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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2015	.	
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	.	
	.	

The Committee on Transportation (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 487 - 1330

and insert:

Section 9. Section 333.01, Florida Statutes, is amended to read:

333.01 Definitions.—For the purpose of this chapter, the following words, terms, and phrases shall have the following meanings ~~herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context~~



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11 ~~otherwise requires:~~

12 (1) "Aeronautical study" means a Federal Aviation
13 Administration review conducted pursuant to 14 C.F.R. part 77,
14 concerning the effect of proposed construction or alteration on
15 the use of air navigation facilities or navigable airspace by
16 aircraft. "Aeronautics" means transportation by aircraft; the
17 operation, construction, repair, or maintenance of aircraft,
18 aircraft power plants and accessories, including the repair,
19 packing, and maintenance of parachutes; the design,
20 establishment, construction, extension, operation, improvement,
21 repair, or maintenance of airports, restricted landing areas, or
22 other air navigation facilities, and air instruction.

23 (2) "Airport" means any area of land or water designed and
24 set aside for the landing and taking off of aircraft and
25 utilized or to be utilized in the interest of the public for
26 such purpose.

27 (3) "Airport hazard" means any obstruction structure or
28 tree or use of land which exceeds would exceed the federal
29 obstruction standards as contained in 14 C.F.R. ss. 77.15,
30 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and~~
31 ~~77.29~~ and which obstructs the airspace required for the flight
32 of aircraft in taking off, maneuvering, or landing; or is
33 otherwise hazardous to such taking off, maneuvering, or landing
34 of aircraft and for which no person has ~~previously~~ obtained a
35 permit ~~or variance~~ pursuant to s. 333.025 or s. 333.07.

36 (4) "Airport hazard area" means any area of land or water
37 upon which an airport hazard might be established ~~if not~~
38 ~~prevented as provided in this chapter.~~

39 (5) "Airport land use compatibility zoning" means airport



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40 zoning regulations governing ~~restricting~~ the use of land
41 adjacent to or in the immediate vicinity of airports in the
42 manner provided ~~enumerated~~ in s. 333.03(2) ~~to activities and~~ (3)
43 ~~purposes compatible with the continuation of normal airport~~
44 ~~operations including landing and takeoff of aircraft in order to~~
45 ~~promote public health, safety, and general welfare.~~

46 (6) "Airport layout plan" means a scaled detailed, scale
47 engineering drawing or set of drawings in either paper or
48 electronic form of the existing, including pertinent dimensions,
49 of an airport's current and planned airport facilities which
50 provides a graphic representation of the existing and long-term
51 development plan for the airport and demonstrates the
52 preservation and continuity of safety, utility, and efficiency
53 of the airport, their locations, and runway usage.

54 (7) "Airport master plan" means a comprehensive plan for an
55 airport that describes the immediate and long-term development
56 plans to meet future aviation demand.

57 (8) "Airport protection zoning" means airport zoning
58 regulations governing airport hazards in the manner provided in
59 s. 333.03.

60 (9) "Department" means the Department of Transportation as
61 created by s. 20.23.

62 (10) "Educational facility" means any structure, land, or
63 use thereof that includes a public or private kindergarten
64 through 12th grade school, charter school, magnet school,
65 college campus, or university campus. Space used for educational
66 purposes within a multitenant building may not be treated as an
67 educational facility for the purpose of this chapter.

68 (11) "Landfill" means the same as the term is defined in s.



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69 403.703.

70 (12)(7) "Obstruction" means any object of natural growth,
71 terrain, or permanent or temporary construction or alteration,
72 including equipment or materials used and any permanent or
73 temporary apparatus, or alteration of any permanent or temporary
74 existing structure by a change in its height, including
75 appurtenances, or lateral dimensions, including equipment or
76 material used therein, existing or proposed, which exceeds
77 ~~manmade object or object of natural growth or terrain that~~
78 ~~violates~~ the standards contained in 14 C.F.R. ss. 77.15, 77.17,
79 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29.~~

80 (13)(8) "Person" means any individual, firm, copartnership,
81 corporation, company, association, joint-stock association, or
82 body politic, and includes any trustee, receiver, assignee, or
83 other similar representative thereof.

84 (14)(9) "Political subdivision" means the local government
85 of any county, city, town, village, or other subdivision or
86 agency thereof, or any district or special district, port
87 commission, port authority, or other such agency authorized to
88 establish or operate airports in the state.

89 (15) "Public-use airport" means an airport, publicly or
90 privately owned and licensed by the state, which is open for use
91 by the public.

92 (16)(10) "Runway protection clear zone" or "RPZ" means an
93 area at ground level beyond the a runway end intended to enhance
94 the safety and protection of people and property on the ground
95 ~~clear zone as defined in 14 C.F.R. s. 151.9(b).~~

96 (17)(11) "Structure" means any object, constructed,
97 erected, altered, or installed by humans, including, but without



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98 limitation ~~thereof~~, buildings, towers, smokestacks, utility
99 poles, power generation equipment, and overhead transmission
100 lines.

101 (18) "Substantial modification" means any repair,
102 reconstruction, rehabilitation, or improvement of a structure
103 when the actual cost of the repair, reconstruction,
104 rehabilitation, or improvement of the structure equals or
105 exceeds 50 percent of the market value of the structure.

