

1                                   A bill to be entitled  
2           An act relating to transportation; amending s.  
3           20.23, F.S.; authorizing the secretary of the  
4           department to appoint an additional assistant  
5           secretary and deputy assistant secretaries or  
6           directors; revising the organization of the  
7           department to specify areas of program  
8           responsibility; authorizing the secretary to  
9           reorganize offices within the department in  
10          consultation with the Executive Office of the  
11          Governor; amending s. 110.205, F.S., relating  
12          to career service; conforming provisions to  
13          changes made by the act; amending 177.031,  
14          F.S.; providing that encasement in concrete is  
15          optional for survey markers made of certain  
16          materials; amending s. 339.175, F.S.; revising  
17          planning procedures of metropolitan planning  
18          organizations; requiring development of plans  
19          and programs that identify transportation  
20          facilities that should function as an  
21          integrated metropolitan planning system;  
22          requiring that the approved list of project  
23          priorities include projects on the Strategic  
24          Intermodal System; amending s. 338.251, F.S.;  
25          authorizing the Emerald Coast Bridge Authority  
26          to revise the repayment schedule of any  
27          previous advances for funds from the Toll  
28          Facilities Revolving Trust Fund within the  
29          department; providing that such repayment  
30          schedule is not a failure to repay under  
31          certain conditions; amending s. 334.30, F.S.;

1 revising provisions for public-private  
2 construction of transportation facilities;  
3 providing procedures for requests for proposals  
4 and receipt of unsolicited proposals by the  
5 department; providing for use of certain funds  
6 under described conditions; amending s.  
7 338.001, F.S., relating to the Florida  
8 Intrastate Highway System Plan; establishing a  
9 minimum annual allocation; amending s. 339.08,  
10 F.S.; revising provisions for use of moneys in  
11 the State Transportation Trust Fund; providing  
12 for use of such funds for projects on the  
13 Strategic Intermodal System; amending s.  
14 339.135, F.S.; revising provisions for use of  
15 new discretionary highway capacity funds;  
16 providing for allocation of such funds to the  
17 Strategic Intermodal System; repealing s.  
18 339.137, F.S., relating to the Transportation  
19 Outreach Program; amending s. 339.1371, F.S.;  
20 removing provisions to fund the Transportation  
21 Outreach Program; adding provisions to fund the  
22 Florida Strategic Intermodal System; amending  
23 s. 339.61, F.S., relating to the Florida  
24 Strategic Intermodal System; establishing a  
25 minimum annual allocation; amending s. 337.401,  
26 F.S.; providing that a permit-delegation  
27 agreement between the Department of  
28 Transportation and a governmental entity does  
29 not apply to facilities of electric utilities;  
30 amending s. 95.361, F.S.; providing that  
31 provisions governing the circumstances under

1           which a road is deemed to be dedicated to the  
2           public do not apply to a electric utility  
3           facility located on property otherwise subject  
4           to those provisions; amending s. 341.8203,  
5           F.S.; redefining the terms "authority" and  
6           "high-speed rail system"; amending s. 341.840,  
7           F.S.; revising the tax exemption of the  
8           authority and its agents and contractors;  
9           providing for annual redetermination of  
10          eligibility for exemption; providing for  
11          recapture of taxes when an exemption is used  
12          inappropriately; providing for rules; amending  
13          ss. 343.71, 343.72, 343.73, and 343.74, F.S.,  
14          relating to the Tampa Bay Commuter Rail  
15          Authority Act; redesignating the authority as  
16          the "Tampa Bay Commuter Transit Authority";  
17          adding representatives of Manatee and Sarasota  
18          Counties to the board of authority; including  
19          Manatee and Sarasota Counties within the  
20          jurisdiction of the authority; amending s. 3 of  
21          chapter 88-474, Laws of Florida, as amended,  
22          relating to the Greater Orlando Aviation  
23          Authority; providing the mayor of Orlando, and  
24          chair of the Orange County Commission shall be  
25          members of the authority; amending s. 337.408,  
26          F.S.; providing for placement of certain  
27          modular news racks, including advertising  
28          thereon, within the right-of-way limits of any  
29          municipal, county, or state road; providing  
30          requirements, restrictions, and limitations;  
31          authorizing removal under certain

1 | circumstances; authorizing the department to  
2 | adopt rules; amending s. 348.754, F.S.;  
3 | requiring the consent of Orange County in order  
4 | for the authority to exercise certain powers;  
5 | repealing s. 348.0004(2)(m), F.S., relating to  
6 | an obsolete provision authorizing expressway  
7 | authorities to enter into public-private  
8 | transportation partnerships; amending s.  
9 | 348.0004, F.S.; creating a new process for  
10 | expressway authorities to enter into  
11 | public-private partnerships with private  
12 | entities; directing the expressway authorities  
13 | to adopt rules related to the public-private  
14 | partnerships; specifying public notice  
15 | requirements; specifying that public-private  
16 | entities may impose tolls on the new  
17 | facilities, but the expressway authority may  
18 | regulate the amount and use of such tolls;  
19 | providing that the Department of Transportation  
20 | may loan funds from the Toll Facilities  
21 | Revolving Loan Trust Fund for eligible  
22 | projects; specifying project requirements;  
23 | authorizing an expressway authority to exercise  
24 | certain powers to facilitate the partnership  
25 | projects; providing that intent of the act is  
26 | not to amend or impact other existing laws;  
27 | amending s. 2 of chapter 88-418, Laws of  
28 | Florida, as amended, relating to Crandon  
29 | Boulevard; allowing expenditure of public funds  
30 | for certain modifications to enhance life  
31 | safety vehicular or pedestrian use under

1           certain circumstances; providing an effective  
2           date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6           Section 1. Paragraph (d) of subsection (1), subsection  
7 (3), and paragraph (b) of subsection (4) of section 20.23,  
8 Florida Statutes, are amended to read:

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

12           (1)

13           (d) The secretary may ~~shall~~ appoint up to three ~~two~~  
14 assistant secretaries who shall be directly responsible to the  
15 secretary and who shall perform such duties as are assigned by  
16 the secretary. The secretary may delegate to any assistant  
17 secretary the authority to act in the absence of the  
18 secretary.

19           (3)(a) The central office shall establish departmental  
20 policies, rules, procedures, and standards and shall monitor  
21 the implementation of such policies, rules, procedures, and  
22 standards in order to ensure uniform compliance and quality  
23 performance by the districts and central office units that  
24 implement transportation programs. Major transportation  
25 policy initiatives or revisions shall be submitted to the  
26 commission for review.

27           ~~(b) The secretary shall appoint an Assistant Secretary~~  
28 ~~for Transportation Development and Operations and an Assistant~~  
29 ~~Secretary for Transportation Support.~~

30           **(b)(c)** The secretary may appoint positions at the  
31 level of deputy assistant secretary or director which the

1 secretary deems necessary to accomplish the mission and goals  
 2 of the department, including, but not limited to, the areas of  
 3 program responsibility provided in this paragraph following  
 4 ~~offices are established and shall be headed by a manager,~~ each  
 5 of whom shall be appointed by and serve at the pleasure of the  
 6 secretary. The secretary may combine, separate, or delete  
 7 offices as needed in consultation with the Executive Office of  
 8 the Governor. The department's areas of program responsibility  
 9 include, but are not limited to ~~positions shall be classified~~  
 10 ~~at a level equal to a division director:~~

- 11 1. ~~The Office of Administration;~~
- 12 2. ~~The Office of Planning and Environmental~~  
 13 ~~Management;~~
- 14 3. Public transportation;
- 15 4.3. The Office of Design;
- 16 5.4. The Office of Highway operations;
- 17 6.5. The Office of Right-of-way;
- 18 7.6. The Office of Toll operations;
- 19 8.7. The Office of Information systems;
- 20 9.8. The Office of Motor carrier compliance;
- 21 10.9. The Office of Management and budget;
- 22 11.10. The Office of Comptroller;
- 23 12.11. The Office of Construction;
- 24 13.12. The Office of Maintenance; and
- 25 14.13. The Office of Materials.

26 ~~(c)(d)~~ Other offices may be established in accordance  
 27 with s. 20.04(7). The heads of such offices are exempt from  
 28 part II of chapter 110. ~~No office or organization shall be~~  
 29 ~~created at a level equal to or higher than a division without~~  
 30 ~~specific legislative authority.~~  
 31

1           ~~(d)(e)~~ The secretary shall 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           ~~(e)(f)~~ The secretary shall appoint a general counsel  
6 who shall be directly responsible to the secretary. The  
7 general counsel is responsible for all legal matters of the  
8 department. The department may employ as many attorneys as it  
9 deems necessary to advise and represent the department in all  
10 transportation matters.

11           ~~(g)~~ The secretary shall appoint a state transportation  
12 development administrator. This position shall be classified  
13 at a level equal to a deputy assistant secretary.

14           ~~(h)~~ The secretary shall appoint a state transportation  
15 operations administrator. This position shall be classified at  
16 a level equal to a deputy assistant secretary.

17           ~~(i)~~ The secretary shall appoint a state public  
18 transportation and modal administrator. This position shall be  
19 classified at a level equal to a deputy assistant secretary.

20           (4)

21           (b) Each district secretary may appoint up to three a  
22 district directors director for transportation development, a  
23 ~~district director for transportation operations, and a~~  
24 ~~district director for transportation support~~ or, until July 1,  
25 2005, each district secretary may appoint up to four a  
26 district directors director for planning and programming, a  
27 ~~district director for production, a district director for~~  
28 ~~operations, and a district director for administration.~~ These  
29 positions are exempt from part II of chapter 110.

30           Section 2. Paragraphs (j) and (m) of subsection (2) of  
31 section 110.205, Florida Statutes, are amended to read:

1 110.205 Career service; exemptions.--

2 (2) EXEMPT POSITIONS.--The exempt positions that are  
3 not covered by this part include the following:

4 (j) The appointed secretaries, assistant secretaries,  
5 deputy secretaries, and deputy assistant secretaries of all  
6 departments; the executive directors, assistant executive  
7 directors, deputy executive directors, and deputy assistant  
8 executive directors of all departments; the directors of all  
9 divisions and those positions determined by the department to  
10 have managerial responsibilities comparable to such positions,  
11 which positions include, but are not limited to, program  
12 directors, assistant program directors, district  
13 administrators, deputy district administrators, the Director  
14 of Central Operations Services of the Department of Children  
15 and Family Services, the State Transportation Development  
16 Administrator, State Public Transportation and Modal  
17 Administrator, district secretaries, district directors of  
18 transportation development, transportation operations,  
19 transportation support, and the managers of the offices  
20 specified in s. 20.23(3)(b) ~~s. 20.23(3)(c)~~, of the Department  
21 of Transportation. Unless otherwise fixed by law, the  
22 department shall set the salary and benefits of these  
23 positions in accordance with the rules of the Senior  
24 Management Service; and the county health department directors  
25 and county health department administrators of the Department  
26 of Health.

27 (m) All assistant division director, deputy division  
28 director, and bureau chief positions in any department, and  
29 those positions determined by the department to have  
30 managerial responsibilities comparable to such positions,  
31 which positions include, but are not limited to:

1           1. Positions in the Department of Health and the  
2 Department of Children and Family Services that are assigned  
3 primary duties of serving as the superintendent or assistant  
4 superintendent of an institution.

5           2. Positions in the Department of Corrections that are  
6 assigned primary duties of serving as the warden, assistant  
7 warden, colonel, or major of an institution or that are  
8 assigned primary duties of serving as the circuit  
9 administrator or deputy circuit administrator.

10           3. Positions in the Department of Transportation that  
11 are assigned primary duties of serving as regional toll  
12 managers and managers of offices as defined in s. 20.23(3)(b)  
13 ~~s. 20.23(3)(c)~~ and (4)(d), and captains and majors of the  
14 Office of Motor Carrier Compliance.

15           4. Positions in the Department of Environmental  
16 Protection that are assigned the duty of an Environmental  
17 Administrator or program administrator.

18           5. Positions in the Department of Health that are  
19 assigned the duties of Environmental Administrator, Assistant  
20 County Health Department Director, and County Health  
21 Department Financial Administrator.

