

By Senator Casas

39-678A-99

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; amending s. 20.23, F.S.;
4 changing the name of the Office of Construction
5 to the Office of Highway Operations; amending
6 s. 206.46, F.S.; increasing the amount that may
7 be transferred into the Right-of-Way
8 Acquisition and Bridge Construction Trust Fund;
9 authorizing the department and local
10 governments to enter into an interlocal
11 agreement to provide financing for fixed
12 guideway projects; creating s. 215.615, F.S.;
13 authorizing bonding of federal aid; amending s.
14 316.1936; defining the term "public highway";
15 providing that it is unlawful to possess an
16 open container or consume an alcoholic beverage
17 while seated in the passenger area of a motor
18 vehicle that is parked or stopped within a
19 public highway; amending s. 316.302, F.S.;
20 updating references to the current federal
21 safety regulations; amending s. 316.3025, F.S.;
22 updating references to the current federal
23 safety regulations; amending ss. 316.516,
24 316.545, F.S.; providing technical conforming
25 changes; amending s. 334.0445, F.S.; extending
26 the current authorization for the department's
27 model classification plan; amending s. 335.093,
28 F.S.; authorizing the department to designate
29 public roads as scenic highways; amending s.
30 337.11, F.S.; authorizing the department to
31 enter into contracts for construction or

1 maintenance of roadway and bridge elements
2 without competitive bidding under certain
3 circumstances; amending s. 337.16, F.S.;
4 eliminating intermediate delinquency as grounds
5 for suspension or revocation of a contractor's
6 certificate of qualification to bid on
7 construction contracts in excess of a specified
8 amount; amending s. 337.162, F.S.; providing
9 that department appraisers are not obligated to
10 report violations of state professional
11 licensing laws to the Department of Business
12 and Professional Regulation; amending s.
13 337.18, F.S.; deleting the schedule of contract
14 amount categories utilized to calculate
15 liquidated damages to be paid by a contractor;
16 allowing the department to adjust the
17 categories; requiring that surety bonds posted
18 by successful bidders on department
19 construction contracts be payable to the
20 department; amending s. 337.185, F.S.; raising
21 the limit for binding arbitration contract
22 disputes; authorizing the secretary of the
23 department to select an alternate or substitute
24 to serve as the department member of the board
25 for any hearing; amending the fee schedule for
26 arbitration to cover the cost of administration
27 and compensation of the board; authorizing the
28 department to acquire and negotiate for the
29 sale of replacement housing; amending s.
30 337.25, F.S.; authorizing the department to
31 purchase options to purchase land for

1 transportation facilities; amending s. 337.403,
2 F.S.; authorizing the department to contract
3 directly with utility companies for clearing
4 and grubbing; amending s. 338.223, F.S.;
5 defining the terms "hardship purchase" and
6 "protective purchase"; amending s. 338.229,
7 F.S.; restricting the sale, transfer, lease, or
8 other disposition of operations on any portion
9 of the turnpike system; amending s. 339.155,
10 F.S.; providing planning factors; clarifying
11 the roles of the long-range and short-range
12 components of the Florida Transportation Plan;
13 amending s. 339.175, F.S.; providing planning
14 factors; clarifying geographic boundaries of
15 metropolitan planning organizations; providing
16 that metropolitan planning organization plans
17 must provide for the development and operation
18 of intermodal transportation systems and
19 facilities; amending s. 341.041, F.S.;
20 authorizing the creation and maintenance of a
21 common self-retention insurance fund to support
22 public transit projects; amending s. 341.302,
23 F.S.; authorizing the department to secure and
24 administer federal loans for rail projects;
25 authorizing the department to conduct hazardous
26 materials inspections at manufacturer's and
27 shipper's facilities on Florida rail lines;
28 amending s. 373.4137, F.S.; providing for the
29 mitigation of impacts to wetlands and other
30 sensitive habitats; amending s. 479.01, F.S.;
31 defining the terms "commercial or industrial

1 zone" and "unzoned commercial or industrial
2 area"; providing that communication towers are
3 not commercial or industrial activities;
4 amending s. 479.07, F.S.; modifying the process
5 for reinstatement of an outdoor advertising
6 sign permit; amending s. 479.16, F.S.;
7 clarifying that certain signs not in excess of
8 16 square feet are exempt from the permitting
9 process; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (d) of subsection (3) of section
14 20.23, Florida Statutes, 1998 Supplement, is amended to read:

15 20.23 Department of Transportation.--There is created
16 a Department of Transportation which shall be a decentralized
17 agency.

18 (3)

19 (d)1. Policy, program, or operations offices shall be
20 established within the central office for the purposes of:

21 a. Developing policy and procedures and monitoring
22 performance to ensure compliance with these policies and
23 procedures;

24 b. Performing statewide activities which it is more
25 cost-effective to perform in a central location;

26 c. Assessing and ensuring the accuracy of information
27 within the department's financial management information
28 systems; and

29 d. Performing other activities of a statewide nature.

30 2. The following offices are established and shall be
31 headed by a manager, each of whom shall be appointed by and

1 serve at the pleasure of the secretary. The positions shall be
2 classified at a level equal to a division director:

- 3 a. The Office of Administration;
- 4 b. The Office of Policy Planning;
- 5 c. The Office of Design;
- 6 d. The Office of Highway Operations ~~Construction~~;
- 7 e. The Office of Right-of-Way;
- 8 f. The Office of Toll Operations; and
- 9 g. The Office of Information Systems.

10 3. Other offices may be established in accordance with
11 s. 20.04(6). The heads of such offices are exempt from part II
12 of chapter 110. No office or organization shall be created at
13 a level equal to or higher than a division without specific
14 legislative authority.

15 Section 2. Subsections (2) and (3) of section 206.46,
16 Florida Statutes, are amended to read:

17 206.46 State Transportation Trust Fund.--

18 (2) Notwithstanding any other provisions of law, from
19 the revenues deposited into the State Transportation Trust
20 Fund a maximum of 7 ~~6~~ percent in each fiscal year shall be
21 transferred into the Right-of-Way Acquisition and Bridge
22 Construction Trust Fund created in s. 215.605, as needed to
23 meet the requirements of the documents authorizing the bonds
24 issued or proposed to be issued under ss. 215.605 and 337.276
25 or at a minimum amount sufficient to pay for the debt service
26 coverage requirements of outstanding bonds. Notwithstanding
27 the 7 ~~6~~ percent annual transfer authorized in this subsection,
28 the annual amount transferred under this subsection shall not
29 exceed an amount necessary to provide the required debt
30 service coverage levels for a maximum debt service not to
31 exceed \$135~~\$115~~ million. Such transfer shall be payable

1 primarily from the motor and diesel fuel taxes transferred to
2 the State Transportation Trust Fund from the Fuel Tax
3 Collection Trust Fund.

4 (3)(a) Through fiscal year 1999-2000, a minimum of
5 14.3 percent of all state revenues deposited into the State
6 Transportation Trust Fund shall be committed annually by the
7 department for public transportation projects in accordance
8 with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, and
9 chapter 343. Beginning in fiscal year 2000-2001, and each year
10 thereafter, a minimum of 15 percent of all state revenues
11 deposited into the State Transportation Trust Fund shall be
12 committed annually by the department for public transportation
13 projects in accordance with chapter 311, ss. 332.002-332.007,
14 ~~and~~ chapter 341, and chapter 343.

15 (b)1. The issuance of revenue bonds by the Division of
16 Bond Finance, on behalf of the Department of Transportation,
17 under s. 11, Art. VII of the State Constitution and the State
18 Bond Act is authorized to finance or refinance capital
19 expenditures for fixed guideway transportation systems, as
20 defined in s. 341.031, including facilities appurtenant
21 thereto, costs of issuance, and other amounts relating to
22 financing or refinancing. Such revenue bonds shall be matched
23 on a 50-50 basis with funds from sources other than revenues
24 of the Department of Transportation in a manner acceptable to
25 the department. The amount of revenues available for debt
26 service shall never exceed a maximum of 2 percent of all state
27 revenues deposited into the State Transportation Trust Fund.

28 2. The Department of Transportation and any
29 participating commuter rail authority or regional
30 transportation authority established under chapter 343, local
31 governments, or local governments collectively by interlocal

1 agreement having jurisdiction of a fixed guideway
2 transportation system may enter into an interlocal agreement
3 to promote the efficient and cost effective financing or
4 refinancing of fixed guideway transportation system projects
5 by revenue bonds under this subsection. The terms of the
6 interlocal agreements must include provisions for the
7 department to issue the bonds on behalf of the parties;
8 provide that each party to the agreement is contractually
9 liable for an equal share of the debt service requirements of
10 the bonds; and any other terms, provisions, or covenants
11 necessary to the making of and full performance under the
12 interlocal agreement. Repayments made under any interlocal
13 agreement are not pledged to the repayment of bonds issued
14 under this subsection and failure of the local governmental
15 authority to make such payment does not affect the obligation
16 of the department to pay debt service on the bonds.