106 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

107 Section 10. Section 333.025, Florida Statutes, is amended
108 to read:

109 333.025 Permit required for structures exceeding federal
110 obstruction standards.-

111 (1) A person proposing the construction or alteration in
112 order to prevent the erection of structures hazardous dangerous
113 to air navigation, subject to the provisions of subsections (2),
114 (3), and (4), must each person shall secure from the department
115 of Transportation a permit for the proposed construction or
116 erection, alteration, or modification of any structure the
117 result of which would exceed the federal obstruction standards
118 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
119 77.23 77.21, 77.23, 77.25, 77.28, and 77.29. However, permits
120 from the department of Transportation will be required only
121 within an airport hazard area where federal obstruction
122 standards are exceeded and if the proposed construction is
123 within a 10-nautical-mile radius of the airport reference point,
124 located at the approximate geometric geographical center of all
125 useable runways of public-use airports or a publicly owned or
126 operated airport, a military airport, or an airport licensed by



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127 ~~the state for public use.~~

128 (2) Existing, planned, and proposed ~~Affected airports will~~
129 ~~be considered as having those facilities at public-use airports~~
130 ~~contained in an which are shown on the airport master plan, on~~
131 ~~or an airport layout plan submitted to the Federal Aviation~~
132 ~~Administration Airport District Office, or in comparable~~
133 ~~military documents, and will be so protected from structures~~
134 ~~that exceed federal obstruction standards. Planned or proposed~~
135 ~~public-use airports which are the subject of a notice or~~
136 ~~proposal submitted to the Federal Aviation Administration or to~~
137 ~~the Department of Transportation shall also be protected.~~

138 (3) Permit requirements of subsection (1) do ~~shall~~ not
139 apply to structures ~~projects~~ which received construction permits
140 from the Federal Communications Commission for structures
141 exceeding federal obstruction standards prior to May 20, 1975,
142 ~~provided such structures now exist; nor does subsection (1)~~
143 ~~shall it~~ apply to previously approved structures now existing,
144 or any necessary replacement or repairs to such existing
145 structures, so long as the height and location is unchanged.

146 (4) When political subdivisions have adopted adequate
147 airport airspace protection zoning regulations in compliance
148 with s. 333.03, and such regulations are on file with the
149 department ~~of Transportation~~, and have established a permitting
150 process in compliance with s. 333.09(2), a permit for such
151 structure shall not be required from the department ~~of~~
152 ~~Transportation~~. To evaluate technical consistency with this
153 section, there is a 15-day department review period concurrent
154 with the permitting process prescribed by s. 333.09. Upon
155 receipt of a complete permit application, the local government



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156 shall forward to the department's Aviation Office by certified
157 mail, return receipt requested, or by delivery service that
158 provides a receipt evidencing delivery, a copy of the
159 application. Cranes, construction equipment, and other temporary
160 structures, in use or in place for a period not to exceed 18
161 consecutive months, are exempt from this requirement, unless
162 requested by the department's Aviation Office.

163 (5) The department ~~of Transportation~~ shall, within 30 days
164 of the receipt of an application for a permit, issue or deny a
165 permit for the construction or erection, alteration, or
166 ~~modification~~ of any structure ~~the result of~~ which would exceed
167 federal obstruction standards as contained in 14 C.F.R. ss.
168 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25,~~
169 ~~77.28, and 77.29.~~ The department shall review permit
170 applications in conformity with s. 120.60.

171 (6) In determining whether to issue or deny a permit, the
172 department shall consider:

173 (a) The safety of persons on the ground and in the air ~~The~~
174 ~~nature of the terrain and height of existing structures.~~

175 (b) The safe and efficient use of navigable airspace ~~Public~~
176 ~~and private interests and investments.~~

177 (c) The nature of the terrain and height of existing
178 structures ~~The character of flying operations and planned~~
179 ~~developments of airports.~~

180 (d) Whether the construction of the proposed structure
181 would impact the state licensing standards for a public-use
182 airport, contained in chapter 330 and chapter 14-60, Florida
183 Administrative Code ~~Federal airways as designated by the Federal~~
184 ~~Aviation Administration.~~



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185 (e) The character of existing and planned flight operations
186 and developments at public-use airports ~~Whether the construction~~
187 ~~of the proposed structure would cause an increase in the minimum~~
188 ~~descent altitude or the decision height at the affected airport.~~

189 (f) Federal airways; visual flight rules, flyways and
190 corridors; and instrument approaches as designated by the
191 Federal Aviation Administration ~~Technological advances.~~

192 (g) Whether the construction of the proposed structure
193 would cause an increase in the minimum descent altitude or the
194 decision height at the affected airport ~~The safety of persons on~~
195 ~~the ground and in the air.~~

196 (h) The cumulative effects on navigable airspace of all
197 existing structures and all other known and proposed structures
198 in the area ~~Land use density.~~

199 (i) ~~The safe and efficient use of navigable airspace.~~

200 (j) ~~The cumulative effects on navigable airspace of all~~
201 ~~existing structures, proposed structures identified in the~~
202 ~~applicable jurisdictions' comprehensive plans, and all other~~
203 ~~known proposed structures in the area.~~

204 (7) When issuing a permit under this section, the
205 department ~~of Transportation shall, as a specific condition of~~
206 ~~such permit, require the~~ owner ~~obstruction marking and lighting~~
207 ~~of the permitted~~ structure or vegetation to install, operate,
208 and maintain thereon, at his or her own expense, marking and
209 lighting in conformance with the specific standards established
210 by the Federal Aviation Administration ~~structure as provided in~~
211 ~~s. 333.07(3)(b).~~

212 (8) The department may ~~of Transportation shall not approve~~
213 a permit for the construction or alteration ~~erection~~ of a



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214 structure unless the applicant submits both documentation
215 showing compliance with the federal requirement for notification
216 of proposed construction or alteration and a valid aeronautical
217 study evaluation, and no permit shall be approved solely on the
218 basis that such proposed structure will not exceed federal
219 obstruction standards as contained in 14 C.F.R. ss. 77.15,
220 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25, 77.28, or~~
221 ~~77.29~~, or any other federal aviation regulation.

222 (9) The denial of a permit under this section is subject to
223 the administrative review provisions of chapter 120.