22  
23 Unless otherwise fixed by law, the department shall set the  
24 salary and benefits of the positions listed in this paragraph  
25 in accordance with the rules established for the Selected  
26 Exempt Service.

27           Section 3. Subsections (13) and (15), of section  
28 177.031, Florida Statutes, are amended to read:

29           177.031 Definitions.--As used in this part:

30           (13) "P.C.P." means permanent control point and shall  
31 be considered a reference monument.

- 1 (a) "P.C.P.s" set in impervious surfaces must:
- 2 1. Be composed of a metal marker with a point of
- 3 reference.
- 4 2. Have a metal cap or disk bearing either the Florida
- 5 registration number of the professional surveyor and mapper in
- 6 responsible charge or the certificate of authorization number
- 7 of the legal entity, which number shall be preceded by LS or
- 8 LB as applicable and the letters "P.C.P."
- 9 (b) "P.C.P.s" set in pervious surfaces must:
- 10 1. Consist of a metal rod having a minimum length of
- 11 18 inches and a minimum cross-section area of material of 0.2
- 12 square inches In certain materials, encasement in concrete is
- 13 optional for stability of the rod. When used, encased in
- 14 ~~concrete.~~ the concrete shall have a minimum cross-section area
- 15 of 12.25 square inches and be a minimum of 24 inches long.
- 16 2. Be identified with a durable marker or cap with the
- 17 point of reference marked thereon bearing either the Florida
- 18 registration number of the professional surveyor and mapper in
- 19 responsible charge or the certificate of authorization number
- 20 of the legal entity, which number shall be preceded by LS or
- 21 LB as applicable and the letters "P.C.P."
- 22 (c) "P.C.P.s" must be detectable with conventional
- 23 instruments for locating ferrous or magnetic objects.
- 24 (15) "P.R.M." means a permanent reference monument
- 25 which must:
- 26 (a) Consist of a metal rod having a minimum length of
- 27 18 inches and a minimum cross-section area of material of 0.2
- 28 square inches In certain materials, encasement in concrete is
- 29 optional for stability of the rod. When used, encased in
- 30 ~~concrete.~~ the concrete shall have a minimum cross-section area
- 31 of 12.25 square inches and be a minimum of 24 inches long.

1 (b) Be identified with a durable marker or cap with  
2 the point of reference marked thereon bearing either the  
3 Florida registration number of the professional surveyor and  
4 mapper in responsible charge or the certificate of  
5 authorization number of the legal entity, which number shall  
6 be preceded by LS or LB as applicable and the letters "P.R.M."

7 (c) Be detectable with conventional instruments for  
8 locating ferrous or magnetic objects.

9  
10 If the location of the "P.R.M." falls in a hard surface such  
11 as asphalt or concrete, alternate monumentation may be used  
12 that is durable and identifiable.

13 Section 4. Section 339.175, Florida Statutes, is  
14 amended to read:

15 339.175 Metropolitan planning organization.--It is the  
16 intent of the Legislature to encourage and promote the safe  
17 and efficient management, operation, and development of  
18 surface transportation systems that will serve the mobility  
19 needs of people and freight within and through urbanized areas  
20 of this state while minimizing transportation-related fuel  
21 consumption and air pollution. To accomplish these objectives,  
22 metropolitan planning organizations, referred to in this  
23 section as M.P.O.'s, shall develop, in cooperation with the  
24 state and public transit operators, transportation plans and  
25 programs for metropolitan areas. The plans and programs for  
26 each metropolitan area must provide for the development and  
27 integrated management and operation of transportation systems  
28 and facilities, including pedestrian walkways and bicycle  
29 transportation facilities that will function as an intermodal  
30 transportation system for the metropolitan area, based upon  
31 the prevailing principles provided in s. 334.046(1). The

1 process for developing such plans and programs shall provide  
2 for consideration of all modes of transportation and shall be  
3 continuing, cooperative, and comprehensive, to the degree  
4 appropriate, based on the complexity of the transportation  
5 problems to be addressed. To ensure that the process is  
6 integrated with the statewide planning process, M.P.O.'s shall  
7 develop plans and programs that identify transportation  
8 facilities that should function as an integrated metropolitan  
9 transportation system, giving emphasis to facilities that  
10 serve important national, state, and regional transportation  
11 functions. For the purposes of this section, those facilities  
12 include the facilities on the Strategic Intermodal System  
13 designated under s. 339.63.

14 (1) DESIGNATION.--

15 (a)1. An M.P.O. shall be designated for each urbanized  
16 area of the state; however, this does not require that an  
17 individual M.P.O. be designated for each such area. Such  
18 designation shall be accomplished by agreement between the  
19 Governor and units of general-purpose local government  
20 representing at least 75 percent of the population of the  
21 urbanized area; however, the unit of general-purpose local  
22 government that represents the central city or cities within  
23 the M.P.O. jurisdiction, as defined by the United States  
24 Bureau of the Census, must be a party to such agreement.

25 2. More than one M.P.O. may be designated within an  
26 existing metropolitan planning area only if the Governor and  
27 the existing M.P.O. determine that the size and complexity of  
28 the existing metropolitan planning area makes the designation  
29 of more than one M.P.O. for the area appropriate.

30 (b) Each M.P.O. shall be created and operated under  
31 the provisions of this section pursuant to an interlocal

1 agreement entered into pursuant to s. 163.01. The signatories  
2 to the interlocal agreement shall be the department and the  
3 governmental entities designated by the Governor for  
4 membership on the M.P.O. If there is a conflict between this  
5 section and s. 163.01, this section prevails.

6 (c) The jurisdictional boundaries of an M.P.O. shall  
7 be determined by agreement between the Governor and the  
8 applicable M.P.O. The boundaries must include at least the  
9 metropolitan planning area, which is the existing urbanized  
10 area and the contiguous area expected to become urbanized  
11 within a 20-year forecast period, and may encompass the entire  
12 metropolitan statistical area or the consolidated metropolitan  
13 statistical area.

14 (d) In the case of an urbanized area designated as a  
15 nonattainment area for ozone or carbon monoxide under the  
16 Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of  
17 the metropolitan planning area in existence as of the date of  
18 enactment of this paragraph shall be retained, except that the  
19 boundaries may be adjusted by agreement of the Governor and  
20 affected metropolitan planning organizations in the manner  
21 described in this section. If more than one M.P.O. has  
22 authority within a metropolitan area or an area that is  
23 designated as a nonattainment area, each M.P.O. shall consult  
24 with other M.P.O.'s designated for such area and with the  
25 state in the coordination of plans and programs required by  
26 this section.

27  
28 Each M.P.O. required under this section must be fully  
29 operative no later than 6 months following its designation.

30 (2) VOTING MEMBERSHIP.--  
31

1           (a) The voting membership of an M.P.O. shall consist  
2 of not fewer than 5 or more than 19 apportioned members, the  
3 exact number to be determined on an equitable  
4 geographic-population ratio basis by the Governor, based on an  
5 agreement among the affected units of general-purpose local  
6 government as required by federal rules and regulations. The  
7 Governor, in accordance with 23 U.S.C. s. 134, may also  
8 provide for M.P.O. members who represent municipalities to  
9 alternate with representatives from other municipalities  
10 within the metropolitan planning area that do not have members  
11 on the M.P.O. County commission members shall compose not less  
12 than one-third of the M.P.O. membership, except for an M.P.O.  
13 with more than 15 members located in a county with a  
14 five-member county commission or an M.P.O. with 19 members  
15 located in a county with no more than 6 county commissioners,  
16 in which case county commission members may compose less than  
17 one-third percent of the M.P.O. membership, but all county  
18 commissioners must be members. All voting members shall be  
19 elected officials of general-purpose governments, except that  
20 an M.P.O. may include, as part of its apportioned voting  
21 members, a member of a statutorily authorized planning board,  
22 an official of an agency that operates or administers a major  
23 mode of transportation, or an official of the Florida Space  
24 Authority. The county commission shall compose not less than  
25 20 percent of the M.P.O. membership if an official of an  
26 agency that operates or administers a major mode of  
27 transportation has been appointed to an M.P.O.

28           (b) In metropolitan areas in which authorities or  
29 other agencies have been or may be created by law to perform  
30 transportation functions and are performing transportation  
31 functions that are not under the jurisdiction of a general

1 | purpose local government represented on the M.P.O., they shall  
2 | be provided voting membership on the M.P.O. In all other  
3 | M.P.O.'s where transportation authorities or agencies are to  
4 | be represented by elected officials from general purpose local  
5 | governments, the M.P.O. shall establish a process by which the  
6 | collective interests of such authorities or other agencies are  
7 | expressed and conveyed.

8 |         (c) Any other provision of this section to the  
9 | contrary notwithstanding, a chartered county with over 1  
10 | million population may elect to reapportion the membership of  
11 | an M.P.O. whose jurisdiction is wholly within the county. The  
12 | charter county may exercise the provisions of this paragraph  
13 | if:

14 |             1. The M.P.O. approves the reapportionment plan by a  
15 | three-fourths vote of its membership;

16 |             2. The M.P.O. and the charter county determine that  
17 | the reapportionment plan is needed to fulfill specific goals  
18 | and policies applicable to that metropolitan planning area;  
19 | and

20 |             3. The charter county determines the reapportionment  
21 | plan otherwise complies with all federal requirements  
22 | pertaining to M.P.O. membership.

23 |  
24 | Any charter county that elects to exercise the provisions of  
25 | this paragraph shall notify the Governor in writing.

26 |         (d) Any other provision of this section to the  
27 | contrary notwithstanding, any county chartered under s. 6(e),  
28 | Art. VIII of the State Constitution may elect to have its  
29 | county commission serve as the M.P.O., if the M.P.O.  
30 | jurisdiction is wholly contained within the county. Any  
31 | charter county that elects to exercise the provisions of this

1 paragraph shall so notify the Governor in writing. Upon  
2 receipt of such notification, the Governor must designate the  
3 county commission as the M.P.O. The Governor must appoint  
4 four additional voting members to the M.P.O., one of whom must  
5 be an elected official representing a municipality within the  
6 county, one of whom must be an expressway authority member,  
7 one of whom must be a person who does not hold elected public  
8 office and who resides in the unincorporated portion of the  
9 county, and one of whom must be a school board member.

10 (3) APPORTIONMENT.--

11 (a) The Governor shall, with the agreement of the  
12 affected units of general-purpose local government as required  
13 by federal rules and regulations, apportion the membership on  
14 the applicable M.P.O. among the various governmental entities  
15 within the area and shall prescribe a method for appointing  
16 alternate members who may vote at any M.P.O. meeting that an  
17 alternate member attends in place of a regular member. An  
18 appointed alternate member must be an elected official serving  
19 the same governmental entity or a general-purpose local  
20 government with jurisdiction within all or part of the area  
21 that the regular member serves. The governmental entity so  
22 designated shall appoint the appropriate number of members to  
23 the M.P.O. from eligible officials. Representatives of the  
24 department shall serve as nonvoting members of the M.P.O.  
25 Nonvoting advisers may be appointed by the M.P.O. as deemed  
26 necessary. The Governor shall review the composition of the  
27 M.P.O. membership in conjunction with the decennial census as  
28 prepared by the United States Department of Commerce, Bureau  
29 of the Census, and reapportion it as necessary to comply with  
30 subsection (2).  
31

1           (b) Except for members who represent municipalities on  
2 the basis of alternating with representatives from other  
3 municipalities that do not have members on the M.P.O. as  
4 provided in paragraph (2)(a), the members of an M.P.O. shall  
5 serve 4-year terms. Members who represent municipalities on  
6 the basis of alternating with representatives from other  
7 municipalities that do not have members on the M.P.O. as  
8 provided in paragraph (2)(a) may serve terms of up to 4 years  
9 as further provided in the interlocal agreement described in  
10 paragraph (1)(b). The membership of a member who is a public  
11 official automatically terminates upon the member's leaving  
12 his or her elective or appointive office for any reason, or  
13 may be terminated by a majority vote of the total membership  
14 of a county or city governing entity represented by the  
15 member. A vacancy shall be filled by the original appointing  
16 entity. A member may be reappointed for one or more  
17 additional 4-year terms.

