

By the Committees on Transportation and Economic Development  
Appropriations; Transportation and Economic Development  
Appropriations; Transportation; and Senator Baker

606-08690-08

20081978c3

1                   A bill to be entitled  
2           An act relating to the Department of Transportation;  
3           amending s. 20.23, F.S.; providing Senior Management  
4           Service status to the Executive Director of the Florida  
5           Transportation Commission; amending s. 125.42, F.S.;  
6           providing an exception to utility owners from the  
7           responsibility for relocating utilities along county roads  
8           and highways; amending s. 163.3177, F.S.; revising  
9           requirements for comprehensive plans; providing for  
10          airports, land adjacent to airports, and certain  
11          interlocal agreements relating thereto in certain elements  
12          of the plan; amending s. 163.3178, F.S.; providing that  
13          facilities determined by the Department of Community  
14          Affairs and the applicable general-purpose local  
15          government to be port-related industrial or commercial  
16          projects located within 3 miles of or in the port master  
17          plan area which rely upon the utilization of port and  
18          intermodal transportation facilities are not developments  
19          of regional impact under certain circumstances; amending  
20          s. 163.3180, F.S.; requiring the Department of  
21          Transportation to establish a transportation methodology  
22          to serve as the basis for sustainable development impact  
23          assessments; defining the terms "present value" and  
24          "backlogged transportation facility"; amending s.  
25          163.3182, F.S., relating to transportation concurrency  
26          backlog authorities; providing legislative findings and  
27          declarations; expanding the power of authorities to borrow  
28          money to include issuing certain debt obligations;  
29          providing a maximum maturity date for certain debt

606-08690-08

20081978c3

30 incurred to finance or refinance certain transportation  
31 concurrency backlog projects; authorizing authorities to  
32 continue operations and administer certain trust funds for  
33 the period of the remaining outstanding debt; requiring  
34 local transportation concurrency backlog trust funds to  
35 continue to be funded for certain purposes; providing for  
36 increased ad valorem tax increment funding for such trust  
37 funds under certain circumstances; revising provisions for  
38 dissolution of an authority; providing legislative  
39 findings relating to investment of funds from the Lawton  
40 Chiles Endowment Fund in Florida infrastructure by the  
41 State Board of Administration; providing that such  
42 investment is the policy of the State Board of  
43 Administration; amending s. 215.44, F.S.; including  
44 infrastructure investments in annual reporting  
45 requirements of State Board of Administration; amending s.  
46 215.47, F.S.; increasing the maximum allowable percent of  
47 any fund in alternative investments or infrastructure  
48 investments; defining infrastructure investments; amending  
49 s. 215.5601, F.S.; directing the State Board of  
50 Administration to lease Alligator Alley for up to 50 years  
51 from the Department of Transportation using funds from the  
52 Lawton Chiles Endowment; limiting the investment of funds  
53 to between 20 and 50 percent of the endowment's assets;  
54 requiring a report to the Legislature; authorizing the  
55 board to contract with other government, public, and  
56 private entities to operate and maintain the toll  
57 facility; creating s. 334.305, F.S.; providing a finding  
58 of public need for leasing transportation facilities to

606-08690-08

20081978c3

59 expedite provision of additional facilities; providing  
60 that infrastructure investment agreements may not be  
61 impaired by state or local act; authorizing a lease  
62 agreement of up to 50 years for Alligator Alley;  
63 authorizing the engagement of private consultants to  
64 develop the agreement; directing funds received by the  
65 department under such provisions to the State  
66 Transportation Trust Fund; providing requirements for the  
67 lease agreement; requiring adherence to state and federal  
68 laws and standards for the operation and maintenance of  
69 transportation facilities; requiring the regulation of  
70 toll increases; authorizing state action to remedy  
71 impairments to the lease agreement; requiring an  
72 independent cost-effectiveness analysis and traffic and  
73 revenue study; limiting the use of funds received under  
74 the act to transportation uses; requiring specifications  
75 for construction, engineering, maintenance, and law  
76 enforcement activities in lease agreements; allowing the  
77 department to submit to the Legislative Budget Commission  
78 a plan for advancing transportation projects using funds  
79 received from a lease; requiring remaining toll revenue to  
80 be used in accordance with the lease agreement and s.  
81 338.26, F.S.; confirming the ability of the State Board of  
82 Administration to invest in government-owned  
83 infrastructure; providing legislative intent relating to  
84 road rage and aggressive careless driving; amending s.  
85 316.003, F.S.; defining the term "road rage"; amending s.  
86 316.083, F.S.; requiring an operator of a motor vehicle to  
87 yield the left lane when being overtaken on a multilane

606-08690-08

20081978c3

88 highway; providing exceptions; amending s. 316.1923, F.S.;  
89 revising the number of specified acts necessary to qualify  
90 as an aggressive careless driver; providing specified  
91 punishments for aggressive careless driving; specifying  
92 the allocation of moneys received from the increased fine  
93 imposed for aggressive careless driving; amending s.  
94 318.19, F.S.; providing that a second or subsequent  
95 infraction as an aggressive careless driver requires  
96 attendance at a mandatory hearing; providing for the  
97 disposition of the increased penalties; requiring the  
98 Department of Highway Safety and Motor Vehicles to provide  
99 information about road rage and aggressive careless  
100 driving in driver's license educational materials;  
101 reenacting s. 316.650(1)(a), F.S., relating to traffic  
102 citations, to incorporate the amendments made to s.  
103 316.1923, F.S., in a reference thereto; amending s.  
104 316.0741, F.S.; redefining the term "hybrid vehicle";  
105 authorizing the driving of a hybrid, low-emission, or  
106 energy-efficient vehicle in a high-occupancy-vehicle lane  
107 regardless of occupancy; authorizing the department to  
108 limit or discontinue such driving under certain  
109 circumstances; exempting such vehicles from the payment of  
110 certain tolls; amending s. 316.193, F.S.; lowering the  
111 blood-alcohol or breath-alcohol level for which enhanced  
112 penalties are imposed against a person who was accompanied  
113 in the vehicle by a minor at the time of the offense;  
114 clarifying that an ignition interlock device is installed  
115 for a continuous period; amending s. 316.302, F.S.;  
116 revising the application of certain federal rules;

606-08690-08

20081978c3

117 providing for the department to perform certain duties  
118 assigned under federal rules; updating a reference to  
119 federal provisions governing out-of-service requirements  
120 for commercial vehicles; amending ss. 316.613 and 316.614,  
121 F.S.; revising the definition of "motor vehicle" for  
122 purposes of child restraint and safety belt usage  
123 requirements; amending s. 316.656, F.S.; lowering the  
124 percentage of blood or breath alcohol content relating to  
125 the prohibition against pleading guilty to a lesser  
126 offense of driving under the influence than the offense  
127 charged; amending s. 320.03, F.S.; revising the amount of  
128 a nonrefundable fee that is charged on the initial and  
129 renewal registration for certain automobiles and trucks;  
130 amending s. 322.64, F.S.; providing that refusal to submit  
131 to a breath, urine, or blood test disqualifies a person  
132 from operating a commercial motor vehicle; providing a  
133 period of disqualification if a person has an unlawful  
134 blood-alcohol or breath-alcohol level; providing for  
135 issuance of a notice of disqualification; revising the  
136 requirements for a formal review hearing following a  
137 person's disqualification from operating a commercial  
138 motor vehicle; amending s. 336.41, F.S.; providing that a  
139 county, municipality, or special district may not own or  
140 operate an asphalt plant or a portable or stationary  
141 concrete batch plant having an independent mixer; amending  
142 s. 337.11, F.S.; establishing a goal for the procurement  
143 of design-build contracts; amending s. 337.18, F.S.;  
144 revising the recording requirements of payment and  
145 performance bonds; amending s. 337.185, F.S.; providing

606-08690-08

20081978c3

146 for maintenance contracts to be included in the types of  
147 claims settled by the State Arbitration Board; amending s.  
148 337.403, F.S.; providing for the department or a local  
149 governmental entity to pay the costs of removing or  
150 relocating a utility that is interfering with the use of a  
151 road or rail corridor; amending s. 338.01, F.S.; requiring  
152 that newly installed electronic toll collection systems be  
153 interoperable with the department's electronic toll  
154 collection system; amending s. 338.165, F.S.; providing  
155 that provisions requiring the continuation of tolls  
156 following the discharge of bond indebtedness does not  
157 apply to high-occupancy toll lanes or express lanes;  
158 creating s. 338.166, F.S.; authorizing the department to  
159 request that bonds be issued which are secured by toll  
160 revenues from high-occupancy toll or express lanes in a  
161 specified location; providing for the department to  
162 continue to collect tolls after discharge of indebtedness;  
163 authorizing the use of excess toll revenues for  
164 improvements to the State Highway System; authorizing the  
165 implementation of variable rate tolls on high-occupancy  
166 toll lanes or express lanes; amending s. 338.2216, F.S.;  
167 directing the turnpike enterprise to develop new  
168 technologies and processes for the collection of tolls and  
169 usage fees; prohibiting the enterprise from entering into  
170 certain joint contracts for the sale of fuel and other  
171 goods; providing an exception; providing restrictions on  
172 contracts pertaining to service plazas; amending s.  
173 338.223, F.S.; conforming a cross-reference; amending s.  
174 338.231, F.S.; eliminating reference to uniform toll rates

606-08690-08

20081978c3

175 on the Florida Turnpike System; authorizing the department  
176 to fix by rule and collect the amounts needed to cover  
177 toll collection costs; directing the turnpike enterprise  
178 to increase tolls; amending s. 339.12, F.S.; clarifying a  
179 provision specifying a maximum total amount of project  
180 agreements for certain projects; authorizing the  
181 department to enter into certain agreements with counties  
182 having a specified maximum population; defining the term  
183 "project phase"; requiring that a project or project phase  
184 be a high priority of a governmental entity; providing for  
185 reimbursement for a project or project phase; specifying a  
186 maximum total amount for certain projects and project  
187 phases; requiring that such project be included in the  
188 local government's adopted comprehensive plan; authorizing  
189 the department to enter into long-term repayment  
190 agreements up to a specified maximum length; amending s.  
191 339.135, F.S.; revising certain notice provisions that  
192 require the Department of Transportation to notify local  
193 governments regarding amendments to an adopted 5-year work  
194 program; amending s. 339.155, F.S.; revising provisions  
195 for development of the Florida Transportation Plan;  
196 amending s. 339.2816, F.S., relating to the small county  
197 road assistance program; providing for resumption of  
198 certain funding for the program; revising the criteria for  
199 counties eligible to participate in the program; amending  
200 ss. 339.2819 and 339.285, F.S.; conforming cross-  
201 references; amending s. 348.0003, F.S.; providing for  
202 financial disclosure for expressway, transportation,  
203 bridge, and toll authorities; amending s. 348.0004, F.S.;

606-08690-08

20081978c3

204 providing for certain expressway authorities to index toll  
205 rate increases; repealing part III of ch. 343 F.S.;  
206 abolishing the Tampa Bay Commuter Transit Authority;  
207 requiring the department to conduct a study of  
208 transportation alternatives for the Interstate 95  
209 corridor; amending s. 409.908, F.S.; authorizing the  
210 Agency for Health Care Administration to continue to  
211 contract for Medicaid nonemergency transportation services  
212 in a specified agency service area with managed care plans  
213 under certain conditions; amending s. 427.011, F.S.;  
214 revising definitions; defining the term "purchasing  
215 agency"; amending s. 427.012, F.S.; revising the number of  
216 members required for a quorum at a meeting of the  
217 Commission for the Transportation Disadvantaged; amending  
218 s. 427.013, F.S.; revising responsibilities of the  
219 commission; deleting a requirement that the commission  
220 establish by rule acceptable ranges of trip costs;  
221 removing a provision for functioning and oversight of the  
222 quality assurance and management review program; requiring  
223 the commission to incur expenses for promotional services  
224 and items; amending s. 427.0135, F.S.; revising and  
225 creating duties and responsibilities for agencies that  
226 purchase transportation services for the transportation  
227 disadvantaged; providing requirements for the payment of  
228 rates; requiring an agency to negotiate with the  
229 commission before procuring transportation disadvantaged  
230 services; requiring an agency to identify its allocation  
231 for transportation disadvantaged services in its  
232 legislative budget request; amending s. 427.015, F.S.;



606-08690-08

20081978c3

233 | revising provisions relating to the function of the  
234 | metropolitan planning organization or designated official  
235 | planning agency; amending s. 427.0155, F.S.; revising  
236 | duties of community transportation coordinators; amending  
237 | s. 427.0157, F.S.; revising duties of coordinating boards;  
238 | amending s. 427.0158, F.S.; deleting provisions requiring  
239 | the school board to provide information relating to school  
240 | buses to the transportation coordinator; providing for the  
241 | transportation coordinator to request certain information  
242 | regarding public transportation; amending s. 427.0159,  
243 | F.S.; revising provisions relating to the Transportation  
244 | Disadvantaged Trust Fund; providing for the deposit of  
245 | funds by an agency purchasing transportation services;  
246 | amending s. 427.016, F.S.; providing for construction and  
247 | application of specified provisions to certain acts of a  
248 | purchasing agency in lieu of the Medicaid agency;  
249 | requiring that an agency identify the allocation of funds  
250 | for transportation disadvantaged services in its  
251 | legislative budget request; amending s. 479.01, F.S.;  
252 | redefining the term "automatic changeable facing" as used  
253 | in provisions governing outdoor advertising; amending s.  
254 | 479.07, F.S.; revising the locations within which signs  
255 | require permitting; providing requirements for the  
256 | placement of permit tags; requiring the department to  
257 | establish by rule a service fee and specifications for  
258 | replacement tags; amending s. 479.08, F.S.; deleting a  
259 | provision allowing a sign permittee to correct false  
260 | information that was knowingly provided to the department;  
261 | requiring the department to include certain information in

606-08690-08

20081978c3

262 the notice of violation; amending s. 479.156, F.S.;

263 modifying local government control of the regulation of

264 wall murals adjacent to certain federal highways; amending

265 s. 479.261, F.S.; revising requirements for the logo sign

266 program of the interstate highway system; deleting

267 provisions providing for permits to be awarded to the

268 highest bidders; requiring the department to implement a

269 rotation-based logo program; requiring the department to

270 adopt rules that set reasonable rates based on certain

271 factors for annual permit fees; requiring that such fees

272 not exceed a certain amount for sign locations inside and

273 outside an urban area; amending s. 212.0606, F.S.;

274 providing for the imposition by countywide referendum of

275 an additional surcharge on the lease or rental of a motor

276 vehicle; providing the proceeds of the surcharge to be

277 transferred to the Local Option Fuel Tax Trust Fund and

278 used for the construction and maintenance of commuter rail

279 service facilities; amending s. 341.301, F.S.; providing

280 definitions relating to commuter rail service, rail

281 corridors, and railroad operation for purposes of the rail

282 program within the department; amending s. 341.302, F.S.;

283 authorizing the department to purchase specified property

284 for the purpose of implementing commuter rail service;

285 authorizing the department to assume certain liability on

286 a rail corridor; authorizing the department to indemnify

287 and hold harmless a railroad company when the department

288 acquires a rail corridor from the company; providing

289 allocation of risk; providing a specific cap on the amount

290 of the contractual duty for such indemnification;

606-08690-08

20081978c3

291 authorizing the department to purchase and provide  
292 insurance in relation to rail corridors; authorizing  
293 marketing and promotional expenses; extending provisions  
294 to other governmental entities providing commuter rail  
295 service on public right-of-way; amending s. 768.28, F.S.;  
296 expanding the list of entities considered agents of the  
297 state; providing for construction in relation to certain  
298 federal laws; authorizing the expenditure of public funds  
299 for certain alterations of Old Cutler Road in the Village  
300 of Palmetto Bay; requiring the official approval of the  
301 Department of State before any alterations may begin;  
302 providing an effective date.

303

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

305

306 Section 1. Paragraph (h) of subsection (2) of section  
307 20.23, Florida Statutes, is amended to read:

308 20.23 Department of Transportation.--There is created a  
309 Department of Transportation which shall be a decentralized  
310 agency.

311 (2)

312 (h) The commission shall appoint an executive director and  
313 assistant executive director, who shall serve under the  
314 direction, supervision, and control of the commission. The  
315 executive director, with the consent of the commission, shall  
316 employ such staff as are necessary to perform adequately the  
317 functions of the commission, within budgetary limitations. All  
318 employees of the commission are exempt from part II of chapter  
319 110 and shall serve at the pleasure of the commission. The salary

606-08690-08

20081978c3

320 and benefits of the executive director shall be set in accordance  
321 with the Senior Management Service. The salaries and benefits of  
322 all other employees of the commission shall be set in accordance  
323 with the Selected Exempt Service; ~~provided,~~ however, ~~that~~ the  
324 commission has ~~shall have~~ complete authority for fixing the  
325 salary of the executive director and assistant executive  
326 director.

327 Section 2. Subsection (5) of section 125.42, Florida  
328 Statutes, is amended to read:

329 125.42 Water, sewage, gas, power, telephone, other utility,  
330 and television lines along county roads and highways.--

331 (5) In the event of widening, repair, or reconstruction of  
332 any such road, the licensee shall move or remove such water,  
333 sewage, gas, power, telephone, and other utility lines and  
334 television lines at no cost to the county except as provided in  
335 s. 337.403(1)(e).

336 Section 3. Paragraphs (a), (h), and (j) of subsection (6)  
337 of section 163.3177, Florida Statutes, are amended to read:

338 163.3177 Required and optional elements of comprehensive  
339 plan; studies and surveys.--

340 (6) In addition to the requirements of subsections (1)-(5)  
341 and (12), the comprehensive plan shall include the following  
342 elements:

343 (a) A future land use plan element designating proposed  
344 future general distribution, location, and extent of the uses of  
345 land for residential uses, commercial uses, industry,  
346 agriculture, recreation, conservation, education, public  
347 buildings and grounds, other public facilities, and other  
348 categories of the public and private uses of land. Counties are

606-08690-08

20081978c3

349 encouraged to designate rural land stewardship areas, pursuant to  
350 the provisions of paragraph (11)(d), as overlays on the future  
351 land use map. Each future land use category must be defined in  
352 terms of uses included, and must include standards to be followed  
353 in the control and distribution of population densities and  
354 building and structure intensities. The proposed distribution,  
355 location, and extent of the various categories of land use shall  
356 be shown on a land use map or map series which shall be  
357 supplemented by goals, policies, and measurable objectives. The  
358 future land use plan shall be based upon surveys, studies, and  
359 data regarding the area, including the amount of land required to  
360 accommodate anticipated growth; the projected population of the  
361 area; the character of undeveloped land; the availability of  
362 water supplies, public facilities, and services; the need for  
363 redevelopment, including the renewal of blighted areas and the  
364 elimination of nonconforming uses which are inconsistent with the  
365 character of the community; the compatibility of uses on lands  
366 adjacent to or closely proximate to military installations; lands  
367 adjacent to an airport as defined in s. 330.35 and consistent  
368 with provisions in s. 333.02; and, in rural communities, the need  
369 for job creation, capital investment, and economic development  
370 that will strengthen and diversify the community's economy. The  
371 future land use plan may designate areas for future planned  
372 development use involving combinations of types of uses for which  
373 special regulations may be necessary to ensure development in  
374 accord with the principles and standards of the comprehensive  
375 plan and this act. The future land use plan element shall include  
376 criteria to be used to achieve the compatibility of adjacent or  
377 closely proximate lands with military installations; lands

606-08690-08

20081978c3

378 adjacent to an airport as defined in s. 330.35 and consistent  
379 with provisions in s. 333.02. In addition, for rural communities,  
380 the amount of land designated for future planned industrial use  
381 shall be based upon surveys and studies that reflect the need for  
382 job creation, capital investment, and the necessity to strengthen  
383 and diversify the local economies, and shall not be limited  
384 solely by the projected population of the rural community. The  
385 future land use plan of a county may also designate areas for  
386 possible future municipal incorporation. The land use maps or map  
387 series shall generally identify and depict historic district  
388 boundaries and shall designate historically significant  
389 properties meriting protection. For coastal counties, the future  
390 land use element must include, without limitation, regulatory  
391 incentives and criteria that encourage the preservation of  
392 recreational and commercial working waterfronts as defined in s.  
393 342.07. The future land use element must clearly identify the  
394 land use categories in which public schools are an allowable use.  
395 When delineating the land use categories in which public schools  
396 are an allowable use, a local government shall include in the  
397 categories sufficient land proximate to residential development  
398 to meet the projected needs for schools in coordination with  
399 public school boards and may establish differing criteria for  
400 schools of different type or size. Each local government shall  
401 include lands contiguous to existing school sites, to the maximum  
402 extent possible, within the land use categories in which public  
403 schools are an allowable use. The failure by a local government  
404 to comply with these school siting requirements will result in  
405 the prohibition of the local government's ability to amend the  
406 local comprehensive plan, except for plan amendments described in

606-08690-08

20081978c3

407 s. 163.3187(1)(b), until the school siting requirements are met.  
408 Amendments proposed by a local government for purposes of  
409 identifying the land use categories in which public schools are  
410 an allowable use are exempt from the limitation on the frequency  
411 of plan amendments contained in s. 163.3187. The future land use  
412 element shall include criteria that encourage the location of  
413 schools proximate to urban residential areas to the extent  
414 possible and shall require that the local government seek to  
415 collocate public facilities, such as parks, libraries, and  
416 community centers, with schools to the extent possible and to  
417 encourage the use of elementary schools as focal points for  
418 neighborhoods. For schools serving predominantly rural counties,  
419 defined as a county with a population of 100,000 or fewer, an  
420 agricultural land use category shall be eligible for the location  
421 of public school facilities if the local comprehensive plan  
422 contains school siting criteria and the location is consistent  
423 with such criteria. Local governments required to update or amend  
424 their comprehensive plan to include criteria and address  
425 compatibility of lands adjacent to an airport as defined in s.  
426 330.35 and consistent with provisions in s. 333.02 ~~adjacent or~~  
427 ~~closely proximate lands with existing military installations~~ in  
428 their future land use plan element shall transmit the update or  
429 amendment to the state land planning agency ~~department~~ by June  
430 30, 2011 ~~2006~~.

431 (h)1. An intergovernmental coordination element showing  
432 relationships and stating principles and guidelines to be used in  
433 the accomplishment of coordination of the adopted comprehensive  
434 plan with the plans of school boards, regional water supply  
435 authorities, and other units of local government providing

606-08690-08

20081978c3

436 services but not having regulatory authority over the use of  
437 land, with the comprehensive plans of adjacent municipalities,  
438 the county, adjacent counties, or the region, with the state  
439 comprehensive plan and with the applicable regional water supply  
440 plan approved pursuant to s. 373.0361, as the case may require  
441 and as such adopted plans or plans in preparation may exist. This  
442 element of the local comprehensive plan shall demonstrate  
443 consideration of the particular effects of the local plan, when  
444 adopted, upon the development of adjacent municipalities, the  
445 county, adjacent counties, or the region, or upon the state  
446 comprehensive plan, as the case may require.