224 Section 11. Section 333.03, Florida Statutes, is amended to
225 read:

226 333.03 Requirement ~~Power~~ to adopt airport zoning
227 regulations.-

228 (1) (a) Every ~~In order to prevent the creation or~~
229 ~~establishment of airport hazards, every~~ political subdivision
230 having an airport hazard area within its territorial limits
231 shall, ~~by October 1, 1977,~~ adopt, administer, and enforce, ~~under~~
232 ~~the police power and~~ in the manner and upon the conditions
233 ~~hereinafter~~ prescribed in this section, airport protection
234 zoning regulations for ~~such~~ airport hazards ~~hazard area~~.

235 (b) Where an airport is owned or controlled by a political
236 subdivision and an ~~any~~ airport hazard area ~~appertaining to such~~
237 ~~airport~~ is located wholly or partly outside the territorial
238 limits of the ~~said~~ political subdivision, the political
239 subdivision owning or controlling the airport and any ~~the~~
240 political subdivision within which the airport hazard area is
241 located, must ~~shall~~ either:

242 1. By interlocal agreement, ~~in accordance with the~~



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243 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
244 of airport protection zoning regulations applicable to the
245 airport hazard area ~~in question;~~ or

246 2. By ordinance, regulation, or resolution duly adopted,
247 create a joint airport zoning board, which must ~~board shall have~~
248 ~~the same power to~~ adopt, administer, and enforce a set of
249 airport protection zoning regulations applicable to the airport
250 hazard area in each ~~question as that vested in paragraph (a) in~~
251 ~~the~~ political subdivision in ~~within~~ which the airport hazard
252 ~~such~~ area is located. Each such joint airport zoning board shall
253 have as members two representatives appointed by each
254 participating political subdivision ~~participating in its~~
255 ~~creation~~ and, in addition, a chair elected by a majority of the
256 members so appointed. The ~~However,~~ the airport manager or
257 representative of each airport in ~~managers of the affected~~
258 participating political subdivisions shall serve on the board in
259 a nonvoting capacity.

260 (c) Airport protection zoning regulations adopted under
261 paragraph (a) must ~~shall,~~ at ~~as a~~ minimum, require:

262 1. A permit variance for the ~~erection,~~ construction or
263 ~~alteration, or modification~~ of any structure that ~~which~~ would
264 cause the structure to exceed the federal obstruction standards
265 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
266 77.23. 77.21, 77.23, 77.25, 77.28, and 77.29;

267 2. Obstruction marking and lighting for structures
268 exceeding the federal obstruction standards as contained in 14
269 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23, as specified
270 in s. 333.07(3) .~~†~~

271 3. Documentation showing compliance with the federal



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272 requirement for notification of proposed construction or
273 alteration and a valid aeronautical study evaluation submitted
274 by each person applying for a permit. variance;

275 4. Consideration of the criteria in s. 333.025(6), when
276 determining whether to issue or deny a permit. variance; and

277 5. That a permit may not ~~no variance shall~~ be approved
278 solely on the basis that the such proposed structure will not
279 exceed federal obstruction standards as contained in 14 C.F.R.
280 ss. 77.15, 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25,
281 ~~77.28, or 77.29,~~ or any other federal aviation regulation.~~

282 (d) The department is available to provide assistance to
283 political subdivisions with regard to federal obstruction
284 standards shall issue copies of the federal obstruction
285 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,
286 77.28, and 77.29 to each political subdivision having airport
287 hazard areas and, in cooperation with political subdivisions,
288 shall issue appropriate airport zoning maps depicting within
289 each county the maximum allowable height of any structure or
290 tree. Material distributed pursuant to this subsection shall be
291 at no cost to authorized recipients.

292 (2) In the manner provided in subsection (1), interim
293 airport land use compatibility zoning regulations must shall be
294 adopted, administered, and enforced. Airport land-use
295 compatibility zoning ~~When political subdivisions have adopted~~
296 land development regulations must, at a minimum, in accordance
297 with the provisions of chapter 163 which address the use of land
298 in the manner consistent with the provisions herein, adoption of
299 airport land use compatibility regulations pursuant to this
300 subsection shall not be required. Interim airport land use



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301 ~~compatibility zoning regulations shall consider the following:~~

302 (a) Prohibiting any new and restricting any existing
303 ~~Whether sanitary landfills are located~~ within the following
304 areas:

305 1. Within 10,000 feet from the nearest point of any runway
306 used or planned to be used by turbine ~~turbojet or turboprop~~
307 aircraft.

308 2. Within 5,000 feet from the nearest point of any runway
309 used only by nonturbine ~~piston-type~~ aircraft.

310 3. Outside the perimeters defined in subparagraphs 1. and
311 2., but still within the lateral limits of the civil airport
312 imaginary surfaces defined in 14 C.F.R. part 77.19 ~~77.25~~. Case-
313 by-case review of such landfills is advised.

314 (b) Where ~~Whether~~ any landfill is located and constructed
315 so that it attracts or sustains hazardous bird movements from
316 feeding, water, or roosting areas into, or across, the runways
317 or approach and departure patterns of aircraft, ~~the political~~
318 ~~subdivision shall request from the airport authority or other~~
319 ~~governing body operating the airport a report on such bird~~
320 ~~feeding or roosting areas that at the time of the request are~~
321 ~~known to the airport. In preparing its report, the authority, or~~
322 ~~other governing body, shall consider whether the landfill~~
323 operator will be required to incorporate bird management
324 techniques or other practices to minimize bird hazards to
325 airborne aircraft. ~~The airport authority or other governing body~~
326 ~~shall respond to the political subdivision no later than 30 days~~
327 ~~after receipt of such request.~~

328 (c) Where an airport authority or other governing body
329 operating a ~~publicly owned,~~ public-use airport has conducted a



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330 noise study in accordance with the provisions of 14 C.F.R. part
331 150, or where the public-use airport owner has established noise
332 contours pursuant to another public study approved by the
333 Federal Aviation Administration, incompatible uses, as
334 established in 14 C.F.R. part 150, appendix A noise study, or as
335 a part of an alternative FAA-approved public study, may not be
336 permitted within the noise contours established by that study,
337 except where such use is specifically contemplated by such study
338 with appropriate mitigation or similar techniques described in
339 the study neither residential construction nor any educational
340 facility as defined in chapter 1013, with the exception of
341 aviation school facilities, shall be permitted within the area
342 contiguous to the airport defined by an outer noise contour that
343 is considered incompatible with that type of construction by 14
344 C.F.R. part 150, Appendix A or an equivalent noise level as
345 established by other types of noise studies.