17 3. Revenue bonds issued under this subsection do not
18 constitute a general obligation of or a pledge of the full
19 faith and credit of the state.

20 4. The projects to be financed or refinanced with the
21 proceeds of the revenue bonds issued under this subsection are
22 designated as state fixed capital outlay projects for purposes
23 of s. 11(d), Art. VII of the State Constitution and the
24 specific projects to be financed or refinanced shall be
25 determined by the department in accordance with state law and
26 appropriations from the State Transportation Trust Fund. Each
27 project to be financed or refinanced with the proceeds of the
28 bonds issued under this subsection shall first be approved by
29 an act of the Legislature.

30 5. Revenue bonds issued under this subsection must be
31 validated in the manner provided by chapter 75. The complaint

1 for the validation must be filed in the circuit court of the
2 county where the seat of state government is situated, the
3 notice required to be published by s. 75.06 must be published
4 only in the county where the complaint is filed, and the
5 complaint and order of the circuit court must be served only
6 on the state attorney of the circuit in which the action is
7 pending.

8 6. The state covenants with holders of the revenue
9 bonds or other instruments of indebtedness issued under this
10 subsection, that it will not repeal or impair or amend these
11 provisions in any manner that will materially adversely affect
12 the rights of the holders so long as bonds authorized by this
13 paragraph are outstanding.

14 7. This subsection supersedes any inconsistent
15 provisions in existing law and any future enactment unless the
16 future enactment specifically and expressly states that it
17 supersedes this subsection. Notwithstanding these provisions,
18 the lien of revenue bonds issued under this subsection on
19 moneys deposited into the State Transportation Trust Fund are
20 junior and subordinate to the lien on such moneys of bonds
21 issued under s. 215.605, s. 320.20, and s. 215.615, and any
22 pledge of such moneys to pay operating and maintenance
23 expenses under subsection (5) and chapter 348, all as are in
24 existence or as may be amended.

25 (c) Notwithstanding any other provision of law, the
26 department may covenant and pay up to 1 percent of state
27 revenues deposited into the State Transportation Trust Fund
28 each fiscal year necessary to pay debt service and other
29 amounts with respect to revenue bonds issued under provisions
30 of chapter 343. These amounts will fund the Department of
31 Transportation's portion of the cost of projects to be

1 financed under this subsection and may not exceed a maximum of
2 1 percent of all state revenues deposited into the State
3 Transportation Trust Fund each fiscal year. Such amounts shall
4 be matched on a 50-50 basis with funds from sources other than
5 revenues of the department in a manner acceptable to the
6 department. These amounts are contingent upon annual
7 appropriation by the Legislature.

8 (d) The amounts in paragraphs (b) and (c) with respect
9 to the department's share of the cost of projects to be
10 financed under this subsection may not collectively exceed a
11 maximum of 1 percent of all state revenues deposited into the
12 State Transportation Trust Fund each fiscal year, and shall be
13 included in those funds committed to public transportation
14 projects under paragraph (a).

15 (e) To be eligible for participation, fixed guideway
16 transportation system projects must comply with the major
17 capital investment policy guidelines and criteria established
18 by the department under chapter 341, must be found to be
19 consistent, to the maximum extent feasible, with approved
20 local government comprehensive plans of the local governments
21 in which the projects are located, and must be included in the
22 work program of the department under the provisions of s.
23 339.135. The department shall certify that the expected useful
24 life of the transportation improvements will equal or exceed
25 the maturity date of the debt to be issued.

26 Section 3. Section 215.615, Florida Statutes, is
27 created to read:

28 215.615 State Bonds for federal aid highways
29 construction.--

30 (1) Upon the request of the Department of
31 Transportation, evidenced by a duly adopted resolution, the

1 Division of Bond Finance of the State Board of Administration
2 is authorized under s. 11, Art. VII of the State Constitution
3 and the State Bond Act, ss. 215.57-215.83, to issue state
4 revenue bonds, notes, or other instruments of indebtedness for
5 and on behalf of the department, for the purpose of financing
6 the construction, reconstruction, and improvements of projects
7 that are eligible to receive federal-aid highway funds.

8 (2) Any bonds, notes, or other instruments of
9 indebtedness issued under this section shall be secured and
10 primarily payable from a prior and superior claim on all
11 federal highway aid reimbursements received each year with
12 respect to federal-aid projects undertaken in accordance with
13 the provisions of Title 23 of the United States Code.

14 (3) The division may issue notes or bonds bearing
15 interest fixed or variable as the division shall determine,
16 provided the annual amount transferred for debt service
17 payments to pay indebtedness issued under this section shall
18 not exceed a maximum of 10 percent of annual apportionments to
19 the department for federal highway aid in accordance with the
20 provisions of Title 23 of the United States Code.

21 (4) The bonds, notes, or other instruments of
22 indebtedness issued under this section are not an obligation
23 of the state and the full faith and credit of the state are
24 not pledged to the payment thereof. The bonds are solely
25 secured and payable from the revenues pledged in accordance
26 with the resolution authorizing their issuance.

27 (5) The state covenants with the holders of the
28 instruments of indebtedness issued under this section that it
29 will not repeal, impair, or amend this section in any manner
30 that would materially and adversely affect the rights of
31

1 bondholders so long as the debt authorized by this section is
2 outstanding.

3 Section 4. Subsections (1) and (2) of section
4 316.1936, Florida Statutes, are amended to read:

5 316.1936 Possession of open containers of alcoholic
6 beverages in vehicles prohibited; penalties.--

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

8 (a) "Open container" means any container which is
9 immediately capable of being consumed from, or the seal of
10 which has been broken.

11 (b) "Public highway" or the "right-of-way of a public
12 highway" means the entire width between and immediately
13 adjacent to the boundary lines of every way publicly
14 maintained when any part thereof is open to the use of the
15 public for purposes of vehicular travel.

16 (2)(a) It is unlawful and punishable as provided in
17 this section for any person to possess an open container of an
18 alcoholic beverage or consume an alcoholic beverage while
19 operating a vehicle in the state or while a passenger in or on
20 a vehicle being operated in the state.

21 (b) It is unlawful and punishable as provided in this
22 section for any person to possess an open container of an
23 alcoholic beverage or consume an alcoholic beverage while
24 seated in the passenger area of a motor vehicle which is
25 parked or stopped within a public highway.

26 Section 5. Paragraph (b) of subsection (1), paragraphs
27 (e) and (f) of subsection (2), and subsection (8) of section
28 316.302, Florida Statutes, 1998 Supplement, are amended to
29 read:

30
31

1 316.302 Commercial motor vehicles; safety regulations;
2 transporters and shippers of hazardous materials;
3 enforcement.--

4 (1)

5 (b) Except as otherwise provided in this section, all
6 owners or drivers of commercial motor vehicles that are
7 engaged in intrastate commerce are subject to the rules and
8 regulations contained in 49 C.F.R. parts 382, 385, and
9 390-397, with the exception of 49 C.F.R. s. 390.5 as it
10 relates to the definition of bus, as such rules and
11 regulations existed on March 1, 1999 ~~1997~~.

12 (2)

13 (e) A person who operates a commercial motor vehicle
14 solely in intrastate commerce is exempt from subsection (1)
15 while transporting agricultural products, including
16 horticultural or forestry products, from farm or harvest place
17 to the first place of processing or storage, or from farm or
18 harvest place directly to market. However, such person must
19 comply with 49 C.F.R. ~~part 391, subpart H and parts 382, 392,~~
20 and 393, and with 49 C.F.R. ss. 396.3(a)(1) and s-396.9.

21 (f) A person who operates a commercial motor vehicle
22 having a declared gross vehicle weight of less than 26,000
23 pounds solely in intrastate commerce and who is not
24 transporting hazardous materials, or who is transporting
25 petroleum products as defined in s. 376.301 ~~s. 376.301(29)~~, is
26 exempt from subsection (1). However, such person must comply
27 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
28 396.3(a)(1) and s-396.9.

29 (8) Any law enforcement officer ~~agent of the~~
30 ~~Department of Transportation described in s. 316.545(9), any~~
31 ~~member of the Florida Highway Patrol, or any person employed~~

1 ~~by a sheriff's office or municipal police department~~ who is
2 authorized to enforce the traffic laws of this state pursuant
3 to s. 316.640 may enforce the provisions of this section. Any
4 ~~officer of the Department of Transportation described in s.~~
5 ~~316.545(9), any member of the Florida Highway Patrol, or any~~
6 ~~law enforcement officer employed by a sheriff's office or~~
7 ~~municipal police department~~ authorized to enforce the traffic
8 laws of this state pursuant to s. 316.640, who has reason to
9 believe that a vehicle or driver is operating in an unsafe
10 condition, may require the driver to stop and submit to an
11 inspection of the vehicle or the driver's records. Any person
12 who fails to comply with an officer's request to submit to an
13 inspection under this subsection is guilty of a violation of
14 s. 843.02 if the driver resists the officer without violence
15 or a violation of s. 843.01 if the driver resists the officer
16 with violence. If the vehicle is found to be in an unsafe
17 condition, or if any required part or equipment is not present
18 or is not in proper repair or adjustment, and the continued
19 operation would probably present an unduly hazardous operating
20 condition, the officer may give written notice to require
21 proper repair and adjustment of the vehicle within 14 days.

