulgating  
22 requirements for such alteration must be responsible for  
23 payment of just compensation to the sign owner if such  
24 alteration constitutes a taking under state law. This  
25 subsection applies only to a lawfully erected sign the subject  
26 matter of which relates to premises other than the premises on  
27 which it is located or to merchandise, services, activities,  
28 or entertainment not sold, produced, manufactured, or  
29 furnished on the premises on which the sign is located. For  
30 the purposes of this subsection, the term "federal-aid primary  
31 highway system" means the federal-aid primary highway system

1 in existence on June 1, 1991, and any highway which was not on  
2 such system but which is, or hereafter becomes, a part of the  
3 National Highway System.This subsection shall not be  
4 interpreted as explicit or implicit legislative recognition  
5 that alterations do or do not constitute a taking under state  
6 law.

7           Section 43. Section 479.25, Florida Statutes, is  
8 created to read:

9           479.25 Application of chapter.--Nothing in this  
10 chapter shall prevent a governmental entity from entering into  
11 an agreement allowing the height above ground level of a  
12 lawfully erected sign to be increased at its permitted  
13 location if a noise attenuation barrier, visibility screen, or  
14 other highway improvement has been erected in such a way as to  
15 screen or block visibility of such a sign; provided, however,  
16 that for nonconforming signs located on the federal-aid  
17 primary highway system, as such system existed on June 1,  
18 1991, and any highway which was not on such system but which  
19 is, or hereinafter becomes, a part of the National Highway  
20 System, such agreement must be approved by the Federal Highway  
21 Administration. Any increase in height permitted under this  
22 provision shall only be that which is required to achieve the  
23 same degree of visibility from the right-of-way that the sign  
24 had prior to the construction of the noise attenuation  
25 barrier, visibility screen, or other highway improvement.

26           Section 44. Section 70.20, Florida Statutes, is  
27 created to read:

28           70.20 Balancing of interests.--It is a policy of this  
29 state to encourage municipalities, counties, and other  
30 governmental entities and sign owners to enter into relocation  
31 and reconstruction agreements that allow governmental entities

1 to undertake public projects and accomplish public goals  
2 without the expenditure of public funds, while allowing the  
3 continued maintenance of private investment in signage as a  
4 medium of commercial and noncommercial communication.  
5 (1) Municipalities, counties, and all other  
6 governmental entities are specifically empowered to enter into  
7 relocation and reconstruction agreements on whatever terms are  
8 agreeable to the sign owner and the municipality, county, or  
9 other governmental entity involved and to provide for  
10 relocation and reconstruction of signs by agreement,  
11 ordinance, or resolution. As used in this section, a  
12 "relocation and reconstruction agreement" means a consensual,  
13 contractual agreement between a sign owner and municipality,  
14 county, or other governmental entity for either the  
15 reconstruction of an existing sign or removal of a sign and  
16 the construction of a new sign to substitute for the sign  
17 removed. Agreements entered into prior to the effective date  
18 of this act and consistent with the terms hereof between sign  
19 owners and a municipality, county, or other governmental  
20 entity shall also be deemed relocation and reconstruction  
21 agreements authorized by the provisions of this act.  
22 (2) Except as otherwise provided in this section, no  
23 municipality, county, or other governmental entity may remove,  
24 or cause to be removed, any lawfully erected sign along any  
25 portion of the interstate, federal-aid primary or other  
26 highway system, or any other road, without first paying just  
27 compensation for such removal as determined by agreement  
28 between the parties or through eminent domain proceedings.  
29 Except as otherwise provided in this section, no municipality,  
30 county, or other governmental entity may cause in any way the  
31 alteration of any lawfully erected sign located along any



1 portion of the interstate, federal-aid primary or other  
2 highway system, or any other road, without first paying just  
3 compensation for such alteration as determined by agreement  
4 between the parties or through eminent domain proceedings.

5 (3) In the event that a municipality, county, or other  
6 governmental entity shall undertake a public project or public  
7 goal requiring alteration or removal of any lawfully erected  
8 sign, the municipality, county, or other governmental entity  
9 shall notify the owner of the affected sign in writing of the  
10 public project or goal and of the intention of the  
11 municipality, county, or other governmental entity to seek  
12 such removal. Within 30 days after receipt of the notice, the  
13 owner of the sign and the municipality, county, or other  
14 governmental entity shall attempt to meet for purposes of  
15 negotiating and executing a relocation and reconstruction  
16 agreement provided for in subsection (1).