346 (d) Where an airport authority or other governing body
347 operating a ~~publicly owned~~, public-use airport has not conducted
348 a noise study, neither residential construction nor any
349 educational facility ~~as defined in chapter 1013~~, with the
350 exception of aviation school facilities, shall be permitted
351 within an area contiguous to the airport measuring one-half the
352 length of the longest runway on either side of and at the end of
353 each runway centerline.

354 (3) In the manner provided in subsection (1), airport
355 zoning regulations ~~shall be adopted~~ which restrict new
356 incompatible uses, ~~activities~~, or substantial modifications to
357 existing incompatible uses ~~construction~~ within runway protection
358 clear zones shall be adopted ~~, including uses, activities, or~~



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359 ~~construction in runway clear zones which are incompatible with~~
360 ~~normal airport operations or endanger public health, safety, and~~
361 ~~welfare by resulting in congregations of people, emissions of~~
362 ~~light or smoke, or attraction of birds. Such regulations shall~~
363 ~~prohibit the construction of an educational facility of a public~~
364 ~~or private school at either end of a runway of a publicly owned,~~
365 ~~public-use airport within an area which extends 5 miles in a~~
366 ~~direct line along the centerline of the runway, and which has a~~
367 ~~width measuring one-half the length of the runway. Exceptions~~
368 ~~approving construction of an educational facility within the~~
369 ~~delineated area shall only be granted when the political~~
370 ~~subdivision administering the zoning regulations makes specific~~
371 ~~findings detailing how the public policy reasons for allowing~~
372 ~~the construction outweigh health and safety concerns prohibiting~~
373 ~~such a location.~~

374 ~~(4) The procedures outlined in subsections (1), (2), and~~
375 ~~(3) for the adoption of such regulations are supplemental to any~~
376 ~~existing procedures utilized by political subdivisions in the~~
377 ~~adoption of such regulations.~~

378 ~~(4)(5)~~ The department of Transportation shall provide
379 technical assistance to any political subdivision requesting
380 assistance in the preparation of an airport zoning regulation
381 ~~code~~. A copy of all local airport zoning codes, rules, and
382 regulations, and amendments and proposed and granted permits
383 ~~variances thereto~~, shall be filed with the department. All
384 updates and amendments to local airport zoning codes, rules, and
385 regulations must be filed with the department within 30 days
386 after adoption.

387 ~~(5)(6)~~ Nothing in Subsection (2) and or subsection (3) may



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388 ~~not shall be construed to~~ require the removal, alteration, sound
389 conditioning, or other change, or to interfere with the
390 continued use or adjacent expansion of any educational structure
391 or site in existence on July 1, 1993, ~~or be construed to~~
392 ~~prohibit the construction of any new structure for which a site~~
393 ~~has been determined as provided in former s. 235.19, as of July~~
394 ~~1, 1993.~~

395 (6) This section may not preclude an airport authority,
396 local government, or other governing body operating a public-use
397 airport from establishing airport protection zoning regulations
398 more restrictive than herein prescribed in order to protect the
399 safety and welfare of the public in the air and on the ground.

400 Section 12. Section 333.04, Florida Statutes, is amended to
401 read:

402 333.04 Comprehensive zoning regulations; most stringent to
403 prevail where conflicts occur.—

404 (1) INCORPORATION.—In the event that a political
405 subdivision has adopted, or hereafter adopts, a comprehensive
406 plan or policy ~~zoning ordinance~~ regulating, among other things,
407 the height of buildings, structures, and natural objects, and
408 uses of property, any airport zoning regulations applicable to
409 the same area or portion thereof may be incorporated in and made
410 a part of such comprehensive plans or policies ~~zoning~~
411 ~~regulations~~, and be administered and enforced in connection
412 therewith.

413 (2) CONFLICT.—In the event of conflict between any airport
414 zoning regulations adopted under this chapter and any other
415 regulations applicable to the same area, whether the conflict be
416 with respect to the height of structures or vegetation ~~trees~~,



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417 the use of land, or any other matter, and whether such
418 regulations were adopted by the political subdivision which
419 adopted the airport zoning regulations or by some other
420 political subdivision, the more stringent limitation or
421 requirement shall govern and prevail.

422 Section 13. Section 333.05, Florida Statutes, is amended to
423 read:

424 333.05 Procedure for adoption of zoning regulations.—

425 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may
426 not shall be adopted, amended, or deleted ~~changed~~ under this
427 chapter except by action of the legislative body of the
428 political subdivision ~~in question~~, or the joint board provided
429 in s. 333.03(1)(b) by the political subdivisions ~~bodies~~ therein
430 provided and set forth, after a public hearing in relation
431 thereto, at which parties in interest and citizens shall have an
432 opportunity to be heard. Notice of the hearing shall be
433 published at least once a week for 2 consecutive weeks in an
434 official paper, or a paper of general circulation, in the
435 political subdivision or subdivisions where ~~in which are located~~
436 the airport zoning regulations are ~~areas~~ to be adopted, amended,
437 or deleted ~~zoned~~.