22 Section 6. Paragraph (c) of subsection (3) of section
23 316.3025, Florida Statutes, is amended to read:

24 316.3025 Penalties.--

25 (3)

26 (c) A civil penalty of \$250 may be assessed for:

27 1. A violation of the placarding requirements of 49

28 C.F.R. parts 171-179;

29 2. A violation of the shipping paper requirements of

30 49 C.F.R. parts 171-179;

31 3. A violation of 49 C.F.R. s. 392.10;

- 1 4. A violation of 49 C.F.R. s. 397.5 ~~s. 395.5~~;
- 2 5. A violation of 49 C.F.R. s. 397.7;
- 3 6. A violation of 49 C.F.R. s. 397.13; or
- 4 7. A violation of 49 C.F.R. s. 397.15.

5 Section 7. Subsection (1) of section 316.516, Florida
6 Statutes, is amended to read:

7 316.516 Width, height, and length; inspection;
8 penalties.--

9 (1) Any law enforcement officer, as prescribed in s.
10 316.640, ~~or any weight and safety officer of the Department of~~
11 ~~Transportation, as prescribed in s. 316.545(1)~~, who has reason
12 to believe that the width, height, or length of a vehicle or
13 combination of vehicles and the load thereon is not in
14 conformance with s. 316.515 is authorized to require the
15 driver to stop and submit such vehicle and load to measurement
16 of its width, height, or length.

17 Section 8. Subsections (1) and (9) of section 316.545,
18 Florida Statutes, are amended to read:

19 316.545 Weight and load unlawful; special fuel and
20 motor fuel tax enforcement; inspection; penalty; review.--

21 (1) Any law enforcement ~~weight and safety~~ officer of
22 the Department of Transportation having reason to believe that
23 the weight of a vehicle and load is unlawful is authorized to
24 require the driver to stop and submit to a weighing of the
25 same by means of either portable or fixed scales and may
26 require that such vehicle be driven to the nearest weigh
27 station or public scales, provided such a facility is within 5
28 highway miles. Upon a request by the vehicle driver, the
29 officer shall weigh the vehicle at fixed scales rather than by
30 portable scales if such a facility is available within 5
31 highway miles. Anyone who refuses to submit to such weighing

1 obstructs an officer pursuant to s. 843.02 and is guilty of a
2 misdemeanor of the first degree, punishable as provided in s.
3 775.082 or s. 775.083. Anyone who knowingly and willfully
4 resists, obstructs, or opposes an ~~a weight and safety~~ officer
5 while refusing to submit to such weighing by resisting the
6 officer with violence to the officer's person pursuant to s.
7 843.01 is guilty of a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 (9) Any agent of the Department of Transportation who
10 is employed as a ~~for the purpose of being a weight and safety~~
11 ~~officer and who meets the qualifications established by law~~
12 ~~for~~ law enforcement officers shall have the same arrest powers
13 as are granted any law enforcement officer for the purpose of
14 enforcing the provisions of weight, load, safety, commercial
15 motor vehicle registration, and fuel tax compliance laws.

16 Section 9. Subsection (1) of section 334.0445, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 334.0445 Model career service classification and
19 compensation plan.--

20 (1) Effective July 1, 1994, the Legislature grants to
21 the Department of Transportation in consultation with the
22 Department of Management Services, the Executive Office of the
23 Governor, legislative appropriations committees, legislative
24 personnel committees, and the affected certified bargaining
25 unions, the authority on a pilot basis to develop and
26 implement a model career service classification and
27 compensation system. Such system shall be developed for use by
28 all state agencies. Authorization for this program will be
29 through June 30, 2002 ~~for 3 fiscal years beginning July 1,~~
30 ~~1994, and ending June 30, 1997;~~ however, the department may
31 elect or be directed by the Legislature to return to the

1 current system at anytime during this period if the model
2 system does not meet the stated goals and objectives.

3 Section 10. Subsection (1) of section 335.093, Florida
4 Statutes, is amended to read:

5 335.093 Scenic highway designation.--

6 (1) The Department of Transportation may, after
7 consultation with other state agencies and local governments,
8 designate public roads as scenic highways ~~on the state highway~~
9 ~~system~~. Public roads ~~Highways~~ designated as scenic highways
10 are intended to preserve, maintain, and protect a part of
11 Florida's cultural, historical, and scenic routes ~~on the State~~
12 ~~Highway System~~ for vehicular, bicycle, and pedestrian travel.

13 Section 11. Paragraph (c) is added to subsection (6)
14 of section 337.11, Florida Statutes, to read:

15 337.11 Contracting authority of department; bids;
16 emergency repairs, supplemental agreements, and change orders;
17 combined design and construction contracts; progress payments;
18 records; requirements of vehicle registration.--

19 (6)

20 (c) When the department determines that it is in the
21 best interest of the public for reasons of public concern,
22 economy, improved operations or safety, and only when
23 circumstances dictate rapid completion of the work, the
24 department may, up to the threshold amount provided in s.
25 287.017 for CATEGORY FOUR, enter into contracts for
26 construction and maintenance without advertising and receiving
27 competitive bids. The department may enter into such contracts
28 only upon a determination that the work is necessary for one
29 of the following reasons:

30 1. To ensure timely completion of projects or
31 avoidance of undue delay for other projects;

1 2. To accomplish minor repairs or construction and
2 maintenance activities for which time is of the essence and
3 for which significant cost savings would occur; or

4 3. To accomplish nonemergency work necessary to ensure
5 avoidance of adverse conditions that affect the safe and
6 efficient flow of traffic.

7
8 The department shall make a good-faith effort to obtain two or
9 more quotes, if available, from qualified contractors before
10 entering into any contract. The department shall give
11 consideration to disadvantaged business enterprise
12 participation.

13 Section 12. Paragraph (a) of subsection (1) of section
14 337.16, Florida Statutes, is amended to read:

15 337.16 Disqualification of delinquent contractors from
16 bidding; determination of contractor nonresponsibility;
17 denial, suspension, and revocation of certificates of
18 qualification; grounds; hearing.--

19 (1) A contractor shall not be qualified to bid when an
20 investigation by the department discloses that such contractor
21 is delinquent on a previously awarded contract, and in such
22 case the contractor's certificate of qualification shall be
23 suspended or revoked. Any contractor whose certificate of
24 qualification is suspended or revoked for delinquency shall
25 also be disapproved as a subcontractor during the period of
26 suspension or revocation, except when a prime contractor's bid
27 has used prices of a subcontractor who becomes disqualified
28 after the bid and before the request for authorization to
29 sublet is presented.

30 (a) A contractor is delinquent when ~~unsatisfactory~~
31 ~~progress is being made on a construction project or when the~~

1 allowed contract time has expired and the contract work is not
2 complete. ~~Unsatisfactory progress shall be determined in~~
3 ~~accordance with the contract provisions.~~

4 Section 13. Subsection (2) of section 337.162, Florida
5 Statutes, 1998 Supplement, is amended to read:

6 337.162 Professional services.--Professional services
7 provided to the department that fall below acceptable
8 professional standards may result in transportation project
9 delays, overruns, and reduced facility life. To minimize these
10 effects and ensure that quality services are received, the
11 Legislature hereby declares that licensed professionals shall
12 be held accountable for the quality of the services they
13 provide to the department.

14 (2) Any person who is employed by the department and
15 who is licensed by the Department of Business and Professional
16 Regulation and who, through the course of his or her
17 employment, has knowledge or reason to believe that any person
18 has violated the provisions of state professional licensing
19 laws or rules shall submit a complaint about the violations to
20 the Department of Business and Professional Regulation.
21 Failure to submit a complaint about the violations may be
22 grounds for disciplinary action pursuant to part I of chapter
23 455 and the state licensing law applicable to that licensee.
24 However, licensees under part II of chapter 475 are exempt
25 from the provisions of s. 455.227(1)(i).The complaint
26 submitted to the Department of Business and Professional
27 Regulation and maintained by the department is confidential
28 and exempt from s. 119.07(1).