18           (c) If a governmental entity fails to fill an assigned  
19 appointment to an M.P.O. within 60 days after notification by  
20 the Governor of its duty to appoint, that appointment shall be  
21 made by the Governor from the eligible representatives of that  
22 governmental entity.

23           (4) AUTHORITY AND RESPONSIBILITY.--The authority and  
24 responsibility of an M.P.O. is to manage a continuing,  
25 cooperative, and comprehensive transportation planning process  
26 that, based upon the prevailing principles provided in s.  
27 334.046(1), results in the development of plans and programs  
28 which are consistent, to the maximum extent feasible, with the  
29 approved local government comprehensive plans of the units of  
30 local government the boundaries of which are within the  
31 metropolitan area of the M.P.O. An M.P.O. shall be the forum

1 for cooperative decisionmaking by officials of the affected  
2 governmental entities in the development of the plans and  
3 programs required by subsections (5), (6), (7), and (8).

4 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,  
5 privileges, and authority of an M.P.O. are those specified in  
6 this section or incorporated in an interlocal agreement  
7 authorized under s. 163.01. Each M.P.O. shall perform all  
8 acts required by federal or state laws or rules, now and  
9 subsequently applicable, which are necessary to qualify for  
10 federal aid. It is the intent of this section that each M.P.O.  
11 shall be involved in the planning and programming of  
12 transportation facilities, including, but not limited to,  
13 airports, intercity and high-speed rail lines, seaports, and  
14 intermodal facilities, to the extent permitted by state or  
15 federal law.

16 (a) Each M.P.O. shall, in cooperation with the  
17 department, develop:

18 1. A long-range transportation plan pursuant to the  
19 requirements of subsection (6);

20 2. An annually updated transportation improvement  
21 program pursuant to the requirements of subsection (7); and

22 3. An annual unified planning work program pursuant to  
23 the requirements of subsection (8).

24 (b) In developing the long-range transportation plan  
25 and the transportation improvement program required under  
26 paragraph (a), each M.P.O. shall provide for consideration of  
27 projects and strategies that will:

28 1. Support the economic vitality of the metropolitan  
29 area, especially by enabling global competitiveness,  
30 productivity, and efficiency;

31

1           2. Increase the safety and security of the  
2 transportation system for motorized and nonmotorized users;

3           3. Increase the accessibility and mobility options  
4 available to people and for freight;

5           4. Protect and enhance the environment, promote energy  
6 conservation, and improve quality of life;

7           5. Enhance the integration and connectivity of the  
8 transportation system, across and between modes, for people  
9 and freight;

10          6. Promote efficient system management and operation;  
11 and

12          7. Emphasize the preservation of the existing  
13 transportation system.

14          (c) In order to provide recommendations to the  
15 department and local governmental entities regarding  
16 transportation plans and programs, each M.P.O. shall:

17           1. Prepare a congestion management system for the  
18 metropolitan area and cooperate with the department in the  
19 development of all other transportation management systems  
20 required by state or federal law;

21           2. Assist the department in mapping transportation  
22 planning boundaries required by state or federal law;

23           3. Assist the department in performing its duties  
24 relating to access management, functional classification of  
25 roads, and data collection;

26           4. Execute all agreements or certifications necessary  
27 to comply with applicable state or federal law;

28           5. Represent all the jurisdictional areas within the  
29 metropolitan area in the formulation of transportation plans  
30 and programs required by this section; and  
31

1           6. Perform all other duties required by state or  
2 federal law.

3           (d) Each M.P.O. shall appoint a technical advisory  
4 committee that includes planners; engineers; representatives  
5 of local aviation authorities, port authorities, and public  
6 transit authorities or representatives of aviation  
7 departments, seaport departments, and public transit  
8 departments of municipal or county governments, as applicable;  
9 the school superintendent of each county within the  
10 jurisdiction of the M.P.O. or the superintendent's designee;  
11 and other appropriate representatives of affected local  
12 governments. In addition to any other duties assigned to it by  
13 the M.P.O. or by state or federal law, the technical advisory  
14 committee is responsible for considering safe access to  
15 schools in its review of transportation project priorities,  
16 long-range transportation plans, and transportation  
17 improvement programs, and shall advise the M.P.O. on such  
18 matters. In addition, the technical advisory committee shall  
19 coordinate its actions with local school boards and other  
20 local programs and organizations within the metropolitan area  
21 which participate in school safety activities, such as locally  
22 established community traffic safety teams. Local school  
23 boards must provide the appropriate M.P.O. with information  
24 concerning future school sites and in the coordination of  
25 transportation service.

26           (e)1. Each M.P.O. shall appoint a citizens' advisory  
27 committee, the members of which serve at the pleasure of the  
28 M.P.O. The membership on the citizens' advisory committee must  
29 reflect a broad cross section of local residents with an  
30 interest in the development of an efficient, safe, and  
31

1 cost-effective transportation system. Minorities, the elderly,  
2 and the handicapped must be adequately represented.

3 2. Notwithstanding the provisions of subparagraph 1.,  
4 an M.P.O. may, with the approval of the department and the  
5 applicable federal governmental agency, adopt an alternative  
6 program or mechanism to ensure citizen involvement in the  
7 transportation planning process.

8 (f) The department shall allocate to each M.P.O., for  
9 the purpose of accomplishing its transportation planning and  
10 programming duties, an appropriate amount of federal  
11 transportation planning funds.

12 (g) Each M.P.O. may employ personnel or may enter into  
13 contracts with local or state agencies, private planning  
14 firms, or private engineering firms to accomplish its  
15 transportation planning and programming duties required by  
16 state or federal law.

17 (h) A chair's coordinating committee is created,  
18 composed of the M.P.O.'s serving Hernando, Hillsborough,  
19 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The  
20 committee must, at a minimum:

21 1. Coordinate transportation projects deemed to be  
22 regionally significant by the committee.

23 2. Review the impact of regionally significant land  
24 use decisions on the region.

25 3. Review all proposed regionally significant  
26 transportation projects in the respective transportation  
27 improvement programs which affect more than one of the  
28 M.P.O.'s represented on the committee.

29 4. Institute a conflict resolution process to address  
30 any conflict that may arise in the planning and programming of  
31 such regionally significant projects.

1           (i)1. The Legislature finds that the state's rapid  
2 growth in recent decades has caused many urbanized areas  
3 subject to M.P.O. jurisdiction to become contiguous to each  
4 other. As a result, various transportation projects may cross  
5 from the jurisdiction of one M.P.O. into the jurisdiction of  
6 another M.P.O. To more fully accomplish the purposes for which  
7 M.P.O.'s have been mandated, M.P.O.'s shall develop  
8 coordination mechanisms with one another to expand and improve  
9 transportation within the state. The appropriate method of  
10 coordination between M.P.O.'s shall vary depending upon the  
11 project involved and given local and regional needs.  
12 Consequently, it is appropriate to set forth a flexible  
13 methodology that can be used by M.P.O.'s to coordinate with  
14 other M.P.O.'s and appropriate political subdivisions as  
15 circumstances demand.

16           2. Any M.P.O. may join with any other M.P.O. or any  
17 individual political subdivision to coordinate activities or  
18 to achieve any federal or state transportation planning or  
19 development goals or purposes consistent with federal or state  
20 law. When an M.P.O. determines that it is appropriate to join  
21 with another M.P.O. or any political subdivision to coordinate  
22 activities, the M.P.O. or political subdivision shall enter  
23 into an interlocal agreement pursuant to s. 163.01, which, at  
24 a minimum, creates a separate legal or administrative entity  
25 to coordinate the transportation planning or development  
26 activities required to achieve the goal or purpose; provide  
27 the purpose for which the entity is created; provide the  
28 duration of the agreement and the entity, and specify how the  
29 agreement may be terminated, modified, or rescinded; describe  
30 the precise organization of the entity, including who has  
31 voting rights on the governing board, whether alternative

1 voting members are provided for, how voting members are  
2 appointed, and what the relative voting strength is for each  
3 constituent M.P.O. or political subdivision; provide the  
4 manner in which the parties to the agreement will provide for  
5 the financial support of the entity and payment of costs and  
6 expenses of the entity; provide the manner in which funds may  
7 be paid to and disbursed from the entity; and provide how  
8 members of the entity will resolve disagreements regarding  
9 interpretation of the interlocal agreement or disputes  
10 relating to the operation of the entity. Such interlocal  
11 agreement shall become effective upon its recordation in the  
12 official public records of each county in which a member of  
13 the entity created by the interlocal agreement has a voting  
14 member. This paragraph does not require any M.P.O.'s to merge,  
15 combine, or otherwise join together as a single M.P.O.

16 (6) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must  
17 develop a long-range transportation plan that addresses at  
18 least a 20-year planning horizon. The plan must include both  
19 long-range and short-range strategies and must comply with all  
20 other state and federal requirements. The prevailing  
21 principles to be considered in the long-range transportation  
22 plan are: preserving the existing transportation  
23 infrastructure; enhancing Florida's economic competitiveness;  
24 and improving travel choices to ensure mobility. The  
25 long-range transportation plan must be consistent, to the  
26 maximum extent feasible, with future land use elements and the  
27 goals, objectives, and policies of the approved local  
28 government comprehensive plans of the units of local  
29 government located within the jurisdiction of the M.P.O. The  
30 approved long-range transportation plan must be considered by  
31 local governments in the development of the transportation

1 elements in local government comprehensive plans and any  
2 amendments thereto. The long-range transportation plan must,  
3 at a minimum:

4 (a) Identify transportation facilities, including, but  
5 not limited to, major roadways, airports, seaports,  
6 spaceports, commuter rail systems, transit systems, and  
7 intermodal or multimodal terminals that will function as an  
8 integrated metropolitan transportation system. The long-range  
9 transportation plan must give emphasis to those transportation  
10 facilities that serve national, statewide, or regional  
11 functions, and must consider the goals and objectives  
12 identified in the Florida Transportation Plan as provided in  
13 s. 339.155. If a project is located within the boundaries of  
14 more than one M.P.O., the M.P.O.'s must coordinate plans  
15 regarding the project in the long-range transportation plan.

16 (b) Include a financial plan that demonstrates how the  
17 plan can be implemented, indicating resources from public and  
18 private sources which are reasonably expected to be available  
19 to carry out the plan, and recommends any additional financing  
20 strategies for needed projects and programs. The financial  
21 plan may include, for illustrative purposes, additional  
22 projects that would be included in the adopted long-range  
23 transportation plan if reasonable additional resources beyond  
24 those identified in the financial plan were available. For the  
25 purpose of developing the long-range transportation plan, the  
26 M.P.O. and the department shall cooperatively develop  
27 estimates of funds that will be available to support the plan  
28 implementation. Innovative financing techniques may be used to  
29 fund needed projects and programs. Such techniques may  
30 include the assessment of tolls, the use of value capture  
31 financing, or the use of value pricing.

1 (c) Assess capital investment and other measures  
2 necessary to:

3 1. Ensure the preservation of the existing  
4 metropolitan transportation system including requirements for  
5 the operation, resurfacing, restoration, and rehabilitation of  
6 major roadways and requirements for the operation,  
7 maintenance, modernization, and rehabilitation of public  
8 transportation facilities; and

9 2. Make the most efficient use of existing  
10 transportation facilities to relieve vehicular congestion and  
11 maximize the mobility of people and goods.

12 (d) Indicate, as appropriate, proposed transportation  
13 enhancement activities, including, but not limited to,  
14 pedestrian and bicycle facilities, scenic easements,  
15 landscaping, historic preservation, mitigation of water  
16 pollution due to highway runoff, and control of outdoor  
17 advertising.

18 (e) In addition to the requirements of paragraphs  
19 (a)-(d), in metropolitan areas that are classified as  
20 nonattainment areas for ozone or carbon monoxide, the M.P.O.  
21 must coordinate the development of the long-range  
22 transportation plan with the State Implementation Plan  
23 developed pursuant to the requirements of the federal Clean  
24 Air Act.