447 a. The intergovernmental coordination element shall provide  
448 ~~for~~ procedures to identify and implement joint planning areas,  
449 especially for the purpose of annexation, municipal  
450 incorporation, and joint infrastructure service areas.

451 b. The intergovernmental coordination element shall provide  
452 for recognition of campus master plans prepared pursuant to s.  
453 1013.30, and airport master plans pursuant to paragraph (k).

454 c. The intergovernmental coordination element may provide  
455 for a voluntary dispute resolution process as established  
456 pursuant to s. 186.509 for bringing to closure in a timely manner  
457 intergovernmental disputes. A local government may develop and  
458 use an alternative local dispute resolution process for this  
459 purpose.

460 d. The intergovernmental coordination element shall provide  
461 for interlocal agreements, as established pursuant to s.  
462 333.03(1)(b).

463 2. The intergovernmental coordination element shall further  
464 state principles and guidelines to be used in the accomplishment



606-08690-08

20081978c3

465 of coordination of the adopted comprehensive plan with the plans  
466 of school boards and other units of local government providing  
467 facilities and services but not having regulatory authority over  
468 the use of land. In addition, the intergovernmental coordination  
469 element shall describe joint processes for collaborative planning  
470 and decisionmaking on population projections and public school  
471 siting, the location and extension of public facilities subject  
472 to concurrency, and siting facilities with countywide  
473 significance, including locally unwanted land uses whose nature  
474 and identity are established in an agreement. Within 1 year of  
475 adopting their intergovernmental coordination elements, each  
476 county, all the municipalities within that county, the district  
477 school board, and any unit of local government service providers  
478 in that county shall establish by interlocal or other formal  
479 agreement executed by all affected entities, the joint processes  
480 described in this subparagraph consistent with their adopted  
481 intergovernmental coordination elements.

482 3. To foster coordination between special districts and  
483 local general-purpose governments as local general-purpose  
484 governments implement local comprehensive plans, each independent  
485 special district must submit a public facilities report to the  
486 appropriate local government as required by s. 189.415.

487 4.a. Local governments must execute an interlocal agreement  
488 with the district school board, the county, and nonexempt  
489 municipalities pursuant to s. 163.31777. The local government  
490 shall amend the intergovernmental coordination element to provide  
491 that coordination between the local government and school board  
492 is pursuant to the agreement and shall state the obligations of  
493 the local government under the agreement.

606-08690-08

20081978c3

494           b. Plan amendments that comply with this subparagraph are  
495 exempt from the provisions of s. 163.3187(1).

496           5. The state land planning agency shall establish a  
497 schedule for phased completion and transmittal of plan amendments  
498 to implement subparagraphs 1., 2., and 3. from all jurisdictions  
499 so as to accomplish their adoption by December 31, 1999. A local  
500 government may complete and transmit its plan amendments to carry  
501 out these provisions prior to the scheduled date established by  
502 the state land planning agency. The plan amendments are exempt  
503 from the provisions of s. 163.3187(1).

504           6. By January 1, 2004, any county having a population  
505 greater than 100,000, and the municipalities and special  
506 districts within that county, shall submit a report to the  
507 Department of Community Affairs which:

508           a. Identifies all existing or proposed interlocal service  
509 delivery agreements regarding the following: education; sanitary  
510 sewer; public safety; solid waste; drainage; potable water; parks  
511 and recreation; and transportation facilities.

512           b. Identifies any deficits or duplication in the provision  
513 of services within its jurisdiction, whether capital or  
514 operational. Upon request, the Department of Community Affairs  
515 shall provide technical assistance to the local governments in  
516 identifying deficits or duplication.

517           7. Within 6 months after submission of the report, the  
518 Department of Community Affairs shall, through the appropriate  
519 regional planning council, coordinate a meeting of all local  
520 governments within the regional planning area to discuss the  
521 reports and potential strategies to remedy any identified  
522 deficiencies or duplications.

606-08690-08

20081978c3

523           8. Each local government shall update its intergovernmental  
524 coordination element based upon the findings in the report  
525 submitted pursuant to subparagraph 6. The report may be used as  
526 supporting data and analysis for the intergovernmental  
527 coordination element.

528           (j) For each unit of local government within an urbanized  
529 area designated for purposes of s. 339.175, a transportation  
530 element, which shall be prepared and adopted in lieu of the  
531 requirements of paragraph (b) and paragraphs (7) (a), (b), (c),  
532 and (d) and which shall address the following issues:

533           1. Traffic circulation, including major thoroughfares and  
534 other routes, including bicycle and pedestrian ways.

535           2. All alternative modes of travel, such as public  
536 transportation, pedestrian, and bicycle travel.

537           3. Parking facilities.

538           4. Aviation, rail, seaport facilities, access to those  
539 facilities, and intermodal terminals.

540           5. The availability of facilities and services to serve  
541 existing land uses and the compatibility between future land use  
542 and transportation elements.

543           6. The capability to evacuate the coastal population prior  
544 to an impending natural disaster.

545           7. Airports, projected airport and aviation development,  
546 and land use compatibility around airports that includes areas  
547 defined in s. 333.01 and s. 333.02.

548           8. An identification of land use densities, building  
549 intensities, and transportation management programs to promote  
550 public transportation systems in designated public transportation  
551 corridors so as to encourage population densities sufficient to

606-08690-08

20081978c3

552 support such systems.

553 9. May include transportation corridors, as defined in s.  
554 334.03, intended for future transportation facilities designated  
555 pursuant to s. 337.273. If transportation corridors are  
556 designated, the local government may adopt a transportation  
557 corridor management ordinance.

558 Section 4. Subsection (3) of section 163.3178, Florida  
559 Statutes, is amended to read:

560 163.3178 Coastal management.--

561 (3) Expansions to port harbors, spoil disposal sites,  
562 navigation channels, turning basins, harbor berths, and other  
563 related inwater harbor facilities of ports listed in s.  
564 403.021(9); port transportation facilities and projects listed in  
565 s. 311.07(3)(b); ~~and~~ intermodal transportation facilities  
566 identified pursuant to s. 311.09(3); and facilities determined by  
567 the Department of Community Affairs and the applicable general-  
568 purpose local government to be port-related industrial or  
569 commercial projects located within 3 miles of or in the port  
570 master plan area which rely upon the utilization of port and  
571 intermodal transportation facilities shall not be developments of  
572 regional impact where such expansions, projects, or facilities  
573 are consistent with comprehensive master plans that are in  
574 compliance with this section.

575 Section 5. Subsections (9) and (12) of section 163.3180,  
576 Florida Statutes, are amended to read:

577 163.3180 Concurrency.--

578 (9)(a) Each local government may adopt as a part of its  
579 plan, long-term transportation and school concurrency management  
580 systems with a planning period of up to 10 years for specially

606-08690-08

20081978c3

581 designated districts or areas where significant backlogs exist.  
582 The plan may include interim level-of-service standards on  
583 certain facilities and shall rely on the local government's  
584 schedule of capital improvements for up to 10 years as a basis  
585 for issuing development orders that authorize commencement of  
586 construction in these designated districts or areas. The  
587 concurrency management system must be designed to correct  
588 existing deficiencies and set priorities for addressing  
589 backlogged facilities. The concurrency management system must be  
590 financially feasible and consistent with other portions of the  
591 adopted local plan, including the future land use map.

592 (b) If a local government has a transportation or school  
593 facility backlog for existing development which cannot be  
594 adequately addressed in a 10-year plan, the state land planning  
595 agency may allow it to develop a plan and long-term schedule of  
596 capital improvements covering up to 15 years for good and  
597 sufficient cause, based on a general comparison between that  
598 local government and all other similarly situated local  
599 jurisdictions, using the following factors:

- 600 1. The extent of the backlog.
- 601 2. For roads, whether the backlog is on local or state  
602 roads.
- 603 3. The cost of eliminating the backlog.
- 604 4. The local government's tax and other revenue-raising  
605 efforts.

606 (c) The local government may issue approvals to commence  
607 construction notwithstanding this section, consistent with and in  
608 areas that are subject to a long-term concurrency management  
609 system.

606-08690-08

20081978c3

610 (d) If the local government adopts a long-term concurrency  
611 management system, it must evaluate the system periodically. At a  
612 minimum, the local government must assess its progress toward  
613 improving levels of service within the long-term concurrency  
614 management district or area in the evaluation and appraisal  
615 report and determine any changes that are necessary to accelerate  
616 progress in meeting acceptable levels of service.

617 (e) The Department of Transportation shall establish an  
618 approved transportation methodology that recognizes that a  
619 planned, sustainable development of regional impact is likely to  
620 achieve an internal capture rate greater than 30 percent when  
621 fully developed. The transportation methodology must use a  
622 regional transportation model that incorporates professionally  
623 accepted modeling techniques applicable to well-planned,  
624 sustainable communities of the size, location, mix of uses, and  
625 design features consistent with such communities. The adopted  
626 transportation methodology shall serve as the basis for  
627 sustainable development traffic impact assessments by the  
628 department. The methodology review must be completed and in use  
629 by March 1, 2009.

630 (12) A development of regional impact may satisfy the  
631 transportation concurrency requirements of the local  
632 comprehensive plan, the local government's concurrency management  
633 system, and s. 380.06 by payment of a proportionate-share  
634 contribution for local and regionally significant traffic  
635 impacts, if:

636 (a) The development of regional impact which, based on its  
637 location or mix of land uses, is designed to encourage pedestrian  
638 or other nonautomotive modes of transportation;

606-08690-08

20081978c3

639 (b) The proportionate-share contribution for local and  
640 regionally significant traffic impacts is sufficient to pay for  
641 one or more required mobility improvements that will benefit a  
642 regionally significant transportation facility;

643 (c) The owner and developer of the development of regional  
644 impact pays or assures payment of the proportionate-share  
645 contribution; and

646 (d) If the regionally significant transportation facility  
647 to be constructed or improved is under the maintenance authority  
648 of a governmental entity, as defined by s. 334.03(12), other than  
649 the local government with jurisdiction over the development of  
650 regional impact, the developer is required to enter into a  
651 binding and legally enforceable commitment to transfer funds to  
652 the governmental entity having maintenance authority or to  
653 otherwise assure construction or improvement of the facility.

654  
655 The proportionate-share contribution may be applied to any  
656 transportation facility to satisfy the provisions of this  
657 subsection and the local comprehensive plan, but, for the  
658 purposes of this subsection, the amount of the proportionate-  
659 share contribution shall be calculated based upon the cumulative  
660 number of trips from the proposed development expected to reach  
661 roadways during the peak hour from the complete buildout of a  
662 stage or phase being approved, divided by the change in the peak  
663 hour maximum service volume of roadways resulting from  
664 construction of an improvement necessary to maintain the adopted  
665 level of service, multiplied by the construction cost, at the  
666 time of developer payment, of the improvement necessary to  
667 maintain the adopted level of service. The determination of

606-08690-08

20081978c3

668 mitigation for a subsequent phase or stage of development shall  
669 account for any mitigation required by the development order and  
670 provided by the developer for any earlier phase or stage,  
671 calculated at present value. For purposes of this subsection, the  
672 term "present value" means the fair market value of right-of-way  
673 at the time of contribution or the actual dollar value of the  
674 construction improvements contribution adjusted by the Consumer  
675 Price Index. For purposes of this subsection, "construction cost"  
676 includes all associated costs of the improvement. Proportionate-  
677 share mitigation shall be limited to ensure that a development of  
678 regional impact meeting the requirements of this subsection  
679 mitigates its impact on the transportation system but is not  
680 responsible for the additional cost of reducing or eliminating  
681 backlogs. For purposes of this subsection, "backlogged  
682 transportation facility" is defined as one on which the adopted  
683 level-of-service standard is exceeded by the existing trips plus  
684 committed trips. A developer may not be required to fund or  
685 construct proportionate share mitigation for any backlogged  
686 transportation facility which is more extensive than mitigation  
687 necessary to offset the impact of the development project in  
688 question. This subsection also applies to Florida Quality  
689 Developments pursuant to s. 380.061 and to detailed specific area  
690 plans implementing optional sector plans pursuant to s. 163.3245.

691 Section 6. Paragraph (c) is added to subsection (2) of  
692 section 163.3182, Florida Statutes, and paragraph (d) of  
693 subsection (3), paragraph (a) of subsection (4), and subsections  
694 (5) and (8) of that section are amended, to read:

695 163.3182 Transportation concurrency backlogs.--

696 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG



606-08690-08

20081978c3

697 | AUTHORITIES.--

698 |       (c) The Legislature finds and declares that there exists in  
699 | many counties and municipalities areas with significant  
700 | transportation deficiencies and inadequate transportation  
701 | facilities; that many such insufficiencies and inadequacies  
702 | severely limit or prohibit the satisfaction of transportation  
703 | concurrency standards; that such transportation insufficiencies  
704 | and inadequacies affect the health, safety, and welfare of the  
705 | residents of such counties and municipalities; that such  
706 | transportation insufficiencies and inadequacies adversely affect  
707 | economic development and growth of the tax base for the areas in  
708 | which such insufficiencies and inadequacies exist; and that the  
709 | elimination of transportation deficiencies and inadequacies and  
710 | the satisfaction of transportation concurrency standards are  
711 | paramount public purposes for the state and its counties and  
712 | municipalities.

713 |       (3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG  
714 | AUTHORITY.--Each transportation concurrency backlog authority has  
715 | the powers necessary or convenient to carry out the purposes of  
716 | this section, including the following powers in addition to  
717 | others granted in this section:

718 |       (d) To borrow money, including, but not limited to, issuing  
719 | debt obligations, such as, but not limited to, bonds, notes,  
720 | certificates, and similar debt instruments; to apply for and  
721 | accept advances, loans, grants, contributions, and any other  
722 | forms of financial assistance from the Federal Government or the  
723 | state, county, or any other public body or from any sources,  
724 | public or private, for the purposes of this part; to give such  
725 | security as may be required; to enter into and carry out

606-08690-08

20081978c3

726 | contracts or agreements; and to include in any contracts for  
727 | financial assistance with the Federal Government for or with  
728 | respect to a transportation concurrency backlog project and  
729 | related activities such conditions imposed pursuant to federal  
730 | laws as the transportation concurrency backlog authority  
731 | considers reasonable and appropriate and which are not  
732 | inconsistent with the purposes of this section.

733 | (4) TRANSPORTATION CONCURRENCY BACKLOG PLANS.--

734 | (a) Each transportation concurrency backlog authority shall  
735 | adopt a transportation concurrency backlog plan as a part of the  
736 | local government comprehensive plan within 6 months after the  
737 | creation of the authority. The plan shall:

738 | 1. Identify all transportation facilities that have been  
739 | designated as deficient and require the expenditure of moneys to  
740 | upgrade, modify, or mitigate the deficiency.

741 | 2. Include a priority listing of all transportation  
742 | facilities that have been designated as deficient and do not  
743 | satisfy concurrency requirements pursuant to s. 163.3180, and the  
744 | applicable local government comprehensive plan.

745 | 3. Establish a schedule for financing and construction of  
746 | transportation concurrency backlog projects that will eliminate  
747 | transportation concurrency backlogs within the jurisdiction of  
748 | the authority within 10 years after the transportation  
749 | concurrency backlog plan adoption. The schedule shall be adopted  
750 | as part of the local government comprehensive plan.

751 | Notwithstanding such schedule requirements, as long as the  
752 | schedule provides for the elimination of all transportation  
753 | concurrency backlogs within 10 years after the adoption of the  
754 | concurrency backlog plan, the final maturity date of any debt

606-08690-08

20081978c3

755 incurred to finance or refinance the related projects may be no  
756 later than 40 years after the date such debt is incurred and the  
757 authority may continue operations and administer the trust fund  
758 established as provided in subsection (5) for as long as such  
759 debt remains outstanding.

760 (5) ESTABLISHMENT OF LOCAL TRUST FUND.--The transportation  
761 concurrency backlog authority shall establish a local  
762 transportation concurrency backlog trust fund upon creation of  
763 the authority. Each local trust fund shall be administered by the  
764 transportation concurrency backlog authority within which a  
765 transportation concurrency backlog has been identified. Each  
766 local trust fund shall continue to be funded pursuant to this  
767 section for as long as the projects set forth in the related  
768 transportation concurrency backlog plan remain to be completed or  
769 until any debt incurred to finance or refinance the related  
770 projects are no longer outstanding, whichever occurs later.  
771 Beginning in the first fiscal year after the creation of the  
772 authority, each local trust fund shall be funded by the proceeds  
773 of an ad valorem tax increment collected within each  
774 transportation concurrency backlog area to be determined annually  
775 and shall be a minimum of 25 percent of the difference between  
776 the amounts set forth in paragraphs (a) and (b), except that if  
777 all of the affected taxing authorities agree pursuant to an  
778 interlocal agreement, a particular local trust fund may be funded  
779 by the proceeds of an ad valorem tax increment greater than 25  
780 percent of the difference between the amounts set forth in  
781 paragraphs (a) and (b):

782 (a) The amount of ad valorem tax levied each year by each  
783 taxing authority, exclusive of any amount from any debt service

606-08690-08

20081978c3

784 millage, on taxable real property contained within the  
785 jurisdiction of the transportation concurrency backlog authority  
786 and within the transportation backlog area; and

787 (b) The amount of ad valorem taxes which would have been  
788 produced by the rate upon which the tax is levied each year by or  
789 for each taxing authority, exclusive of any debt service millage,  
790 upon the total of the assessed value of the taxable real property  
791 within the transportation concurrency backlog area as shown on  
792 the most recent assessment roll used in connection with the  
793 taxation of such property of each taxing authority prior to the  
794 effective date of the ordinance funding the trust fund.

795 (8) DISSOLUTION.--Upon completion of all transportation  
796 concurrency backlog projects and repayment or defeasance of all  
797 debt issued to finance or refinance such projects, a  
798 transportation concurrency backlog authority shall be dissolved,  
799 and its assets and liabilities shall be transferred to the county  
800 or municipality within which the authority is located. All  
801 remaining assets of the authority must be used for implementation  
802 of transportation projects within the jurisdiction of the  
803 authority. The local government comprehensive plan shall be  
804 amended to remove the transportation concurrency backlog plan.

805 Section 7. The Legislature finds that prudent and sound  
806 infrastructure investments by the State Board of Administration  
807 of funds from the Lawton Chiles Endowment Fund in Florida  
808 infrastructure, specifically state-owned toll roads and toll  
809 facilities, which have potential to earn stable and competitive  
810 returns will serve the broad interests of the beneficiaries of  
811 the trust fund. The Legislature further finds that such  
812 infrastructure investments are being made by public investment

606-08690-08

20081978c3

813 funds worldwide and are being made or evaluated by public  
814 investment funds in many other states in this country. Therefore,  
815 it is a policy of this state that the State Board of  
816 Administration identify and invest in Florida infrastructure  
817 investments if such investments are consistent with and do not  
818 compromise or conflict with the obligations of the State Board of  
819 Administration.

820 Section 8. Subsection (5) of section 215.44, Florida  
821 Statutes, is amended to read:

822 215.44 Board of Administration; powers and duties in  
823 relation to investment of trust funds.--

824 (5) On or before January 1 of each year, the board shall  
825 provide to the Legislature a report including the following items  
826 for each fund which, by law, has been entrusted to the board for  
827 investment:

828 (a) A schedule of the annual beginning and ending asset  
829 values and changes and sources of changes in the asset value of:

830 1. Each fund managed by the board; and

831 2. Each asset class and portfolio within the Florida  
832 Retirement System Trust Fund;

833 (b) A description of the investment policy for each fund,  
834 and changes in investment policy for each fund since the previous  
835 annual report;

836 (c) A description of compliance with investment strategy  
837 for each fund;

838 (d) A description of the risks inherent in investing in  
839 financial instruments of the major asset classes held in the  
840 fund; ~~and~~

841 (e) A summary of the type and amount of infrastructure

606-08690-08

20081978c3

842 investments held in the fund; and

843 (f)~~(e)~~ Other information deemed of interest by the  
844 executive director of the board.

845 Section 9. Subsection (14) of section 215.47, Florida  
846 Statutes, is amended to read:

847 215.47 Investments; authorized securities; loan of  
848 securities.--Subject to the limitations and conditions of the  
849 State Constitution or of the trust agreement relating to a trust  
850 fund, moneys available for investments under ss. 215.44-215.53  
851 may be invested as follows:

852 (14) With no more in aggregate than 10 ~~5~~ percent of any  
853 fund in alternative investments, as defined in s.  
854 215.44(8)(c)1.a., through participation in the vehicles defined  
855 in s. 215.44(8)(c)1.b. or infrastructure investments or  
856 securities or investments that are not publicly traded and are  
857 not otherwise authorized by this section. As used in this  
858 subsection, the term "infrastructure investments" includes, but  
859 is not limited to, investments in transportation, communication,  
860 social, and utility infrastructure assets that have from time to  
861 time been owned and operated or funded by governments.  
862 Infrastructure assets include, but are not limited to, toll  
863 roads, toll facilities, tunnels, rail facilities, intermodal  
864 facilities, airports, seaports, water distribution, sewage and  
865 desalination treatment facilities, cell towers, cable networks,  
866 broadcast towers, and energy production and transmission  
867 facilities. Investments that are the subject of this subsection  
868 may be effected through separate accounts, commingled vehicles,  
869 including, but not limited to, limited partnerships or limited  
870 liability companies, and direct equity, debt, mezzanine, claims,

606-08690-08

20081978c3

871 leases, or other financial arrangements without reference to  
872 limitations within this section. Expenditures associated with the  
873 acquisition and operation of actual or potential infrastructure  
874 assets shall be included as part of the cost of infrastructure  
875 investment.

876 Section 10. Paragraph (f) is added to subsection (4) of  
877 section 215.5601, Florida Statutes, to read:

878 215.5601 Lawton Chiles Endowment Fund.--

879 (4) ADMINISTRATION.--

880 (f) Notwithstanding other provisions of law, the board,  
881 consistent with its fiduciary duties, shall lease, for up to 50  
882 years in whole or in part, the Alligator Alley from the  
883 Department of Transportation using funds in the endowment if such  
884 investments are determined to provide an adequate rate of return  
885 to the endowment considering all investment risks involved, and  
886 if the amount of such investments is not less than 20 percent and  
887 not more than 50 percent of the assets of the endowment at the  
888 time. The State Board of Administration shall make such  
889 investments prior to the end of the 2009-2010 fiscal year, and  
890 shall strive to make such investments prior to the end of the  
891 2008-2009 fiscal year, consistent with its fiduciary duties. The  
892 board shall make a progress report to the President of the Senate  
893 and the Speaker of the House of Representatives by March 1, 2009.  
894 The board may contract with the Department of Transportation,  
895 other governmental entities, public benefit corporations, or  
896 private-sector entities, as appropriate, to operate and maintain  
897 the toll facility consistent with applicable federal and state  
898 laws and rules.