29 Section 14. Subsections (1) and (2) of section 337.18,
30 Florida Statutes, 1998 Supplement, are amended to read:

31

1 337.18 Surety bonds; requirement with respect to
2 contract award; defaults; damage assessments.--

3 (1) A surety bond shall be required of the successful
4 bidder in an amount equal to the awarded contract price. For a
5 project for which the contract price is \$150,000 or less, the
6 department may waive the requirement for all or a portion of a
7 surety bond if it determines the project is of a noncritical
8 nature and nonperformance will not endanger public health,
9 safety, or property. The department may require alternate
10 means of security if a surety bond is waived. The surety on
11 such bond shall be a surety company authorized to do business
12 in the state. All bonds shall be payable to the department
13 ~~Governor and his or her successors in office~~ and conditioned
14 for the prompt, faithful, and efficient performance of the
15 contract according to plans and specifications and within the
16 time period specified, and for the prompt payment of all
17 persons furnishing labor, material, equipment, and supplies
18 therefor; however, whenever an improvement, demolition, or
19 removal contract price is \$25,000 or less, the security may,
20 in the discretion of the bidder, be in the form of a cashier's
21 check, bank money order of any state or national bank,
22 certified check, or postal money order.

23 (2) The department shall provide in its contracts for
24 the determination of default on the part of any contractor for
25 cause attributable to such contractor. The department shall
26 have no liability for anticipated profits for unfinished work
27 on a contract which has been determined to be in default.
28 Every contract let by the department for the performance of
29 work shall contain a provision for payment to the department
30 by the contractor of liquidated damages due to failure of the
31 contractor to complete the contract work within the time

1 stipulated in the contract or within such additional time as
2 may have been granted by the department. The contractual
3 provision shall include a reasonable estimate of the damages
4 that would be incurred by the department as a result of such
5 failure. The department shall establish a schedule of daily
6 liquidated damage charges, based on original contract amounts,
7 for construction contracts entered into by the department,
8 which schedule shall be incorporated by reference into the
9 contract. The department shall update the schedule of
10 liquidated damages at least once every 2 years, but no more
11 often than once a year. The schedule shall, at a minimum, be
12 based on the average construction, engineering, and inspection
13 costs experienced by the department on contracts over the 2
14 preceding fiscal years. The schedule shall also include
15 anticipated costs of project-related delays and inconveniences
16 to the department and traveling public. Anticipated costs may
17 include, but are not limited to, road user costs, a portion of
18 the projected revenues that will be lost due to failure to
19 timely open a project to revenue-producing traffic, costs
20 resulting from retaining detours for an extended time, and
21 other similar costs. ~~The schedule shall be divided into the~~
22 ~~following categories, based on the original contract amounts:~~
23 ~~(a) \$50,000 and under;~~
24 ~~(b) Over \$50,000 but less than \$250,000;~~
25 ~~(c) \$250,000 or more but less than \$500,000;~~
26 ~~(d) \$500,000 or more but less than \$2.5 million;~~
27 ~~(e) \$2.5 million or more but less than \$5 million;~~
28 ~~(f) \$5 million or more but less than \$10 million;~~
29 ~~(g) \$10 million or more but less than \$15 million;~~
30 ~~(h) \$15 million or more but less than \$20 million; and~~
31 ~~(i) \$20 million and over.~~

1
2 Any such liquidated damages paid to the department shall be
3 deposited to the credit of the fund from which payment for the
4 work contracted was authorized.

5 Section 15. Subsections (1), (2), (3), (7), and (8) of
6 section 337.185, Florida Statutes, are amended to read:

7 337.185 State Arbitration Board.--

8 (1) To facilitate the prompt settlement of claims for
9 additional compensation arising out of construction contracts
10 between the department and the various contractors with whom
11 it transacts business, the Legislature does hereby establish
12 the State Arbitration Board, referred to in this section as
13 the "board." For the purpose of this section, "claim" shall
14 mean the aggregate of all outstanding claims by a party
15 arising out of a construction contract. Every contractual
16 claim in an amount up to ~~\$100,000~~ \$250,000 per contract or, at
17 the claimant's option, up to ~~\$250,000~~ \$500,000 per contract
18 or, upon agreement of the parties, up to \$1 million per
19 contract that cannot be resolved by negotiation between the
20 department and the contractor shall be arbitrated by the board
21 after acceptance of the project by the department. As an
22 exception, either party to the dispute may request that the
23 claim be submitted to binding private arbitration. A court of
24 law may not consider the settlement of such a claim until the
25 process established by this section has been exhausted.

26 (2) The board shall be composed of three members. One
27 member shall be appointed by the head of the department, and
28 one member shall be elected by those construction companies
29 who are under contract with the department. The third member
30 shall be chosen by agreement of the other two members.
31 Whenever the third member has a conflict of interest regarding

1 affiliation with one of the parties, the other two members
2 shall select an alternate member for that hearing. The head
3 of the department may select an alternative or substitute to
4 serve as the department member for any hearing or term. Each
5 member shall serve a 2-year term. The board shall elect a
6 chair, each term, who shall be the administrator of the board
7 and custodian of its records.

8 (3) A hearing may be requested by the department or by
9 a contractor who has a dispute with the department which,
10 under the rules of the board, may be the subject of
11 arbitration. The board shall conduct the hearing within 45
12 days of the request. The party requesting the board's
13 consideration shall give notice of the hearing to each member.
14 If the board finds that a third party is necessary to resolve
15 the dispute, the board may vote to dismiss the claim, which
16 may thereafter be pursued in accordance with the laws of the
17 state in a court of law.

18 (7) The members ~~member~~ of the board ~~elected by~~
19 ~~construction companies and the third member of the board~~ may
20 receive compensation for the performance of their duties
21 hereunder, from administrative fees received by the board,
22 except that no employee of the department may receive
23 compensation from the board. The compensation amount shall be
24 determined by the board, but shall not exceed \$125 per hour,
25 up to a maximum of \$1,000~~\$750~~ per day for each member
26 authorized to receive compensation. Nothing in this section
27 shall prevent the member elected by construction companies
28 from being an employee of an association affiliated with the
29 industry, even if the sole responsibility of that member is
30 service on the board. Travel expenses for the industry member
31 may be paid by an industry association, if necessary. The

1 board may allocate funds annually for clerical and other
2 administrative services.

3 (8) The party requesting arbitration shall pay a fee
4 to the board in accordance with a schedule established by it,
5 not to exceed \$500 per claim which is \$25,000 or less, not to
6 exceed \$1,000 per claim which is in excess of \$25,000 but not
7 exceeding \$50,000, not to exceed \$1,500 per claim which is in
8 excess of \$50,000 but not exceeding \$100,000, not to exceed
9 \$2,000 per claim which is in excess of \$100,000 but not
10 exceeding \$200,000, ~~and not to exceed \$3,000~~~~\$2,500~~ per claim
11 which is in excess of \$200,000 but not exceeding \$300,000
12 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of
13 \$300,000 but not exceeding \$400,000, and not to exceed \$5,000
14 per claim which is in excess of \$400,000, to cover the cost of
15 administration and compensation of the board.

16 Section 16. Paragraph (a) of subsection (1) and
17 paragraph (i) of subsection (4) of section 337.25, Florida
18 Statutes, are amended to read:

19 337.25 Acquisition, lease, and disposal of real and
20 personal property.--

21 (1)(a) The department may purchase, lease, exchange,
22 or otherwise acquire any land, property interests, or
23 buildings or other improvements, including personal property
24 within such buildings or on such lands, necessary to secure or
25 utilize transportation rights-of-way for existing, proposed,
26 or anticipated transportation facilities on the State Highway
27 System, on the State Park Road System, in a rail corridor, or
28 in a transportation corridor designated by the department.
29 Such property shall be held in the name of the state.

30 (4) The department may sell, in the name of the state,
31 any land, building, or other property, real or personal, which

1 was acquired under the provisions of subsection (1) and which
2 the department has determined is not needed for the
3 construction, operation, and maintenance of a transportation
4 facility. With the exception of any parcel governed by
5 paragraph (c), paragraph (d), paragraph (f), paragraph (g), or
6 paragraph (i), the department shall afford first right of
7 refusal to the local government in the jurisdiction of which
8 the parcel is situated. When such a determination has been
9 made, property may be disposed of in the following manner:

10 (i) If property was originally acquired specifically
11 to provide replacement housing for persons displaced by
12 ~~federally assisted~~ transportation projects, the department may
13 negotiate for the sale of such property as replacement
14 housing. As compensation, the state shall receive no less than
15 its investment in such properties or fair market value,
16 whichever is lower. It is expressly intended that this benefit
17 be extended only to those persons actually displaced by such
18 project. Dispositions to any other persons must be for fair
19 market value.

20 Section 17. Subsection (1) of section 337.403, Florida
21 Statutes, is amended to read:

22 337.403 Relocation of utility; expenses.--

23 (1) Any utility heretofore or hereafter placed upon,
24 under, over, or along any public road or publicly owned rail
25 corridor that is found by the authority to be unreasonably
26 interfering in any way with the convenient, safe, or
27 continuous use, or the maintenance, improvement, extension, or
28 expansion, of such public road or publicly owned rail corridor
29 shall, upon 30 days' written notice to the utility or its
30 agent by the authority, be removed or relocated by such

31

1 utility at its own expense except as provided in paragraphs
2 (a), and (b), and (c).