25  
26 In the development of its long-range transportation plan, each  
27 M.P.O. must provide the public, affected public agencies,  
28 representatives of transportation agency employees, freight  
29 shippers, providers of freight transportation services,  
30 private providers of transportation, representatives of users  
31 of public transit, and other interested parties with a

1 reasonable opportunity to comment on the long-range  
2 transportation plan. The long-range transportation plan must  
3 be approved by the M.P.O.

4 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.  
5 shall, in cooperation with the state and affected public  
6 transportation operators, develop a transportation improvement  
7 program for the area within the jurisdiction of the M.P.O. In  
8 the development of the transportation improvement program,  
9 each M.P.O. must provide the public, affected public agencies,  
10 representatives of transportation agency employees, freight  
11 shippers, providers of freight transportation services,  
12 private providers of transportation, representatives of users  
13 of public transit, and other interested parties with a  
14 reasonable opportunity to comment on the proposed  
15 transportation improvement program.

16 (a) Each M.P.O. is responsible for developing,  
17 annually, a list of project priorities and a transportation  
18 improvement program. The prevailing principles to be  
19 considered by each M.P.O. when developing a list of project  
20 priorities and a transportation improvement program are:  
21 preserving the existing transportation infrastructure;  
22 enhancing Florida's economic competitiveness; and improving  
23 travel choices to ensure mobility. The transportation  
24 improvement program will be used to initiate federally aided  
25 transportation facilities and improvements as well as other  
26 transportation facilities and improvements including transit,  
27 rail, aviation, spaceport, and port facilities to be funded  
28 from the State Transportation Trust Fund within its  
29 metropolitan area in accordance with existing and subsequent  
30 federal and state laws and rules and regulations related  
31 thereto. The transportation improvement program shall be

1 consistent, to the maximum extent feasible, with the approved  
2 local government comprehensive plans of the units of local  
3 government whose boundaries are within the metropolitan area  
4 of the M.P.O.

5 (b) Each M.P.O. annually shall prepare a list of  
6 project priorities and shall submit the list to the  
7 appropriate district of the department by October 1 of each  
8 year; however, the department and a metropolitan planning  
9 organization may, in writing, agree to vary this submittal  
10 date. The list of project priorities must be formally reviewed  
11 by the technical and citizens' advisory committees, and  
12 approved by the M.P.O., before it is transmitted to the  
13 district. The approved list of project priorities must be used  
14 by the district in developing the district work program and  
15 must be used by the M.P.O. in developing its transportation  
16 improvement program. The annual list of project priorities  
17 must be based upon project selection criteria that, at a  
18 minimum, consider the following:

- 19 1. The approved M.P.O. long-range transportation plan;
- 20 2. The Strategic Intermodal System Plan developed  
21 under s. 339.64.
- 22 ~~3.2-~~ The results of the transportation management  
23 systems; and
- 24 ~~4.3-~~ The M.P.O.'s public-involvement procedures.

25 (c) The transportation improvement program must, at a  
26 minimum:

- 27 1. Include projects and project phases to be funded  
28 with state or federal funds within the time period of the  
29 transportation improvement program and which are recommended  
30 for advancement during the next fiscal year and 4 subsequent  
31 fiscal years. Such projects and project phases must be

1 consistent, to the maximum extent feasible, with the approved  
2 local government comprehensive plans of the units of local  
3 government located within the jurisdiction of the M.P.O. For  
4 informational purposes, the transportation improvement program  
5 shall also include a list of projects to be funded from local  
6 or private revenues.

7         2. Include projects within the metropolitan area which  
8 are proposed for funding under 23 U.S.C. s. 134 of the Federal  
9 Transit Act and which are consistent with the long-range  
10 transportation plan developed under subsection (6).

11         3. Provide a financial plan that demonstrates how the  
12 transportation improvement program can be implemented;  
13 indicates the resources, both public and private, that are  
14 reasonably expected to be available to accomplish the program;  
15 identifies any innovative financing techniques that may be  
16 used to fund needed projects and programs; and may include,  
17 for illustrative purposes, additional projects that would be  
18 included in the approved transportation improvement program if  
19 reasonable additional resources beyond those identified in the  
20 financial plan were available. Innovative financing techniques  
21 may include the assessment of tolls, the use of value capture  
22 financing, or the use of value pricing. The transportation  
23 improvement program may include a project or project phase  
24 only if full funding can reasonably be anticipated to be  
25 available for the project or project phase within the time  
26 period contemplated for completion of the project or project  
27 phase.

28         4. Group projects and project phases of similar  
29 urgency and anticipated staging into appropriate staging  
30 periods.

31

1           5. Indicate how the transportation improvement program  
2 relates to the long-range transportation plan developed under  
3 subsection (6), including providing examples of specific  
4 projects or project phases that further the goals and policies  
5 of the long-range transportation plan.

6           6. Indicate whether any project or project phase is  
7 inconsistent with an approved comprehensive plan of a unit of  
8 local government located within the jurisdiction of the M.P.O.  
9 If a project is inconsistent with an affected comprehensive  
10 plan, the M.P.O. must provide justification for including the  
11 project in the transportation improvement program.

12           7. Indicate how the improvements are consistent, to  
13 the maximum extent feasible, with affected seaport, airport,  
14 and spaceport master plans and with public transit development  
15 plans of the units of local government located within the  
16 jurisdiction of the M.P.O. If a project is located within the  
17 boundaries of more than one M.P.O., the M.P.O.'s must  
18 coordinate plans regarding the project in the transportation  
19 improvement program.

20           (d) Projects included in the transportation  
21 improvement program and that have advanced to the design stage  
22 of preliminary engineering may be removed from or rescheduled  
23 in a subsequent transportation improvement program only by the  
24 joint action of the M.P.O. and the department. Except when  
25 recommended in writing by the district secretary for good  
26 cause, any project removed from or rescheduled in a subsequent  
27 transportation improvement program shall not be rescheduled by  
28 the M.P.O. in that subsequent program earlier than the 5th  
29 year of such program.

30           (e) During the development of the transportation  
31 improvement program, the M.P.O. shall, in cooperation with the

1 department and any affected public transit operation, provide  
2 citizens, affected public agencies, representatives of  
3 transportation agency employees, freight shippers, providers  
4 of freight transportation services, private providers of  
5 transportation, representatives of users of public transit,  
6 and other interested parties with reasonable notice of and an  
7 opportunity to comment on the proposed program.

8 (f) The adopted annual transportation improvement  
9 program for M.P.O.'s in nonattainment or maintenance areas  
10 must be submitted to the district secretary and the Department  
11 of Community Affairs at least 90 days before the submission of  
12 the state transportation improvement program by the department  
13 to the appropriate federal agencies. The annual transportation  
14 improvement program for M.P.O.'s in attainment areas must be  
15 submitted to the district secretary and the Department of  
16 Community Affairs at least 45 days before the department  
17 submits the state transportation improvement program to the  
18 appropriate federal agencies; however, the department, the  
19 Department of Community Affairs, and a metropolitan planning  
20 organization may, in writing, agree to vary this submittal  
21 date. The Governor or the Governor's designee shall review  
22 and approve each transportation improvement program and any  
23 amendments thereto.

24 (g) The Department of Community Affairs shall review  
25 the annual transportation improvement program of each M.P.O.  
26 for consistency with the approved local government  
27 comprehensive plans of the units of local government whose  
28 boundaries are within the metropolitan area of each M.P.O. and  
29 shall identify those projects that are inconsistent with such  
30 comprehensive plans. The Department of Community Affairs shall  
31 notify an M.P.O. of any transportation projects contained in

1 its transportation improvement program which are inconsistent  
2 with the approved local government comprehensive plans of the  
3 units of local government whose boundaries are within the  
4 metropolitan area of the M.P.O.

5 (h) The M.P.O. shall annually publish or otherwise  
6 make available for public review the annual listing of  
7 projects for which federal funds have been obligated in the  
8 preceding year. Project monitoring systems must be maintained  
9 by those agencies responsible for obligating federal funds and  
10 made accessible to the M.P.O.'s.

11 (8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall  
12 develop, in cooperation with the department and public  
13 transportation providers, a unified planning work program that  
14 lists all planning tasks to be undertaken during the program  
15 year. The unified planning work program must provide a  
16 complete description of each planning task and an estimated  
17 budget therefor and must comply with applicable state and  
18 federal law.

19 (9) AGREEMENTS.--

20 (a) Each M.P.O. shall execute the following written  
21 agreements, which shall be reviewed, and updated as necessary,  
22 every 5 years:

23 1. An agreement with the department clearly  
24 establishing the cooperative relationship essential to  
25 accomplish the transportation planning requirements of state  
26 and federal law.

27 2. An agreement with the metropolitan and regional  
28 intergovernmental coordination and review agencies serving the  
29 metropolitan areas, specifying the means by which activities  
30 will be coordinated and how transportation planning and  
31

1 programming will be part of the comprehensive planned  
2 development of the area.

3 3. An agreement with operators of public  
4 transportation systems, including transit systems, commuter  
5 rail systems, airports, seaports, and spaceports, describing  
6 the means by which activities will be coordinated and  
7 specifying how public transit, commuter rail, aviation,  
8 seaport, and aerospace planning and programming will be part  
9 of the comprehensive planned development of the metropolitan  
10 area.

11 (b) An M.P.O. may execute other agreements required by  
12 state or federal law or as necessary to properly accomplish  
13 its functions.

14 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY  
15 COUNCIL.--

16 (a) A Metropolitan Planning Organization Advisory  
17 Council is created to augment, and not supplant, the role of  
18 the individual M.P.O.'s in the cooperative transportation  
19 planning process described in this section.

20 (b) The council shall consist of one representative  
21 from each M.P.O. and shall elect a chairperson annually from  
22 its number. Each M.P.O. shall also elect an alternate  
23 representative from each M.P.O. to vote in the absence of the  
24 representative. Members of the council do not receive any  
25 compensation for their services, but may be reimbursed from  
26 funds made available to council members for travel and per  
27 diem expenses incurred in the performance of their council  
28 duties as provided in s. 112.061.

29 (c) The powers and duties of the Metropolitan Planning  
30 Organization Advisory Council are to:

31

- 1           1. Enter into contracts with individuals, private  
2 corporations, and public agencies.
- 3           2. Acquire, own, operate, maintain, sell, or lease  
4 personal property essential for the conduct of business.
- 5           3. Accept funds, grants, assistance, gifts, or  
6 bequests from private, local, state, or federal sources.
- 7           4. Establish bylaws and adopt rules pursuant to ss.  
8 120.536(1) and 120.54 to implement provisions of law  
9 conferring powers or duties upon it.
- 10          5. Assist M.P.O.'s in carrying out the urbanized area  
11 transportation planning process by serving as the principal  
12 forum for collective policy discussion pursuant to law.
- 13          6. Serve as a clearinghouse for review and comment by  
14 M.P.O.'s on the Florida Transportation Plan and on other  
15 issues required to comply with federal or state law in  
16 carrying out the urbanized area transportation and systematic  
17 planning processes instituted pursuant to s. 339.155.
- 18          7. Employ an executive director and such other staff  
19 as necessary to perform adequately the functions of the  
20 council, within budgetary limitations. The executive director  
21 and staff are exempt from part II of chapter 110 and serve at  
22 the direction and control of the council. The council is  
23 assigned to the Office of the Secretary of the Department of  
24 Transportation for fiscal and accountability purposes, but it  
25 shall otherwise function independently of the control and  
26 direction of the department.
- 27          8. Adopt an agency strategic plan that provides the  
28 priority directions the agency will take to carry out its  
29 mission within the context of the state comprehensive plan and  
30 any other statutory mandates and directions given to the  
31 agency.

1           (11) APPLICATION OF FEDERAL LAW.--Upon notification by  
2 an agency of the Federal Government that any provision of this  
3 section conflicts with federal laws or regulations, such  
4 federal laws or regulations will take precedence to the extent  
5 of the conflict until such conflict is resolved. The  
6 department or an M.P.O. may take any necessary action to  
7 comply with such federal laws and regulations or to continue  
8 to remain eligible to receive federal funds.