438 (2) AIRPORT ZONING COMMISSION.—Prior to the initial zoning
439 of any airport area under this chapter the political subdivision
440 or joint airport zoning board which is to adopt, administer, and
441 enforce the regulations shall appoint a commission, to be known
442 as the airport zoning commission, to recommend the boundaries of
443 the various zones to be established and the regulations to be
444 adopted therefor. Such commission shall make a preliminary
445 report and hold public hearings thereon before submitting its



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446 final report, and the legislative body of the political
447 subdivision or the joint airport zoning board shall not hold its
448 public hearings or take any action until it has received the
449 final report of such commission, and at least 15 days shall
450 elapse between the receipt of the final report of the commission
451 and the hearing to be held by the latter board. Where a planning
452 ~~city plan~~ commission, airport commission, or comprehensive
453 zoning commission already exists, it may be appointed as the
454 airport zoning commission.

455 Section 14. Section 333.06, Florida Statutes, is amended to
456 read:

457 333.06 Airport zoning requirements.—

458 (1) REASONABLENESS.—All airport zoning regulations adopted
459 under this chapter shall be reasonable and ~~none~~ shall not impose
460 any requirement or restriction which is not reasonably necessary
461 to effectuate the purposes of this chapter. In determining what
462 regulations it may adopt, each political subdivision and joint
463 airport zoning board shall consider, among other things, the
464 character of the flying operations expected to be conducted at
465 the airport, the nature of the terrain within the airport hazard
466 area and runway protection ~~clear~~ zones, the character of the
467 neighborhood, the uses to which the property to be zoned is put
468 and adaptable, and the impact of any new use, activity, or
469 construction on the airport's operating capability and capacity.

470 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
471 zoning regulations adopted under this chapter is to provide both
472 airspace protection and land uses ~~use~~ compatible with airport
473 operations. Each aspect of this purpose requires independent
474 justification in order to promote the public interest in safety,



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475 health, and general welfare. Specifically, construction in a
476 runway protection ~~clear~~ zone which does not exceed airspace
477 height restrictions is not conclusive ~~evidence per se~~ that such
478 use, activity, or construction is compatible with airport
479 operations.

480 (3) NONCONFORMING USES.—No airport protection zoning
481 regulations adopted under this chapter shall require the
482 removal, lowering, or other change or alteration of any
483 structure or vegetation ~~tree~~ not conforming to the regulations
484 when adopted or amended, or otherwise interfere with the
485 continuance of any nonconforming use, except as provided in s.
486 333.07(1) and (3).

487 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED
488 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
489 each public-use ~~publicly owned and operated~~ airport licensed by
490 the department ~~of Transportation~~ under chapter 330. The
491 authorized entity having responsibility for governing the
492 operation of the airport, when either requesting from or
493 submitting to a state or federal governmental agency with
494 funding or approval jurisdiction a “finding of no significant
495 impact,” an environmental assessment, a site-selection study, an
496 airport master plan, or any amendment to an airport master plan,
497 shall submit simultaneously a copy of said request, submittal,
498 assessment, study, plan, or amendments by certified mail to all
499 affected local governments. For the purposes of this subsection,
500 “affected local government” is defined as any city or county
501 having jurisdiction over the airport and any city or county
502 located within 2 miles of the boundaries of the land subject to
503 the airport master plan.



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504 Section 15. Section 333.065, Florida Statutes, is repealed.

505 Section 16. Section 333.07, Florida Statutes, is amended to
506 read:

507 333.07 Local government permitting of airspace obstructions
508 ~~Permits and variances.-~~

509 (1) PERMITS.-

510 (a) Any person proposing to erect, construct, or alter any
511 structure, increase the height of any structure, permit the
512 growth of any vegetation, or otherwise use his or her property
513 in violation of the airport protection zoning regulations
514 adopted under this chapter shall apply for a permit. A Any
515 ~~airport zoning regulations adopted under this chapter may~~
516 ~~require that a permit be obtained before any new structure or~~
517 ~~use may be constructed or established and before any existing~~
518 ~~use or structure may be substantially changed or substantially~~
519 ~~altered or repaired. In any event, however, all such regulations~~
520 ~~shall provide that before any nonconforming structure or tree~~
521 ~~may be replaced, substantially altered or repaired, rebuilt,~~
522 ~~allowed to grow higher, or replanted, a permit must be secured~~
523 ~~from the administrative agency authorized to administer and~~
524 ~~enforce the regulations, authorizing such replacement, change,~~
525 ~~or repair. No permit may not shall be issued granted that would~~
526 allow the establishment or creation of an airport hazard or
527 would permit a nonconforming structure or vegetation ~~tree~~ or
528 nonconforming use to be made or become higher or to become a
529 greater hazard to air navigation than it was when the applicable
530 regulation was adopted or than it is when the application for a
531 permit is made.

532 (b) Whenever the political subdivision or its



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533 administrative agency determines that a nonconforming use or
534 nonconforming structure or vegetation tree has been abandoned or
535 is more than 80 percent torn down, destroyed, deteriorated, or
536 decayed, ~~a no~~ permit may not shall be granted that would allow
537 ~~the said~~ structure or vegetation tree to exceed the applicable
538 height limit or otherwise deviate from the zoning regulations.~~.~~
539 ~~and,~~ Whether an application is made for a permit under this
540 subsection or not, ~~the said agency may by appropriate action,~~
541 ~~compel the~~ owner of the nonconforming structure or vegetation
542 may be required tree, at his or her own expense, to lower,
543 remove, reconstruct, alter, or equip such object as may be
544 necessary to conform to the regulations. If the owner of the
545 nonconforming structure or vegetation neglects or refuses tree
546 ~~shall neglect or refuse~~ to comply with the such order for 10
547 days after notice ~~thereof~~, ~~the said~~ agency may report the
548 violation to the political subdivision involved therein. ~~The,~~
549 ~~which~~ subdivision, through its appropriate agency, may proceed
550 to have the object so lowered, removed, reconstructed, altered,
551 or equipped, and assess the cost and expense thereof upon the
552 object or the land where ~~whereon~~ it is or was located, ~~and,~~
553 ~~unless such an assessment is paid within 90 days from the~~
554 ~~service of notice thereof on the owner or the owner's agent, of~~
555 ~~such object or land, the sum shall be a lien on said land, and~~
556 ~~shall bear interest thereafter at the rate of 6 percent per~~
557 ~~annum until paid, and shall be collected in the same manner as~~
558 ~~taxes on real property are collected by said political~~
559 ~~subdivision, or, at the option of said political subdivision,~~
560 ~~said lien may be enforced in the manner provided for enforcement~~
561 ~~of liens by chapter 85.~~



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562 ~~(c) Except as provided herein, applications for permits~~
563 ~~shall be granted, provided the matter applied for meets the~~
564 ~~provisions of this chapter and the regulations adopted and in~~
565 ~~force hereunder.~~

566 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.-In
567 determining whether to issue or deny a permit, the political
568 subdivision or its administrative agency must consider the
569 following, as applicable:

570 (a) The safety of persons on the ground and in the air.