3 (a) If the relocation of utility facilities, as
4 referred to in s. 111 of the Federal-Aid Highway Act of 1956,
5 Pub. L. No. 627 of the 84th Congress, is necessitated by the
6 construction of a project on the federal-aid interstate
7 system, including extensions thereof within urban areas, and
8 the cost of such project is eligible and approved for
9 reimbursement by the Federal Government to the extent of 90
10 percent or more under the Federal Aid Highway Act, or any
11 amendment thereof, then in that event the utility owning or
12 operating such facilities shall relocate such facilities upon
13 order of the department, and the state shall pay the entire
14 expense properly attributable to such relocation after
15 deducting therefrom any increase in the value of the new
16 facility and any salvage value derived from the old facility.

17 (b) When a joint agreement between the department and
18 the utility is executed for utility improvement, relocation,
19 or removal work to be accomplished as part of a contract for
20 construction of a transportation facility, the department may
21 participate in those utility improvement, relocation, or
22 removal costs that exceed the department's official estimate
23 of the cost of such work by more than 10 percent. The amount
24 of such participation shall be limited to the difference
25 between the official estimate of all the work in the joint
26 agreement plus 10 percent and the amount awarded for this work
27 in the construction contract for such work. The department may
28 not participate in any utility improvement, relocation, or
29 removal costs that occur as a result of changes or additions
30 during the course of the contract.

31

1 (c) When an agreement between the department and
2 utility is executed for utility improvement, relocation, or
3 removal work to be accomplished in advance of a contract for
4 construction of a transportation facility, the department may
5 participate in the cost of clearing and grubbing necessary to
6 perform such work.

7 Section 18. Paragraph (b) of subsection (2) of section
8 338.223, Florida Statutes, is amended to read:

9 338.223 Proposed turnpike projects.--

10 (2)

11 (b) In accordance with the legislative intent
12 expressed in s. 337.273, and after the requirements of
13 paragraph (1)(c) have been met, the department may acquire
14 lands and property before making a final determination of the
15 economic feasibility of a project. The requirements of
16 paragraph (1)(c) do not apply to hardship and protective
17 purchases of advance right-of-way by the department. The cost
18 of advance acquisition of right-of-way may be paid from bonds
19 issued under s. 337.276 or from turnpike revenues. For
20 purposes of this paragraph, the term "hardship purchase" means
21 purchase from a property owner of a residential dwelling of
22 not more than four units who is at a disadvantage due to
23 health impairment, job loss, or significant loss of rental
24 income. For purposes of this paragraph, the term "protective
25 purchase" means that a purchase to limit development,
26 building, or other intensification of land uses within the
27 area right-of-way is needed for transportation facilities. The
28 department shall give written notice to the Department of
29 Environmental Protection 30 days before final agency
30 acceptance as set forth in s. 119.07(3)(n), which notice shall
31 allow the Department of Environmental Protection to comment.

1 Hardship and protective purchases of right-of-way shall not
2 influence the environmental feasibility of a project,
3 including the decision relative to the need to construct the
4 project or the selection of a specific location. Costs to
5 acquire and dispose of property acquired as hardship and
6 protective purchases are considered costs of doing business
7 for the department and are not to be considered in the
8 determination of environmental feasibility for the project.

9 Section 19. Section 338.229, Florida Statutes, is
10 amended to read:

11 338.229 Pledge to bondholders not to restrict certain
12 rights of department.--The state does pledge to, and agree
13 with, the holders of the bonds issued pursuant to ss.
14 338.22-338.241 ~~ss. 338.22-338.244~~ that the state will not
15 limit or restrict the rights vested in the department to
16 construct, reconstruct, maintain, and operate any turnpike
17 project as defined in ss. 338.22-338.241 ~~ss. 338.22-338.244~~ or
18 to establish and collect such tolls or other charges as may be
19 convenient or necessary to produce sufficient revenues to meet
20 the expenses of maintenance and operation of the turnpike
21 system and to fulfill the terms of any agreements made with
22 the holders of bonds authorized by this act and that the state
23 will not in any way impair the rights or remedies of the
24 holders of such bonds until the bonds, together with interest
25 on the bonds, are fully paid and discharged. In implementing
26 this section, the department is specifically authorized to
27 provide for further restrictions on the sale, transfer, lease,
28 or other disposition or operation of any portion of the
29 turnpike system which reduces the revenue available for
30 payment to bondholders.

31

1 Section 20. Section 339.155, Florida Statutes, is
2 amended to read:

3 339.155 Transportation planning.--

4 (1) PLANNING DUTIES.--The department shall develop and
5 annually update a statewide transportation plan, to be known
6 as the Florida Transportation Plan. The plan shall be
7 designed so as to be easily read and understood by the general
8 public.

9 ~~(1) PURPOSE.~~--The purpose of the Florida
10 Transportation Plan is to establish and define the state's
11 long-range transportation goals and objectives ~~of the~~
12 ~~department~~ to be accomplished over a period of at least 20
13 years within the context of the State Comprehensive Plan and
14 any other statutory mandates and authorizations. The Florida
15 Transportation Plan shall consider the needs of the entire
16 state transportation system and examine the use of all modes
17 of transportation to effectively and efficiently meet such
18 needs given to the department. ~~The plan shall define the~~
19 ~~relationship between the long-range goals and the short-range~~
20 ~~objectives, and specify those objectives against which the~~
21 ~~department's achievement of such goals will be measured. The~~
22 ~~plan shall provide a policy framework within which the~~
23 ~~department's legislative budget request, the strategic~~
24 ~~information resource management plan, and the work program are~~
25 ~~developed.~~

26 (2) SCOPE OF PLANNING PROCESS ~~DEVELOPMENT CRITERIA.~~--

27 (a) ~~The Florida Transportation Plan shall consider the~~
28 ~~needs of the entire state transportation system, examine the~~
29 ~~use of all modes of transportation to effectively and~~
30 ~~efficiently meet such needs, and provide for the~~
31 ~~interconnection of all types of modes in a comprehensive~~

1 ~~intermodal transportation system. In developing the Florida~~
2 ~~Transportation Plan, the department shall~~ carry out a
3 transportation planning process that provides for
4 consideration of projects and strategies that will ~~consider~~
5 ~~the following:~~

6 1. Support the economic vitality of the United States,
7 Florida, and the metropolitan areas, especially by enabling
8 global competitiveness, productivity, and efficiency;

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

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

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

15 5. Enhance the integration and connectivity of the
16 transportation system, across and between modes throughout
17 Florida, for people and freight;

18 6. Promote efficient system management and operation;
19 and

20 7. Emphasize the preservation of the existing
21 transportation system.

22 (b) Additionally, the department shall consider:

23 1. With respect to nonmetropolitan areas, the concerns
24 of local elected officials representing units of general
25 purpose local government;

26 2. The concerns of Indian tribal governments and
27 federal land management agencies that have jurisdiction over
28 land within the boundaries of Florida; and

29 3. Coordination of transportation plans, programs, and
30 planning activities with related planning activities being
31 carried out outside of metropolitan planning areas.

1 ~~(a) The results of the management systems required~~
2 ~~pursuant to federal laws and regulations.~~

3 ~~(b) Any federal, state, or local energy use goals,~~
4 ~~objectives, programs, or requirements.~~

5 ~~(c) Strategies for incorporating bicycle~~
6 ~~transportation facilities and pedestrian walkways in projects~~
7 ~~where appropriate throughout the state.~~

8 ~~(d) International border crossings and access to~~
9 ~~ports, airports, intermodal transportation facilities, major~~
10 ~~freight distribution routes, national parks, recreation and~~
11 ~~scenic areas, monuments and historic sites, and military~~
12 ~~installations.~~

13 ~~(e) The transportation needs of nonmetropolitan areas~~
14 ~~through a process that includes consultation with local~~
15 ~~elected officials with jurisdiction over transportation.~~

16 ~~(f) Consistency of the plan, to the maximum extent~~
17 ~~feasible, with strategic regional policy plans, metropolitan~~
18 ~~planning organization plans, and approved local government~~
19 ~~comprehensive plans so as to contribute to the management of~~
20 ~~orderly and coordinated community development.~~

21 ~~(g) Connectivity between metropolitan areas within the~~
22 ~~state and with metropolitan areas in other states.~~

23 ~~(h) Recreational travel and tourism.~~

24 ~~(i) Any state plan developed pursuant to the Federal~~
25 ~~Water Pollution Control Act.~~

26 ~~(j) Transportation system management and investment~~
27 ~~strategies designed to make the most efficient use of existing~~
28 ~~transportation facilities.~~

29 ~~(k) The total social, economic, energy, and~~
30 ~~environmental effects of transportation decisions on the~~
31 ~~community and region.~~