9           Section 5. Subsection (12) is added to section  
10 338.251, Florida Statutes, to read:

11           338.251 Toll Facilities Revolving Trust Fund.--The  
12 Toll Facilities Revolving Trust Fund is hereby created for the  
13 purpose of encouraging the development and enhancing the  
14 financial feasibility of revenue-producing road projects  
15 undertaken by local governmental entities in a county or  
16 combination of contiguous counties and the turnpike  
17 enterprise.

18           (12) Notwithstanding subsection (4), by agreement with  
19 the department, the Emerald Coast Bridge Authority may revise  
20 the repayment schedule of any previous advances, which shall  
21 not be considered a failure to repay if the effort to  
22 undertake a revenue-producing road project is being conducted  
23 in good faith and all other requirements of law are met.

24           Section 6. 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

1 provide for 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 as evidenced by approval of the  
5 project in the department's work program ~~by a separate bill~~  
6 ~~for each facility~~, enter into agreements with private  
7 entities, or consortia thereof, for the building, operation,  
8 ownership, or financing of transportation facilities. The  
9 department may advance projects programmed in the adopted  
10 5-year work program using funds provided by public-private  
11 partnerships or private entities to be reimbursed from  
12 department funds for the project as programmed in the adopted  
13 work program. The department shall by rule establish an  
14 application fee for the submission of proposals under this  
15 section. The fee must be sufficient to pay the costs of  
16 evaluating the proposals. The department may engage the  
17 services of private consultants to assist in the evaluation.  
18 Before ~~seeking legislative~~ approval, the department must  
19 determine that the proposed project:

20 (a) Is in the public's best interest;

21 (b) Would not require state funds to be used unless  
22 the project is on the State Highway System ~~there is an~~  
23 ~~overriding state interest~~; and

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

29  
30 The department shall ensure that all reasonable costs to the  
31 state ~~and substantially affected local governments and~~

1 ~~utilities~~, related to ~~the private~~ transportation facilities  
2 that are not part of the State Highway System facility, are  
3 borne by the private entity. The department shall also ensure  
4 that all reasonable costs to the state and substantially  
5 affected local governments and utilities, related to the  
6 private transportation facility, are borne by the private  
7 entity for transportation facilities that are owned by private  
8 entities. For projects on the State Highway System, the  
9 department may use state resources to participate in funding  
10 and financing the project as provided for under the  
11 department's enabling legislation.

12 (2) Agreements entered into pursuant to this section  
13 may authorize the private entity to impose tolls or fares for  
14 the use of the facility. However, the amount and use of toll  
15 or fare revenues shall ~~may~~ be regulated by the department to  
16 avoid unreasonable costs to users of the facility.

17 (3) Each private transportation facility constructed  
18 pursuant to this section shall comply with all requirements of  
19 federal, state, and local laws; state, regional, and local  
20 comprehensive plans; department rules, policies, procedures,  
21 and standards for transportation facilities; and any other  
22 conditions which the department determines to be in the  
23 public's best interest.

24 (4) The department may exercise any power possessed by  
25 it, including eminent domain, with respect to the development  
26 and construction of state transportation projects to  
27 facilitate the development and construction of transportation  
28 projects pursuant to this section. The department may provide  
29 services to the private entity. Agreements for maintenance,  
30 law enforcement, and other services entered into pursuant to  
31

1 this section shall provide for full reimbursement for services  
2 rendered for projects not on the State Highway System.

3 (5) Except as herein provided, the provisions of this  
4 section are not intended to amend existing laws by granting  
5 additional powers to, or further restricting, local  
6 governmental entities from regulating and entering into  
7 cooperative arrangements with the private sector for the  
8 planning, construction, and operation of transportation  
9 facilities.

10 (6) The department may request proposals from private  
11 entities for public-private transportation projects or, if the  
12 department receives an unsolicited proposal, the department  
13 shall publish a notice in the Florida Administrative Weekly  
14 and a newspaper of general circulation at least once a week  
15 for 2 weeks stating that the department has received the  
16 proposal and will accept, for 60 days after the initial date  
17 of publication, other proposals for the same project purpose.  
18 A copy of the notice must be mailed to each local government  
19 in the affected area. After the public notification period has  
20 expired, the department shall rank the proposals in order of  
21 preference. In ranking the proposals the department may  
22 consider factors, including, but not limited to, professional  
23 qualifications, general business terms, innovative engineering  
24 or cost-reduction terms, finance plans, and the need for state  
25 funds to deliver the project. If the department is not  
26 satisfied with the results of the negotiations, the department  
27 may, at its sole discretion, terminate negotiations with the  
28 proposer. If these negotiations are unsuccessful, the  
29 department may go to the second-ranked and lower-ranked firms,  
30 in order, using this same procedure. If only one proposal is  
31 received, the department may negotiate in good faith and, if

1 the department is not satisfied with the results of the  
 2 negotiations, the department may, at its sole discretion,  
 3 terminate negotiations with the proposer. Notwithstanding this  
 4 subsection, the department may, at its discretion, reject all  
 5 proposals at any point in the process up to completion of a  
 6 contract with the proposer.

7 (7) The department may lend funds from the Toll  
 8 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
 9 private entities that construct projects on the State Highway  
 10 System containing toll facilities that are approved under this  
 11 section. To be eligible, a private entity must comply with s.  
 12 338.251 and must provide an indication from a nationally  
 13 recognized rating agency that the senior bonds for the project  
 14 will be investment grade, or must provide credit support such  
 15 as a letter of credit or other means acceptable to the  
 16 department, to ensure that the loans will be fully repaid. The  
 17 state's liability for the funding of a facility is limited to  
 18 the amount approved for that specific facility in the  
 19 department's 5-year work program adopted pursuant to s.  
 20 339.135.

21 (8)(6) A fixed-guideway transportation system  
 22 authorized by the department to be wholly or partially within  
 23 the department's right-of-way pursuant to a lease granted  
 24 under s. 337.251 may operate at any safe speed.

25 Section 7. Subsection (6) of section 338.001, Florida  
 26 Statutes, is amended to read:

27 338.001 Florida Intrastate Highway System Plan.--

28 (6) For the purposes of developing the proposed plan,  
 29 beginning in fiscal year 2003-2004 ~~1993-1994~~ and for each  
 30 fiscal year thereafter, the minimum amount allocated shall be  
 31 based on the fiscal year 2003-2004 ~~1992-1993~~ allocation of

1 | ~~\$450~~~~\$151.3~~ million adjusted annually by the change in the  
 2 | Consumer Price Index for the prior fiscal year compared to the  
 3 | Consumer Price Index for fiscal year 2003-2004 ~~1991-1992~~. No  
 4 | amounts from the funds dedicated to the Florida Intrastate  
 5 | Highway System shall be allocated to turnpike projects ~~after~~  
 6 | ~~the 1993-1994 fiscal year~~.

7 | Section 8. Section 339.08, Florida Statutes, is  
 8 | amended to read:

9 | 339.08 Use of moneys in State Transportation Trust  
 10 | Fund.--

11 | (1) The department shall expend ~~by rule provide for~~  
 12 | ~~the expenditure of the~~ moneys in the State Transportation  
 13 | Trust Fund accruing to the department, in accordance with its  
 14 | annual budget.

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

17 | (a) To pay administrative expenses of the department,  
 18 | including administrative expenses incurred by the several  
 19 | state transportation districts, but excluding administrative  
 20 | expenses of commuter rail authorities that do not operate rail  
 21 | service.

22 | (b) To pay the cost of construction of the State  
 23 | Highway System.

24 | (c) To pay the cost of maintaining the State Highway  
 25 | System.

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

28 | (e) To reimburse counties or municipalities for  
 29 | expenditures made on projects in the State Highway System as  
 30 | authorized by s. 339.12(4) upon legislative approval.  
 31 |

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

3 (g) To lend or pay a portion of the operating,  
4 maintenance, and capital costs of a revenue-producing  
5 transportation project that is located on the State Highway  
6 System or that is demonstrated to relieve traffic congestion  
7 on the State Highway System.

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

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

14 (j) To pay the cost of county or municipal road  
15 projects selected in accordance with the County Incentive  
16 Grant Program created in s. 339.2817 and the Small County  
17 Outreach Program created in s. 339.2818.

18 (k) To provide loans and credit enhancements for use  
19 in constructing and improving highway transportation  
20 facilities selected in accordance with the state-funded  
21 infrastructure bank created in s. 339.55.

22 (l) To pay the cost of projects on the Florida  
23 Strategic Intermodal System created in s. 339.61 ~~fund the~~  
24 ~~Transportation Outreach Program created in s. 339.137.~~

25 (m) To pay other lawful expenditures of the  
26 department.

27 ~~(2)(3)~~ Unless specifically provided in the General  
28 Appropriations Act or the substantive bill implementing the  
29 General Appropriations Act, no moneys in the State  
30 Transportation Trust Fund may be used to fund the operational  
31 or capital outlay cost for any correctional facility of the

1 Department of Corrections. The department shall, however,  
2 enter into contractual arrangements with the Department of  
3 Corrections for those specific maintenance functions that can  
4 be performed effectively by prison inmates under the  
5 supervision of Department of Corrections personnel with  
6 technical assistance being provided by the department. The  
7 cost of such contracts must not exceed the cost that would be  
8 incurred by the department if these functions were to be  
9 performed by its personnel or by contract with another entity  
10 unless, notwithstanding cost, the department can clearly  
11 demonstrate that for reasons of expediency or efficiency it is  
12 in the best interests of the department to contract with the  
13 Department of Corrections.

14 ~~(3)~~(4) The department may authorize the investment of  
15 the earnings accrued and collected upon the investment of the  
16 minimum balance of funds required to be maintained in the  
17 State Transportation Trust Fund pursuant to s. 339.135(6)(b).  
18 Such investment shall be limited as provided in s.  
19 288.9607(7).

20 ~~(4)~~(5) For the 2003-2004 fiscal year only and  
21 notwithstanding the provisions of this section and s.  
22 339.09(1), \$200 million may be transferred from the State  
23 Transportation Trust Fund to the General Revenue Fund in the  
24 2003-2004 General Appropriations Act. Such transfer may be  
25 comprised of several smaller transfers made during the  
26 2003-2004 fiscal year. Notwithstanding ss. 206.46(3) and  
27 206.606(2), the total amount transferred shall be reduced from  
28 total state revenues deposited into the State Transportation  
29 Trust Fund for the calculation requirements of ss. 206.46(3)  
30 and 206.606(2). This subsection expires July 1, 2004.

31

1           Section 9. Paragraph (a) of subsection (4) of section  
2 339.135, Florida Statutes, is amended to read:

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

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

7           (a)1. To assure that no district or county is  
8 penalized for local efforts to improve the State Highway  
9 System, the department shall, for the purpose of developing a  
10 tentative work program, allocate funds for new construction to  
11 the districts, except for the turnpike enterprise, based on  
12 equal parts of population and motor fuel tax collections.  
13 Funds for resurfacing, bridge repair and rehabilitation,  
14 bridge fender system construction or repair, public transit  
15 projects except public transit block grants as provided in s.  
16 341.052, and other programs with quantitative needs  
17 assessments shall be allocated based on the results of these  
18 assessments. The department may not transfer any funds  
19 allocated to a district under this paragraph to any other  
20 district except as provided in subsection (7). Funds for  
21 public transit block grants shall be allocated to the  
22 districts pursuant to s. 341.052. Funds for the intercity bus  
23 program provided for under s. 5311(f) of the federal  
24 nonurbanized area formula program shall be administered and  
25 allocated directly to eligible bus carriers as defined in s.  
26 341.031(12) at the state level rather than the district. In  
27 order to provide state funding to support the intercity bus  
28 program provided for under provisions of the federal 5311(f)  
29 program, the department shall allocate an amount equal to the  
30 federal share of the 5311(f) program from amounts calculated  
31 pursuant to s. 206.46(3).

1           2. Notwithstanding the provisions of subparagraph 1.,  
2 the department shall allocate at least 50 percent of any new  
3 discretionary highway capacity funds to the Florida Strategic  
4 Intermodal Intra~~state~~ Highway System created ~~established~~  
5 pursuant to s. 339.61 ~~s. 338.001~~. Any remaining new  
6 discretionary highway capacity funds shall be allocated to the  
7 districts for new construction as provided in subparagraph 1.  
8 For the purposes of this subparagraph, the term "new  
9 discretionary highway capacity funds" means any funds  
10 available to the department above the prior year funding level  
11 for capacity improvements, which the department has the  
12 discretion to allocate to highway projects.