899 Section 11. Section 334.305, Florida Statutes, is created

606-08690-08

20081978c3

900 to read:

901 334.305 Lease of transportation facilities.--The  
902 Legislature finds and declares that there is a public need for  
903 the lease of transportation facilities to assist in the funding  
904 of the rapid construction of other safe and efficient  
905 transportation facilities for the purpose of promoting the  
906 mobility of persons and goods within this state, and that it is  
907 in the public's interest to provide for such lease to advance the  
908 construction of additional safe, convenient, and economical  
909 transportation facilities. The Legislature further finds and  
910 declares that any lease agreement of transportation facilities by  
911 and between the State Board of Administration, acting on behalf  
912 of a trust fund, and the department, shall be and remain fair to  
913 the beneficiaries of such trust fund and that any such agreement  
914 and the resulting infrastructure investment shall not be impaired  
915 by any act of this state or of any local government of this  
916 state.

917 (1) (a) The department is authorized to enter into a lease  
918 agreement for up to 50 years with the State Board of  
919 Administration for Alligator Alley. Before approval, the  
920 department must determine that the proposed lease is in the  
921 public's best interest. The department and the State Board of  
922 Administration may separately engage the services of private  
923 consultants to assist in developing the lease agreement. In the  
924 terms and conditions of the lease agreement, the State Board of  
925 Administration, acting on behalf of trust fund participants and  
926 beneficiaries, shall not be disadvantaged relative to industry  
927 standard terms and conditions for institutional infrastructure  
928 investments. For the purpose of this section, the lease agreement



606-08690-08

20081978c3

929 may be maintained as an asset within a holding company  
930 established by the State Board of Administration and the holding  
931 company may sell noncontrolling divisible interests, units, or  
932 notes.

933 (b) The department shall deposit all funds received from a  
934 lease agreement pursuant to this section into the State  
935 Transportation Trust Fund.

936 (2) Agreements entered into pursuant to this section must  
937 provide for annual financial analysis of revenues and expenses  
938 required by the lease agreement and for any annual toll increases  
939 necessary to ensure that the terms of the lease agreement are  
940 met. The following provisions shall apply to such agreement:

941 (a) The department shall lease, for up to 50 years and in  
942 whole or in part, Alligator Alley to the State Board of  
943 Administration. The lease agreement must ensure that the  
944 transportation facility is properly operated, maintained,  
945 reconstructed, and restored in accordance with state and federal  
946 laws and commercial standards applicable to other comparable  
947 infrastructure investments.

948 (b) Any toll revenues shall be regulated pursuant to this  
949 section and any provisions of s. 338.165(3) not in conflict with  
950 this section. The regulations governing the future increase of  
951 toll or fare revenues shall be included in the lease agreement,  
952 shall provide an adequate rate of return considering all risks  
953 involved, and may not subsequently be waived without prior  
954 express consent of the State Board of Administration.

955 (c) If any law or rule of the state or any local government  
956 or any state constitutional amendment is enacted which has the  
957 effect of materially impairing the lease agreement or the related

606-08690-08

20081978c3

958 infrastructure investment, directly or indirectly, the state,  
959 acting through the department or any other agency, shall  
960 immediately take action to remedy the situation by any means  
961 available, including taking back the leased infrastructure assets  
962 and making whole the effected trust fund. This provision may be  
963 enforced by legal or equitable action brought on behalf of the  
964 effected trust fund without regard to sovereign immunity.

965 (d) The department shall provide an independent analysis  
966 that demonstrates the cost-effectiveness and overall public  
967 benefit of the lease to the Legislature. Prior to completing the  
968 lease, in whole or in part, of Alligator Alley, the department  
969 shall submit pursuant to chapter 216 any budget amendments  
970 necessary for the expenditure of moneys received pursuant to the  
971 agreement for the operation and maintenance of the toll facility.

972 (e) Prior to the development of the lease agreement, the  
973 department, in consultation and concurrence with the State Board  
974 of Administration, shall provide an investment-grade traffic and  
975 revenue study prepared by a qualified and internationally  
976 recognized traffic and revenue expert which is accepted by the  
977 national bond rating agencies. The State Board of Administration  
978 may use independent experts to review or conduct such studies.

979 (f) The agreement between the department and the State  
980 Board of Administration shall contain a provision that the  
981 department shall expend any funds received under this agreement  
982 only on transportation projects. The department is accountable  
983 for funds from the endowment which have been paid by the board.  
984 The board is not responsible for the proper expenditure of or  
985 accountability concerning funds from the endowment after payment  
986 to the department.

606-08690-08

20081978c3

987       (3) The agreement for each toll facility leased, in whole  
988 or in part, pursuant to this section shall specify the  
989 requirements of federal, state, and local laws; state, regional,  
990 and local comprehensive plans; and department specifications for  
991 construction and engineering of roads and bridges.

992       (4) The department may provide services to the State Board  
993 of Administration. Agreements for maintenance, law enforcement  
994 activities, and other services entered into pursuant to this  
995 section shall provide for full reimbursement for services  
996 rendered.

997       (5) Using funds received from such lease, the department  
998 may submit a plan for approval to the Legislative Budget  
999 Commission to advance projects programmed in the adopted 5-year  
1000 work program or projects increasing transportation capacity and  
1001 costing greater than \$500 million in the 10-year Strategic  
1002 Intermodal Plan.

1003       (6) Notwithstanding s. 338.165 or any other provision of  
1004 law, any remaining toll revenue shall be used as established in  
1005 the lease agreement and in s. 338.26.

1006       Section 12. (1) This act does not prohibit the State Board  
1007 of Administration from pursuing or making infrastructure  
1008 investments, especially in government-owned infrastructure in  
1009 this state.

1010       (2) The State Board of Administration shall report to the  
1011 Legislature, prior to the 2009 regular legislative session, on  
1012 its ability to invest in infrastructure, including specifically  
1013 addressing its ability to invest in government-owned  
1014 infrastructure in this state.

1015       Section 13. The Legislature finds that road rage and

606-08690-08

20081978c3

1016 aggressive careless driving are a growing threat to the health,  
1017 safety, and welfare of the public. The intent of the Legislature  
1018 is to reduce road rage and aggressive careless driving, reduce  
1019 the incidence of drivers' interfering with the movement of  
1020 traffic, minimize crashes, and promote the orderly, free flow of  
1021 traffic on the roads and highways of the state.

1022 Section 14. Subsection (86) is added to section 316.003,  
1023 Florida Statutes, to read:

1024 316.003 Definitions.--The following words and phrases, when  
1025 used in this chapter, shall have the meanings respectively  
1026 ascribed to them in this section, except where the context  
1027 otherwise requires:

1028 (86) ROAD RAGE.--The act of a driver or passenger to  
1029 intentionally injure or kill another driver, passenger, or  
1030 pedestrian, or to attempt or threaten to injure or kill another  
1031 driver, passenger, or pedestrian.

1032 Section 15. Present subsection (3) of section 316.083,  
1033 Florida Statutes, is redesignated as subsection (4), and a new  
1034 subsection (3) is added to that section, to read:

1035 316.083 Overtaking and passing a vehicle.--The following  
1036 rules shall govern the overtaking and passing of vehicles  
1037 proceeding in the same direction, subject to those limitations,  
1038 exceptions, and special rules hereinafter stated:

1039 (3) (a) On roads, streets, or highways having two or more  
1040 lanes that allow movement in the same direction, a driver may not  
1041 continue to operate a motor vehicle in the furthestmost left-hand  
1042 lane if the driver knows, or reasonably should know, that he or  
1043 she is being overtaken in that lane from the rear by a motor  
1044 vehicle traveling at a higher rate of speed.

606-08690-08

20081978c3

1045 (b) Paragraph (a) does not apply to a driver operating a  
1046 motor vehicle in the furthestmost left-hand lane if:

1047 1. The driver is driving the legal speed limit and is not  
1048 impeding the flow of traffic in the furthestmost left-hand lane;

1049 2. The driver is in the process of overtaking a slower  
1050 motor vehicle in the adjacent right-hand lane for the purpose of  
1051 passing the slower moving vehicle so that the driver may move to  
1052 the adjacent right-hand lane;

1053 3. Conditions make the flow of traffic substantially the  
1054 same in all lanes or preclude the driver from moving to the  
1055 adjacent right-hand lane;

1056 4. The driver's movement to the adjacent right-hand lane  
1057 could endanger the driver or other drivers;

1058 5. The driver is directed by a law enforcement officer,  
1059 road sign, or road crew to remain in the furthestmost left-hand  
1060 lane; or

1061 6. The driver is preparing to make a left turn.

1062 Section 16. Section 316.1923, Florida Statutes, is amended  
1063 to read:

1064 316.1923 Aggressive careless driving.--

1065 (1) "Aggressive careless driving" means committing three  
1066 ~~two~~ or more of the following acts simultaneously or in  
1067 succession:

1068 (a) ~~(1)~~ Exceeding the posted speed as defined in s.  
1069 322.27(3)(d)5.b.

1070 (b) ~~(2)~~ Unsafely or improperly changing lanes as defined in  
1071 s. 316.085.

1072 (c) ~~(3)~~ Following another vehicle too closely as defined in  
1073 s. 316.0895(1).

606-08690-08

20081978c3

1074 (d)~~(4)~~ Failing to yield the right-of-way as defined in s.  
1075 316.079, s. 316.0815, or s. 316.123.

1076 (e)~~(5)~~ Improperly passing or failing to yield to overtaking  
1077 vehicles as defined in s. 316.083, s. 316.084, or s. 316.085.

1078 (f)~~(6)~~ Violating traffic control and signal devices as  
1079 defined in ss. 316.074 and 316.075.

1080 (2) Any person convicted of aggressive careless driving  
1081 shall be cited for a moving violation and punished as provided in  
1082 chapter 318, and by the accumulation of points as provided in s.  
1083 322.27, for each act of aggressive careless driving.

1084 (3) In addition to any fine or points administered under  
1085 subsection (2), a person convicted of aggressive careless driving  
1086 shall also pay:

1087 (a) Upon a first violation, a fine of \$100.

1088 (b) Upon a second or subsequent conviction, a fine of not  
1089 less than \$250 but not more than \$500 and be subject to a  
1090 mandatory hearing under s. 318.19.

1091 (4) Moneys received from the increased fine imposed by  
1092 subsection (3) shall be remitted to the Department of Revenue and  
1093 deposited into the Department of Health Administrative Trust Fund  
1094 to provide financial support to verified trauma centers to ensure  
1095 the availability and accessibility of trauma services throughout  
1096 the state. Funds deposited into the Administrative Trust Fund  
1097 under this section shall be allocated as follows:

1098 (a) Twenty-five percent shall be allocated equally among  
1099 all Level I, Level II, and pediatric trauma centers in  
1100 recognition of readiness costs for maintaining trauma services.

1101 (b) Twenty-five percent shall be allocated among Level I,  
1102 Level II, and pediatric trauma centers based on each center's

606-08690-08

20081978c3

1103 relative volume of trauma cases as reported in the Department of  
1104 Health Trauma Registry.

1105 (c) Twenty-five percent shall be transferred to the  
1106 Emergency Medical Services Trust Fund and used by the department  
1107 for making matching grants to emergency medical services  
1108 organizations as defined in s. 401.107(4).

1109 (d) Twenty-five percent shall be transferred to the  
1110 Emergency Medical Services Trust Fund and made available to rural  
1111 emergency medical services as defined in s. 401.107(5), and shall  
1112 be used solely to improve and expand prehospital emergency  
1113 medical services in this state. Additionally, these moneys may be  
1114 used for the improvement, expansion, or continuation of services  
1115 provided.

1116 Section 17. Section 318.19, Florida Statutes, is amended to  
1117 read:

1118 318.19 Infractions requiring a mandatory hearing.--Any  
1119 person cited for the infractions listed in this section shall not  
1120 have the provisions of s. 318.14(2), (4), and (9) available to  
1121 him or her but must appear before the designated official at the  
1122 time and location of the scheduled hearing:

1123 (1) Any infraction which results in a crash that causes the  
1124 death of another;

1125 (2) Any infraction which results in a crash that causes  
1126 "serious bodily injury" of another as defined in s. 316.1933(1);

1127 (3) Any infraction of s. 316.172(1)(b);

1128 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

1129 (5) Any infraction of s. 316.183(2), s. 316.187, or s.

1130 316.189 of exceeding the speed limit by 30 m.p.h. or more; ~~or~~

1131 (6) A second or subsequent infraction of s. 316.1923(1).

606-08690-08

20081978c3

1132           Section 18. The Department of Highway Safety and Motor  
1133 Vehicles shall provide information about road rage and aggressive  
1134 careless driving in all newly printed driver's license  
1135 educational materials after October 1, 2008.

1136           Section 19. For the purpose of incorporating the amendments  
1137 made by this act to section 316.1923, Florida Statutes, in a  
1138 reference thereto, paragraph (a) of subsection (1) of section  
1139 316.650, Florida Statutes, is reenacted to read:

1140           316.650 Traffic citations.--

1141           (1)(a) The department shall prepare, and supply to every  
1142 traffic enforcement agency in this state, an appropriate form  
1143 traffic citation containing a notice to appear (which shall be  
1144 issued in prenumbered books with citations in quintuplicate) and  
1145 meeting the requirements of this chapter or any laws of this  
1146 state regulating traffic, which form shall be consistent with the  
1147 state traffic court rules and the procedures established by the  
1148 department. The form shall include a box which is to be checked  
1149 by the law enforcement officer when the officer believes that the  
1150 traffic violation or crash was due to aggressive careless driving  
1151 as defined in s. 316.1923. The form shall also include a box  
1152 which is to be checked by the law enforcement officer when the  
1153 officer writes a uniform traffic citation for a violation of s.  
1154 316.074(1) or s. 316.075(1)(c)1. as a result of the driver  
1155 failing to stop at a traffic signal.

1156           Section 20. Section 316.0741, Florida Statutes, is amended  
1157 to read:

1158           316.0741 High-occupancy-vehicle ~~High-occupancy vehicle~~  
1159 lanes.--

1160           (1) As used in this section, the term:



606-08690-08

20081978c3

1161        (a) "High-occupancy-vehicle ~~High-occupancy-vehiele~~ lane" or  
1162 "HOV lane" means a lane of a public roadway designated for use by  
1163 vehicles in which there is more than one occupant unless  
1164 otherwise authorized by federal law.

1165        (b) "Hybrid vehicle" means a motor vehicle:

1166        1. That draws propulsion energy from onboard sources of  
1167 stored energy which are both an internal combustion or heat  
1168 engine using combustibile fuel and a rechargeable energy-storage  
1169 system; and

1170        2. That, in the case of a passenger automobile or light  
1171 truck, has received a certificate of conformity under the Clean  
1172 Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the  
1173 equivalent qualifying California standards for a low-emission  
1174 vehicle.

1175        (2) The number of persons that must be in a vehicle to  
1176 qualify for legal use of the HOV lane and the hours during which  
1177 the lane will serve as an HOV lane, if it is not designated as  
1178 such on a full-time basis, must also be indicated on a traffic  
1179 control device.

1180        (3) Except as provided in subsection (4), a vehicle may not  
1181 be driven in an HOV lane if the vehicle is occupied by fewer than  
1182 the number of occupants indicated by a traffic control device. A  
1183 driver who violates this section shall be cited for a moving  
1184 violation, punishable as provided in chapter 318.

1185        (4) (a) Notwithstanding any other provision of this section,  
1186 an inherently low-emission vehicle (ILEV) that is certified and  
1187 labeled in accordance with federal regulations may be driven in  
1188 an HOV lane at any time, regardless of its occupancy. In  
1189 addition, upon the state's receipt of written notice from the

606-08690-08

20081978c3

1190 proper federal regulatory agency authorizing such use, a vehicle  
1191 defined as a hybrid vehicle under this section may be driven in  
1192 an HOV lane at any time, regardless of its occupancy.

1193 (b) All eligible hybrid and all eligible other low-emission  
1194 and energy-efficient vehicles driven in an HOV lane must comply  
1195 with the minimum fuel economy standards in 23 U.S.C. s.  
1196 166(f) (3) (B) .

1197 (c) Upon issuance of the applicable Environmental  
1198 Protection Agency final rule pursuant to 23 U.S.C. s. 166(e),  
1199 relating to the eligibility of hybrid and other low-emission and  
1200 energy-efficient vehicles for operation in an HOV lane regardless  
1201 of occupancy, the Department of Transportation shall review the  
1202 rule and recommend to the Legislature any statutory changes  
1203 necessary for compliance with the federal rule. The department  
1204 shall provide its recommendations no later than 30 days following  
1205 issuance of the final rule.

1206 (5) The department shall issue a decal and registration  
1207 certificate, to be renewed annually, reflecting the HOV lane  
1208 designation on ~~such~~ vehicles meeting the criteria in subsection  
1209 (4) authorizing driving in an HOV lane at any time ~~such use~~. The  
1210 department may charge a fee for a decal, not to exceed the costs  
1211 of designing, producing, and distributing each decal, or \$5,  
1212 whichever is less. The proceeds from sale of the decals shall be  
1213 deposited in the Highway Safety Operating Trust Fund. The  
1214 department may, for reasons of operation and management of HOV  
1215 facilities, limit or discontinue issuance of decals for the use  
1216 of HOV facilities by hybrid and low-emission and energy-efficient  
1217 vehicles, regardless of occupancy, if it has been determined by  
1218 the Department of Transportation that the facilities are degraded

606-08690-08

20081978c3

1219 as defined by 23 U.S.C. s. 166(d)(2).

1220 (6) Vehicles having decals by virtue of compliance with the  
1221 minimum fuel economy standards under 23 U.S.C. s. 166(f)(3)(B),  
1222 and which are registered for use in high-occupancy toll lanes or  
1223 express lanes in accordance with Department of Transportation  
1224 rule, shall be allowed to use any HOV lanes redesignated as high-  
1225 occupancy toll lanes or express lanes without payment of a toll.

1226 ~~(5) As used in this section, the term "hybrid vehicle"~~  
1227 ~~means a motor vehicle:~~

1228 ~~(a) That draws propulsion energy from onboard sources of~~  
1229 ~~stored energy which are both:~~

1230 ~~1. An internal combustion or heat engine using combustible~~  
1231 ~~fuel; and~~

1232 ~~2. A rechargeable energy storage system; and~~

1233 ~~(b) That, in the case of a passenger automobile or light~~  
1234 ~~truck:~~

1235 ~~1. Has received a certificate of conformity under the Clean~~  
1236 ~~Air Act, 42 U.S.C. ss. 7401 et seq.; and~~

1237 ~~2. Meets or exceeds the equivalent qualifying California~~  
1238 ~~standards for a low-emission vehicle.~~

1239 (7) ~~(6)~~ The department may adopt rules necessary to  
1240 administer this section.

1241 Section 21. Subsection (4) of section 316.193, Florida  
1242 Statutes, is amended to read:

1243 316.193 Driving under the influence; penalties.--

1244 (4) Any person who is convicted of a violation of  
1245 subsection (1) and who has a blood-alcohol level or breath-  
1246 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is  
1247 convicted of a violation of subsection (1) and who at the time of

606-08690-08

20081978c3

1248 the offense was accompanied in the vehicle by a person under the  
1249 age of 18 years, shall be punished:

1250 (a) By a fine of:

1251 1. Not less than \$500 or more than \$1,000 for a first  
1252 conviction.

1253 2. Not less than \$1,000 or more than \$2,000 for a second  
1254 conviction.

1255 3. Not less than \$2,000 for a third or subsequent  
1256 conviction.

1257 (b) By imprisonment for:

1258 1. Not more than 9 months for a first conviction.

1259 2. Not more than 12 months for a second conviction.

1260

1261 For the purposes of this subsection, only the instant offense is  
1262 required to be a violation of subsection (1) by a person who has  
1263 a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or  
1264 higher.

1265 (c) In addition to the penalties in paragraphs (a) and (b),  
1266 the court shall order the mandatory placement, at the convicted  
1267 person's sole expense, of an ignition interlock device approved  
1268 by the department in accordance with s. 316.1938 upon all  
1269 vehicles that are individually or jointly leased or owned and  
1270 routinely operated by the convicted person for not less than ~~up~~  
1271 ~~to~~ 6 continuous months for the first offense and for not less  
1272 than ~~at least~~ 2 continuous years for a second offense, when the  
1273 convicted person qualifies for a permanent or restricted license.  
1274 ~~The installation of such device may not occur before July 1,~~  
1275 ~~2003.~~

1276 Section 22. Subsections (1), (6), and (8) of section

606-08690-08

20081978c3

1277 316.302, Florida Statutes, are amended to read:

1278 316.302 Commercial motor vehicles; safety regulations;  
1279 transporters and shippers of hazardous materials; enforcement.--

1280 (1) (a) All owners and drivers of commercial motor vehicles  
1281 that are operated on the public highways of this state while  
1282 engaged in interstate commerce are subject to the rules and  
1283 regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

1284 (b) Except as otherwise provided in this section, all  
1285 owners or drivers of commercial motor vehicles that are engaged  
1286 in intrastate commerce are subject to the rules and regulations  
1287 contained in 49 C.F.R. parts 382, 385, and 390-397, with the  
1288 exception of 49 C.F.R. s. 390.5 as it relates to the definition  
1289 of bus, as such rules and regulations existed on October 1, 2007  
1290 ~~2005~~.

1291 (c) Except as provided in s. 316.215(5), and except as  
1292 provided in s. 316.228 for rear overhang lighting and flagging  
1293 requirements for intrastate operations, the requirements of this  
1294 section supersede all other safety requirements of this chapter  
1295 for commercial motor vehicles.

1296 (6) The state Department of Transportation shall perform  
1297 the duties that are assigned to the Field Administrator, Federal  
1298 Motor Carrier Safety Administration ~~Regional Federal Highway~~  
1299 ~~Administrator~~ under the federal rules, and an agent of that  
1300 department, as described in s. 316.545(9), may enforce those  
1301 rules.

1302 (8) For the purpose of enforcing this section, any law  
1303 enforcement officer of the Department of Transportation or duly  
1304 appointed agent who holds a current safety inspector  
1305 certification from the Commercial Vehicle Safety Alliance may

606-08690-08

20081978c3

1306 require the driver of any commercial vehicle operated on the  
1307 highways of this state to stop and submit to an inspection of the  
1308 vehicle or the driver's records. If the vehicle or driver is  
1309 found to be operating in an unsafe condition, or if any required  
1310 part or equipment is not present or is not in proper repair or  
1311 adjustment, and the continued operation would present an unduly  
1312 hazardous operating condition, the officer may require the  
1313 vehicle or the driver to be removed from service pursuant to the  
1314 North American Standard ~~Uniform~~ Out-of-Service Criteria, until  
1315 corrected. However, if continuous operation would not present an  
1316 unduly hazardous operating condition, the officer may give  
1317 written notice requiring correction of the condition within 14  
1318 days.

1319 (a) Any member of the Florida Highway Patrol or any law  
1320 enforcement officer employed by a sheriff's office or municipal  
1321 police department authorized to enforce the traffic laws of this  
1322 state pursuant to s. 316.640 who has reason to believe that a  
1323 vehicle or driver is operating in an unsafe condition may, as  
1324 provided in subsection (10), enforce the provisions of this  
1325 section.