571 (b) The safe and efficient use of navigable airspace.

572 (c) The nature of the terrain and height of existing
573 structures.

574 (d) The construction or alteration of the proposed
575 structure on the state licensing standards for a public-use
576 airport, contained in chapter 330 and chapter 14-60 of the
577 Florida Administrative Code.

578 (e) The character of existing and planned flight operations
579 and developments at public-use airports.

580 (f) Federal airways; visual flight rules, flyways and
581 corridors; and instrument approaches as designated by the
582 Federal Aviation Administration.

583 (g) The construction or alteration of the proposed
584 structure on the minimum descent altitude or the decision height
585 at the affected airport.

586 (h) The cumulative effects on navigable airspace of all
587 existing structures, and all other known proposed structures in
588 the area.

589 (i) Requirements contained in s. 333.03(2) and (3).

590 (j) Additional requirements adopted by the local



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591 jurisdiction pertinent to evaluation and protection of airspace
592 and airport operations.

593 ~~(2) VARIANCES.—~~

594 ~~(a) Any person desiring to erect any structure, increase~~
595 ~~the height of any structure, permit the growth of any tree, or~~
596 ~~otherwise use his or her property in violation of the airport~~
597 ~~zoning regulations adopted under this chapter or any land~~
598 ~~development regulation adopted pursuant to the provisions of~~
599 ~~chapter 163 pertaining to airport land use compatibility, may~~
600 ~~apply to the board of adjustment for a variance from the zoning~~
601 ~~regulations in question. At the time of filing the application,~~
602 ~~the applicant shall forward to the department by certified mail,~~
603 ~~return receipt requested, a copy of the application. The~~
604 ~~department shall have 45 days from receipt of the application to~~
605 ~~comment and to provide its comments or waiver of that right to~~
606 ~~the applicant and the board of adjustment. The department shall~~
607 ~~include its explanation for any objections stated in its~~
608 ~~comments. If the department fails to provide its comments within~~
609 ~~45 days of receipt of the application, its right to comment is~~
610 ~~waived. The board of adjustment may proceed with its~~
611 ~~consideration of the application only upon the receipt of the~~
612 ~~department's comments or waiver of that right as demonstrated by~~
613 ~~the filing of a copy of the return receipt with the board.~~
614 ~~Noncompliance with this section shall be grounds to appeal~~
615 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
616 ~~to s. 333.11. Such variances may only be allowed where a literal~~
617 ~~application or enforcement of the regulations would result in~~
618 ~~practical difficulty or unnecessary hardship and where the~~
619 ~~relief granted would not be contrary to the public interest but~~



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620 ~~would do substantial justice and be in accordance with the~~
621 ~~spirit of the regulations and this chapter. However, any~~
622 ~~variance may be allowed subject to any reasonable conditions~~
623 ~~that the board of adjustment may deem necessary to effectuate~~
624 ~~the purposes of this chapter.~~

625 ~~(b) The Department of Transportation shall have the~~
626 ~~authority to appeal any variance granted under this chapter~~
627 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~
628 ~~to s. 333.11.~~

629 (3) OBSTRUCTION MARKING AND LIGHTING.-

630 (a) In issuing a granting ~~any permit or variance~~ under this
631 section, the political subdivision or its administrative agency
632 ~~or board of adjustment~~ shall require the owner of the structure
633 or vegetation tree in question to install, operate, and maintain
634 thereon, at his or her own expense, ~~such~~ marking and lighting in
635 conformance with the specific standards established by the
636 Federal Aviation Administration as may be necessary to indicate
637 ~~to aircraft pilots the presence of an obstruction.~~

638 (b) Such marking and lighting shall conform to the specific
639 standards established by rule by the department ~~of~~
640 Transportation.

641 ~~(c) Existing structures not in compliance on October 1,~~
642 ~~1988, shall be required to comply whenever the existing marking~~
643 ~~requires refurbishment, whenever the existing lighting requires~~
644 ~~replacement, or within 5 years of October 1, 1988, whichever~~
645 ~~occurs first.~~

646 Section 17. Section 333.08, Florida Statutes, is repealed.

647 Section 18. Section 333.09, Florida Statutes, is amended to
648 read:



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649 333.09 Administration of airport zoning regulations.-
650 (1) ADMINISTRATION AND ENFORCEMENT.-All airport zoning
651 regulations adopted under this chapter shall provide for the
652 administration and enforcement of such regulations by the
653 political subdivisions or its ~~by an administrative agency which~~
654 ~~may be an agency created by such regulations or any official,~~
655 ~~board, or other existing agency of the political subdivision~~
656 ~~adopting the regulations or of one of the political subdivisions~~
657 ~~which participated in the creation of the joint airport zoning~~
658 ~~board adopting the regulations, if satisfactory to that~~
659 ~~political subdivision, but in no case shall such administrative~~
660 ~~agency be or include any member of the board of adjustment.~~ The
661 duties of any administrative agency designated pursuant to this
662 chapter shall include that of hearing and deciding all permits
663 under s. 333.07 ~~s. 333.07(1), deciding all matters under s.~~
664 ~~333.07(3),~~ as they pertain to such agency, and all other matters
665 under this chapter applying to said agency, ~~but such agency~~
666 ~~shall not have or exercise any of the powers herein delegated to~~
667 ~~the board of adjustment.~~

668 (2) LOCAL GOVERNMENT PROCESS.-

669 (a) Any political subdivision required to adopt airport
670 zoning regulations under this chapter must provide a process to:

671 1. Issue or deny permits consistent with s. 333.07,
672 including requests for exceptions to airport zoning regulations.