13           Section 10. Section 339.137, Florida Statutes, is  
14 repealed.

15           Section 11. Section 339.1371, Florida Statutes, is  
16 amended to read:

17           339.1371 Mobility 2000; ~~Transportation Outreach~~  
18 ~~Program~~; funding.--

19           (1) Beginning in fiscal year 2000-2001 the Department  
20 of Transportation shall allocate sufficient funds to implement  
21 the Mobility 2000 (Building Roads for the 21st Century)  
22 initiative. The department shall develop a plan to expend  
23 these revenues and amend the current tentative work program  
24 for the time period 2000-2001 through 2004-2005 prior to  
25 adoption to include Mobility 2000 projects. In addition, prior  
26 to work program adoption, the department shall submit a budget  
27 amendment pursuant to s. 339.135(7), requesting budget  
28 authority needed to implement the Mobility 2000 initiative.  
29 Funds will be used for corridors that link Florida's economic  
30 regions to seaports, international airports, and markets to  
31 provide connections through major gateways, improved mobility

1 in major urbanized areas, and access routes for emergency  
2 evacuation to coastal communities based on analysis of current  
3 and projected traffic conditions.

4 (2) Notwithstanding any other provision of law, in  
5 fiscal year 2001-2002 and each year thereafter, the increase  
6 in revenue to the State Transportation Trust Fund derived from  
7 ss. 1, 2, 3, 7, 9, and 10, ch. 2000-257, Laws of Florida,  
8 shall be first used by the Department of Transportation to  
9 fund the Mobility 2000 initiative and any remaining funds  
10 shall be used to fund the Florida Strategic Intermodal System  
11 ~~Transportation Outreach Program~~ created pursuant to s. 339.61  
12 ~~s. 339.137~~. Notwithstanding any other law to the contrary, the  
13 requirements of ss. 206.46(3) and 206.606(2) shall not apply  
14 to the Mobility 2000 initiative.

15 Section 12. Subsection (1) of section 339.61, Florida  
16 Statutes, is amended to read:

17 339.61 Florida Strategic Intermodal System;  
18 legislative findings, declaration, and intent.--

19 (1) There is hereby created the Florida Strategic  
20 Intermodal System. For purposes of funding projects under the  
21 system, the department shall allocate from the State  
22 Transportation Trust Fund in its program and resource plan a  
23 minimum of \$60 million each year, beginning in the 2004-2005  
24 fiscal year. This allocation of funds is in addition to any  
25 funding provided to this system by any other provision of law.

26 Section 13. Subsection (1) of section 337.401, Florida  
27 Statutes, is amended to read:

28 337.401 Use of right-of-way for utilities subject to  
29 regulation; permit; fees.--

30 (1) The department and local governmental entities,  
31 referred to in ss. 337.401-337.404 as the "authority," that

1 have jurisdiction and control of public roads or publicly  
2 owned rail corridors are authorized to prescribe and enforce  
3 reasonable rules or regulations with reference to the placing  
4 and maintaining along, across, or on any road or publicly  
5 owned rail corridors under their respective jurisdictions any  
6 electric transmission, telephone, telegraph, or other  
7 communications services lines; pole lines; poles; railways;  
8 ditches; sewers; water, heat, or gas mains; pipelines; fences;  
9 gasoline tanks and pumps; or other structures hereinafter  
10 referred to as the "utility." The department may enter into a  
11 permit-delegation agreement with a governmental entity if  
12 issuance of a permit is based on requirements that the  
13 department finds will ensure the safety and integrity of  
14 facilities of the Department of Transportation; however, the  
15 permit-delegation agreement does not apply to facilities of  
16 electric utilities as defined in s. 366.02(2).

17 Section 14. Section 95.361, Florida Statutes, is  
18 amended to read:

19 95.361 Roads presumed to be dedicated.--

20 (1) When a road, constructed by a county, a  
21 municipality, or the Department of Transportation, has been  
22 maintained or repaired continuously and uninterruptedly for 4  
23 years by the county, municipality, or the Department of  
24 Transportation, jointly or severally, the road shall be deemed  
25 to be dedicated to the public to the extent in width that has  
26 been actually maintained for the prescribed period, whether or  
27 not the road has been formally established as a public  
28 highway. The dedication shall vest all right, title,  
29 easement, and appurtenances in and to the road in:

30 (a) The county, if it is a county road;

31

1           (b) The municipality, if it is a municipal street or  
2 road; or

3           (c) The state, if it is a road in the State Highway  
4 System or State Park Road System,

5  
6 whether or not there is a record of a conveyance, dedication,  
7 or appropriation to the public use.

8           (2) In those instances where a road has been  
9 constructed by a nongovernmental entity, or where the road was  
10 not constructed by the entity currently maintaining or  
11 repairing it, or where it cannot be determined who constructed  
12 the road, and when such road has been regularly maintained or  
13 repaired for the immediate past 7 years by a county, a  
14 municipality, or the Department of Transportation, whether  
15 jointly or severally, such road shall be deemed to be  
16 dedicated to the public to the extent of the width that  
17 actually has been maintained or repaired for the prescribed  
18 period, whether or not the road has been formally established  
19 as a public highway. This subsection shall not apply to an  
20 electric utility, as defined in s. 366.02(2) The dedication  
21 shall vest all rights, title, easement, and appurtenances in  
22 and to the road in:

23           (a) The county, if it is a county road;

24           (b) The municipality, if it is a municipal street or  
25 road; or

26           (c) The state, if it is a road in the State Highway  
27 System or State Park Road System,

28  
29 whether or not there is a record of conveyance, dedication, or  
30 appropriation to the public use.

31

1           (3) The filing of a map in the office of the clerk of  
2 the circuit court of the county where the road is located  
3 showing the lands and reciting on it that the road has vested  
4 in the state, a county, or a municipality in accordance with  
5 subsection (1) or subsection (2) or by any other means of  
6 acquisition, duly certified by:

7           (a) The secretary of the Department of Transportation,  
8 or the secretary's designee, if the road is a road in the  
9 State Highway System or State Park Road System;

10           (b) The chair and clerk of the board of county  
11 commissioners of the county, if the road is a county road; or

12           (c) The mayor and clerk of the municipality, if the  
13 road is a municipal road or street,

14  
15 shall be prima facie evidence of ownership of the land by the  
16 state, county, or municipality, as the case may be.

17           (4) Any person, firm, corporation, or entity having or  
18 claiming any interest in and to any of the property affected  
19 by subsection (2) shall have and is hereby allowed a period of  
20 1 year after the effective date of this subsection, or a  
21 period of 7 years after the initial date of regular  
22 maintenance or repair of the road, whichever period is  
23 greater, to file a claim in equity or with a court of law  
24 against the particular governing authority assuming  
25 jurisdiction over such property to cause a cessation of the  
26 maintenance and occupation of the property. Such timely filed  
27 and adjudicated claim shall prevent the dedication of the road  
28 to the public pursuant to subsection (2).

29           (5) This section does not apply to any facility of an  
30 electric utility which is located on property otherwise  
31 subject to this section.

1           Section 15. Subsections (2) and (6) of section  
2 341.8203, Florida Statutes, are amended to read:

3           341.8203 Definitions.--As used in this act, unless the  
4 context clearly indicates otherwise, the term:

5           (2) "Authority" means the Florida High-Speed Rail  
6 Authority and its agents. However, for purposes of s. 341.840,  
7 the term does not include any agent of the authority except as  
8 provided in that section.

9           (6) "High-speed rail system" means any high-speed  
10 fixed guideway system for transporting people or goods, which  
11 system is capable of operating at speeds in excess of 120  
12 miles per hour, including, but not limited to, a monorail  
13 system, dual track rail system, suspended rail system,  
14 magnetic levitation system, pneumatic repulsion system, or  
15 other system approved by the authority. The term includes a  
16 corridor and structures essential to the operation of the  
17 line, including the land, structures, improvements,  
18 rights-of-way, easements, rail lines, rail beds, guideway  
19 structures, ~~stations, platforms,~~ switches, yards, parking  
20 facilities, power relays, switching houses, and rail stations,  
21 ~~associated development,~~ and also includes any other facilities  
22 or equipment used exclusively ~~or useful~~ for the purposes of  
23 ~~high speed rail system~~ design, construction, operation,  
24 maintenance, or the financing of the high-speed rail system.

25           Section 16. Section 341.840, Florida Statutes, is  
26 amended to read:

27           341.840 Tax exemption.--

28           (1) The exercise of the powers granted by this act  
29 will be in all respects for the benefit of the people of this  
30 state, for the increase of their commerce, welfare, and  
31 prosperity, and for the improvement of their health and living

1 conditions, ~~and as~~ The design, construction building,  
2 operation, maintenance, and financing of a high-speed rail  
3 system by the authority, ~~or~~ its agent, or the owner or lessee  
4 thereof, as herein authorized, constitutes the performance of  
5 an essential public function.

6 (2)(a) For the purposes of this section, the term  
7 "authority" does not include agents of the authority other  
8 than contractors who qualify as such pursuant to subsection  
9 (7).

10 (b) For the purposes of this section, any item or  
11 property that is within the definition of "associated  
12 development" in s. 341.8203(1) shall not be considered to be  
13 part of the high-speed rail system as defined in s.  
14 341.8203(6).

15 (3)(a) Purchases or leases of tangible personal  
16 property or real property by the authority, excluding agents  
17 of the authority, are exempt from taxes imposed by chapter 212  
18 as provided in s. 212.08(6). Purchases or leases of tangible  
19 personal property that is incorporated into the high-speed  
20 rail system as a component part thereof, as determined by the  
21 authority, by agents of the authority or the owner of the  
22 high-speed rail system are exempt from sales or use taxes  
23 imposed by chapter 212. Leases, rentals, or licenses to use  
24 real property granted to agents of the authority or the owner  
25 of the high-speed rail system are exempt from taxes imposed by  
26 s. 212.031 if the real property becomes part of such system.  
27 The exemptions granted in this subsection do not apply to  
28 sales, leases, or licenses by the authority, agents of the  
29 authority, or the owner of the high-speed rail system.

30 (b) The exemption granted in paragraph (a) to  
31 purchases or leases of tangible personal property by agents of

1 the authority or by the owner of the high-speed rail system  
2 applies only to property that becomes a component part of such  
3 system. It does not apply to items, including, but not limited  
4 to, cranes, bulldozers, forklifts, other machinery and  
5 equipment, tools and supplies, or other items of tangible  
6 personal property used in the construction, operation, or  
7 maintenance of the high-speed rail system when such items are  
8 not incorporated into the high-speed rail system as a  
9 component part thereof.

10 (4) Any bonds or other, neither the authority, its  
11 agent, nor the owner of such system shall be required to pay  
12 any taxes or assessments upon or in respect to the system or  
13 any property acquired or used by the authority, its agent, or  
14 such owner under the provisions of this act or upon the income  
15 therefrom, any security, and all notes, mortgages, security  
16 agreements, letters of credit, or other instruments that arise  
17 out of or are given to secure the repayment of bonds or other  
18 security, issued by the authority, or on behalf of the  
19 authority therefor, their transfer, and the income therefrom,  
20 including any profit made on the sale thereof, shall at all  
21 times be free from taxation of every kind by the state, the  
22 counties, and the municipalities and other political  
23 subdivisions in the state. This subsection, however, does not  
24 exempt from taxation or assessment the leasehold interest of a  
25 lessee in any project or any other property or interest owned  
26 by the lessee. The exemption granted by this subsection is not  
27 applicable to any tax imposed by chapter 220 on interest  
28 income or profits on the sale of debt obligations owned by  
29 corporations.

30 (5) When property of the authority is leased to  
31 another person or entity, the property shall be exempt from ad

1 valorem taxation only if the use by the lessee qualifies the  
2 property for exemption under s. 196.199.