1 ~~(l) Methods to manage traffic congestion and to~~
2 ~~prevent traffic congestion from developing in areas where it~~
3 ~~does not yet occur, including methods which reduce motor~~
4 ~~vehicle travel, particularly single-occupant vehicle travel.~~

5 ~~(m) Methods to expand and enhance transit services and~~
6 ~~to increase the use of such services.~~

7 ~~(n) The effect of transportation decisions on land use~~
8 ~~and land development, including the need for consistency~~
9 ~~between transportation decisionmaking and the provisions of~~
10 ~~all applicable short-range and long-range land use and~~
11 ~~development plans.~~

12 ~~(o) Where appropriate, the use of innovative~~
13 ~~mechanisms for financing projects, including value capture~~
14 ~~pricing, tolls, and congestion pricing.~~

15 ~~(p) Preservation and management of rights-of-way for~~
16 ~~construction of future transportation projects, including~~
17 ~~identification of unused rights-of-way which may be needed for~~
18 ~~future transportation corridors, and identification of those~~
19 ~~corridors for which action is most needed to prevent~~
20 ~~destruction or loss.~~

21 ~~(q) Future, as well as existing, needs of the state~~
22 ~~transportation system.~~

23 ~~(r) Methods to enhance the efficient movement of~~
24 ~~commercial motor vehicles.~~

25 ~~(s) The use of life-cycle costs in the design and~~
26 ~~engineering of bridges, tunnels, or pavement.~~

27 ~~(t) Investment strategies to improve adjoining state~~
28 ~~and local roads that support rural economic growth and tourism~~
29 ~~development, federal agency renewable resources management,~~
30 ~~and multipurpose land management practices, including~~
31 ~~recreation development.~~

1 ~~(u) The concerns of Indian tribal governments having~~
2 ~~jurisdiction over lands within the boundaries of the state.~~

3 ~~(v) A seaport or airport master plan, which has been~~
4 ~~incorporated into an approved local government comprehensive~~
5 ~~plan, and the linkage of transportation modes described in~~
6 ~~such plan which are needed to provide for the movement of~~
7 ~~goods and passengers between the seaport or airport and the~~
8 ~~other transportation facilities.~~

9 ~~(w) The joint use of transportation corridors and~~
10 ~~major transportation facilities for alternate transportation~~
11 ~~and community uses.~~

12 ~~(x) The integration of any proposed system into all~~
13 ~~other types of transportation facilities in the community.~~

14 (3) ~~FORMAT, SCHEDULE, AND REVIEW.--The Florida~~
15 ~~Transportation Plan shall be a unified, concise planning~~
16 ~~document that clearly defines the state's long-range~~
17 ~~transportation goals and objectives and documents the~~
18 ~~department's short-range objectives developed to further such~~
19 ~~goals and objectives.~~The plan shall include a glossary that
20 clearly and succinctly defines any and all phrases, words, or
21 terms of art included in the plan, with which the general
22 public may be unfamiliar and shall consist of, at a minimum,
23 the following components:

24 (a) A long-range component documenting the goals and
25 long-term objectives necessary to implement the results of the
26 department's findings from its examination of the criteria
27 listed in subsection (2). The long-range component must be
28 developed in cooperation with the metropolitan planning
29 organizations and reconciled, to the maximum extent feasible,
30 with the long-range plans developed by metropolitan planning
31 organizations pursuant to s. 339.175. The plan must also be

1 developed in consultation with affected local officials in
2 nonmetropolitan areas and with any affected Indian tribal
3 governments.The plan must provide an examination of
4 transportation issues likely to arise during at least a
5 20-year period. The long-range component shall be updated at
6 least once every 5 years, or more often as necessary, to
7 reflect substantive changes to federal or state law.

8 (b) A short-range component documenting the short-term
9 objectives and strategies necessary to implement the goals and
10 long-term objectives contained in the long-range component.
11 The short-range component must define the relationship between
12 the long-range goals and the short-range objectives, specify
13 those objectives against which the department's achievement of
14 such goals will be measured, and identify transportation
15 strategies necessary to efficiently achieve the goals and
16 objectives in the plan. It must provide a policy framework
17 within which the department's legislative budget request, the
18 strategic information resource management plan, and the work
19 program are developed.The short-range component shall serve
20 as the department's annual agency strategic plan pursuant to
21 s. 186.021. The short-range component shall be developed
22 consistent with the requirements of s. 186.022 and consistent
23 with available and forecasted state and federal funds. In
24 addition to those entities listed in s. 186.022, the
25 short-range component shall also be submitted to the Florida
26 Transportation Commission.

27 (4) ANNUAL PERFORMANCE REPORT.--The department shall
28 develop an annual performance report evaluating the operation
29 of the department for the preceding fiscal year. The report,
30 which shall meet the requirements of s. 186.022, shall also
31 include a summary of the financial operations of the

1 department and shall annually evaluate how well the adopted
2 work program meets the short-term objectives contained in the
3 short-range component of the Florida Transportation Plan. In
4 addition to the entities listed in s. 186.022, this
5 performance report shall also be submitted to the Florida
6 Transportation Commission and the legislative appropriations
7 and transportation committees.

8 (5) ADDITIONAL TRANSPORTATION PLANS.--

9 (a) Upon request by local governmental entities, the
10 department may in its discretion develop and design
11 transportation corridors, arterial and collector streets,
12 vehicular parking areas, and other support facilities which
13 are consistent with the plans of the department for major
14 transportation facilities. The department may render to local
15 governmental entities or their planning agencies such
16 technical assistance and services as are necessary so that
17 local plans and facilities are coordinated with the plans and
18 facilities of the department.

19 (b) Each regional planning council, as provided for in
20 s. 186.504, or any successor agency thereto, shall develop, as
21 an element of its strategic regional policy plan,
22 transportation goals and policies. The transportation goals
23 and policies shall be consistent, to the maximum extent
24 feasible, with the goals and policies of the metropolitan
25 planning organization and the Florida Transportation Plan.
26 The transportation goals and policies of the regional planning
27 council will be advisory only and shall be submitted to the
28 department and any affected metropolitan planning organization
29 for their consideration and comments. Metropolitan planning
30 organization plans and other local transportation plans shall
31 be developed consistent, to the maximum extent feasible, with

1 the regional transportation goals and policies. The regional
2 planning council shall review urbanized area transportation
3 plans and any other planning products stipulated in s. 339.175
4 and provide the department and respective metropolitan
5 planning organizations with written recommendations which the
6 department and the metropolitan planning organizations shall
7 take under advisement. Further, the regional planning
8 councils shall directly assist local governments which are not
9 part of a metropolitan area transportation planning process in
10 the development of the transportation element of their
11 comprehensive plans as required by s. 163.3177.

12 (6) PROCEDURES FOR PUBLIC PARTICIPATION IN
13 TRANSPORTATION PLANNING.--

14 (a) During the development of the long-range component
15 of the Florida Transportation Plan substantive revisions, ~~and~~
16 ~~prior to adoption of all subsequent amendments~~, the department
17 shall provide citizens, affected public agencies,
18 representatives of transportation agency employees, other
19 affected employee representatives, private providers of
20 transportation, and other known interested parties with an
21 opportunity to comment on the proposed plan or revisions
22 amendments. These opportunities ~~This hearing shall include~~
23 ~~presentation and discussion of the factors listed in~~
24 ~~subsection (2) and~~ shall include, at a minimum, publishing a
25 notice in the Florida Administrative Weekly and within a
26 newspaper of general circulation within the area of each
27 department district office. ~~These notices shall be published~~
28 ~~twice prior to the day of the hearing, with the first notice~~
29 ~~appearing at least 14 days prior to the hearing.~~

30 (b) During development of major transportation
31 improvements, such as those increasing the capacity of a

1 facility through the addition of new lanes or providing new
2 access to a limited or controlled access facility or
3 construction of a facility in a new location, the department
4 shall hold one or more hearings prior to the selection of the
5 facility to be provided; prior to the selection of the site or
6 corridor of the proposed facility; and prior to the selection
7 of and commitment to a specific design proposal for the
8 proposed facility. Such public hearings shall be conducted so
9 as to provide an opportunity for effective participation by
10 interested persons in the process of transportation planning
11 and site and route selection and in the specific location and
12 design of transportation facilities. The various factors
13 involved in the decision or decisions and any alternative
14 proposals shall be clearly presented so that the persons
15 attending the hearing may present their views relating to the
16 decision or decisions which will be made.

17 (c) Opportunity for design hearings:

18 1. The department, prior to holding a design hearing,
19 shall duly notice all affected property owners of record, as
20 recorded in the property appraiser's office, by mail at least
21 20 days prior to the date set for the hearing. The affected
22 property owners shall be:

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

26 b. Those who the department determines will be
27 substantially affected environmentally, economically,
28 socially, or safetywise.