673 2. Notify the department of receipt of a complete permit
674 application consistent with s. 333.025(4).

675 3. Enforce any permit, order, requirement, decision, or
676 determination made by the administrative agency with respect to
677 the airport zoning regulations.



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678 (b) Where a zoning board or permitting body already exists
679 within a political subdivision, the zoning board or permitting
680 body may implement the permitting and appeals process.

681 Otherwise, the political subdivision shall implement the
682 permitting and appeals process in a manner consistent with its
683 constitutional powers and areas of jurisdiction.

684 (3) APPEALS.—

685 (a) Any person, political subdivision or its administrative
686 agency, or any joint airport zoning board, which contends that
687 the decision made by a political subdivision or its
688 administrative agency is an improper application of airport
689 zoning regulations may use the process established for an
690 appeal.

691 (b) All appeals taken under this section must be taken
692 within a reasonable time, as provided by the political
693 subdivision or its administrative agency, by filing with the
694 entity from which appeal is taken a notice of appeal specifying
695 the grounds for appeal.

696 (c) An appeal stays all proceedings in the underlying
697 action, unless the entity from which the appeal is taken
698 certifies pursuant to the rules for appeal that by reason of the
699 facts stated in the certificate, a stay would, in its opinion,
700 cause imminent peril to life or property. In that case,
701 proceedings may not be stayed except by an order of the
702 political subdivision or its administrative agency following
703 notice to the entity from which the appeal is taken and on good
704 cause shown.

705 (d) The political subdivision or its administrative agency
706 must set a reasonable time for the hearing of appeals, give



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707 public notice and due notice to the parties in interest, and
708 decide the same within a reasonable time. At the hearing, a
709 party may appear in person, by agent, or by attorney.

710 (e) The political subdivision or its administrative agency
711 may, in conformity with the provisions of this chapter, reverse,
712 affirm, or modify the underlying order, requirement, decision,
713 or determination from which the appeal is taken.

714 Section 19. Section 333.10, Florida Statutes, is repealed.

715 Section 20. Section 333.11, Florida Statutes, is amended to
716 read:

717 333.11 Judicial review.-

718 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
719 ~~decision of a board of adjustment, or any governing body of a~~
720 ~~political subdivision or its administrative agency, or the~~
721 ~~Department of Transportation or any joint airport zoning board~~
722 ~~affected by a decision of a political subdivision, or its of any~~
723 ~~administrative agency hereunder,~~ may apply for judicial relief
724 to the circuit court in the judicial circuit where the political
725 subdivision board of adjustment is located within 30 days after
726 rendition of the decision ~~by the board of adjustment~~. Review
727 shall be by petition for writ of certiorari, which shall be
728 governed by the Florida Rules of Appellate Procedure.

729 ~~(2) Upon presentation of such petition to the court, it may~~
730 ~~allow a writ of certiorari, directed to the board of adjustment,~~
731 ~~to review such decision of the board. The allowance of the writ~~
732 ~~shall not stay the proceedings upon the decision appealed from,~~
733 ~~but the court may, on application, on notice to the board, on~~
734 ~~due hearing and due cause shown, grant a restraining order.~~

735 ~~(3) The board of adjustment shall not be required to return~~



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736 ~~the original papers acted upon by it, but it shall be sufficient~~
737 ~~to return certified or sworn copies thereof or of such portions~~
738 ~~thereof as may be called for by the writ. The return shall~~
739 ~~concisely set forth such other facts as may be pertinent and~~
740 ~~material to show the grounds of the decision appealed from and~~
741 ~~shall be verified.~~

742 (2)~~(4)~~ The court shall have exclusive jurisdiction to
743 affirm, modify, or set aside the decision brought up for review,
744 ~~in whole or in part,~~ and if need be, to order further
745 proceedings by the political subdivision or its administrative
746 agency board of adjustment. The findings of fact by the
747 political subdivision or its administrative agency board, if
748 supported by substantial evidence, shall be accepted by the
749 court as conclusive. An,~~and no~~ objection to a decision of the
750 political subdivision or its administrative agency may not board
751 ~~shall~~ be considered by the court unless such objection was
752 raised in the underlying proceeding shall have been urged before
753 ~~the board, or, if it was not so urged, unless there were~~
754 ~~reasonable grounds for failure to do so.~~

755 (3)~~(5)~~ If ~~In any case in which~~ airport zoning regulations
756 adopted under this chapter,~~although generally reasonable,~~ are
757 held by a court to interfere with the use and enjoyment of a
758 particular structure or parcel of land to such an extent, or to
759 be so onerous in their application to such a structure or parcel
760 of land, as to constitute a taking or deprivation of that
761 property in violation of the State Constitution or the
762 Constitution of the United States, such holding shall not affect
763 the application of such regulations to other structures and
764 parcels of land, or such regulations as are not involved in the



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765 particular decision.