3 (6) A leasehold interest held by the authority is not  
4 subject to intangible tax. However, if a leasehold interest  
5 held by the authority is subleased to a nongovernmental  
6 lessee, such subleasehold interest shall be deemed to be an  
7 interest described in s. 199.023(1)(d), and is subject to the  
8 intangible tax.

9 (7)(a) In order to be considered an agent of the  
10 authority for purposes of the exemption from sales and use tax  
11 granted by subsection (3) for tangible personal property  
12 incorporated into the high-speed rail system, a contractor of  
13 the authority that purchases or fabricates such tangible  
14 personal property must be certified by the authority as  
15 provided in this subsection.

16 (b)1. A contractor must apply for a renewal of the  
17 exemption not later than December 1 of each calendar year.

18 2. A contractor must apply to the authority on the  
19 application form adopted by the authority, which shall develop  
20 the form in consultation with the Department of Revenue.

21 3. The authority shall review each submitted  
22 application and determine whether it is complete. The  
23 authority shall notify the applicant of any deficiencies in  
24 the application within 30 days. Upon receipt of a completed  
25 application, the authority shall evaluate the application for  
26 exemption under this subsection and issue a certification that  
27 the contractor is qualified to act as an agent of the  
28 authority for purposes of this section or a denial of such  
29 certification within 30 days. The authority shall provide the  
30 Department of Revenue with a copy of each certification issued  
31 upon approval of an application. Upon receipt of a

1 certification from the authority, the Department of Revenue  
2 shall issue an exemption permit to the contractor.

3 (c)1. The contractor may extend a copy of its  
4 exemption permit to its vendors in lieu of paying sales tax on  
5 purchases of tangible personal property qualifying for  
6 exemption under this section. Possession of a copy of the  
7 exemption permit relieves the seller of the responsibility of  
8 collecting tax on the sale, and the Department of Revenue  
9 shall look solely to the contractor for recovery of tax upon a  
10 determination that the contractor was not entitled to the  
11 exemption.

12 2. The contractor may extend a copy of its exemption  
13 permit to real property subcontractors supplying and  
14 installing tangible personal property that is exempt under  
15 subsection (3). Any such subcontractor is authorized to extend  
16 a copy of the permit to the subcontractor's vendors in order  
17 to purchase qualifying tangible personal property tax-exempt.  
18 If the subcontractor uses the exemption permit to purchase  
19 tangible personal property that is determined not to qualify  
20 for exemption under subsection (3), the Department of Revenue  
21 may assess and collect any tax, penalties, and interest that  
22 are due from either the contractor holding the exemption  
23 permit or the subcontractor that extended the exemption permit  
24 to the seller.

25 (d) Any contractor authorized to act as an agent of  
26 the authority under this section shall maintain the necessary  
27 books and records to document the exempt status of purchases  
28 and fabrication costs made or incurred under the permit. In  
29 addition, an authorized contractor extending its exemption  
30 permit to its subcontractors shall maintain a copy of the  
31 subcontractor's books, records, and invoices indicating all

1 purchases made by the subcontractor under the authorized  
2 contractor's permit. If, in an audit conducted by the  
3 Department of Revenue, it is determined that tangible personal  
4 property purchased or fabricated claiming exemption under this  
5 section does not meet the criteria for exemption, the amount  
6 of taxes not paid at the time of purchase or fabrication shall  
7 be immediately due and payable to the Department of Revenue,  
8 together with the appropriate interest and penalty, computed  
9 from the date of purchase, in the manner prescribed by chapter  
10 212.

11 (e) If a contractor fails to apply for a high-speed  
12 rail system exemption permit, or if a contractor initially  
13 determined by the authority to not qualify for exemption is  
14 subsequently determined to be eligible, the contractor shall  
15 receive the benefit of the exemption in this subsection  
16 through a refund of previously paid taxes for transactions  
17 that otherwise would have been exempt. A refund may not be  
18 made for such taxes without the issuance of a certification by  
19 the authority that the contractor was authorized to make  
20 purchases tax-exempt and a determination by the Department of  
21 Revenue that the purchases qualified for the exemption.

22 (f) The authority may adopt rules governing the  
23 application process for exemption of a contractor as an  
24 authorized agent of the authority.

25 (g) The Department of Revenue may adopt rules  
26 governing the issuance and form of high-speed rail system  
27 exemption permits, the audit of contractors and subcontractors  
28 using such permits, the recapture of taxes on nonqualified  
29 purchases, and the manner and form of refund applications.

30 Section 17. Section 343.71, Florida Statutes, is  
31 amended to read:

1           343.71 Short title.--This part may be cited as the  
2 "Tampa Bay Commuter Transit Rail Authority Act."

3           Section 18. Subsection (1) of section 343.72, Florida  
4 Statutes, is amended to read:

5           343.72 Definitions.--As used in this part, unless the  
6 context clearly indicates otherwise, the term:

7           (1) "Authority" means the Tampa Bay Commuter Transit  
8 ~~Rail~~ Authority.

9           Section 19. Section 343.73, Florida Statutes, is  
10 amended to read:

11           343.73 Tampa Bay Commuter Transit Rail Authority.--

12           (1) There is created and established a body politic  
13 and corporate, an agency of the state, to be known as the  
14 Tampa Bay Commuter Transit Rail Authority, hereinafter  
15 referred to as the authority.

16           (2) The board shall consist of the following members:

17           (a) The metropolitan planning organizations of  
18 Hernando, Hillsborough, Pasco, Pinellas, Manatee, Sarasota,  
19 and Polk Counties shall each elect a member as its  
20 representative on the board. The member must be an elected  
21 official and a member of the respective metropolitan planning  
22 organization when elected and for the full extent of his or  
23 her term on the board.

24           (b) The county commissions of those counties shall  
25 each appoint a citizen member to the board who is not a county  
26 commissioner but who is a resident and a qualified elector of  
27 that county. Insofar as is practicable, the citizen member  
28 shall represent the business and civic interests of the  
29 community.

30           (c) The Secretary of Transportation shall appoint as a  
31 member of the board the district secretary, or his or her

1 | designee, for each district within the seven ~~five~~ counties  
2 | served by the authority.

3 |         (d) The local transit authority in each of the seven  
4 | ~~five~~ counties shall elect one member who shall serve as an ex  
5 | officio nonvoting member of the board.

6 |         (e) The Governor shall appoint one member to the board  
7 | who is a resident and a qualified elector in the area served  
8 | by the authority.

9 |         (3) The terms of the county commissioners on the  
10 | governing board of the authority shall be 2 years. All other  
11 | members on the governing board of the authority shall serve  
12 | staggered 4-year terms. Each member shall hold office until  
13 | his or her successor has been appointed.

14 |         (4) A vacancy during a term shall be filled by the  
15 | respective appointing authority within 90 days in the same  
16 | manner as the original appointment and only for the balance of  
17 | the unexpired term.

18 |         (5) The members of the authority shall not be entitled  
19 | to compensation, but shall be reimbursed for travel expenses  
20 | actually incurred in their duties as provided by law.

21 |         (6) Members of the authority shall be required to  
22 | comply with the applicable financial disclosure requirements  
23 | of ss. 112.3145, 112.3148, and 112.3149.

24 |         Section 20. Subsection (1) of section 343.74, Florida  
25 | Statutes, is amended to read:

26 |             343.74 Powers and duties.--

27 |             (1)(a) The authority created by s. 343.73 has the  
28 | right to own, operate, maintain, and manage a commuter rail  
29 | system and commuter ferry system in Hernando, Hillsborough,  
30 | Pasco, Pinellas, Manatee, Sarasota, and Polk Counties.

31 |

1 (b) It is the express intention of this part that the  
2 authority be authorized to plan, develop, own, purchase,  
3 lease, or otherwise acquire, demolish, construct, improve,  
4 relocate, equip, repair, maintain, operate, and manage a  
5 commuter rail system, commuter rail facilities, or commuter  
6 ferry system; to establish and determine such policies as may  
7 be necessary for the best interest of the operation and  
8 promotion of a commuter rail system and commuter ferry system;  
9 and to adopt such rules as may be necessary to govern the  
10 operation of a commuter rail system, commuter rail facilities,  
11 and commuter ferry system.

12 Section 21. Subsection (1) of section 3 of chapter  
13 57-1658, Laws of Florida, as created by chapter 88-474, Laws  
14 of Florida, is amended to read:

15 Section 3. Greater Orlando Aviation Authority.

16 (1) There is hereby created a board or commission to  
17 be known as the "Greater Orlando Aviation Authority," and by  
18 that name the authority may sue and be sued, plead and be  
19 impleaded, contract and be contracted with, and have an  
20 official seal. The authority is hereby constituted an agency  
21 of the city, and exercise by the authority of the powers  
22 conferred by this act shall be deemed and held to be an  
23 essential municipal function of the city. The authority shall  
24 consist of seven members who shall be elected or appointed as  
25 follows: one member shall be the mayor of the City of an  
26 ~~incumbent member of the Orlando City Council, who may be the~~  
27 ~~mayor commissioner or any other commissioner elected by a~~  
28 ~~majority vote of such council;~~ one member shall be the  
29 chairman ~~an incumbent member~~ of the Board of County  
30 Commissioners of Orange County, Florida, ~~who may be the~~  
31 ~~chairman or any other commissioner elected by a majority vote~~

1 ~~of such commission~~; and five members shall be appointed by the  
2 Governor, subject to confirmation by the Senate. Three members  
3 appointed by the Governor shall be residents and electors of  
4 Orange County, Florida; one member appointed by the Governor  
5 shall be a resident and elector of Osceola County, Florida,  
6 ~~effective April 1992~~; and, one member appointed by the  
7 Governor shall be a resident and elector of Orange County,  
8 Florida, or Seminole County, Florida. All seven members shall  
9 be entitled to an equal voice and vote on all matters relating  
10 to the authority and its business. Two of the five appointed  
11 members initially appointed by the Governor shall be appointed  
12 for a term of 2 years and three members shall be appointed for  
13 a term of four years, the term of each member so appointed to  
14 be designated by the Governor at the time of the appointment.  
15 All subsequent appointments shall be for a term of 4 years.  
16 The member of the city council and the member of the county  
17 commission shall be elected for a term of two years each;  
18 provided, however, that any such commissioner's term shall end  
19 at such time as he may cease to be a city or county  
20 commissioner, at which time a successor or successors shall be  
21 elected for any unexpired term. The terms of all members  
22 shall end at the expiration of their terms or as otherwise  
23 herein specified.

24 Section 22. Section 337.408, Florida Statutes, is  
25 amended to read:

26 337.408 Regulation of benches, transit shelters,  
27 street light poles, ~~and~~ waste disposal receptacles, and  
28 modular news racks within rights-of-way.--

29 (1) Benches or transit shelters, including advertising  
30 displayed on benches or transit shelters, may be installed  
31 within the right-of-way limits of any municipal, county, or

1 state road, except a limited access highway, ~~+~~ provided that  
2 such benches or transit shelters are for the comfort or  
3 convenience of the general public, ~~7~~ or are at designated stops  
4 on official bus routes, ~~7~~ and, ~~7~~ provided ~~further,~~ that written  
5 authorization has been given to a qualified private supplier  
6 of such service by the municipal government within whose  
7 incorporated limits such benches or transit shelters are  
8 installed, ~~7~~ or by the county government within whose  
9 unincorporated limits such benches or transit shelters are  
10 installed. A municipality or county may authorize the  
11 installation, without public bid, of benches and transit  
12 shelters together with advertising displayed thereon, ~~7~~ within  
13 the right-of-way limits of such roads. Any contract for the  
14 installation of benches or transit shelters or advertising on  
15 benches or transit shelters which was entered into before  
16 April 8, 1992, without public bidding, ~~7~~ is ratified and  
17 affirmed. Such benches or transit shelters may not interfere  
18 with right-of-way preservation and maintenance. Any bench or  
19 transit shelter located on a sidewalk within the right-of-way  
20 limits of any road on the State Highway System or the county  
21 road system shall be located so as to leave at least 36 inches  
22 of clearance for pedestrians and persons in wheelchairs. Such  
23 clearance shall be measured in a direction perpendicular to  
24 the centerline of the road.