1326 (b) Any person who fails to comply with an officer's  
1327 request to submit to an inspection under this subsection commits  
1328 a violation of s. 843.02 if the person resists the officer  
1329 without violence or a violation of s. 843.01 if the person  
1330 resists the officer with violence.

1331 Section 23. Subsection (2) of section 316.613, Florida  
1332 Statutes, is amended to read:

1333 316.613 Child restraint requirements.--

1334 (2) As used in this section, the term "motor vehicle" means

606-08690-08

20081978c3

1335 a motor vehicle as defined in s. 316.003 which ~~that~~ is operated  
1336 on the roadways, streets, and highways of the state. The term  
1337 does not include:

1338 (a) A school bus as defined in s. 316.003(45).

1339 (b) A bus used for the transportation of persons for  
1340 compensation, other than a bus regularly used to transport  
1341 children to or from school, as defined in s. 316.615(1) (b), or  
1342 in conjunction with school activities.

1343 (c) A farm tractor or implement of husbandry.

1344 (d) A truck having a gross vehicle weight rating of more  
1345 than 26,000 ~~of net weight of more than 5,000~~ pounds.

1346 (e) A motorcycle, moped, or bicycle.

1347 Section 24. Paragraph (a) of subsection (3) of section  
1348 316.614, Florida Statutes, is amended to read:

1349 316.614 Safety belt usage.--

1350 (3) As used in this section:

1351 (a) "Motor vehicle" means a motor vehicle as defined in s.  
1352 316.003 which ~~that~~ is operated on the roadways, streets, and  
1353 highways of this state. The term does not include:

1354 1. A school bus.

1355 2. A bus used for the transportation of persons for  
1356 compensation.

1357 3. A farm tractor or implement of husbandry.

1358 4. A truck having a gross vehicle weight rating of more  
1359 than 26,000 ~~of a net weight of more than 5,000~~ pounds.

1360 5. A motorcycle, moped, or bicycle.

1361 Section 25. Paragraph (a) of subsection (2) of section  
1362 316.656, Florida Statutes, is amended to read:

1363 316.656 Mandatory adjudication; prohibition against

606-08690-08

20081978c3

1364 accepting plea to lesser included offense.--

1365 (2) (a) No trial judge may accept a plea of guilty to a  
1366 lesser offense from a person charged under the provisions of this  
1367 act who has been given a breath or blood test to determine blood  
1368 or breath alcohol content, the results of which show a blood or  
1369 breath alcohol content by weight of 0.15 ~~0.20~~ percent or more.

1370 Section 26. Subsection (9) of section 320.03, Florida  
1371 Statutes, is amended to read:

1372 320.03 Registration; duties of tax collectors;  
1373 International Registration Plan.--

1374 (9) A nonrefundable fee of \$3 ~~\$1.50~~ shall be charged on the  
1375 initial and renewal registration of each automobile for private  
1376 use, and on the initial and renewal registration of each truck  
1377 having a net weight of 5,000 pounds or less. Such fees shall be  
1378 deposited in the Transportation Disadvantaged Trust Fund created  
1379 in part I of chapter 427 and shall be used as provided therein,  
1380 except that priority shall be given to the transportation needs  
1381 of those who, because of age or physical and mental disability,  
1382 are unable to transport themselves and are dependent upon others  
1383 to obtain access to health care, employment, education, shopping,  
1384 or other life-sustaining activities.

1385 Section 27. Section 322.64, Florida Statutes, is amended to  
1386 read:

1387 322.64 Holder of commercial driver's license; persons  
1388 operating a commercial motor vehicle; driving with unlawful  
1389 blood-alcohol level; refusal to submit to breath, urine, or blood  
1390 test.--

1391 (1) (a) A law enforcement officer or correctional officer  
1392 shall, on behalf of the department, disqualify from operating any



606-08690-08

20081978c3

1393 commercial motor vehicle a person who while operating or in  
1394 actual physical control of a commercial motor vehicle is arrested  
1395 for a violation of s. 316.193, relating to unlawful blood-alcohol  
1396 level or breath-alcohol level, or a person who has refused to  
1397 submit to a breath, urine, or blood test authorized by s. 322.63  
1398 arising out of the operation or actual physical control of a  
1399 commercial motor vehicle. A law enforcement officer or  
1400 correctional officer shall, on behalf of the department,  
1401 disqualify the holder of a commercial driver's license from  
1402 operating any commercial motor vehicle if the licenseholder,  
1403 while operating or in actual physical control of a motor vehicle,  
1404 is arrested for a violation of s. 316.193, relating to unlawful  
1405 blood-alcohol level or breath-alcohol level, or refused to submit  
1406 to a breath, urine, or blood test authorized by s. 322.63. Upon  
1407 disqualification of the person, the officer shall take the  
1408 person's driver's license and issue the person a 10-day temporary  
1409 permit for the operation of noncommercial vehicles only if the  
1410 person is otherwise eligible for the driving privilege and shall  
1411 issue the person a notice of disqualification. If the person has  
1412 been given a blood, breath, or urine test, the results of which  
1413 are not available to the officer at the time of the arrest, the  
1414 agency employing the officer shall transmit such results to the  
1415 department within 5 days after receipt of the results. If the  
1416 department then determines that the person ~~was arrested for a~~  
1417 ~~violation of s. 316.193 and that the person~~ had a blood-alcohol  
1418 level or breath-alcohol level of 0.08 or higher, the department  
1419 shall disqualify the person from operating a commercial motor  
1420 vehicle pursuant to subsection (3).

1421 (b) The disqualification under paragraph (a) shall be

606-08690-08

20081978c3

1422 pursuant to, and the notice of disqualification shall inform the  
1423 driver of, the following:

1424 1.a. The driver refused to submit to a lawful breath,  
1425 blood, or urine test and he or she is disqualified from operating  
1426 a commercial motor vehicle for a period of 1 year, for a first  
1427 refusal, or permanently, if he or she has previously been  
1428 disqualified as a result of a refusal to submit to such a test;  
1429 or

1430 b. The driver was driving or in actual physical control of  
1431 a commercial motor vehicle, or any motor vehicle if the driver  
1432 holds a commercial driver's license, had an unlawful blood-  
1433 alcohol level or breath-alcohol level of 0.08 or higher, and his  
1434 or her driving privilege shall be disqualified for a period of 1  
1435 year for a first offense or permanently if his or her driving  
1436 privilege has been previously disqualified under this section.  
1437 ~~violated s. 316.193 by driving with an unlawful blood-alcohol~~  
1438 ~~level and he or she is disqualified from operating a commercial~~  
1439 ~~motor vehicle for a period of 6 months for a first offense or for~~  
1440 ~~a period of 1 year if he or she has previously been disqualified,~~  
1441 ~~or his or her driving privilege has been previously suspended,~~  
1442 ~~for a violation of s. 316.193.~~

1443 2. The disqualification period for operating commercial  
1444 vehicles shall commence on the date of ~~arrest or~~ issuance of the  
1445 notice of disqualification, ~~whichever is later.~~

1446 3. The driver may request a formal or informal review of  
1447 the disqualification by the department within 10 days after the  
1448 date of ~~arrest or~~ issuance of the notice of disqualification,  
1449 ~~whichever is later.~~

1450 4. The temporary permit issued at the time of ~~arrest or~~

606-08690-08

20081978c3

1451 disqualification expires ~~will expire~~ at midnight of the 10th day  
1452 following the date of disqualification.

1453 5. The driver may submit to the department any materials  
1454 relevant to the disqualification ~~arrest~~.

1455 (2) Except as provided in paragraph (1)(a), the law  
1456 enforcement officer shall forward to the department, within 5  
1457 days after the date of the ~~arrest or the~~ issuance of the notice  
1458 of disqualification, ~~whichever is later~~, a copy of the notice of  
1459 disqualification, the driver's license of the person disqualified  
1460 ~~arrested~~, and ~~a report of the arrest, including, if applicable,~~  
1461 an affidavit stating the officer's grounds for belief that the  
1462 person disqualified ~~arrested~~ was operating or in actual physical  
1463 control of a commercial motor vehicle, or holds a commercial  
1464 driver's license, and had an unlawful blood-alcohol or breath-  
1465 alcohol level in violation of s. 316.193; the results of any  
1466 breath or blood or urine test or an affidavit stating that a  
1467 breath, blood, or urine test was requested by a law enforcement  
1468 officer or correctional officer and that the person arrested  
1469 refused to submit; a copy of the notice of disqualification  
1470 ~~citation~~ issued to the person ~~arrested~~; and the officer's  
1471 description of the person's field sobriety test, if any. The  
1472 failure of the officer to submit materials within the 5-day  
1473 period specified in this subsection or subsection (1) does ~~shall~~  
1474 not affect the department's ability to consider any evidence  
1475 submitted at or prior to the hearing. The officer may also submit  
1476 a copy of a videotape of the field sobriety test or the attempt  
1477 to administer such test and a copy of the crash report, if any.

1478 (3) If the department determines that the person arrested  
1479 should be disqualified from operating a commercial motor vehicle

606-08690-08

20081978c3

1480 pursuant to this section and if the notice of disqualification  
1481 has not already been served upon the person by a law enforcement  
1482 officer or correctional officer as provided in subsection (1),  
1483 the department shall issue a notice of disqualification and,  
1484 unless the notice is mailed pursuant to s. 322.251, a temporary  
1485 permit which expires 10 days after the date of issuance if the  
1486 driver is otherwise eligible.

1487 (4) If the person disqualified ~~arrested~~ requests an  
1488 informal review pursuant to subparagraph (1)(b)3., the department  
1489 shall conduct the informal review by a hearing officer employed  
1490 by the department. Such informal review hearing shall consist  
1491 solely of an examination by the department of the materials  
1492 submitted by a law enforcement officer or correctional officer  
1493 and by the person disqualified ~~arrested~~, and the presence of an  
1494 officer or witness is not required.

1495 (5) After completion of the informal review, notice of the  
1496 department's decision sustaining, amending, or invalidating the  
1497 disqualification must be provided to the person. Such notice must  
1498 be mailed to the person at the last known address shown on the  
1499 department's records, and to the address provided in the law  
1500 enforcement officer's report if such address differs from the  
1501 address of record, within 21 days after the expiration of the  
1502 temporary permit issued pursuant to subsection (1) or subsection  
1503 (3).

1504 (6) (a) If the person disqualified ~~arrested~~ requests a  
1505 formal review, the department must schedule a hearing to be held  
1506 within 30 days after such request is received by the department  
1507 and must notify the person of the date, time, and place of the  
1508 hearing.

606-08690-08

20081978c3

1509 (b) Such formal review hearing shall be held before a  
1510 hearing officer employed by the department, and the hearing  
1511 officer shall be authorized to administer oaths, examine  
1512 witnesses and take testimony, receive relevant evidence, issue  
1513 subpoenas for the officers and witnesses identified in documents  
1514 as provided in subsection (2), regulate the course and conduct of  
1515 the hearing, and make a ruling on the disqualification. The  
1516 department and the person disqualified ~~arrested~~ may subpoena  
1517 witnesses, and the party requesting the presence of a witness  
1518 shall be responsible for the payment of any witness fees. If the  
1519 person who requests a formal review hearing fails to appear and  
1520 the hearing officer finds such failure to be without just cause,  
1521 the right to a formal hearing is waived ~~and the department shall~~  
1522 ~~conduct an informal review of the disqualification under~~  
1523 ~~subsection (4)~~.

1524 (c) A party may seek enforcement of a subpoena under  
1525 paragraph (b) by filing a petition for enforcement in the circuit  
1526 court of the judicial circuit in which the person failing to  
1527 comply with the subpoena resides. A failure to comply with an  
1528 order of the court shall result in a finding of contempt of  
1529 court. However, a person shall not be in contempt while a  
1530 subpoena is being challenged.

1531 (d) The department must, within 7 days after a formal  
1532 review hearing, send notice to the person of the hearing  
1533 officer's decision as to whether sufficient cause exists to  
1534 sustain, amend, or invalidate the disqualification.

1535 (7) In a formal review hearing under subsection (6) or an  
1536 informal review hearing under subsection (4), the hearing officer  
1537 shall determine by a preponderance of the evidence whether

606-08690-08

20081978c3

1538 sufficient cause exists to sustain, amend, or invalidate the  
1539 disqualification. The scope of the review shall be limited to the  
1540 following issues:

1541 (a) If the person was disqualified from operating a  
1542 commercial motor vehicle for driving with an unlawful blood-  
1543 alcohol level ~~in violation of s. 316.193~~:

1544 1. Whether the arresting law enforcement officer had  
1545 probable cause to believe that the person was driving or in  
1546 actual physical control of a commercial motor vehicle, or any  
1547 motor vehicle if the driver holds a commercial driver's license,  
1548 in this state while he or she had any alcohol, chemical  
1549 substances, or controlled substances in his or her body.

1550 ~~2. Whether the person was placed under lawful arrest for a~~  
1551 ~~violation of s. 316.193.~~

1552 ~~2.3.~~ Whether the person had an unlawful blood-alcohol level  
1553 or breath-alcohol level of 0.08 or higher as provided in s.  
1554 316.193.

1555 (b) If the person was disqualified from operating a  
1556 commercial motor vehicle for refusal to submit to a breath,  
1557 blood, or urine test:

1558 1. Whether the law enforcement officer had probable cause  
1559 to believe that the person was driving or in actual physical  
1560 control of a commercial motor vehicle, or any motor vehicle if  
1561 the driver holds a commercial driver's license, in this state  
1562 while he or she had any alcohol, chemical substances, or  
1563 controlled substances in his or her body.

1564 2. Whether the person refused to submit to the test after  
1565 being requested to do so by a law enforcement officer or  
1566 correctional officer.

606-08690-08

20081978c3

1567 3. Whether the person was told that if he or she refused to  
1568 submit to such test he or she would be disqualified from  
1569 operating a commercial motor vehicle for a period of 1 year or,  
1570 in the case of a second refusal, permanently.

1571 (8) Based on the determination of the hearing officer  
1572 pursuant to subsection (7) for both informal hearings under  
1573 subsection (4) and formal hearings under subsection (6), the  
1574 department shall:

1575 (a) Sustain the disqualification for a period of 1 year for  
1576 a first refusal, or permanently if such person has been  
1577 previously disqualified from operating a commercial motor vehicle  
1578 as a result of a refusal to submit to such tests. The  
1579 disqualification period commences on the date of the arrest or  
1580 issuance of the notice of disqualification, whichever is later.

1581 (b) Sustain the disqualification:

1582 1. For a period of 1 year if the person was driving or in  
1583 actual physical control of a commercial motor vehicle, or any  
1584 motor vehicle if the driver holds a commercial driver's license,  
1585 and had an unlawful blood-alcohol level or breath-alcohol level  
1586 of 0.08 or higher; or ~~6 months for a violation of s. 316.193 or~~  
1587 for a period of 1 year

1588 2. Permanently if the person has been previously  
1589 disqualified from operating a commercial motor vehicle or his or  
1590 her driving privilege has been previously suspended for driving  
1591 or being in actual physical control of a commercial motor  
1592 vehicle, or any motor vehicle if the driver holds a commercial  
1593 driver's license, and had an unlawful blood-alcohol level or  
1594 breath-alcohol level of 0.08 or higher as a result of a  
1595 violation of s. 316.193.

606-08690-08

20081978c3

1596

1597 The disqualification period commences on the date of the arrest  
1598 or issuance of the notice of disqualification, ~~whichever is~~  
1599 ~~later.~~

1600 (9) A request for a formal review hearing or an informal  
1601 review hearing shall not stay the disqualification. If the  
1602 department fails to schedule the formal review hearing to be held  
1603 within 30 days after receipt of the request therefor, the  
1604 department shall invalidate the disqualification. If the  
1605 scheduled hearing is continued at the department's initiative,  
1606 the department shall issue a temporary driving permit limited to  
1607 noncommercial vehicles which is ~~shall be~~ valid until the hearing  
1608 is conducted if the person is otherwise eligible for the driving  
1609 privilege. Such permit shall not be issued to a person who sought  
1610 and obtained a continuance of the hearing. The permit issued  
1611 under this subsection shall authorize driving for business  
1612 purposes ~~or employment use~~ only.

1613 (10) A person who is disqualified from operating a  
1614 commercial motor vehicle under subsection (1) or subsection (3)  
1615 is eligible for issuance of a license for business or employment  
1616 purposes only under s. 322.271 if the person is otherwise  
1617 eligible for the driving privilege. However, such business or  
1618 employment purposes license shall not authorize the driver to  
1619 operate a commercial motor vehicle.

1620 (11) The formal review hearing may be conducted upon a  
1621 review of the reports of a law enforcement officer or a  
1622 correctional officer, including documents relating to the  
1623 administration of a breath test or blood test or the refusal to  
1624 take either test. However, as provided in subsection (6), the



606-08690-08

20081978c3

1625 driver may subpoena the officer or any person who administered or  
1626 analyzed a breath or blood test.

1627 (12) The formal review hearing and the informal review  
1628 hearing are exempt from the provisions of chapter 120. The  
1629 department is authorized to adopt rules for the conduct of  
1630 reviews under this section.

1631 (13) A person may appeal any decision of the department  
1632 sustaining the disqualification from operating a commercial motor  
1633 vehicle by a petition for writ of certiorari to the circuit court  
1634 in the county wherein such person resides or wherein a formal or  
1635 informal review was conducted pursuant to s. 322.31. However, an  
1636 appeal shall not stay the disqualification. This subsection shall  
1637 not be construed to provide for a de novo appeal.

1638 (14) The decision of the department under this section  
1639 shall not be considered in any trial for a violation of s.  
1640 316.193, s. 322.61, or s. 322.62, nor shall any written statement  
1641 submitted by a person in his or her request for departmental  
1642 review under this section be admissible into evidence against him  
1643 or her in any such trial. The disposition of any related criminal  
1644 proceedings shall not affect a disqualification imposed pursuant  
1645 to this section.

1646 (15) This section does not preclude the suspension of the  
1647 driving privilege pursuant to s. 322.2615. The driving privilege  
1648 of a person who has been disqualified from operating a commercial  
1649 motor vehicle also may be suspended for a violation of s.  
1650 316.193.

1651 Section 28. Subsections (3) and (4) of section 336.41,  
1652 Florida Statutes, are renumbered as subsections (4) and (5),  
1653 respectively, and a new subsection (3) is added to that section,

606-08690-08

20081978c3

1654 to read:

1655 336.41 Counties; employing labor and providing road  
1656 equipment; accounting; when competitive bidding required.--

1657 (3) Notwithstanding any law to the contrary, a county,  
1658 municipality, or special district may not own or operate an  
1659 asphalt plant or a portable or stationary concrete batch plant  
1660 that has an independent mixer; however, this prohibition does not  
1661 apply to any county that owns or is under contract to purchase an  
1662 asphalt plant as of April 15, 2008, and that furnishes its plant-  
1663 generated asphalt solely for use by local governments or  
1664 companies under contract with local governments for projects  
1665 within the boundaries of the county. Sale of plant-generated  
1666 asphalt to private entities or local governments outside the  
1667 boundaries of the county is prohibited.

1668 Section 29. Paragraph (a) of subsection (7) of section  
1669 337.11, Florida Statutes, is amended to read:

1670 337.11 Contracting authority of department; bids; emergency  
1671 repairs, supplemental agreements, and change orders; combined  
1672 design and construction contracts; progress payments; records;  
1673 requirements of vehicle registration.--

1674 (7) (a) If the head of the department determines that it is  
1675 in the best interests of the public, the department may combine  
1676 the design and construction phases of a building, a major bridge,  
1677 a limited access facility, or a rail corridor project into a  
1678 single contract. Such contract is referred to as a design-build  
1679 contract. The department's goal shall be to procure up to 25  
1680 percent of the construction contracts that add capacity in the 5-  
1681 year adopted work program as design-build contracts by July 1,  
1682 2013. Design-build contracts may be advertised and awarded

606-08690-08

20081978c3

1683 notwithstanding the requirements of paragraph (3)(c). However,  
1684 construction activities may not begin on any portion of such  
1685 projects for which the department has not yet obtained title to  
1686 the necessary rights-of-way and easements for the construction of  
1687 that portion of the project has vested in the state or a local  
1688 governmental entity and all railroad crossing and utility  
1689 agreements have been executed. Title to rights-of-way shall be  
1690 deemed to have vested in the state when the title has been  
1691 dedicated to the public or acquired by prescription.

1692 Section 30. Paragraph (b) of subsection (1) of section  
1693 337.18, Florida Statutes, is amended to read:

1694 337.18 Surety bonds for construction or maintenance  
1695 contracts; requirement with respect to contract award; bond  
1696 requirements; defaults; damage assessments.--

1697 (1)

1698 (b) Prior to beginning any work under the contract, the  
1699 contractor shall maintain a copy of the payment and performance  
1700 bond required under this section at its principal place of  
1701 business, and at the jobsite office if one is established, and  
1702 the contractor shall provide a copy of the payment and  
1703 performance bond within 5 days after receipt of any written  
1704 request therefore. A copy of the payment and performance bond  
1705 required under this section may also be obtained directly from  
1706 the department via a request made pursuant to chapter 119. ~~Upon~~  
1707 ~~execution of the contract, and prior to beginning any work under~~  
1708 ~~the contract, the contractor shall record in the public records~~  
1709 ~~of the county where the improvement is located the payment and~~  
1710 ~~performance bond required under this section. A claimant shall~~  
1711 have a right of action against the contractor and surety for the

606-08690-08

20081978c3

1712 amount due him or her, including unpaid finance charges due under  
1713 the claimant's contract. Such action shall not involve the  
1714 department in any expense.

1715 Section 31. Subsections (1), (2), and (7) of section  
1716 337.185, Florida Statutes, are amended to read:

1717 337.185 State Arbitration Board.--

1718 (1) To facilitate the prompt settlement of claims for  
1719 additional compensation arising out of construction and  
1720 maintenance contracts between the department and the various  
1721 contractors with whom it transacts business, the Legislature does  
1722 hereby establish the State Arbitration Board, referred to in this  
1723 section as the "board." For the purpose of this section, "claim"  
1724 means ~~shall mean~~ the aggregate of all outstanding claims by a  
1725 party arising out of a construction or maintenance contract.  
1726 Every contractual claim in an amount up to \$250,000 per contract  
1727 or, at the claimant's option, up to \$500,000 per contract or,  
1728 upon agreement of the parties, up to \$1 million per contract  
1729 which ~~that~~ cannot be resolved by negotiation between the  
1730 department and the contractor shall be arbitrated by the board  
1731 after acceptance of the project by the department. As an  
1732 exception, either party to the dispute may request that the claim  
1733 be submitted to binding private arbitration. A court of law may  
1734 not consider the settlement of such a claim until the process  
1735 established by this section has been exhausted.

1736 (2) The board shall be composed of three members. One  
1737 member shall be appointed by the head of the department, and one  
1738 member shall be elected by those construction or maintenance  
1739 companies who are under contract with the department. The third  
1740 member shall be chosen by agreement of the other two members.