766 ~~(4)(6) No~~ Judicial appeal ~~shall be or~~ is not permitted
767 under this section, ~~to any courts~~ until the appellant has
768 exhausted all its remedies through application for local
769 government permits, exceptions, and appeals, ~~as herein provided,~~
770 ~~save and except an appeal from a decision of the board of~~
771 ~~adjustment, the appeal herein provided being from such final~~
772 ~~decision of such board only, the appellant being hereby required~~
773 ~~to exhaust his or her remedies hereunder of application for~~
774 ~~permits, exceptions and variances, and appeal to the board of~~
775 ~~adjustment, and gaining a determination by said board, before~~
776 ~~being permitted to appeal to the court hereunder.~~

777 Section 21. Section 333.12, Florida Statutes, is amended to
778 read:

779 333.12 Acquisition of air rights. ~~When In any case which:~~
780 ~~it is desired to remove, lower or otherwise terminate a~~
781 ~~nonconforming structure or use~~ presents an air hazard and the
782 structure cannot be removed, lowered, or otherwise terminated;
783 or the approach protection necessary cannot, because of
784 constitutional limitations, be provided by airport regulations
785 under this chapter; or it appears advisable that the necessary
786 approach protection be provided by acquisition of property
787 rights rather than by airport zoning regulations, the political
788 subdivision within which the property or nonconforming use is
789 located, or the political subdivision owning or operating the
790 airport or being served by it, may acquire, by purchase, grant,
791 or condemnation in the manner provided by chapter 73, such air
792 right, avigation navigation easement conveying the airspace over
793 another property for use by the airport, or other estate,



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794 portion or interest in the property or nonconforming structure
795 or use or such interest in the air above such property,
796 vegetation tree, structure, or use, in question, as may be
797 necessary to effectuate the purposes of this chapter, and in so
798 doing, if by condemnation, to have the right to take immediate
799 possession of the property, interest in property, air right, or
800 other right sought to be condemned, at the time, and in the
801 manner and form, and as authorized by chapter 74. In the case of
802 the purchase of any property, ~~or any easement,~~ or estate or
803 interest therein or the acquisition of the same by the power of
804 eminent domain, the political subdivision making such purchase
805 or exercising such power shall in addition to the damages for
806 the taking, injury, or destruction of property also pay the cost
807 of the removal and relocation of any structure or any public
808 utility which is required to be moved to a new location.

809 Section 22. Section 333.135, Florida Statutes, is created
810 to read:

811 333.135 Transition provisions.-

812 (1) A provision of an airport zoning regulation in effect
813 on July 1, 2015, that conflicts with this chapter must be
814 amended to conform to the requirements of this chapter by July
815 1, 2016.

816 (2) By October 1, 2017, a political subdivision having an
817 airport within its territorial limits, which has not adopted
818 airport zoning regulations, must adopt airport zoning
819 regulations which are consistent with this chapter.

820 (3) For those political subdivisions that have not yet
821 adopted airport zoning regulations pursuant to this chapter, the
822 department shall administer the permitting process as provided



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823 in s. 333.025.

824 Section 23. Section 333.14, Florida Statutes, is repealed.

825 Section 24. Subsections (36) and (37) of section 334.03,

826 Florida Statutes, are amended to read:

827 334.03 Definitions.—When used in the Florida Transportation
828 Code, the term:

829 (36) "511" or "511 services" means all three-digit
830 ~~telecommunications dialing to access interactive voice response~~
831 ~~telephone~~ traveler information services provided in the state to
832 include, but not be limited to, the terms ~~as~~ defined by the
833 Federal Communications Commission in FCC Order No. 00-256, July
834 31, 2000.

835 ~~(37) "Interactive voice response" means a software~~
836 ~~application that accepts a combination of voice telephone input~~
837 ~~and touch-tone keypad selection and provides appropriate~~
838 ~~responses in the form of voice, fax, callback, e-mail, and other~~
839 ~~media.~~

840 Section 25. Subsection (31) of section 334.044, Florida
841 Statutes, is amended, and subsection (34) of that section is
842 created, to read:

843 334.044 Department; powers and duties.—The department shall
844 have the following general powers and duties:

845 (31) To provide oversight of traveler information systems
846 ~~that may include the provision of interactive voice response~~
847 ~~telephone systems accessible via the 511 services number~~ as
848 assigned by the Federal Communications Commission for traveler
849 information services. The department shall ensure that uniform
850 standards and criteria for the collection and dissemination of
851 traveler information are applied ~~using interactive voice~~



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852 ~~response systems.~~

853 (34) The department may assume responsibilities of the
854 United States Department of Transportation with respect to
855 highway projects within the state under the National
856 Environmental Policy Act of 1969 (42 U.S.C. s. 4321 et seq.) and
857 with respect to related responsibilities for environmental
858 review, consultation, or other action required under any federal
859 environmental law pertaining to review or approval of a highway
860 project within the state. The department may assume
861 responsibilities under 23 U.S.C. s. 327 and enter into one or
862 more agreements, including memoranda of understanding, with the
863 United States Secretary of Transportation related to the federal
864 surface transportation project delivery program for the delivery
865 of highway projects, as provided by 23 U.S.C. s. 327. The
866 department may adopt rules to implement this subsection and may
867 adopt relevant federal environmental standards as the standards
868 for this state for a program described in this subsection.
869 Sovereign immunity to civil suit in federal court is waived
870 consistent with 23 U.S.C. s. 327 and limited to the compliance,
871 discharge, or enforcement of a responsibility assumed by the
872 department under this subsection.

873 ===== T I T L E A M E N D M E N T =====

874 And the title is amended as follows:

875 Delete line 148

876 and insert:

877 traveler information systems; removing a requirement
878 that applied uniform standards and criteria for
879 collection and dissemination of traveler information
880 be accomplished using interactive voice response



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881 systems; authorizing the department to assume certain
882 responsibilities under the National Environmental
883 Policy Act with respect to highway projects within the
884 state and certain related responsibilities relating to
885 review or approval of a highway project; authorizing
886 the department to enter into certain agreements
887 related to the federal surface transportation project
888 delivery program under certain federal law;
889 authorizing the department to adopt implementing
890 rules; authorizing the department to adopt certain
891 relevant federal environmental standards; providing a
892 limited waiver of sovereign immunity to suit in
893 federal court consistent with certain federal law;
894 amending s. 334.60,