29 2. For each subsequent hearing, the department shall
30 daily publish notice at least 14 days immediately prior to the
31

1 hearing date in a newspaper of general circulation for the
2 area affected.

3 3. A copy of the notice of opportunity for the hearing
4 shall be furnished to the United States Department of
5 Transportation and to the appropriate departments of the state
6 government at the time of publication.

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

12 5. The opportunity for a hearing shall be afforded in
13 each case in which the department is in doubt as to whether a
14 hearing is required.

15 Section 21. Section 339.175, Florida Statutes, is
16 amended to read:

17 339.175 Metropolitan planning organization.--It is the
18 intent of the Legislature to encourage and promote the safe
19 and efficient management, operation, and development of
20 surface transportation systems ~~embracing various modes of~~
21 ~~transportation in a manner~~ that will serve ~~maximize~~ the
22 mobility needs of people and freight goods within and through
23 urbanized areas of this state while minimizing ~~and minimize,~~
24 ~~to the maximum extent feasible, and together with applicable~~
25 ~~regulatory government agencies,~~ transportation-related fuel
26 consumption and air pollution. To accomplish these
27 objectives, metropolitan planning organizations, referred to
28 in this section as M.P.O.'s, shall develop, in cooperation
29 with the state and public transit operators, transportation
30 plans and programs for metropolitan areas. The plans and
31 programs for each metropolitan area must provide for the

1 development and integrated management and operation of
2 transportation systems and facilities, including pedestrian
3 walkways and bicycle transportation facilities that will
4 function as an intermodal transportation system for the
5 metropolitan area ~~Such plans and programs must provide for the~~
6 ~~development of transportation facilities that will function as~~
7 ~~an intermodal transportation system for the metropolitan area.~~
8 The process for developing such plans and programs shall
9 provide for consideration of all modes of transportation and
10 shall be continuing, cooperative, and comprehensive, to the
11 degree appropriate, based on the complexity of the
12 transportation problems to be addressed.

13 (1) DESIGNATION.--

14 (a)1. An M.P.O. shall be designated for each urbanized
15 area of the state. Such designation shall be accomplished by
16 agreement between the Governor and units of general-purpose
17 local government representing at least 75 percent of the
18 population of the urbanized area; however, the unit of
19 general-purpose local government that represents the central
20 city or cities within the M.P.O. jurisdiction, as defined by
21 the United States Bureau of the Census, must be a party to
22 such agreement.

23 2. More than one M.P.O. may be designated within an
24 existing metropolitan planning area ~~urbanized area~~ only if the
25 Governor and the existing M.P.O. determine ~~determines~~ that the
26 size and complexity of the existing metropolitan planning area
27 makes ~~justifies~~ the designation of more than one M.P.O. for
28 the area appropriate ~~multiple M.P.O.'s~~.

29 (b) Each M.P.O. shall be created and operated under
30 the provisions of this section pursuant to an interlocal
31 agreement entered into pursuant to s. 163.01. The signatories

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

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

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

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

30 (2) VOTING MEMBERSHIP.--

31

1 (a) The voting membership of an M.P.O. shall consist
2 of not fewer than 5 or more than 19 apportioned members, the
3 exact number to be determined on an equitable
4 geographic-population ratio basis by the Governor, based on an
5 agreement among the affected units of general-purpose local
6 government as required by federal rules and regulations. The
7 Governor, in accordance with 23 U.S.C. s. 134, ~~as amended by~~
8 ~~the Intermodal Surface Transportation Efficiency Act of 1991,~~
9 may also provide for M.P.O. members who represent
10 municipalities to alternate with representatives from other
11 municipalities within the metropolitan planning designated
12 ~~urban~~ area that do not have members on the M.P.O. County
13 commission members shall compose not less than one-third of
14 the M.P.O. membership, except for an M.P.O. with more than 15
15 members located in a county with a five-member county
16 commission or an M.P.O. with 19 members located in a county
17 with no more than 6 county commissioners, in which case county
18 commission members may compose less than one-third percent of
19 the M.P.O. membership, but all county commissioners must be
20 members. All voting members shall be elected officials of
21 general-purpose governments, except that an M.P.O. may
22 include, as part of its apportioned voting members, a member
23 of a statutorily authorized planning board or an official of
24 an agency that operates or administers a major mode of
25 transportation. ~~In metropolitan areas in which authorities or~~
26 ~~other agencies have been, or may be, created by law to perform~~
27 ~~transportation functions that are not under the jurisdiction~~
28 ~~of a general-purpose local government represented on the~~
29 ~~M.P.O., they shall be provided voting membership on the M.P.O.~~
30 The county commission shall compose not less than 20 percent
31 of the M.P.O. membership if an official of an agency that

1 operates or administers a major mode of transportation has
2 been appointed to an M.P.O.

3 (b) In metropolitan areas in which authorities or
4 other agencies have been or may be created by law to perform
5 transportation functions that are not under the jurisdiction
6 of a general purpose local government represented on the
7 M.P.O., they shall be provided voting membership on the M.P.O.
8 In all other M.P.O.'s where transportation authorities or
9 agencies are to be represented by elected officials from
10 general purpose local governments, the M.P.O. shall establish
11 a process by which the collective interests of such
12 authorities or other agencies are expressed and conveyed.

13 (c)(b) Any other provision of this section to the
14 contrary notwithstanding, any county chartered under s. 6(e),
15 Art. VIII of the State Constitution may elect to have its
16 county commission serve as the M.P.O., if the M.P.O.
17 jurisdiction is wholly contained within the county. Any
18 charter county that elects to exercise the provisions of this
19 paragraph shall so notify the Governor in writing. Upon
20 receipt of such notification, the Governor must designate the
21 county commission as the M.P.O. The Governor must appoint
22 four additional voting members to the M.P.O., one of whom must
23 be an elected official representing a municipality within the
24 county, one of whom must be an expressway authority member,
25 one of whom must be a person who does not hold elected public
26 office and who resides in the unincorporated portion of the
27 county, and one of whom must be a school board member.

28 (3) APPORTIONMENT.--

29 (a) The Governor shall, with the agreement of the
30 affected units of general-purpose local government as required
31 by federal rules and regulations, apportion the membership on

1 the applicable M.P.O. among the various governmental entities
2 within the area and shall prescribe a method for appointing
3 alternate members who may vote at any M.P.O. meeting that an
4 alternate member attends in place of a regular member. An
5 appointed alternate member must be an elected official serving
6 the same governmental entity or a general-purpose local
7 government with jurisdiction within all or part of the area
8 that the regular member serves. The governmental entity so
9 designated shall appoint the appropriate number of members to
10 the M.P.O. from eligible officials. Representatives of the
11 department shall serve as nonvoting members of the M.P.O.
12 Nonvoting advisers may be appointed by the M.P.O. as deemed
13 necessary. The Governor shall review the composition of the
14 M.P.O. membership at least every 5 years and reapportion it as
15 necessary to comply with subsection (2).

16 (b) Except for members who represent municipalities on
17 the basis of alternating with representatives from other
18 municipalities that do not have members on the M.P.O. as
19 provided in paragraph (2)(a), the members of an M.P.O. shall
20 serve 4-year terms. Members who represent municipalities on
21 the basis of alternating with representatives from other
22 municipalities that do not have members on the M.P.O. as
23 provided in paragraph (2)(a) may serve terms of up to 4 years
24 as further provided in the interlocal agreement described in
25 paragraph (1)(b). The membership of a member who is a public
26 official automatically terminates upon the member's leaving
27 his or her elective or appointive office for any reason, or
28 may be terminated by a majority vote of the total membership
29 of a county or city governing entity represented by the
30 member. A vacancy shall be filled by the original appointing
31

1 entity. A member may be reappointed for one or more
2 additional 4-year terms.

3 (c) If a governmental entity fails to fill an assigned
4 appointment to an M.P.O. within 60 days after notification by
5 the Governor of its duty to appoint, that appointment shall be
6 made by the Governor from the eligible representatives of that
7 governmental entity.

8 (4) AUTHORITY AND RESPONSIBILITY.--The authority and
9 responsibility of an M.P.O. is to manage a continuing,
10 cooperative, and comprehensive transportation planning process
11 that results in the development of plans and programs which
12 are consistent, to the maximum extent feasible, with the
13 approved local government comprehensive plans of the units of
14 local government the boundaries of which are within the
15 metropolitan area of the M.P.O. An M.P.O. shall be the forum
16 for cooperative decisionmaking by officials of the affected
17 governmental entities in the development of the plans and
18 programs required by subsections (5), (6), (7), and (8).

19 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
20 privileges, and authority of an M.P.O. are those specified in
21 this section or incorporated in an interlocal agreement
22 authorized under s. 163.01. Each M.P.O. shall perform all
23 acts required by federal or state laws or rules, now and
24 subsequently applicable, which are necessary to qualify for
25 federal aid. It is the intent of this section that each M.P.O.
26 shall be involved in the planning and programming of
27 transportation facilities, including, but not limited to,
28 airports, intercity and high-speed rail lines, seaports, and
29 intermodal facilities, to the extent permitted by state or
30 federal law.