606-08690-08

20081978c3

1741 Whenever the third member has a conflict of interest regarding  
1742 affiliation with one of the parties, the other two members shall  
1743 select an alternate member for that hearing. The head of the  
1744 department may select an alternative or substitute to serve as  
1745 the department member for any hearing or term. Each member shall  
1746 serve a 2-year term. The board shall elect a chair, each term,  
1747 who shall be the administrator of the board and custodian of its  
1748 records.

1749 (7) The members of the board may receive compensation for  
1750 the performance of their duties hereunder, from administrative  
1751 fees received by the board, except that no employee of the  
1752 department may receive compensation from the board. The  
1753 compensation amount shall be determined by the board, but shall  
1754 not exceed \$125 per hour, up to a maximum of \$1,000 per day for  
1755 each member authorized to receive compensation. ~~Nothing in this~~  
1756 section does not shall prevent the member elected by construction  
1757 or maintenance companies from being an employee of an association  
1758 affiliated with the industry, even if the sole responsibility of  
1759 that member is service on the board. Travel expenses for the  
1760 industry member may be paid by an industry association, if  
1761 necessary. The board may allocate funds annually for clerical and  
1762 other administrative services.

1763 Section 32. Subsection (1) of section 337.403, Florida  
1764 Statutes, is amended to read:

1765 337.403 Relocation of utility; expenses.--

1766 (1) Any utility heretofore or hereafter placed upon, under,  
1767 over, or along any public road or publicly owned rail corridor  
1768 which ~~that~~ is found by the authority to be unreasonably  
1769 interfering in any way with the convenient, safe, or continuous

606-08690-08

20081978c3

1770 use, or the maintenance, improvement, extension, or expansion, of  
1771 such public road or publicly owned rail corridor shall, upon 30  
1772 days' written notice to the utility or its agent by the  
1773 authority, be removed or relocated by such utility at its own  
1774 expense except as provided in paragraphs (a), (b), ~~and (c)~~, (d),  
1775 and (e).

1776 (a) If the relocation of utility facilities, as referred to  
1777 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627  
1778 of the 84th Congress, is necessitated by the construction of a  
1779 project on the federal-aid interstate system, including  
1780 extensions thereof within urban areas, and the cost of such  
1781 project is eligible and approved for reimbursement by the Federal  
1782 Government to the extent of 90 percent or more under the Federal  
1783 Aid Highway Act, or any amendment thereof, then in that event the  
1784 utility owning or operating such facilities shall relocate such  
1785 facilities upon order of the department, and the state shall pay  
1786 the entire expense properly attributable to such relocation after  
1787 deducting therefrom any increase in the value of the new facility  
1788 and any salvage value derived from the old facility.

1789 (b) When a joint agreement between the department and the  
1790 utility is executed for utility improvement, relocation, or  
1791 removal work to be accomplished as part of a contract for  
1792 construction of a transportation facility, the department may  
1793 participate in those utility improvement, relocation, or removal  
1794 costs that exceed the department's official estimate of the cost  
1795 of such work by more than 10 percent. The amount of such  
1796 participation shall be limited to the difference between the  
1797 official estimate of all the work in the joint agreement plus 10  
1798 percent and the amount awarded for this work in the construction

606-08690-08

20081978c3

1799 contract for such work. The department may not participate in any  
1800 utility improvement, relocation, or removal costs that occur as a  
1801 result of changes or additions during the course of the contract.

1802 (c) When an agreement between the department and utility is  
1803 executed for utility improvement, relocation, or removal work to  
1804 be accomplished in advance of a contract for construction of a  
1805 transportation facility, the department may participate in the  
1806 cost of clearing and grubbing necessary to perform such work.

1807 (d) If the utility facility being removed or relocated was  
1808 initially installed exclusively to serve the department, its  
1809 tenants, or both the department and its tenants, the department  
1810 shall bear the costs of removal or relocation of that utility  
1811 facility. However, the department is not responsible for bearing  
1812 the cost of removal or relocation of any subsequent additions to  
1813 the utility facility for the purpose of serving others.

1814 (e) If pursuant to an agreement between a utility and the  
1815 authority entered into after July 1, 2008, the utility conveys,  
1816 subordinates, or relinquishes a compensable property right to the  
1817 authority for the purpose of accommodating the acquisition or use  
1818 of the right-of-way by the authority without the agreement  
1819 expressly addressing future responsibility for cost of removal or  
1820 relocation of the utility, the authority shall bear the cost of  
1821 such removal or relocation. Nothing herein is intended to impair  
1822 or restrict, or be used to interpret, the terms of any agreement  
1823 entered into prior to July 1, 2008.

1824 Section 33. Subsection (6) is added to section 338.01,  
1825 Florida Statutes, to read:

1826 338.01 Authority to establish and regulate limited access  
1827 facilities.--

606-08690-08

20081978c3

1828       (6) Notwithstanding any other provision of law, all new  
1829 limited access facilities and existing transportation facilities  
1830 on which new or replacement electronic toll collection systems  
1831 are installed shall be interoperable with the department's  
1832 electronic toll collection system.

1833       Section 34. Present subsections (7) and (8) of section  
1834 338.165, Florida Statutes, are redesignated as subsections (8)  
1835 and (9), respectively, and a new subsection (7) is added to that  
1836 section, to read:

1837       338.165 Continuation of tolls.--

1838       (7) This section does not apply to high-occupancy toll  
1839 lanes or express lanes.

1840       Section 35. Section 338.166, Florida Statutes, is created  
1841 to read:

1842       338.166 High-occupancy toll lanes or express lanes.--

1843       (1) Under s. 11, Art. VII of the State Constitution, the  
1844 department may request the Division of Bond Finance to issue  
1845 bonds secured by toll revenues collected on high-occupancy toll  
1846 lanes or express lanes located on Interstate 95 in Miami-Dade and  
1847 Broward Counties.

1848       (2) The department may continue to collect the toll on the  
1849 high-occupancy toll lanes or express lanes after the discharge of  
1850 any bond indebtedness related to such project. All tolls so  
1851 collected shall first be used to pay the annual cost of the  
1852 operation, maintenance, and improvement of the high-occupancy  
1853 toll lanes or express lanes project or associated transportation  
1854 system.

1855       (3) Any remaining toll revenue from the high-occupancy toll  
1856 lanes or express lanes shall be used by the department for the



606-08690-08

20081978c3

1857 construction, maintenance, or improvement of any road on the  
1858 State Highway System.

1859 (4) The department is authorized to implement variable rate  
1860 tolls on high-occupancy toll lanes or express lanes.

1861 (5) Except for high-occupancy toll lanes or express lanes,  
1862 tolls may not be charged for use of an interstate highway where  
1863 tolls were not charged as of July 1, 1997.

1864 (6) This section does not apply to the turnpike system as  
1865 defined under the Florida Turnpike Enterprise Law.

1866 Section 36. Paragraphs (d) and (e) are added to subsection  
1867 (1) of section 338.2216, Florida Statutes, to read:

1868 338.2216 Florida Turnpike Enterprise; powers and  
1869 authority.--

1870 (1)

1871 (d) The Florida Turnpike Enterprise is directed to pursue  
1872 and implement new technologies and processes in its operations  
1873 and collection of tolls and the collection of other amounts  
1874 associated with road and infrastructure usage. Such technologies  
1875 and processes shall include, without limitation, video billing  
1876 and variable pricing.

1877 (e)1. The Florida Turnpike Enterprise may not contract with  
1878 any vendor for the retail sale of fuel along the Florida Turnpike  
1879 if such contract is negotiated or bid together with any other  
1880 contract, including, but not limited to, the retail sale of food,  
1881 maintenance services, or construction, except that a contract for  
1882 the retail sale of fuel along the Florida Turnpike shall be bid  
1883 and contracted with the retail sale of food at any convenience  
1884 store attached to the fuel station.

1885 2. All contracts related to service plazas, including, but

606-08690-08

20081978c3

1886 not limited to, the sale of fuel, the retail sale of food,  
1887 maintenance services, or construction, awarded by the Florida  
1888 Turnpike Enterprise shall be procured through individual  
1889 competitive solicitations and awarded to the most cost-effective  
1890 responder. This subparagraph does not prohibit the award of more  
1891 than one individual contract to a single vendor who submits the  
1892 most cost-effective response.

1893 Section 37. Paragraph (b) of subsection (1) of section  
1894 338.223, Florida Statutes, is amended to read:

1895 338.223 Proposed turnpike projects.--

1896 (1)

1897 (b) Any proposed turnpike project or improvement shall be  
1898 developed in accordance with the Florida Transportation Plan and  
1899 the work program pursuant to s. 339.135. Turnpike projects that  
1900 add capacity, alter access, affect feeder roads, or affect the  
1901 operation of the local transportation system shall be included in  
1902 the transportation improvement plan of the affected metropolitan  
1903 planning organization. If such turnpike project does not fall  
1904 within the jurisdiction of a metropolitan planning organization,  
1905 the department shall notify the affected county and provide for  
1906 public hearings in accordance with s. 339.155(5)(c) ~~s.~~  
1907 ~~339.155(6)(e).~~

1908 Section 38. Section 338.231, Florida Statutes, is amended  
1909 to read:

1910 338.231 Turnpike tolls, fixing; pledge of tolls and other  
1911 revenues.--The department shall at all times fix, adjust, charge,  
1912 and collect such tolls for the use of the turnpike system as are  
1913 required in order to provide a fund sufficient with other  
1914 revenues of the turnpike system to pay the cost of maintaining,

606-08690-08

20081978c3

1915 improving, repairing, and operating such turnpike system; to pay  
1916 the principal of and interest on all bonds issued to finance or  
1917 refinance any portion of the turnpike system as the same become  
1918 due and payable; and to create reserves for all such purposes.

1919 ~~(1) In the process of effectuating toll rate increases over~~  
1920 ~~the period 1988 through 1992, the department shall, to the~~  
1921 ~~maximum extent feasible, equalize the toll structure, within each~~  
1922 ~~vehicle classification, so that the per mile toll rate will be~~  
1923 ~~approximately the same throughout the turnpike system. New~~  
1924 ~~turnpike projects may have toll rates higher than the uniform~~  
1925 ~~system rate where such higher toll rates are necessary to qualify~~  
1926 ~~the project in accordance with the financial criteria in the~~  
1927 ~~turnpike law. Such higher rates may be reduced to the uniform~~  
1928 ~~system rate when the project is generating sufficient revenues to~~  
1929 ~~pay the full amount of debt service and operating and maintenance~~  
1930 ~~costs at the uniform system rate. If, after 15 years of opening~~  
1931 ~~to traffic, the annual revenue of a turnpike project does not~~  
1932 ~~meet or exceed the annual debt service requirements and operating~~  
1933 ~~and maintenance costs attributable to such project, the~~  
1934 ~~department shall, to the maximum extent feasible, establish a~~  
1935 ~~toll rate for the project which is higher than the uniform system~~  
1936 ~~rate as necessary to meet such annual debt service requirements~~  
1937 ~~and operating and maintenance costs. The department may, to the~~  
1938 ~~extent feasible, establish a temporary toll rate at less than the~~  
1939 ~~uniform system rate for the purpose of building patronage for the~~  
1940 ~~ultimate benefit of the turnpike system. In no case shall the~~  
1941 ~~temporary rate be established for more than 1 year. The~~  
1942 ~~requirements of this subsection shall not apply when the~~  
1943 ~~application of such requirements would violate any covenant~~

606-08690-08

20081978c3

1944 ~~established in a resolution or trust indenture relating to the~~  
1945 ~~issuance of turnpike bonds.~~

1946 (1)~~(2)~~ Notwithstanding any other provision of law, the  
1947 department may defer the scheduled July 1, 1993, toll rate  
1948 increase on the Homestead Extension of the Florida Turnpike until  
1949 July 1, 1995. The department may also advance funds to the  
1950 Turnpike General Reserve Trust Fund to replace estimated lost  
1951 revenues resulting from this deferral. The amount advanced must  
1952 be repaid within 12 years from the date of advance; however, the  
1953 repayment is subordinate to all other debt financing of the  
1954 turnpike system outstanding at the time repayment is due.

1955 (2)~~(3)~~ The department shall publish a proposed change in  
1956 the toll rate for the use of an existing toll facility, in the  
1957 manner provided for in s. 120.54, which will provide for public  
1958 notice and the opportunity for a public hearing before the  
1959 adoption of the proposed rate change. When the department is  
1960 evaluating a proposed turnpike toll project under s. 338.223 and  
1961 has determined that there is a high probability that the project  
1962 will pass the test of economic feasibility predicated on proposed  
1963 toll rates, the toll rate that is proposed to be charged after  
1964 the project is constructed must be adopted during the planning  
1965 and project development phase of the project, in the manner  
1966 provided for in s. 120.54, including public notice and the  
1967 opportunity for a public hearing. For such a new project, the  
1968 toll rate becomes effective upon the opening of the project to  
1969 traffic.

1970 (3) (a)~~(4)~~ For the period July 1, 1998, through June 30,  
1971 2017, the department shall, to the maximum extent feasible,  
1972 program sufficient funds in the tentative work program such that

606-08690-08

20081978c3

1973 the percentage of turnpike toll and bond financed commitments in  
1974 Dade County, Broward County, and Palm Beach County as compared to  
1975 total turnpike toll and bond financed commitments shall be at  
1976 least 90 percent of the share of net toll collections  
1977 attributable to users of the turnpike system in Dade County,  
1978 Broward County, and Palm Beach County as compared to total net  
1979 toll collections attributable to users of the turnpike system.  
1980 The requirements of this subsection do not apply when the  
1981 application of such requirements would violate any covenant  
1982 established in a resolution or trust indenture relating to the  
1983 issuance of turnpike bonds. The department may establish at any  
1984 time for economic considerations lower temporary toll rates for a  
1985 new or existing toll facility for a period not to exceed 1 year,  
1986 after which period the toll rates adopted under s. 120.54 shall  
1987 become effective.

1988 (b) The department shall also fix, adjust, charge, and  
1989 collect such amounts needed to cover the costs of administering  
1990 the different toll collection and payment methods and types of  
1991 accounts being offered and used in the manner provided for in s.  
1992 120.54, which provides for public notice and the opportunity for  
1993 a public hearing before adoption. Such amounts may stand alone,  
1994 be incorporated into a toll rate structure, or be a combination  
1995 thereof.

1996 (4)~~(5)~~ When bonds are outstanding which have been issued to  
1997 finance or refinance any turnpike project, the tolls and all  
1998 other revenues derived from the turnpike system and pledged to  
1999 such bonds shall be set aside as may be provided in the  
2000 resolution authorizing the issuance of such bonds or the trust  
2001 agreement securing the same. The tolls or other revenues or other

606-08690-08

20081978c3

2002 moneys so pledged and thereafter received by the department are  
2003 immediately subject to the lien of such pledge without any  
2004 physical delivery thereof or further act. The lien of any such  
2005 pledge is valid and binding as against all parties having claims  
2006 of any kind in tort or contract or otherwise against the  
2007 department irrespective of whether such parties have notice  
2008 thereof. Neither the resolution nor any trust agreement by which  
2009 a pledge is created need be filed or recorded except in the  
2010 records of the department.

2011 (5)~~(6)~~ In each fiscal year while any of the bonds of the  
2012 Broward County Expressway Authority series 1984 and series 1986-A  
2013 remain outstanding, the department is authorized to pledge  
2014 revenues from the turnpike system to the payment of principal and  
2015 interest of such series of bonds and the operation and  
2016 maintenance expenses of the Sawgrass Expressway, to the extent  
2017 gross toll revenues of the Sawgrass Expressway are insufficient  
2018 to make such payments. The terms of an agreement relative to the  
2019 pledge of turnpike system revenue will be negotiated with the  
2020 parties of the 1984 and 1986 Broward County Expressway Authority  
2021 lease-purchase agreements, and subject to the covenants of those  
2022 agreements. The agreement shall establish that the Sawgrass  
2023 Expressway shall be subject to the planning, management, and  
2024 operating control of the department limited only by the terms of  
2025 the lease-purchase agreements. The department shall provide for  
2026 the payment of operation and maintenance expenses of the Sawgrass  
2027 Expressway until such agreement is in effect. This pledge of  
2028 turnpike system revenues shall be subordinate to the debt service  
2029 requirements of any future issue of turnpike bonds, the payment  
2030 of turnpike system operation and maintenance expenses, and

606-08690-08

20081978c3

2031 subject to provisions of any subsequent resolution or trust  
2032 indenture relating to the issuance of such turnpike bonds.

2033 ~~(6) (7)~~ The use and disposition of revenues pledged to bonds  
2034 are subject to the provisions of ss. 338.22-338.241 and such  
2035 regulations as the resolution authorizing the issuance of such  
2036 bonds or such trust agreement may provide.

2037 (7) Notwithstanding any other provision of law and  
2038 effective July 1, 2008, the turnpike enterprise shall increase  
2039 tolls on all existing toll facilities by 25 percent and, in  
2040 addition, shall index that increase to the annual Consumer Price  
2041 Index or similar inflation factors as established in s. 338.165.

2042 Section 39. Paragraph (c) of subsection (4) of section  
2043 339.12, Florida Statutes, is amended, and paragraph (d) is added  
2044 to that subsection, to read:

2045 339.12 Aid and contributions by governmental entities for  
2046 department projects; federal aid.--

2047 (4)

2048 (c) The department may enter into agreements under this  
2049 subsection for a project or project phase not included in the  
2050 adopted work program. As used in this paragraph, the term  
2051 "project phase" means acquisition of rights-of-way, construction,  
2052 construction inspection, and related support phases. The project  
2053 or project phase must be a high priority of the governmental  
2054 entity. Reimbursement for a project or project phase must be made  
2055 from funds appropriated by the Legislature pursuant to s.  
2056 339.135(5). All other provisions of this subsection apply to  
2057 agreements entered into under this paragraph. The total amount of  
2058 project agreements for projects or project phases not included in  
2059 the adopted work program authorized by this paragraph may not at

606-08690-08

20081978c3

2060 any time exceed \$100 million. However, notwithstanding such \$100  
2061 million limit and any similar limit in s. 334.30, project  
2062 advances for any inland county with a population greater than  
2063 500,000 dedicating amounts equal to \$500 million or more of its  
2064 Local Government Infrastructure Surtax pursuant to s. 212.055(2)  
2065 for improvements to the State Highway System which are included  
2066 in the local metropolitan planning organization's or the  
2067 department's long-range transportation plans shall be excluded  
2068 from the calculation of the statewide limit of project advances.

2069 (d) The department may enter into agreements under this  
2070 subsection with any county having a population of 150,000 or  
2071 fewer as determined by the most recent official estimate pursuant  
2072 to s. 186.901 for a project or project phase not included in the  
2073 adopted work program. As used in this paragraph, the term  
2074 "project phase" means acquisition of rights-of-way, construction,  
2075 construction inspection, and related support phases. The project  
2076 or project phase must be a high priority of the governmental  
2077 entity. Reimbursement for a project or project phase must be made  
2078 from funds appropriated by the Legislature pursuant to s.  
2079 339.135(5). All other provisions of this subsection apply to  
2080 agreements entered into under this paragraph. The total amount of  
2081 project agreements for projects or project phases not included in  
2082 the adopted work program authorized by this paragraph may not at  
2083 any time exceed \$200 million. The project must be included in the  
2084 local government's adopted comprehensive plan. The department is  
2085 authorized to enter into long-term repayment agreements of up to  
2086 30 years.

2087 Section 40. Paragraph (d) of subsection (7) of section  
2088 339.135, Florida Statutes, is amended to read:



606-08690-08

20081978c3

2089 339.135 Work program; legislative budget request;  
2090 definitions; preparation, adoption, execution, and amendment.--

2091 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--

2092 (d)1. Whenever the department proposes any amendment to the  
2093 adopted work program, as defined in subparagraph (c)1. or  
2094 subparagraph (c)3., which deletes or defers a construction phase  
2095 on a capacity project, it shall notify each county affected by  
2096 the amendment and each municipality within the county. The  
2097 notification shall be issued in writing to the chief elected  
2098 official of each affected county, each municipality within the  
2099 county, and the chair of each affected metropolitan planning  
2100 organization. Each affected county and each municipality in the  
2101 county, is encouraged to coordinate with each other to determine  
2102 how the amendment effects local concurrency management and  
2103 regional transportation planning efforts. Each affected county,  
2104 and each municipality within the county, shall have 14 days to  
2105 provide written comments to the department regarding how the  
2106 amendment will effect its respective concurrency management  
2107 systems, including whether any development permits were issued  
2108 contingent upon the capacity improvement, if applicable. After  
2109 receipt of written comments from the affected local governments,  
2110 the department shall include any written comments submitted by  
2111 such local governments in its preparation of the proposed  
2112 amendment.

2113 2. Following the 14-day comment period in subparagraph 1.,  
2114 if applicable, whenever the department proposes any amendment to  
2115 the adopted work program, which amendment is defined in  
2116 subparagraph (c)1., subparagraph (c)2., subparagraph (c)3., or  
2117 subparagraph (c)4., it shall submit the proposed amendment to the

606-08690-08

20081978c3

2118 Governor for approval and shall immediately notify the chairs of  
2119 the legislative appropriations committees, the chairs of the  
2120 legislative transportation committees, and each member of the  
2121 Legislature who represents a district affected by the proposed  
2122 amendment. It shall also notify, each metropolitan planning  
2123 organization affected by the proposed amendment, and each unit of  
2124 local government affected by the proposed amendment, unless it  
2125 provided to each the notification required by subparagraph 1.  
2126 Such proposed amendment shall provide a complete justification of  
2127 the need for the proposed amendment.

2128 ~~3.2.~~ The Governor shall not approve a proposed amendment  
2129 until 14 days following the notification required in subparagraph  
2130 2. 1.

2131 ~~4.3.~~ If either of the chairs of the legislative  
2132 appropriations committees or the President of the Senate or the  
2133 Speaker of the House of Representatives objects in writing to a  
2134 proposed amendment within 14 days following notification and  
2135 specifies the reasons for such objection, the Governor shall  
2136 disapprove the proposed amendment.

2137 Section 41. Section 339.155, Florida Statutes, is amended  
2138 to read:

2139 339.155 Transportation planning.--

2140 (1) THE FLORIDA TRANSPORTATION PLAN.--The department shall  
2141 develop ~~and annually update~~ a statewide transportation plan, to  
2142 be known as the Florida Transportation Plan. The plan shall be  
2143 designed so as to be easily read and understood by the general  
2144 public. The purpose of the Florida Transportation Plan is to  
2145 establish and define the state's long-range transportation goals  
2146 and objectives to be accomplished over a period of at least 20

606-08690-08

20081978c3

2147 | years within the context of the State Comprehensive Plan, and any  
2148 | other statutory mandates and authorizations and based upon the  
2149 | prevailing principles of: preserving the existing transportation  
2150 | infrastructure; enhancing Florida's economic competitiveness; and  
2151 | improving travel choices to ensure mobility. The Florida  
2152 | Transportation Plan shall consider the needs of the entire state  
2153 | transportation system and examine the use of all modes of  
2154 | transportation to effectively and efficiently meet such needs.