25 (2) Waste disposal receptacles of less than 110  
26 gallons in capacity, including advertising displayed on such  
27 waste disposal receptacles, may be installed within the  
28 right-of-way limits of any municipal, county, or state road,  
29 except a limited access highway, ~~+~~ provided that written  
30 authorization has been given to a qualified private supplier  
31 of such service by the appropriate municipal or county

1 government. A municipality or county may authorize the  
2 installation, without public bid, of waste disposal  
3 receptacles together with advertising displayed thereon within  
4 the right-of-way limits of such roads. Such waste disposal  
5 receptacles may not interfere with right-of-way preservation  
6 and maintenance.

7 (3) Modular news racks, including advertising thereon,  
8 may be located within the right-of-way limits of any  
9 municipal, county, or state road, except a limited access  
10 highway, provided the municipal government within whose  
11 incorporated limits such racks are installed or the county  
12 government within whose unincorporated limits such racks are  
13 installed has passed an ordinance regulating the placement of  
14 modular news racks within the right-of-way and has authorized  
15 a qualified private supplier of modular news racks to provide  
16 such service. The modular news rack or advertising thereon  
17 shall not exceed a height of 56 inches or a total advertising  
18 space of 56 square feet. No later than 45 days prior to  
19 installation of modular news racks, the private supplier shall  
20 provide a map of proposed locations and typical installation  
21 plans to the department for approval. If the department does  
22 not respond within 45 days after receipt of the submitted  
23 plans, installation may proceed.

24 (4)(3) The department has the authority to direct the  
25 immediate relocation or removal of any bench, transit shelter,  
26 ~~or~~ waste disposal receptacle, or modular news rack which  
27 endangers life or property, except that transit bus benches  
28 which have been placed in service prior to April 1, 1992, are  
29 not required ~~do not have~~ to comply with bench size and  
30 advertising display size requirements which have been  
31 established by the department prior to March 1, 1992. Any

1 transit bus bench that was in service prior to April 1, 1992,  
 2 may be replaced with a bus bench of the same size or smaller,  
 3 if the bench is damaged or destroyed or otherwise becomes  
 4 unusable. The department is authorized to adopt ~~promulgate~~  
 5 rules relating to the regulation of bench size and advertising  
 6 display size requirements. ~~However,~~ If a municipality or  
 7 county within which a bench is to be located has adopted an  
 8 ordinance or other applicable regulation that establishes  
 9 bench size or advertising display sign requirements different  
 10 from requirements specified in department rule, ~~then~~ the local  
 11 government requirement shall be applicable within the  
 12 respective municipality or county. Placement of any bench or  
 13 advertising display on the National Highway System under a  
 14 local ordinance or regulation adopted pursuant to this  
 15 subsection shall be subject to approval of the Federal Highway  
 16 Administration.

17 ~~(5)(4)~~ No bench, transit shelter, ~~or~~ waste disposal  
 18 receptacle, or modular news rack, or advertising thereon,  
 19 shall be erected or so placed on the right-of-way of any road  
 20 which conflicts with the requirements of federal law,  
 21 regulations, or safety standards, thereby causing the state or  
 22 any political subdivision the loss of federal funds.  
 23 Competition among persons seeking to provide bench, transit  
 24 shelter, ~~or~~ waste disposal receptacle, or modular news rack  
 25 services or advertising on such benches, shelters, ~~or~~  
 26 receptacles, or news racks may be regulated, restricted, or  
 27 denied by the appropriate local government entity consistent  
 28 with the provisions of this section.

29 ~~(6)(5)~~ Street light poles, including attached public  
 30 service messages and advertisements, may be located within the  
 31 right-of-way limits of municipal and county roads in the same

1 manner as benches, transit shelters, ~~and~~ waste disposal  
2 receptacles, and modular news racks as provided in this  
3 section and in accordance with municipal and county  
4 ordinances. Public service messages and advertisements may be  
5 installed on street light poles on roads on the State Highway  
6 System in accordance with height, size, setback, spacing  
7 distance, duration of display, safety, traffic control, and  
8 permitting requirements established by administrative rule of  
9 the Department of Transportation. Public service messages and  
10 advertisements shall be subject to bilateral agreements, where  
11 applicable, to be negotiated with the owner of the street  
12 light poles, which shall consider, among other things, power  
13 source rates, design, safety, operational and maintenance  
14 concerns, and other matters of public importance. For the  
15 purposes of this section, the term "street light poles" does  
16 not include electric transmission or distribution poles. The  
17 department shall have authority to ~~adopt~~establish  
18 ~~administrative~~ rules pursuant to ss. 120.536(1) and 120.54 to  
19 implement the provisions of this section ~~subsection~~. No  
20 advertising on light poles shall be permitted on the  
21 Interstate Highway System. No permanent structures carrying  
22 advertisements attached to light poles shall be permitted on  
23 the National Highway System.

24 ~~(7)(6)~~ Wherever the provisions of this section are  
25 inconsistent with other provisions of this chapter or with the  
26 provisions of chapter 125, chapter 335, chapter 336, or  
27 chapter 479, the provisions of this section shall prevail.

28 Section 23. Paragraph (n) of subsection (2) of section  
29 348.754, Florida Statutes, is amended to read:

30 348.754 Purposes and powers.--

31

1           (2) The authority is hereby granted, and shall have  
 2 and may exercise all powers necessary, appurtenant, convenient  
 3 or incidental to the carrying out of the aforesaid purposes,  
 4 including, but without being limited to, the following rights  
 5 and powers:

6           (n) With the consent of Orange County and the county  
 7 within whose jurisdiction the following activities occur, the  
 8 authority shall have the right to construct, operate, and  
 9 maintain roads, bridges, avenues of access, thoroughfares, and  
 10 boulevards outside the jurisdictional boundaries of Orange  
 11 County, together with the right to construct, repair, replace,  
 12 operate, install, and maintain electronic toll payment systems  
 13 thereon, with all necessary and incidental powers to  
 14 accomplish the foregoing.

15           Section 24. Paragraph (m) of subsection (2) of section  
 16 348.0004, Florida Statutes, is repealed.

17           Section 25. Subsection (9) is added to section  
 18 348.0004, Florida Statutes, to read:

19           348.0004 Purposes and powers.--

20           (9) The Legislature declares that there is a public  
 21 need for rapid construction of safe and efficient  
 22 transportation facilities for travel within the state and that  
 23 it is in the public's interest to provide for public-private  
 24 partnership agreements to effectuate the construction of  
 25 additional safe, convenient, and economical transportation  
 26 facilities.

27           (a) Notwithstanding any other provision of the Florida  
 28 Expressway Authority Act, any expressway authority may receive  
 29 or solicit proposals and enter into agreements with private  
 30 entities, or consortia thereof, for the building, operation,  
 31 ownership, or financing of expressway authority transportation

1 facilities or new transportation facilities within the  
2 jurisdiction of the expressway authority. An expressway  
3 authority is authorized to adopt rules to implement this  
4 subsection and shall, by rule, establish an application fee  
5 for the submission of unsolicited proposals under this  
6 subsection. The fee must be sufficient to pay the costs of  
7 evaluating the proposals. An expressway authority may engage  
8 private consultants to assist in the evaluation. Before  
9 approval, an expressway authority must determine that a  
10 proposed project:

11 1. Is in the public's best interest.

12 2. Would not require state funds to be used unless the  
13 project is on or provides increased mobility on the State  
14 Highway System.

15 3. Would have adequate safeguards to ensure that no  
16 additional costs or service disruptions would be realized by  
17 the traveling public and citizens of the state in the event of  
18 default or the cancellation of the agreement by the expressway  
19 authority.

20 (b) An expressway authority shall ensure that all  
21 reasonable costs to the state, related to transportation  
22 facilities that are not part of the State Highway System, are  
23 borne by the private entity. An expressway authority shall  
24 also ensure that all reasonable costs to the state and  
25 substantially affected local governments and utilities related  
26 to the private transportation facility are borne by the  
27 private entity for transportation facilities that are owned by  
28 private entities. For projects on the State Highway System,  
29 the department may use state resources to participate in  
30 funding and financing the project as provided for under the  
31 department's enabling legislation.

1        (c) The expressway authority may request proposals for  
2 public-private transportation projects or, if it receives an  
3 unsolicited proposal, it must publish a notice in the Florida  
4 Administrative Weekly and a newspaper of general circulation  
5 in the county in which it is located at least once a week for  
6 2 weeks, stating that it has received the proposal and will  
7 accept, for 60 days after the initial date of publication,  
8 other proposals for the same project purpose. A copy of the  
9 notice must be mailed to each local government in the affected  
10 areas. After the public notification period has expired, the  
11 expressway authority shall rank the proposals in order of  
12 preference. In ranking the proposals, the expressway authority  
13 shall consider professional qualifications, general business  
14 terms, innovative engineering or cost-reduction terms, finance  
15 plans, and the need for state funds to deliver the proposal.  
16 If the expressway authority is not satisfied with the results  
17 of the negotiations, it may, at its sole discretion, terminate  
18 negotiations with the proposer. If these negotiations are  
19 unsuccessful, the expressway authority may go to the second  
20 and lower-ranked firms, in order, using the same procedure. If  
21 only one proposal is received, the expressway authority may  
22 negotiate in good faith, and if it is not satisfied with the  
23 results, it may, at its sole discretion, terminate  
24 negotiations with the proposer. Notwithstanding this  
25 paragraph, the expressway authority may, at its discretion,  
26 reject all proposals at any point in the process up to  
27 completion of a contract with the proposer.

28        (d) The department may lend funds from the Toll  
29 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
30 public-private partnerships. To be eligible a private entity  
31 must comply with s. 338.251 and must provide an indication

1 from a nationally recognized rating agency that the senior  
2 bonds for the project will be investment grade or must provide  
3 credit support, such as a letter of credit or other means  
4 acceptable to the department, to ensure that the loans will be  
5 fully repaid.

6 (e) Agreements entered into pursuant to this  
7 subsection may authorize the public-private entity to impose  
8 tolls or fares for the use of the facility. However, the  
9 amount and use of toll or fare revenues shall be regulated by  
10 the expressway authority to avoid unreasonable costs to users  
11 of the facility.

12 (f) Each public-private transportation facility  
13 constructed pursuant to this subsection shall comply with all  
14 requirements of federal, state, and local laws; state,  
15 regional, and local comprehensive plans; the expressway  
16 authority's rules, policies, procedures, and standards for  
17 transportation facilities; and any other conditions that the  
18 expressway authority determines to be in the public's best  
19 interest.

20 (g) An expressway authority may exercise any power  
21 possessed by it, including eminent domain, to facilitate the  
22 development and construction of transportation projects  
23 pursuant to this subsection. An expressway authority may pay  
24 all or part of the cost of operating and maintaining the  
25 facility or may provide services to the private entity for  
26 which it receives full or partial reimbursement for services  
27 rendered.

28 (h) Except as herein provided, this subsection is not  
29 intended to amend existing laws by granting additional powers  
30 to or further restricting the governmental entities from  
31 regulating and entering into cooperative arrangements with the

1 private sector for the planning, construction, and operation  
2 of transportation facilities.

3 Section 26. Subsection (2) of section 2 of chapter  
4 88-418, Laws of Florida, as amended by section 99 of chapter  
5 2002-20, Laws of Florida, is amended to read:

6 Section 2. Crandon Boulevard is hereby designated as a  
7 state historic highway. No public funds shall be expended  
8 for:

9 (2) The alteration of the physical dimensions or  
10 location of Crandon Boulevard, the median strip thereof, or  
11 the land adjacent thereto, except for:

12 (a) The routine or emergency utilities maintenance  
13 activities necessitated to maintain the road as a utility  
14 corridor serving the village of Key Biscayne; ~~or~~

15 (b) The modification or improvements made to provide  
16 for vehicular ingress and egress of governmental public safety  
17 vehicles; or-

18 (c) Alterations, modifications, or improvements made  
19 for the purpose of enhancing life safety vehicular use or  
20 pedestrian use of Crandon Boulevard, or both, so long as such  
21 alterations, modifications, or improvements are heard in a  
22 public hearing and subsequently approved by the Village  
23 Council of the Village of Key Biscayne.

24 Section 27. This act shall take effect upon becoming a  
25 law.