17 (4) If the parties fail to enter into a relocation and  
18 reconstruction agreement within 120 days from the initial  
19 notification by the municipality, county, or other  
20 governmental entity, either party may request mandatory  
21 nonbinding arbitration to resolve the disagreements among the  
22 parties. Each party shall select an arbitrator, and the  
23 individuals so selected shall choose a third arbitrator. The  
24 three arbitrators shall constitute the panel that shall  
25 arbitrate the dispute between the parties and at the  
26 conclusion of the proceedings shall present to the parties a  
27 proposed relocation and reconstruction agreement that the  
28 panel believes equitably balances the rights, interests,  
29 obligations, and reasonable expectations of the parties. If  
30 the municipality, county, or other governmental entity and the  
31 sign owner accept the proposed relocation and reconstruction

1 agreement, the municipality, county, or other governmental  
2 entity and sign owner shall each pay its respective costs of  
3 arbitration and shall pay one-half of the costs of the  
4 arbitration panel, unless the parties otherwise agree. If the  
5 proposed relocation and reconstruction agreement is capable of  
6 being carried out, but the municipality, county, or other  
7 governmental entity or the sign owner rejects the proposed  
8 relocation and reconstruction agreement, the entity or person  
9 rejecting the agreement shall be responsible for all  
10 reasonable costs associated with the arbitration process,  
11 including all reasonable costs and attorney's fees incurred by  
12 the nonrejecting entity or person.

13 (5) If the parties do not enter into a relocation and  
14 reconstruction agreement, the municipality, county, or other  
15 governmental entity may proceed with the public project or  
16 purpose and the alteration or removal of the sign only after  
17 first paying just compensation for such alteration or removal  
18 as determined by agreement between the parties or through  
19 eminent domain proceedings.

20 (6) The requirement by a municipality, county, or  
21 other governmental entity that a lawfully erected sign be  
22 removed or altered as a condition precedent to the issuance or  
23 continued effectiveness of a development order constitutes a  
24 compelled removal that is prohibited without prior payment of  
25 just compensation under subsection (2). This subsection does  
26 not apply when the owner of the land on which the sign is  
27 located is seeking to have the property redesignated on the  
28 future land use map of the applicable comprehensive plan for  
29 exclusively single-family residential use.

30 (7) The requirement by a municipality, county, or  
31 other governmental entity that a lawfully erected sign be

1 altered or removed from the premises upon which it is located  
2 incident to the voluntary acquisition of such property by a  
3 municipality, county, or other governmental entity constitutes  
4 a compelled removal which is prohibited without payment of  
5 just compensation under subsection (2).

6 (8) Nothing in this section shall prevent a  
7 municipality, county, or other governmental entity from  
8 acquiring a lawfully erected sign through eminent domain or  
9 from prospectively regulating the placement, size, height, or  
10 other aspects of new signs within such entity's jurisdiction,  
11 including the prohibition of new signs, unless otherwise  
12 authorized pursuant to this section. Nothing in this section  
13 shall create any new rights for any party other than the owner  
14 of a sign, the owner of the land upon which it is located, or  
15 a municipality, county, or other governmental entity as  
16 expressed herein.

17 (9) This section applies only to a lawfully erected  
18 sign the subject matter of which relates to premises other  
19 than the premises on which it is located or to merchandise,  
20 services, activities, or entertainment not sold, produced,  
21 manufactured, or furnished on the premises on which the sign  
22 is located.

23 (10) This section does not apply to any actions taken  
24 by the Florida Department of Transportation which relate to  
25 the operation, maintenance, or expansion of transportation  
26 facilities, and this section does not affect existing law  
27 regarding eminent domain relating to the Florida Department of  
28 Transportation.

29 Section 45. Paragraph (b) of subsection (1) of section  
30 496.425, Florida Statutes, is amended to read:  
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1           496.425 Solicitation of funds within public  
2 transportation facilities.--  
3           (1) As used in this section:  
4           (b) "Facility" means any public transportation  
5 facility, including, but not limited to, railroad stations,  
6 bus stations, ship ports, ferry terminals, or ~~roadside welcome~~  
7 ~~stations, highway service plazas, airports served by scheduled~~  
8 ~~passenger service, or highway rest stations.~~  
9           Section 46. Section 496.4256, Florida Statutes, is  
10 created to read:  
11           496.4256 Public transportation facilities not required  
12 to grant permit or access.--A governmental entity or authority  
13 that owns or operates welcome centers, wayside parks, service  
14 plazas, or rest areas on the state highway system as defined  
15 in chapter 335 may not be required to issue a permit or grant  
16 any person access to such public transportation facilities for  
17 the purpose of soliciting funds.  
18           Section 47. Section 316.3027 and subsection (3) of  
19 section 316.610, Florida Statutes, are repealed.  
20           Section 48. This act shall take effect July 1, 2001.  
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