2155 |       (2) SCOPE OF PLANNING PROCESS.--The department shall carry  
2156 | out a transportation planning process in conformance with s.  
2157 | 334.046(1) ~~which provides for consideration of projects and~~  
2158 | ~~strategies that will:~~

2159 |       ~~(a) Support the economic vitality of the United States,~~  
2160 | ~~Florida, and the metropolitan areas, especially by enabling~~  
2161 | ~~global competitiveness, productivity, and efficiency;~~

2162 |       ~~(b) Increase the safety and security of the transportation~~  
2163 | ~~system for motorized and nonmotorized users;~~

2164 |       ~~(c) Increase the accessibility and mobility options~~  
2165 | ~~available to people and for freight;~~

2166 |       ~~(d) Protect and enhance the environment, promote energy~~  
2167 | ~~conservation, and improve quality of life;~~

2168 |       ~~(e) Enhance the integration and connectivity of the~~  
2169 | ~~transportation system, across and between modes throughout~~  
2170 | ~~Florida, for people and freight;~~

2171 |       ~~(f) Promote efficient system management and operation; and~~

2172 |       ~~(g) Emphasize the preservation of the existing~~  
2173 | ~~transportation system.~~

2174 |       (3) FORMAT, SCHEDULE, AND REVIEW.--The Florida  
2175 | Transportation Plan shall be a unified, concise planning document

606-08690-08

20081978c3

2176 that clearly defines the state's long-range transportation goals  
2177 and objectives ~~and documents the department's short-range~~  
2178 ~~objectives developed to further such goals and objectives.~~ The  
2179 plan shall:

2180 (a) Include a glossary that clearly and succinctly defines  
2181 any and all phrases, words, or terms of art included in the plan,  
2182 with which the general public may be unfamiliar. ~~and shall~~  
2183 ~~consist of, at a minimum, the following components:~~

2184 (b) ~~(a)~~ Document ~~A long-range component documenting the~~  
2185 goals and long-term objectives necessary to implement the results  
2186 of the department's findings from its examination of the  
2187 prevailing principles and criteria provided under ~~listed in~~  
2188 subsection (2) and s. 334.046(1). ~~The long-range component must~~

2189 (c) Be developed in cooperation with the metropolitan  
2190 planning organizations and reconciled, to the maximum extent  
2191 feasible, with the long-range plans developed by metropolitan  
2192 planning organizations pursuant to s. 339.175. ~~The plan must also~~

2193 (d) Be developed in consultation with affected local  
2194 officials in nonmetropolitan areas and with any affected Indian  
2195 tribal governments. ~~The plan must~~

2196 (e) Provide an examination of transportation issues likely  
2197 to arise during at least a 20-year period. ~~The long-range~~  
2198 ~~component shall~~

2199 (f) Be updated at least once every 5 years, or more often  
2200 as necessary, to reflect substantive changes to federal or state  
2201 law.

2202 ~~(b)~~ ~~A short-range component documenting the short-term~~  
2203 ~~objectives and strategies necessary to implement the goals and~~  
2204 ~~long-term objectives contained in the long-range component. The~~

606-08690-08

20081978c3

2205 ~~short range component must define the relationship between the~~  
2206 ~~long range goals and the short range objectives, specify those~~  
2207 ~~objectives against which the department's achievement of such~~  
2208 ~~goals will be measured, and identify transportation strategies~~  
2209 ~~necessary to efficiently achieve the goals and objectives in the~~  
2210 ~~plan. It must provide a policy framework within which the~~  
2211 ~~department's legislative budget request, the strategic~~  
2212 ~~information resource management plan, and the work program are~~  
2213 ~~developed. The short range component shall serve as the~~  
2214 ~~department's annual agency strategic plan pursuant to s. 186.021.~~  
2215 ~~The short range component shall be developed consistent with~~  
2216 ~~available and forecasted state and federal funds. The short range~~  
2217 ~~component shall also be submitted to the Florida Transportation~~  
2218 ~~Commission.~~

2219 ~~(4) ANNUAL PERFORMANCE REPORT.--The department shall~~  
2220 ~~develop an annual performance report evaluating the operation of~~  
2221 ~~the department for the preceding fiscal year. The report shall~~  
2222 ~~also include a summary of the financial operations of the~~  
2223 ~~department and shall annually evaluate how well the adopted work~~  
2224 ~~program meets the short term objectives contained in the short~~  
2225 ~~range component of the Florida Transportation Plan. This~~  
2226 ~~performance report shall be submitted to the Florida~~  
2227 ~~Transportation Commission and the legislative appropriations and~~  
2228 ~~transportation committees.~~

2229 ~~(4) (5) ADDITIONAL TRANSPORTATION PLANS.--~~

2230 (a) Upon request by local governmental entities, the  
2231 department may in its discretion develop and design  
2232 transportation corridors, arterial and collector streets,  
2233 vehicular parking areas, and other support facilities which are

606-08690-08

20081978c3

2234 consistent with the plans of the department for major  
2235 transportation facilities. The department may render to local  
2236 governmental entities or their planning agencies such technical  
2237 assistance and services as are necessary so that local plans and  
2238 facilities are coordinated with the plans and facilities of the  
2239 department.

2240 (b) Each regional planning council, as provided for in s.  
2241 186.504, or any successor agency thereto, shall develop, as an  
2242 element of its strategic regional policy plan, transportation  
2243 goals and policies. The transportation goals and policies must be  
2244 prioritized to comply with the prevailing principles provided in  
2245 subsection (2) and s. 334.046(1). The transportation goals and  
2246 policies shall be consistent, to the maximum extent feasible,  
2247 with the goals and policies of the metropolitan planning  
2248 organization and the Florida Transportation Plan. The  
2249 transportation goals and policies of the regional planning  
2250 council will be advisory only and shall be submitted to the  
2251 department and any affected metropolitan planning organization  
2252 for their consideration and comments. Metropolitan planning  
2253 organization plans and other local transportation plans shall be  
2254 developed consistent, to the maximum extent feasible, with the  
2255 regional transportation goals and policies. The regional planning  
2256 council shall review urbanized area transportation plans and any  
2257 other planning products stipulated in s. 339.175 and provide the  
2258 department and respective metropolitan planning organizations  
2259 with written recommendations which the department and the  
2260 metropolitan planning organizations shall take under advisement.  
2261 Further, the regional planning councils shall directly assist  
2262 local governments which are not part of a metropolitan area

606-08690-08

20081978c3

2263 transportation planning process in the development of the  
2264 transportation element of their comprehensive plans as required  
2265 by s. 163.3177.

2266 (c) Regional transportation plans may be developed in  
2267 regional transportation areas in accordance with an interlocal  
2268 agreement entered into pursuant to s. 163.01 by two or more  
2269 contiguous metropolitan planning organizations; one or more  
2270 metropolitan planning organizations and one or more contiguous  
2271 counties, none of which is a member of a metropolitan planning  
2272 organization; a multicounty regional transportation authority  
2273 created by or pursuant to law; two or more contiguous counties  
2274 that are not members of a metropolitan planning organization; or  
2275 metropolitan planning organizations comprised of three or more  
2276 counties.

2277 (d) The interlocal agreement must, at a minimum, identify  
2278 the entity that will coordinate the development of the regional  
2279 transportation plan; delineate the boundaries of the regional  
2280 transportation area; provide the duration of the agreement and  
2281 specify how the agreement may be terminated, modified, or  
2282 rescinded; describe the process by which the regional  
2283 transportation plan will be developed; and provide how members of  
2284 the entity will resolve disagreements regarding interpretation of  
2285 the interlocal agreement or disputes relating to the development  
2286 or content of the regional transportation plan. Such interlocal  
2287 agreement shall become effective upon its recordation in the  
2288 official public records of each county in the regional  
2289 transportation area.

2290 (e) The regional transportation plan developed pursuant to  
2291 this section must, at a minimum, identify regionally significant

606-08690-08

20081978c3

2292 transportation facilities located within a regional  
2293 transportation area and contain a prioritized list of regionally  
2294 significant projects. The level-of-service standards for  
2295 facilities to be funded under this subsection shall be adopted by  
2296 the appropriate local government in accordance with s.  
2297 163.3180(10). The projects shall be adopted into the capital  
2298 improvements schedule of the local government comprehensive plan  
2299 pursuant to s. 163.3177(3).

2300 (5)~~(6)~~ PROCEDURES FOR PUBLIC PARTICIPATION IN  
2301 TRANSPORTATION PLANNING.--

2302 (a) During the development of the ~~long-range component of~~  
2303 ~~the~~ Florida Transportation Plan and prior to substantive  
2304 revisions, the department shall provide citizens, affected public  
2305 agencies, representatives of transportation agency employees,  
2306 other affected employee representatives, private providers of  
2307 transportation, and other known interested parties with an  
2308 opportunity to comment on the proposed plan or revisions. These  
2309 opportunities shall include, at a minimum, publishing a notice in  
2310 the Florida Administrative Weekly and within a newspaper of  
2311 general circulation within the area of each department district  
2312 office.

2313 (b) During development of major transportation  
2314 improvements, such as those increasing the capacity of a facility  
2315 through the addition of new lanes or providing new access to a  
2316 limited or controlled access facility or construction of a  
2317 facility in a new location, the department shall hold one or more  
2318 hearings prior to the selection of the facility to be provided;  
2319 prior to the selection of the site or corridor of the proposed  
2320 facility; and prior to the selection of and commitment to a



606-08690-08

20081978c3

2321 specific design proposal for the proposed facility. Such public  
2322 hearings shall be conducted so as to provide an opportunity for  
2323 effective participation by interested persons in the process of  
2324 transportation planning and site and route selection and in the  
2325 specific location and design of transportation facilities. The  
2326 various factors involved in the decision or decisions and any  
2327 alternative proposals shall be clearly presented so that the  
2328 persons attending the hearing may present their views relating to  
2329 the decision or decisions which will be made.

2330 (c) Opportunity for design hearings:

2331 1. The department, prior to holding a design hearing, shall  
2332 duly notify all affected property owners of record, as recorded  
2333 in the property appraiser's office, by mail at least 20 days  
2334 prior to the date set for the hearing. The affected property  
2335 owners shall be:

2336 a. Those whose property lies in whole or in part within 300  
2337 feet on either side of the centerline of the proposed facility.

2338 b. Those whom the department determines will be  
2339 substantially affected environmentally, economically, socially,  
2340 or safetywise.

2341 2. For each subsequent hearing, the department shall  
2342 publish notice prior to the hearing date in a newspaper of  
2343 general circulation for the area affected. These notices must be  
2344 published twice, with the first notice appearing at least 15  
2345 days, but no later than 30 days, before the hearing.

2346 3. A copy of the notice of opportunity for the hearing must  
2347 be furnished to the United States Department of Transportation  
2348 and to the appropriate departments of the state government at the  
2349 time of publication.

606-08690-08

20081978c3

2350 4. The opportunity for another hearing shall be afforded in  
2351 any case when proposed locations or designs are so changed from  
2352 those presented in the notices specified above or at a hearing as  
2353 to have a substantially different social, economic, or  
2354 environmental effect.

2355 5. The opportunity for a hearing shall be afforded in each  
2356 case in which the department is in doubt as to whether a hearing  
2357 is required.

2358 Section 42. Subsection (3) and paragraphs (b) and (c) of  
2359 subsection (4) of section 339.2816, Florida Statutes, are amended  
2360 to read:

2361 339.2816 Small County Road Assistance Program.--

2362 (3) Beginning with fiscal year 1999-2000 until fiscal year  
2363 2009-2010, and beginning again with fiscal year 2012-2013, up to  
2364 \$25 million annually from the State Transportation Trust Fund may  
2365 be used for the purposes of funding the Small County Road  
2366 Assistance Program as described in this section.

2367 (4)

2368 (b) In determining a county's eligibility for assistance  
2369 under this program, the department may consider whether the  
2370 county has attempted to keep county roads in satisfactory  
2371 condition, including the amount of local option fuel tax ~~and ad~~  
2372 ~~valorem millage rate~~ imposed by the county. The department may  
2373 also consider the extent to which the county has offered to  
2374 provide a match of local funds with state funds provided under  
2375 the program. At a minimum, small counties shall be eligible only  
2376 if:

2377 ~~1.~~ The county has enacted the maximum rate of the local  
2378 option fuel tax authorized by s. 336.025(1) (a) .7, ~~and has imposed~~

606-08690-08

20081978c3

2379 | ~~an ad valorem millage rate of at least 8 mills; or~~

2380 |       ~~2. The county has imposed an ad valorem millage rate of 10~~  
2381 | ~~mills.~~

2382 |       (c) The following criteria shall be used to prioritize road  
2383 | projects for funding under the program:

2384 |       1. The primary criterion is the physical condition of the  
2385 | road as measured by the department.

2386 |       2. As secondary criteria the department may consider:

2387 |       a. Whether a road is used as an evacuation route.

2388 |       b. Whether a road has high levels of agricultural travel.

2389 |       c. Whether a road is considered a major arterial route.

2390 |       d. Whether a road is considered a feeder road.

2391 |       e. Whether a road is located in a fiscally constrained  
2392 | county, as defined in s. 218.67(1).

2393 |       ~~f.e.~~ Other criteria related to the impact of a project on  
2394 | the public road system or on the state or local economy as  
2395 | determined by the department.

2396 |       Section 43. Subsections (1) and (3) of section 339.2819,  
2397 | Florida Statutes, are amended to read:

2398 |       339.2819 Transportation Regional Incentive Program.--

2399 |       (1) There is created within the Department of  
2400 | Transportation a Transportation Regional Incentive Program for  
2401 | the purpose of providing funds to improve regionally significant  
2402 | transportation facilities in regional transportation areas  
2403 | created pursuant to s. 339.155(4)~~(5)~~.

2404 |       (3) The department shall allocate funding available for the  
2405 | Transportation Regional Incentive Program to the districts based  
2406 | on a factor derived from equal parts of population and motor fuel  
2407 | collections for eligible counties in regional transportation

606-08690-08

20081978c3

2408 areas created pursuant to s. 339.155 (4) ~~(5)~~.

2409 Section 44. Subsection (6) of section 339.285, Florida  
2410 Statutes, is amended to read:

2411 339.285 Enhanced Bridge Program for Sustainable  
2412 Transportation.--

2413 (6) Preference shall be given to bridge projects located on  
2414 corridors that connect to the Strategic Intermodal System,  
2415 created under s. 339.64, and that have been identified as  
2416 regionally significant in accordance with s. 339.155 (4) ~~(5)~~ (c),  
2417 (d), and (e).

2418 Section 45. Subsection (4) of section 348.0003, Florida  
2419 Statutes, is amended to read:

2420 348.0003 Expressway authority; formation; membership.--

2421 (4) (a) An authority may employ an executive secretary, an  
2422 executive director, its own counsel and legal staff, technical  
2423 experts, and such engineers and employees, permanent or  
2424 temporary, as it may require and shall determine the  
2425 qualifications and fix the compensation of such persons, firms,  
2426 or corporations. An authority may employ a fiscal agent or  
2427 agents; however, the authority must solicit sealed proposals from  
2428 at least three persons, firms, or corporations for the  
2429 performance of any services as fiscal agents. An authority may  
2430 delegate to one or more of its agents or employees such of its  
2431 power as it deems necessary to carry out the purposes of the  
2432 Florida Expressway Authority Act, subject always to the  
2433 supervision and control of the authority. Members of an authority  
2434 may be removed from office by the Governor for misconduct,  
2435 malfeasance, misfeasance, or nonfeasance in office.

2436 (b) Members of an authority are entitled to receive from

606-08690-08

20081978c3

2437 the authority their travel and other necessary expenses incurred  
2438 in connection with the business of the authority as provided in  
2439 s. 112.061, but they may not draw salaries or other compensation.

2440 (c) Members of each expressway an authority, transportation  
2441 authority, bridge authority, or toll authority, created pursuant  
2442 to this chapter, chapter 343 or chapter 349, or pursuant to any  
2443 other legislative enactment, shall be required to comply with the  
2444 applicable financial disclosure requirements of s. 8, Art. II of  
2445 the State Constitution. This subsection does not subject a  
2446 statutorily created expressway authority, transportation  
2447 authority, bridge authority, or toll authority, other than one  
2448 created under this part, to any of the requirements of this part  
2449 other than those contained in this subsection.

2450 Section 46. Paragraph (c) is added to subsection (1) of  
2451 section 348.0004, Florida Statutes, to read:

2452 348.0004 Purposes and powers.--

2453 (1)

2454 (c) Notwithstanding any other provision of law, expressway  
2455 authorities as defined in chapter 348 shall index toll rates on  
2456 toll facilities to the annual Consumer Price Index or similar  
2457 inflation indicators. Toll rate index for inflation under this  
2458 subsection must be adopted and approved by the expressway  
2459 authority board at a public meeting and may be made no more  
2460 frequently than once a year and must be made no less frequently  
2461 than once every 5 years as necessary to accommodate cash toll  
2462 rate schedules. Toll rates may be increased beyond these limits  
2463 as directed by bond documents, covenants, or governing body  
2464 authorization or pursuant to department administrative rule.

2465 Section 47. Part III of chapter 343, Florida Statutes,

606-08690-08

20081978c3

2466 consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75,  
2467 343.76, and 343.77, is repealed.

2468 Section 48. The Department of Transportation, in  
2469 consultation with the Department of Law Enforcement, the Division  
2470 of Emergency Management of the Department of Community Affairs,  
2471 and the Office of Tourism, Trade, and Economic Development, and  
2472 metropolitan planning organizations and regional planning  
2473 councils within whose jurisdictional area the I-95 corridor lies,  
2474 shall complete a study of transportation alternatives for the  
2475 travel corridor parallel to Interstate 95 which takes into  
2476 account the transportation, emergency management, homeland  
2477 security, and economic development needs of the state. The report  
2478 must include identification of cost-effective measures that may  
2479 be implemented to alleviate congestion on Interstate 95,  
2480 facilitate emergency and security responses, and foster economic  
2481 development. The Department of Transportation shall send the  
2482 report to the Governor, the President of the Senate, the Speaker  
2483 of the House of Representatives, and each affected metropolitan  
2484 planning organization by June 30, 2009.

2485 Section 49. Subsection (18) of section 409.908, Florida  
2486 Statutes, is amended to read:

2487 409.908 Reimbursement of Medicaid providers.--Subject to  
2488 specific appropriations, the agency shall reimburse Medicaid  
2489 providers, in accordance with state and federal law, according to  
2490 methodologies set forth in the rules of the agency and in policy  
2491 manuals and handbooks incorporated by reference therein. These  
2492 methodologies may include fee schedules, reimbursement methods  
2493 based on cost reporting, negotiated fees, competitive bidding  
2494 pursuant to s. 287.057, and other mechanisms the agency considers

606-08690-08

20081978c3

2495 efficient and effective for purchasing services or goods on  
2496 behalf of recipients. If a provider is reimbursed based on cost  
2497 reporting and submits a cost report late and that cost report  
2498 would have been used to set a lower reimbursement rate for a rate  
2499 semester, then the provider's rate for that semester shall be  
2500 retroactively calculated using the new cost report, and full  
2501 payment at the recalculated rate shall be effected retroactively.  
2502 Medicare-granted extensions for filing cost reports, if  
2503 applicable, shall also apply to Medicaid cost reports. Payment  
2504 for Medicaid compensable services made on behalf of Medicaid  
2505 eligible persons is subject to the availability of moneys and any  
2506 limitations or directions provided for in the General  
2507 Appropriations Act or chapter 216. Further, nothing in this  
2508 section shall be construed to prevent or limit the agency from  
2509 adjusting fees, reimbursement rates, lengths of stay, number of  
2510 visits, or number of services, or making any other adjustments  
2511 necessary to comply with the availability of moneys and any  
2512 limitations or directions provided for in the General  
2513 Appropriations Act, provided the adjustment is consistent with  
2514 legislative intent.

2515 (18) Unless otherwise provided for in the General  
2516 Appropriations Act, a provider of transportation services shall  
2517 be reimbursed the lesser of the amount billed by the provider or  
2518 the Medicaid maximum allowable fee established by the agency,  
2519 except when the agency has entered into a direct contract with  
2520 the provider, or with a community transportation coordinator, for  
2521 the provision of an all-inclusive service, or when services are  
2522 provided pursuant to an agreement negotiated between the agency  
2523 and the provider. The agency, as provided for in s. 427.0135,

606-08690-08

20081978c3

2524 shall purchase transportation services through the community  
2525 coordinated transportation system, if available, unless the  
2526 agency, after consultation with the commission, determines that  
2527 it cannot reach mutually acceptable contract terms with the  
2528 commission. The agency may then contract for the same  
2529 transportation services provided in a more cost-effective manner  
2530 and of comparable or higher quality and standards ~~determines a~~  
2531 ~~more cost-effective method for Medicaid clients.~~ Nothing in this  
2532 subsection shall be construed to limit or preclude the agency  
2533 from contracting for services using a prepaid capitation rate or  
2534 from establishing maximum fee schedules, individualized  
2535 reimbursement policies by provider type, negotiated fees, prior  
2536 authorization, competitive bidding, increased use of mass  
2537 transit, or any other mechanism that the agency considers  
2538 efficient and effective for the purchase of services on behalf of  
2539 Medicaid clients, including implementing a transportation  
2540 eligibility process. The agency shall not be required to contract  
2541 with any community transportation coordinator or transportation  
2542 operator that has been determined by the agency, the Department  
2543 of Legal Affairs Medicaid Fraud Control Unit, or any other state  
2544 or federal agency to have engaged in any abusive or fraudulent  
2545 billing activities. The agency is authorized to competitively  
2546 procure transportation services or make other changes necessary  
2547 to secure approval of federal waivers needed to permit federal  
2548 financing of Medicaid transportation services at the service  
2549 matching rate rather than the administrative matching rate.  
2550 Notwithstanding chapter 427, the agency is authorized to continue  
2551 contracting for Medicaid nonemergency transportation services in  
2552 agency service area 11 with managed care plans that were under



606-08690-08

20081978c3

2553 contract for those services before July 1, 2004.

2554 Section 50. Subsections (8), (12), and (13) of section  
2555 427.011, Florida Statutes, are amended to read:

2556 427.011 Definitions.--For the purposes of ss. 427.011-  
2557 427.017:

2558 (8) "Purchasing agency" ~~"Member department"~~ means a  
2559 department or agency whose head is an ex officio, nonvoting  
2560 advisor to a member of the commission, or an agency that  
2561 purchases transportation services for the transportation  
2562 disadvantaged.

2563 ~~(12) "Annual budget estimate" means a budget estimate of~~  
2564 ~~funding resources available for providing transportation services~~  
2565 ~~to the transportation disadvantaged and which is prepared~~  
2566 ~~annually to cover a period of 1 state fiscal year.~~

2567 ~~(12)-(13)~~ "Nonsponsored transportation disadvantaged  
2568 services" means transportation disadvantaged services that are  
2569 not sponsored or subsidized by any funding source other than the  
2570 Transportation Disadvantaged Trust Fund.

2571 Section 51. Subsection (4) of section 427.012, Florida  
2572 Statutes, is amended to read:

2573 427.012 The Commission for the Transportation  
2574 Disadvantaged.--There is created the Commission for the  
2575 Transportation Disadvantaged in the Department of Transportation.

2576 (4) The commission shall meet at least quarterly, or more  
2577 frequently at the call of the chairperson. Four ~~Five~~ members of  
2578 the commission constitute a quorum, and a majority vote of the  
2579 members present is necessary for any action taken by the  
2580 commission.

2581 Section 52. Subsections (7), (8), (9), (14), and (26) of

606-08690-08

20081978c3

2582 section 427.013, Florida Statutes, are amended, and subsection  
2583 (29) is added to that section, to read:

2584 427.013 The Commission for the Transportation  
2585 Disadvantaged; purpose and responsibilities.--The purpose of the  
2586 commission is to accomplish the coordination of transportation  
2587 services provided to the transportation disadvantaged. The goal  
2588 of this coordination is shall be to assure the cost-effective  
2589 provision of transportation by qualified community transportation  
2590 coordinators or transportation operators for the transportation  
2591 disadvantaged without any bias or presumption in favor of  
2592 multioperator systems or not-for-profit transportation operators  
2593 over single operator systems or for-profit transportation  
2594 operators. In carrying out this purpose, the commission shall:

2595 (7) Unless otherwise provided by state or federal law,  
2596 ensure ~~Assure~~ that all procedures, guidelines, and directives  
2597 issued by purchasing agencies ~~member departments~~ are conducive to  
2598 the coordination of transportation services.

2599 (8) (a) Ensure ~~Assure~~ that purchasing agencies ~~member~~  
2600 ~~departments~~ purchase all trips within the coordinated system,  
2601 unless they have fulfilled the requirements of s. 427.0135(3) and  
2602 use a more cost-effective alternative provider that meets  
2603 comparable quality and standards.

2604 (b) Unless the purchasing agency has negotiated with the  
2605 commission pursuant to the requirements of s. 427.0135(3),  
2606 provide, by rule, criteria and procedures for purchasing agencies  
2607 ~~member departments~~ to use if they wish to use an alternative  
2608 provider. Agencies ~~Departments~~ must demonstrate ~~either~~ that the  
2609 proposed alternative provider can provide a trip of comparable  
2610 ~~acceptable~~ quality and standards for the clients at a lower cost

606-08690-08

20081978c3

2611 than that provided within the coordinated system, or that the  
2612 coordinated system cannot accommodate the agency's ~~department's~~  
2613 clients.

2614 (9) Unless the purchasing agency has negotiated with the  
2615 commission pursuant to the requirements of s. 427.0135(3),  
2616 develop by rule standards for community transportation  
2617 coordinators and any transportation operator or coordination  
2618 contractor from whom service is purchased or arranged by the  
2619 community transportation coordinator covering coordination,  
2620 operation, safety, insurance, eligibility for service, costs, and  
2621 utilization of transportation disadvantaged services. These  
2622 standards and rules must include, but are not limited to:

2623 ~~(a) Inclusion, by rule, of acceptable ranges of trip costs~~  
2624 ~~for the various modes and types of transportation services~~  
2625 ~~provided.~~

2626 (a) ~~(b)~~ Minimum performance standards for the delivery of  
2627 services. These standards must be included in coordinator  
2628 contracts and transportation operator contracts with clear  
2629 penalties for repeated or continuing violations.

2630 (b) ~~(e)~~ Minimum liability insurance requirements for all  
2631 transportation services purchased, provided, or coordinated for  
2632 the transportation disadvantaged through the community  
2633 transportation coordinator.

2634 (14) Consolidate, for each state agency, ~~the annual budget~~  
2635 ~~estimates for transportation disadvantaged services,~~ and the  
2636 amounts of each agency's actual expenditures, together with the  
2637 actual expenditures ~~annual budget estimates~~ of each official  
2638 ~~planning agency,~~ local government, and directly federally funded  
2639 agency and the amounts collected by each official planning agency

606-08690-08

20081978c3

2640 ~~issue a report.~~

2641 (26) Develop a quality assurance and management review  
2642 program to monitor, based upon approved commission standards,  
2643 services contracted for by an agency, and those provided by a  
2644 community transportation operator pursuant to s. 427.0155. ~~Staff~~  
2645 ~~of the quality assurance and management review program shall~~  
2646 ~~function independently and be directly responsible to the~~  
2647 ~~executive director.~~

2648 (29) Incur expenses for the purchase of advertisements,  
2649 marketing services, and promotional items.

2650 Section 53. Section 427.0135, Florida Statutes, is amended  
2651 to read:

2652 427.0135 Purchasing agencies ~~Member departments~~; duties and  
2653 responsibilities.--Each purchasing agency ~~member department~~, in  
2654 carrying out the policies and procedures of the commission,  
2655 shall:

2656 (1) ~~(a)~~ Use the coordinated transportation system for  
2657 provision of services to its clients, unless each department or  
2658 purchasing agency meets the criteria outlined in rule or statute  
2659 to use an alternative provider.

2660 ~~(b) Subject to the provisions of s. 409.908(18), the~~  
2661 ~~Medicaid agency shall purchase transportation services through~~  
2662 ~~the community coordinated transportation system unless a more~~  
2663 ~~cost-effective method is determined by the agency for Medicaid~~  
2664 ~~clients or unless otherwise limited or directed by the General~~  
2665 ~~Appropriations Act.~~

2666 (2) Pay the rates established in the service plan or  
2667 negotiated statewide contract, unless the purchasing agency has  
2668 completed the procedure for using an alternative provider and

606-08690-08

20081978c3

2669 demonstrated that a proposed alternative provider can provide a  
2670 more cost-effective transportation service of comparable quality  
2671 and standards or unless the agency has satisfied the requirements  
2672 of subsection (3).

2673 (3) Not procure transportation disadvantaged services  
2674 without initially negotiating with the commission, as provided in  
2675 s. 287.057(5)(f)13., or unless otherwise authorized by statute.  
2676 If the purchasing agency, after consultation with the commission,  
2677 determines that it cannot reach mutually acceptable contract  
2678 terms with the commission, the purchasing agency may contract for  
2679 the same transportation services provided in a more cost-  
2680 effective manner and of comparable or higher quality and  
2681 standards. The Medicaid agency shall implement this subsection in  
2682 a manner consistent with s. 409.908(18) and as otherwise limited  
2683 or directed by the General Appropriations Act.

2684 (4) Identify in the legislative budget request provided to  
2685 the Governor each year for the General Appropriations Act the  
2686 specific amount of money the purchasing agency will allocate to  
2687 provide transportation disadvantaged services.

2688 (5)(2) Provide the commission, by September 15 of each  
2689 year, an accounting of all funds spent as well as how many trips  
2690 were purchased with agency funds.

2691 (6)(3) Assist communities in developing coordinated  
2692 transportation systems designed to serve the transportation  
2693 disadvantaged. However, a purchasing agency ~~member department~~ may  
2694 not serve as the community transportation coordinator in any  
2695 designated service area.

2696 (7)(4) ~~Ensure~~ Assure that its rules, procedures,  
2697 guidelines, and directives are conducive to the coordination of

606-08690-08

20081978c3

2698 transportation funds and services for the transportation  
2699 disadvantaged.

2700 (8)~~(5)~~ Provide technical assistance, as needed, to  
2701 community transportation coordinators or transportation operators  
2702 or participating agencies.

2703 Section 54. Subsections (2) and (3) of section 427.015,  
2704 Florida Statutes, are amended to read:

2705 427.015 Function of the metropolitan planning organization  
2706 or designated official planning agency in coordinating  
2707 transportation for the transportation disadvantaged.--

2708 (2) Each metropolitan planning organization or designated  
2709 official planning agency shall recommend to the commission a  
2710 single community transportation coordinator. However, a  
2711 purchasing agency ~~member department~~ may not serve as the  
2712 community transportation coordinator in any designated service  
2713 area. The coordinator may provide all or a portion of needed  
2714 transportation services for the transportation disadvantaged but  
2715 shall be responsible for the provision of those coordinated  
2716 services. Based on approved commission evaluation criteria, the  
2717 coordinator shall subcontract or broker those services that are  
2718 more cost-effectively and efficiently provided by subcontracting  
2719 or brokering. The performance of the coordinator shall be  
2720 evaluated based on the commission's approved evaluation criteria  
2721 by the coordinating board at least annually. A copy of the  
2722 evaluation shall be submitted to the metropolitan planning  
2723 organization or the designated official planning agency, and the  
2724 commission. The recommendation or termination of any community  
2725 transportation coordinator shall be subject to approval by the  
2726 commission.

606-08690-08

20081978c3

2727 (3) Each metropolitan planning organization or designated  
2728 official planning agency shall request each local government in  
2729 its jurisdiction to provide the actual expenditures ~~an estimate~~  
2730 of all local and direct federal funds to be expended for  
2731 transportation for the disadvantaged. The metropolitan planning  
2732 organization or designated official planning agency shall  
2733 consolidate this information into a single report and forward it,  
2734 by September 15 ~~the beginning of each fiscal year~~, to the  
2735 commission.

2736 Section 55. Subsection (7) of section 427.0155, Florida  
2737 Statutes, is amended to read:

2738 427.0155 Community transportation coordinators; powers and  
2739 duties.--Community transportation coordinators shall have the  
2740 following powers and duties:

2741 (7) In cooperation with the coordinating board and pursuant  
2742 to criteria developed by the Commission for the Transportation  
2743 Disadvantaged, establish eligibility guidelines and priorities  
2744 with regard to the recipients of nonsponsored transportation  
2745 disadvantaged services that are purchased with Transportation  
2746 Disadvantaged Trust Fund moneys.

2747 Section 56. Subsection (4) of section 427.0157, Florida  
2748 Statutes, is amended to read:

2749 427.0157 Coordinating boards; powers and duties.--The  
2750 purpose of each coordinating board is to develop local service  
2751 needs and to provide information, advice, and direction to the  
2752 community transportation coordinators on the coordination of  
2753 services to be provided to the transportation disadvantaged. The  
2754 commission shall, by rule, establish the membership of  
2755 coordinating boards. The members of each board shall be appointed

606-08690-08

20081978c3

2756 | by the metropolitan planning organization or designated official  
2757 | planning agency. The appointing authority shall provide each  
2758 | board with sufficient staff support and resources to enable the  
2759 | board to fulfill its responsibilities under this section. Each  
2760 | board shall meet at least quarterly and shall:

2761 |       (4) Assist the community transportation coordinator in  
2762 | establishing eligibility guidelines and priorities with regard to  
2763 | the recipients of nonsponsored transportation disadvantaged  
2764 | services that are purchased with Transportation Disadvantaged  
2765 | Trust Fund moneys.

2766 |       Section 57. Subsections (2) and (3) of section 427.0158,  
2767 | Florida Statutes, are amended to read:

2768 |       427.0158 School bus and public transportation.--

2769 |       (2) The school boards shall cooperate in the utilization of  
2770 | their vehicles to enhance coordinated ~~disadvantaged~~  
2771 | transportation disadvantaged services by providing ~~the~~  
2772 | information as requested by the community transportation  
2773 | coordinator ~~required by this section~~ and by allowing the use of  
2774 | their vehicles at actual cost upon request when those vehicles  
2775 | are available for such use and are not transporting students.  
2776 | ~~Semiannually, no later than October 1 and April 30, a designee~~  
2777 | ~~from the local school board shall provide the community~~  
2778 | ~~transportation coordinator with copies to the coordinated~~  
2779 | ~~transportation board, the following information for vehicles not~~  
2780 | ~~scheduled 100 percent of the time for student transportation use:~~

2781 |       ~~(a) The number and type of vehicles by adult capacity,~~  
2782 | ~~including days and times, that the vehicles are available for~~  
2783 | ~~coordinated transportation disadvantaged services;~~

2784 |       ~~(b) The actual cost per mile by vehicle type available;~~



606-08690-08

20081978c3

2785 ~~(c) The actual driver cost per hour;~~  
 2786 ~~(d) Additional actual cost associated with vehicle use~~  
 2787 ~~outside the established workday or workweek of the entity; and~~  
 2788 ~~(e) Notification of lead time required for vehicle use.~~

2789 (3) The public transit fixed route or fixed schedule system  
 2790 shall cooperate in the utilization of its regular service to  
 2791 enhance coordinated transportation disadvantaged services by  
 2792 providing the information as requested by the community  
 2793 transportation coordinator ~~required by this section. Annually, no~~  
 2794 ~~later than October 1, a designee from the local public transit~~  
 2795 ~~fixed route or fixed schedule system shall provide~~ The community  
 2796 transportation coordinator may request, without limitation, with  
 2797 ~~copies to the coordinated transportation board,~~ the following  
 2798 information:

2799 (a) A copy of all current schedules, route maps, system  
 2800 map, and fare structure;

2801 (b) A copy of the current charter policy;

2802 (c) A copy of the current charter rates and hour  
 2803 requirements; and

2804 (d) Required notification time to arrange for a charter.

2805 Section 58. Subsection (4) is added to section 427.0159,  
 2806 Florida Statutes, to read:

2807 427.0159 Transportation Disadvantaged Trust Fund.--

2808 (4) A purchasing agency may deposit funds into the  
 2809 Transportation Disadvantaged Trust Fund for the commission to  
 2810 implement, manage, and administer the purchasing agency's  
 2811 transportation disadvantaged funds, as defined in s. 427.011(10).

2812 Section 59. Paragraph (b) of subsection (1) and subsection  
 2813 (2) of section 427.016, Florida Statutes, are amended to read:

606-08690-08

20081978c3

2814 427.016 Expenditure of local government, state, and federal  
2815 funds for the transportation disadvantaged.--

2816 (1)

2817 (b) ~~Nothing in~~ This subsection does not ~~shall be construed~~  
2818 ~~to limit or preclude~~ a purchasing the Medicaid agency from  
2819 establishing maximum fee schedules, individualized reimbursement  
2820 policies by provider type, negotiated fees, ~~competitive bidding,~~  
2821 or any other mechanism, including contracting after initial  
2822 negotiation with the commission, which ~~that~~ the agency considers  
2823 more cost-effective and of comparable or higher quality and  
2824 standards than those of the commission ~~efficient and effective~~  
2825 for the purchase of services on behalf of its ~~Medicaid~~ clients if  
2826 it has fulfilled the requirements of s. 427.0135(3) or the  
2827 procedure for using an alternative provider. State and local  
2828 agencies shall not contract for any transportation disadvantaged  
2829 services, including Medicaid reimbursable transportation  
2830 services, with any community transportation coordinator or  
2831 transportation operator that has been determined by the Agency  
2832 for Health Care Administration, the Department of Legal Affairs  
2833 Medicaid Fraud Control Unit, or any state or federal agency to  
2834 have engaged in any abusive or fraudulent billing activities.

2835 (2) Each year, each agency, whether or not it is an ex  
2836 officio, nonvoting advisor to ~~a member of~~ the Commission for the  
2837 Transportation Disadvantaged, shall identify in the legislative  
2838 budget request provided to the Governor for the General  
2839 Appropriations Act ~~inform the commission in writing, before the~~  
2840 ~~beginning of each fiscal year,~~ of the specific amount of any  
2841 money the agency will allocate ~~allocated~~ for the provision of  
2842 transportation disadvantaged services. Additionally, each state

606-08690-08

20081978c3

2843 | agency shall, by September 15 of each year, provide the  
2844 | commission with an accounting of the actual amount of funds  
2845 | expended and the total number of trips purchased.

2846 |       Section 60. Subsection (1) of section 479.01, Florida  
2847 | Statutes, is amended to read:

2848 |       479.01 Definitions.--As used in this chapter, the term:

2849 |       (1) "Automatic changeable facing" means a facing that ~~which~~  
2850 | ~~through a mechanical system~~ is capable of delivering two or more  
2851 | advertising messages through an automated or remotely controlled  
2852 | process ~~and shall not rotate so rapidly as to cause distraction~~  
2853 | ~~to a motorist.~~

2854 |       Section 61. Subsections (1) and (5) of section 479.07,  
2855 | Florida Statutes, are amended to read:

2856 |       479.07 Sign permits.--

2857 |       (1) Except as provided in ss. 479.105(1)(e) and 479.16, a  
2858 | person may not erect, operate, use, or maintain, or cause to be  
2859 | erected, operated, used, or maintained, any sign on the State  
2860 | Highway System outside an urban incorporated area, as defined in  
2861 | s. 334.03(32), or on any portion of the interstate or federal-aid  
2862 | primary highway system without first obtaining a permit for the  
2863 | sign from the department and paying the annual fee as provided in  
2864 | this section. For purposes of this section, "on any portion of  
2865 | the State Highway System, interstate, or federal-aid primary  
2866 | system" shall mean a sign located within the controlled area  
2867 | which is visible from any portion of the main-traveled way of  
2868 | such system.

2869 |       (5) (a) For each permit issued, the department shall furnish  
2870 | to the applicant a serially numbered permanent metal permit tag.  
2871 | The permittee is responsible for maintaining a valid permit tag

606-08690-08

20081978c3

2872 on each permitted sign facing at all times. The tag shall be  
2873 securely attached to the sign facing or, if there is no facing,  
2874 on the pole nearest the highway; and it shall be attached in such  
2875 a manner as to be plainly visible from the main-traveled way.  
2876 Effective July 1, 2011, the tag shall be securely attached to the  
2877 upper 50 percent of the pole nearest the highway in a manner as  
2878 to be plainly visible from the main-traveled way. The permit will  
2879 become void unless the permit tag is properly and permanently  
2880 displayed at the permitted site within 30 days after the date of  
2881 permit issuance. If the permittee fails to erect a completed sign  
2882 on the permitted site within 270 days after the date on which the  
2883 permit was issued, the permit will be void, and the department  
2884 may not issue a new permit to that permittee for the same  
2885 location for 270 days after the date on which the permit became  
2886 void.

2887 (b) If a permit tag is lost, stolen, or destroyed, the  
2888 permittee to whom the tag was issued may ~~must~~ apply to the  
2889 department for a replacement tag. The department shall establish  
2890 by rule a service fee for replacement tags in an amount that will  
2891 recover the actual cost of providing the replacement tag. Upon  
2892 receipt of the application accompanied by the ~~a~~ service fee ~~of~~  
2893 ~~\$3~~, the department shall issue a replacement permit tag.  
2894 Alternatively, the permittee may provide its own replacement tag  
2895 pursuant to department specifications which the department shall  
2896 establish by rule at the time it establishes the service fee for  
2897 replacement tags.

2898 Section 62. Section 479.08, Florida Statutes, is amended to  
2899 read:

2900 479.08 Denial or revocation of permit.--The department has

606-08690-08

20081978c3

2901 | the authority to deny or revoke any permit requested or granted  
2902 | under this chapter in any case in which it determines that the  
2903 | application for the permit contains knowingly false or knowingly  
2904 | misleading information. The department may revoke any permit  
2905 | granted under this chapter in any case where ~~or that~~ the  
2906 | permittee has violated any of the provisions of this chapter,  
2907 | unless such permittee, within 30 days after the receipt of notice  
2908 | by the department, ~~corrects such false or misleading information~~  
2909 | ~~and~~ complies with the provisions of this chapter. For the purpose  
2910 | of this subsection, the notice of violation issued by the  
2911 | department shall describe in detail the alleged violation. Any  
2912 | person aggrieved by any action of the department in denying or  
2913 | revoking a permit under this chapter may, within 30 days after  
2914 | receipt of the notice, apply to the department for an  
2915 | administrative hearing pursuant to chapter 120. If a timely  
2916 | request for hearing has been filed and the department issues a  
2917 | final order revoking a permit, such revocation shall be effective  
2918 | 30 days after the date of rendition. Except for department action  
2919 | pursuant to s. 479.107(1), the filing of a timely and proper  
2920 | notice of appeal shall operate to stay the revocation until the  
2921 | department's action is upheld.

2922 |       Section 63. Section 479.156, Florida Statutes, is amended  
2923 | to read:

2924 |       479.156 Wall murals.--Notwithstanding any other provision  
2925 | of this chapter, a municipality or county may permit and regulate  
2926 | wall murals within areas designated by such government. If a  
2927 | municipality or county permits wall murals, a wall mural that  
2928 | displays a commercial message and is within 660 feet of the  
2929 | nearest edge of the right-of-way within an area adjacent to the

606-08690-08

20081978c3

2930 interstate highway system or the federal-aid primary highway  
2931 system shall be located in an area that is zoned for industrial  
2932 or commercial use and the municipality or county shall establish  
2933 and enforce regulations for such areas that, at a minimum, set  
2934 forth criteria governing the size, lighting, and spacing of wall  
2935 murals consistent with the intent of the Highway Beautification  
2936 Act of 1965 and with customary use. Whenever a municipality or  
2937 county exercises such control and makes a determination of  
2938 customary use, pursuant to 23 U.S.C. s. 131(d), such  
2939 determination shall be accepted in lieu of controls in the  
2940 agreement between the state and the United States Department of  
2941 Transportation, and the Department of Transportation shall notify  
2942 the Federal Highway Administration pursuant to the agreement, 23  
2943 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c). A wall mural that  
2944 is subject to municipal or county regulation and the Highway  
2945 Beautification Act of 1965 must be approved by the Department of  
2946 Transportation and the Federal Highway Administration where  
2947 required by federal law and federal regulation pursuant to ~~and~~  
2948 ~~may not violate~~ the agreement between the state and the United  
2949 States Department of Transportation and ~~or violate~~ federal  
2950 regulations enforced by the Department of Transportation under s.  
2951 479.02(1). The existence of a wall mural as defined in s.  
2952 479.01(27) shall not be considered in determining whether a sign  
2953 as defined in s. 479.01(17), either existing or new, is in  
2954 compliance with s. 479.07(9) (a).

2955 Section 64. Subsections (1), (3), (4), and (5) of section  
2956 479.261, Florida Statutes, are amended to read:

2957 479.261 Logo sign program.--

606-08690-08

20081978c3

2958 (1) The department shall establish a logo sign program for  
2959 the rights-of-way of the interstate highway system to provide  
2960 information to motorists about available gas, food, lodging, ~~and~~  
2961 camping, attractions, and other services, as approved by the  
2962 Federal Highway Administration, at interchanges, through the use  
2963 of business logos, and may include additional interchanges under  
2964 the program. ~~A logo sign for nearby attractions may be added to~~  
2965 ~~this program if allowed by federal rules.~~

2966 (a) An attraction as used in this chapter is defined as an  
2967 establishment, site, facility, or landmark that ~~which~~ is open a  
2968 minimum of 5 days a week for 52 weeks a year; that ~~which~~ ~~charges~~  
2969 ~~an admission for entry; which~~ has as its principal focus family-  
2970 oriented entertainment, cultural, educational, recreational,  
2971 scientific, or historical activities; and that ~~which~~ is publicly  
2972 recognized as a bona fide tourist attraction. ~~However, the~~  
2973 ~~permits for businesses seeking to participate in the attractions~~  
2974 ~~logo sign program shall be awarded by the department annually to~~  
2975 ~~the highest bidders, notwithstanding the limitation on fees in~~  
2976 ~~subsection (5), which are qualified for available space at each~~  
2977 ~~qualified location, but the fees therefor may not be less than~~  
2978 ~~the fees established for logo participants in other logo~~  
2979 ~~categories.~~

2980 (b) The department shall incorporate the use of RV-friendly  
2981 markers on specific information logo signs for establishments  
2982 that cater to the needs of persons driving recreational vehicles.  
2983 Establishments that qualify for participation in the specific  
2984 information logo program and that also qualify as "RV-friendly"  
2985 may request the RV-friendly marker on their specific information  
2986 logo sign. An RV-friendly marker must consist of a design

606-08690-08

20081978c3

2987 approved by the Federal Highway Administration. The department  
2988 shall adopt rules in accordance with chapter 120 to administer  
2989 this paragraph, including rules setting forth the minimum  
2990 requirements that establishments must meet in order to qualify as  
2991 RV-friendly. These requirements shall include large parking  
2992 spaces, entrances, and exits that can easily accommodate  
2993 recreational vehicles and facilities having appropriate overhead  
2994 clearances, if applicable.

2995 (c) The department may implement a 3-year rotation-based  
2996 logo program providing for the removal and addition of  
2997 participating businesses in the program.

2998 (3) Logo signs may be installed upon the issuance of an  
2999 annual permit by the department or its agent and payment of a ~~an~~  
3000 ~~application and~~ permit fee to the department or its agent.

3001 (4) The department may contract pursuant to s. 287.057 for  
3002 the provision of services related to the logo sign program,  
3003 including recruitment and qualification of businesses, review of  
3004 applications, permit issuance, and fabrication, installation, and  
3005 maintenance of logo signs. The department may reject all  
3006 proposals and seek another request for proposals or otherwise  
3007 perform the work. ~~If the department contracts for the provision~~  
3008 ~~of services for the logo sign program, the contract must require,~~  
3009 ~~unless the business owner declines, that businesses that~~  
3010 ~~previously entered into agreements with the department to~~  
3011 ~~privately fund logo sign construction and installation be~~  
3012 ~~reimbursed by the contractor for the cost of the signs which has~~  
3013 ~~not been recovered through a previously agreed upon waiver of~~  
3014 ~~fees.~~ The contract also may allow the contractor to retain a  
3015 portion of the annual fees as compensation for its services.



606-08690-08

20081978c3

3016 (5) Permit fees for businesses that participate in the  
3017 program must be established in an amount sufficient to offset the  
3018 total cost to the department for the program, including contract  
3019 costs. The department shall provide the services in the most  
3020 efficient and cost-effective manner through department staff or  
3021 by contracting for some or all of the services. The department  
3022 shall adopt rules that set reasonable rates based upon factors  
3023 such as population, traffic volume, market demand, and costs for  
3024 annual permit fees. However, annual permit fees for sign  
3025 locations inside an urban area, as defined in s. 334.03(32), may  
3026 not exceed \$5,000 and annual permit fees for sign locations  
3027 outside an urban area, as defined in s. 334.03(32), may not  
3028 exceed \$2,500. After recovering program costs, the proceeds from  
3029 the logo program shall be deposited into the State Transportation  
3030 Trust Fund and used for transportation purposes. ~~Such annual~~  
3031 permit fee shall not exceed \$1,250.

3032 Section 65. Section 212.0606, Florida Statutes, is amended  
3033 to read:

3034 212.0606 Rental car surcharge; discretionary local rental  
3035 car surcharge.--

3036 (1) A surcharge of \$2 ~~\$2.00~~ per day or any part of a day is  
3037 imposed upon the lease or rental of a motor vehicle licensed for  
3038 hire and designed to carry fewer ~~less~~ than nine passengers,  
3039 regardless of whether such motor vehicle is licensed in Florida.  
3040 The surcharge applies to only the first 30 days of the term of  
3041 any lease or rental and. ~~The surcharge~~ is subject to all  
3042 applicable taxes imposed by this chapter.

3043 (2) (a) Notwithstanding s. ~~the provisions of section~~ 212.20,  
3044 and less costs of administration, 80 percent of the proceeds of

606-08690-08

20081978c3

3045 ~~the this~~ surcharge imposed under subsection (1) shall be  
3046 deposited in the State Transportation Trust Fund, 15.75 percent  
3047 of the proceeds of this surcharge shall be deposited in the  
3048 Tourism Promotional Trust Fund created in s. 288.122, and 4.25  
3049 percent of the proceeds of this surcharge shall be deposited in  
3050 the Florida International Trade and Promotion Trust Fund. As used  
3051 in ~~For the purposes of~~ this subsection, "proceeds" of the  
3052 surcharge means all funds collected and received by the  
3053 department under subsection (1) ~~this section~~, including interest  
3054 and penalties on delinquent surcharges. The department shall  
3055 provide the Department of Transportation rental car surcharge  
3056 revenue information for the previous state fiscal year by  
3057 September 1 of each year.

3058 (b) Notwithstanding any other provision of law, in fiscal  
3059 year 2007-2008 and each year thereafter, the proceeds deposited  
3060 in the State Transportation Trust Fund shall be allocated on an  
3061 annual basis in the Department of Transportation's work program  
3062 to each department district, except the Turnpike District. The  
3063 amount allocated for each district shall be based upon the amount  
3064 of proceeds attributed to the counties within each respective  
3065 district.

3066 (3) (a) In addition to the surcharge imposed under  
3067 subsection (1), each county containing an international airport  
3068 may levy a discretionary local surcharge pursuant to county  
3069 ordinance and subject to approval by a majority vote of the  
3070 electorate of the county voting in a referendum on the local  
3071 surcharge of \$2 per day, or any part of a day, upon the lease or  
3072 rental, originating at an international airport, of a motor  
3073 vehicle licensed for hire and designed to carry fewer than nine

606-08690-08

20081978c3

3074 passengers, regardless of whether such motor vehicle is licensed  
3075 in this state. The surcharge may be applied to only the first 30  
3076 days of the term of the lease or rental and is subject to all  
3077 applicable taxes imposed by this chapter.

3078 (b) If the ordinance authorizing the imposition of the  
3079 surcharge is approved by such referendum, a certified copy of the  
3080 ordinance shall be furnished by the county to the department  
3081 within 10 days after such approval, but no later than November 16  
3082 prior to the effective date. The notice must specify the time  
3083 period during which the surcharge will be in effect and must  
3084 include a copy of the ordinance and such other information as the  
3085 department requires by rule. Failure to timely provide such  
3086 notification to the department shall result in delay of the  
3087 effective date for a period of 1 year. The effective date for any  
3088 county to impose the surcharge shall be January 1 following the  
3089 year in which the ordinance was approved by referendum. A local  
3090 surcharge may not terminate on a date other than December 31.

3091 (c) Any dealer that collects the local surcharge but fails  
3092 to report surcharge collections by county, as required by  
3093 paragraph (4) (b), shall have the surcharge proceeds deposited  
3094 into the Solid Waste Management Trust Fund and then transferred  
3095 to the Local Option Fuel Tax Trust Fund, which is separate from  
3096 the county surcharge collection accounts. The department shall  
3097 distribute funds in this account, less the cost of  
3098 administration, using a distribution factor determined for each  
3099 county that levies a surcharge based on the county's latest  
3100 official population determined pursuant to s. 186.901 and  
3101 multiplied by the amount of funds in the account and available  
3102 for distribution.

606-08690-08

20081978c3

3103           (d) Notwithstanding s. 212.20, and less the costs of  
3104 administration, the proceeds of the local surcharge imposed under  
3105 paragraph (a) shall be transferred to the Local Option Fuel Tax  
3106 Trust Fund and distributed monthly by the department under s.  
3107 336.025(3)(a)1. or (4)(a) and used solely for costs associated  
3108 with the construction, reconstruction, operation, maintenance,  
3109 and repair of facilities under a commuter rail service program  
3110 provided by the state or other governmental entity. As used in  
3111 this subsection, "proceeds" of the local surcharge means all  
3112 funds collected and received by the department under this  
3113 subsection, including interest and penalties on delinquent  
3114 surcharges.

3115           (4)~~(3)~~(a) Except as provided in this section, the  
3116 department shall administer, collect, and enforce the surcharge  
3117 and local surcharge as provided in this chapter.

3118           (b) The department shall require dealers to report  
3119 surcharge collections according to the county to which the  
3120 surcharge and local surcharge was attributed. For purposes of  
3121 this section, the surcharge and local surcharge shall be  
3122 attributed to the county where the rental agreement was entered  
3123 into.

3124           (c) Dealers who collect a ~~the~~ rental car surcharge shall  
3125 report to the department all surcharge and local surcharge  
3126 revenues attributed to the county where the rental agreement was  
3127 entered into on a timely filed return for each required reporting  
3128 period. The provisions of this chapter which apply to interest  
3129 and penalties on delinquent taxes shall apply to the surcharge  
3130 and local surcharge. The surcharge and local surcharge shall not  
3131 be included in the calculation of estimated taxes pursuant to s.

606-08690-08

20081978c3

3132 212.11. The dealer's credit provided in s. 212.12 shall not apply  
3133 to any amount collected under this section.

3134 (5)~~(4)~~ The surcharge and any local surcharge imposed by  
3135 this section does not apply to a motor vehicle provided at no  
3136 charge to a person whose motor vehicle is being repaired,  
3137 adjusted, or serviced by the entity providing the replacement  
3138 motor vehicle.

3139 Section 66. Subsections (8), (9), (10), (11), (12), (13),  
3140 and (14) are added to section 341.301, Florida Statutes, to read:

3141 341.301 Definitions; ss. 341.302 and 341.303.--As used in  
3142 ss. 341.302 and 341.303, the term:

3143 (8) "Commuter rail passenger" or "passengers" means and  
3144 includes any and all persons, ticketed or unticketed, using the  
3145 commuter rail service on a department owned rail corridor:

3146 (a) On board trains, locomotives, rail cars, or rail  
3147 equipment employed in commuter rail service or entraining and  
3148 detraining therefrom;

3149 (b) On or about the rail corridor for any purpose related  
3150 to the commuter rail service, including, without limitation,  
3151 parking, inquiring about commuter rail service or purchasing  
3152 tickets therefor, and coming to, waiting for, leaving from, or  
3153 observing trains, locomotives, rail cars, or rail equipment; or

3154 (c) Meeting, assisting, or in the company of any person  
3155 described in paragraph (a) or paragraph (b).

3156 (9) "Commuter rail service" means the transportation of  
3157 commuter rail passengers and other passengers by rail pursuant to  
3158 a rail program provided by the department or any other  
3159 governmental entities.

3160 (10) "Rail corridor invitee" means and includes any and all

606-08690-08

20081978c3

3161 persons who are on or about a department-owned rail corridor:

3162 (a) For any purpose related to any ancillary development  
3163 thereon; or

3164 (b) Meeting, assisting, or in the company of any person  
3165 described in paragraph (a).

3166 (11) "Rail corridor" means a linear contiguous strip of  
3167 real property that is used for rail service. The term includes  
3168 the corridor and structures essential to the operation of a  
3169 railroad, including the land, structures, improvements, rights-  
3170 of-way, easements, rail lines, rail beds, guideway structures,  
3171 switches, yards, parking facilities, power relays, switching  
3172 houses, rail stations, ancillary development, and any other  
3173 facilities or equipment used for the purposes of construction,  
3174 operation, or maintenance of a railroad that provides rail  
3175 service.

3176 (12) "Railroad operations" means the use of the rail  
3177 corridor to conduct commuter rail service, intercity rail  
3178 passenger service, or freight rail service.

3179 (13) "Ancillary development" includes any lessee or  
3180 licensee of the department, including, but not limited to, other  
3181 governmental entities, vendors, retailers, restaurateurs, or  
3182 contract service providers, within a department-owned rail  
3183 corridor, except for providers of commuter rail service,  
3184 intercity rail passenger service, or freight rail service.

3185 (14) "Governmental entity" or "entities" means as defined  
3186 in s. 11.45, including a "public agency" as defined in s. 163.01.

3187 Section 67. Present subsection (17) of Section 341.302,  
3188 Florida Statutes, is redesignated as subsection (19) and new  
3189 subsections (17) and (18) are added to that section, to read:

606-08690-08

20081978c3

3190           341.302 Rail program, duties and responsibilities of the  
3191 department.--The department, in conjunction with other  
3192 governmental entities ~~units~~ and the private sector, shall develop  
3193 and implement a rail program of statewide application designed to  
3194 ensure the proper maintenance, safety, revitalization, and  
3195 expansion of the rail system to assure its continued and  
3196 increased availability to respond to statewide mobility needs.  
3197 Within the resources provided pursuant to chapter 216, and as  
3198 authorized under federal law ~~Title 49 C.F.R. part 212~~, the  
3199 department shall:

3200           (17) The department is authorized to purchase the required  
3201 right-of-way, improvements, and appurtenances of the A-Line rail  
3202 corridor from CSX Transportation, Inc., for a maximum purchase  
3203 price of \$450 million for the primary purpose of implementing  
3204 commuter rail service in what is commonly identified as the  
3205 Central Florida Rail Corridor, and consisting of an approximately  
3206 61.5-mile section of the existing A-Line rail corridor running  
3207 from a point at or near Deland, Florida to a point at or near  
3208 Poinciana, Florida.

3209           (18) Prior to operation of commuter rail in Central  
3210 Florida, CSX and the department shall enter into a written  
3211 agreement with the labor unions which will protect the interests  
3212 of the employees who could be adversely affected.

3213           (19) In conjunction with the acquisition, ownership,  
3214 construction, operation, maintenance, and management of a rail  
3215 corridor, the department shall have the authority to:

3216           (a) Assume the obligation by contract to forever protect,  
3217 defend, and indemnify and hold harmless the freight rail  
3218 operator, or its successors, from whom the department has

606-08690-08

20081978c3

3219 acquired a real property interest in the rail corridor, and that  
3220 freight rail operator's officers, agents, and employees, from and  
3221 against any liability, cost, and expense including, but not  
3222 limited to, commuter rail passengers, rail corridor invitees, and  
3223 trespassers in the rail corridor, regardless of whether the loss,  
3224 damage, destruction, injury, or death giving rise to any such  
3225 liability, cost, or expense is caused in whole or in part and to  
3226 whatever nature or degree by the fault, failure, negligence,  
3227 misconduct, nonfeasance, or misfeasance of such freight rail  
3228 operator, its successors, or its officers, agents, and employees,  
3229 or any other person or persons whomsoever, provided that such  
3230 assumption of liability of the department by contract shall not  
3231 in any instance exceed the following parameters of allocation of  
3232 risk:

3233 1. The department may be solely responsible for any loss,  
3234 injury, or damage to commuter rail passengers, rail corridor  
3235 invitees, or trespassers, regardless of circumstances or cause,  
3236 subject to subparagraphs 2., 3., and 4.

3237 2. When only one train is involved in an incident, the  
3238 department may be solely responsible for any loss, injury, or  
3239 damage if the train is a department train or other train pursuant  
3240 to subparagraph 3., but only if in an instance when only a  
3241 freight rail operator train is involved the freight rail operator  
3242 is solely responsible for any loss, injury, or damage, except for  
3243 commuter rail passengers, rail corridor invitees, and  
3244 trespassers, and the freight rail operator is solely responsible  
3245 for its property and all of its people in any instance when its  
3246 train is involved in an incident.

3247 3. For the purposes of this subsection, any train involved



606-08690-08

20081978c3

3248 in an incident that is neither the department's train nor the  
3249 freight rail operator's train, hereinafter referred to in this  
3250 subsection as an "other train," may be treated as a department  
3251 train, solely for purposes of any allocation of liability between  
3252 the department and the freight rail operator only, but only if  
3253 the department and the freight rail operator share responsibility  
3254 equally as to third parties outside the rail corridor who incur  
3255 loss, injury, or damage as a result of any incident involving  
3256 both a department train and a freight rail operator train, and  
3257 the allocation as between the department and the freight rail  
3258 operator, regardless of whether the other train is treated as a  
3259 department train, shall remain one-half each as to third parties  
3260 outside the rail corridor who incur loss, injury, or damage as a  
3261 result of the incident, and the involvement of any other train  
3262 shall not alter the sharing of equal responsibility as to third  
3263 parties outside the rail corridor who incur loss, injury, or  
3264 damage as a result of the incident.

3265 4. When more than one train is involved in an incident:

3266 a. If only a department train and a freight rail operator's  
3267 train, or only another train as described in subparagraph 3. and  
3268 a freight rail operator's train, are involved in an incident, the  
3269 department may be responsible for its property and all of its  
3270 people, all commuter rail passengers, rail corridor invitees, and  
3271 trespassers, but only if the freight rail operator is responsible  
3272 for its property and all of its people, and the department and  
3273 the freight rail operator share responsibility one-half each as  
3274 to third parties outside the rail corridor who incur loss,  
3275 injury, or damage as a result of the incident.

3276 b. If a department train, a freight rail operator train,

606-08690-08

20081978c3

3277 and any other train are involved in an incident, the allocation  
3278 of liability as between the department and the freight rail  
3279 operator, regardless of whether the other train is treated as a  
3280 department train, shall remain one-half each as to third parties  
3281 outside the rail corridor who incur loss, injury, or damage as a  
3282 result of the incident; the involvement of any other train shall  
3283 not alter the sharing of equal responsibility as to third parties  
3284 outside the rail corridor who incur loss, injury, or damage as a  
3285 result of the incident; and, if the owner, operator, or insurer  
3286 of the other train makes any payment to injured third parties  
3287 outside the rail corridor who incur loss, injury, or damage as a  
3288 result of the incident, the allocation of credit between the  
3289 department and the freight rail operator as to such payment shall  
3290 not in any case reduce the freight rail operator's third party  
3291 sharing allocation of one-half under this paragraph to less than  
3292 one-third of the total third party liability.

3293 5. Any such contractual duty to protect, defend, indemnify,  
3294 and hold harmless such a freight rail operator shall expressly  
3295 include a specific cap on the amount of the contractual duty,  
3296 which amount shall not exceed \$200 million without prior  
3297 legislative approval; require the department to purchase  
3298 liability insurance and establish a self-insurance retention fund  
3299 in the amount of the specific cap established under this  
3300 paragraph; provide that no such contractual duty shall in any  
3301 case be effective nor otherwise extend the department's liability  
3302 in scope and effect beyond the contractual liability insurance  
3303 and self-insurance retention fund required pursuant to this  
3304 paragraph; and provide that the freight rail operator's  
3305 compensation to the department for future use of the department's

606-08690-08

20081978c3

3306 rail corridor shall include a monetary contribution to the cost  
3307 of such liability coverage for the sole benefit of the freight  
3308 rail operator.

3309 (b) Purchase liability insurance which amount shall not  
3310 exceed \$250 million and establish a self-insurance retention fund  
3311 for the purpose of paying the deductible limit established in the  
3312 insurance policies it may obtain, including coverage for the  
3313 department, any freight rail operator as described in paragraph  
3314 (a), commuter rail service providers, governmental entities, or  
3315 ancillary development; however, the insureds shall pay a  
3316 reasonable monetary contribution to the cost of such liability  
3317 coverage for the sole benefit of the insured. Such insurance and  
3318 self-insurance retention fund may provide coverage for all  
3319 damages, including, but not limited to, compensatory, special,  
3320 and exemplary, and be maintained to provide an adequate fund to  
3321 cover claims and liabilities for loss, injury, or damage arising  
3322 out of or connected with the ownership, operation, maintenance,  
3323 and management of a rail corridor.

3324 (c) Incur expenses for the purchase of advertisements,  
3325 marketing, and promotional items.

3326  
3327 Neither the assumption by contract to protect, defend, indemnify,  
3328 and hold harmless; the purchase of insurance; nor the  
3329 establishment of a self-insurance retention fund shall be deemed  
3330 to be a waiver of any defense of sovereign immunity for torts nor  
3331 deemed to increase the limits of the department's or the  
3332 governmental entity's liability for torts as provided in s.  
3333 768.28. The requirements of s. 287.022(1) shall not apply to the  
3334 purchase of any insurance hereunder. The provisions of this

606-08690-08

20081978c3

3335 subsection shall apply and inure fully as to any other  
3336 governmental entity providing commuter rail service and  
3337 constructing, operating, maintaining, or managing a rail corridor  
3338 on publicly owned right-of-way under contract by the governmental  
3339 entity with the department or a governmental entity designated by  
3340 the department.

3341 Section 68. Paragraph (d) of subsection (10) of section  
3342 768.28, Florida Statutes, is amended to read:

3343 768.28 Waiver of sovereign immunity in tort actions;  
3344 recovery limits; limitation on attorney fees; statute of  
3345 limitations; exclusions; indemnification; risk management  
3346 programs.--

3347 (10)

3348 (d) For the purposes of this section, operators,  
3349 dispatchers, and providers of security for rail services and rail  
3350 facility maintenance providers in the South Florida Rail Corridor  
3351 or the Central Florida Rail Corridor, or any of their employees  
3352 or agents, performing such services under contract with and on  
3353 behalf of the ~~South Florida Regional Transportation Authority or~~  
3354 ~~the~~ Department of Transportation shall be considered agents of  
3355 the state while acting within the scope of and pursuant to  
3356 guidelines established in the said contract or by rule; provided,  
3357 however, that the state, for itself, the Department of  
3358 Transportation, and such agents, hereby waives sovereign immunity  
3359 for liability for torts within the limits of insurance and self  
3360 insurance coverage provided for each rail corridor, which  
3361 coverage shall not be less than \$250 million per year aggregate  
3362 coverage per corridor with limits of not less than \$250,000 per  
3363 person and \$500,000 per incident or occurrence. Notwithstanding

606-08690-08

20081978c3

3364 subsection (8), an attorney may charge, demand, receive, or  
3365 collect, for services rendered, fees up to 40 percent of any  
3366 judgment or settlement related to the South Florida Rail Corridor  
3367 or the Central Florida Rail Corridor. This subsection shall not  
3368 be construed as designating persons providing contracted  
3369 operator, dispatcher, security officer, rail facility  
3370 maintenance, or other services as employees or agents for the  
3371 state for purposes of the Federal Employers Liability Act, the  
3372 Federal Railway Labor Act, or chapter 440.

3373 Section 69. Notwithstanding any provision of chapter 74-  
3374 400, Laws of Florida, public funds may be used for the alteration  
3375 of Old Cutler Road, between Southwest 136th Street and Southwest  
3376 184th Street, in the Village of Palmetto Bay.

3377 (1) The alteration may include the installation of  
3378 sidewalks, curbing, and landscaping to enhance pedestrian access  
3379 to the road.

3380 (2) The official approval of the project by the Department  
3381 of State must be obtained before any alteration is started.

3382 Section 70. This act shall take effect July 1, 2008.