31

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

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

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

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

9 (b) In developing the long-range transportation plan
10 and the transportation improvement program required under
11 paragraph (a), each M.P.O. shall provide for consideration of
12 projects and strategies that will ~~must, at a minimum,~~
13 ~~consider:~~

14 1. Support the economic vitality of the metropolitan
15 area, especially by enabling global competitiveness,
16 productivity, and efficiency;

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

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

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

23 5. Enhance the integration and connectivity of the
24 transportation system, across and between modes, for people
25 and freight;

26 6. Promote efficient system management and operation;
27 and

28 7. Emphasize the preservation of the existing
29 transportation system.
30
31

- 1 ~~1. The preservation of existing transportation~~
2 ~~facilities and, where practical, ways to meet transportation~~
3 ~~needs by using existing facilities more efficiently;~~
- 4 ~~2. The consistency of transportation planning with~~
5 ~~applicable federal, state, and local energy conservation~~
6 ~~programs, goals, and objectives;~~
- 7 ~~3. The need to relieve congestion and prevent~~
8 ~~congestion from occurring where it does not yet occur;~~
- 9 ~~4. The likely effect of transportation policy~~
10 ~~decisions on land use and development and the consistency of~~
11 ~~transportation plans and programs with all applicable~~
12 ~~short-term and long-term land use and development plans;~~
- 13 ~~5. The programming of transportation enhancement~~
14 ~~activities as required by federal law;~~
- 15 ~~6. The effect of all transportation projects to be~~
16 ~~undertaken in the metropolitan area, without regard to whether~~
17 ~~such projects are publicly funded;~~
- 18 ~~7. The provision of access to seaports, airports,~~
19 ~~intermodal transportation facilities, major freight~~
20 ~~distribution routes, national and state parks, recreation~~
21 ~~areas, monuments and historic sites, and military~~
22 ~~installations;~~
- 23 ~~8. The need for roads within the metropolitan area to~~
24 ~~efficiently connect with roads outside the metropolitan area;~~
- 25 ~~9. The transportation needs identified through the use~~
26 ~~of transportation management systems required by federal or~~
27 ~~state law;~~
- 28 ~~10. The preservation of rights-of-way for construction~~
29 ~~of future transportation projects, including the~~
30 ~~identification of unused rights-of-way that may be needed for~~
31 ~~future transportation corridors and the identification of~~

1 ~~corridors for which action is most needed to prevent~~
2 ~~destruction or loss;~~

3 ~~11. Any available methods to enhance the efficient~~
4 ~~movement of freight;~~

5 ~~12. The use of life-cycle costs in the design and~~
6 ~~engineering of bridges, tunnels, or pavement;~~

7 ~~13. The overall social, economic, energy, and~~
8 ~~environmental effects of transportation decisions;~~

9 ~~14. Any available methods to expand or enhance transit~~
10 ~~services and increase the use of such services; and~~

11 ~~15. The possible allocation of capital investments to~~
12 ~~increase security for transit systems.~~

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

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

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

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

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

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

30 6. Perform all other duties required by state or
31 federal law.

1 (d) Each M.P.O. shall appoint a technical advisory
2 committee that includes planners; engineers; representatives
3 of local aviation authorities, port authorities, and public
4 transit authorities or representatives of aviation
5 departments, seaport departments, and public transit
6 departments of municipal or county governments, as applicable;
7 the school superintendent of each county within the
8 jurisdiction of the M.P.O. or the superintendent's designee;
9 and other appropriate representatives of affected local
10 governments. In addition to any other duties assigned to it by
11 the M.P.O. or by state or federal law, the technical advisory
12 committee is responsible for identifying projects contained in
13 the long-range transportation plan or transportation
14 improvement program which deserve to be classified as a school
15 safety concern. Upon receipt of the recommendation from the
16 technical advisory committee that a project should be so
17 classified, the M.P.O. must vote on whether to classify a
18 particular project as a school safety concern. If the M.P.O.
19 votes that a project should be classified as a school safety
20 concern, the local governmental entity responsible for the
21 project must consider at least two alternatives before making
22 a decision about project location or alignment.

23 (e)1. Each M.P.O. shall appoint a citizens' advisory
24 committee, the members of which serve at the pleasure of the
25 M.P.O. The membership on the citizens' advisory committee must
26 reflect a broad cross section of local residents with an
27 interest in the development of an efficient, safe, and
28 cost-effective transportation system. Minorities, the elderly,
29 and the handicapped must be adequately represented.

30 2. Notwithstanding the provisions of subparagraph 1.,
31 an M.P.O. may, with the approval of the department and the

1 applicable federal governmental agency, adopt an alternative
2 program or mechanism to ensure citizen involvement in the
3 transportation planning process.

4 (f) The department shall allocate to each M.P.O., for
5 the purpose of accomplishing its transportation planning and
6 programming duties, an appropriate amount of federal
7 transportation planning funds.

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

13 (6) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must
14 develop a long-range transportation plan that addresses at
15 least a 20-year planning horizon. The plan must include both
16 long-range and short-range strategies and must comply with all
17 other state and federal requirements. The long-range
18 transportation plan must be consistent, to the maximum extent
19 feasible, with future land use elements and the goals,
20 objectives, and policies of the approved local government
21 comprehensive plans of the units of local government located
22 within the jurisdiction of the M.P.O. The approved long-range
23 transportation plan must be considered by local governments in
24 the development of the transportation elements in local
25 government comprehensive plans and any amendments thereto. The
26 long-range transportation plan must, at a minimum:

27 (a) Identify transportation facilities, including, but
28 not limited to, major roadways, airports, seaports, commuter
29 rail systems, transit systems, and intermodal or multimodal
30 terminals that will function as an integrated metropolitan
31 transportation system. The long-range transportation plan

1 must give emphasis to those transportation facilities that
2 serve national, statewide, or regional functions, and must
3 consider the goals and objectives identified in the Florida
4 Transportation Plan as provided in s. 339.155. If a project is
5 located within the boundaries of more than one M.P.O., the
6 M.P.O.'s must coordinate plans regarding the project in the
7 long-range transportation plan.

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

24 (c) Assess capital investment and other measures
25 necessary to:

26 1. Ensure the preservation of the existing
27 metropolitan transportation system including requirements for
28 the operation, resurfacing, restoration, and rehabilitation of
29 major roadways and requirements for the operation,
30 maintenance, modernization, and rehabilitation of public
31 transportation facilities; and

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

4 (d) Indicate, as appropriate, proposed transportation
5 enhancement activities, including, but not limited to,
6 pedestrian and bicycle facilities, scenic easements,
7 landscaping, historic preservation, mitigation of water
8 pollution due to highway runoff, and control of outdoor
9 advertising.

10 (e) In addition to the requirements of paragraphs
11 (a)-(d), in metropolitan areas that are classified as
12 nonattainment areas for ozone or carbon monoxide, the M.P.O.
13 must coordinate the development of the long-range
14 transportation plan with the State Implementation Plan
15 developed pursuant to the requirements of the federal Clean
16 Air Act.

17
18 In the development of its long-range transportation plan, each
19 M.P.O. must provide the public, affected public agencies,
20 representatives of transportation agency employees, freight
21 shippers, providers of freight transportation services,
22 private providers of transportation, representatives of users
23 of public transit, and other interested parties, ~~and members~~
24 ~~of the general public~~ with a reasonable opportunity to comment
25 on the long-range transportation plan. The long-range
26 transportation plan must be approved by the M.P.O.

27 (7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.
28 shall, in cooperation with the state and affected public
29 transportation operators, develop a transportation improvement
30 program for the area within the jurisdiction of the M.P.O. In
31 the development of the transportation improvement program,

1 each M.P.O. must provide the public,affected public ~~transit~~
2 agencies, representatives of transportation agency employees,
3 freight shippers, providers of freight transportation
4 services,private providers of transportation, representatives
5 of users of public transit, and other interested parties,~~and~~
6 ~~members of the general public~~ with a reasonable opportunity to
7 comment on the proposed transportation improvement program.

8 (a) Each M.P.O. is responsible for developing,
9 annually, a list of project priorities and a transportation
10 improvement program. The transportation improvement program
11 will be used to initiate federally aided transportation
12 facilities and improvements as well as other transportation
13 facilities and improvements including transit, rail, aviation,
14 and port facilities to be funded from the State Transportation
15 Trust Fund within its metropolitan area in accordance with
16 existing and subsequent federal and state laws and rules and
17 regulations related thereto. The transportation improvement
18 program shall be consistent, to the maximum extent feasible,
19 with the approved local government comprehensive plans of the
20 units of local government whose boundaries are within the
21 metropolitan area of the M.P.O.

22 (b) Each M.P.O. annually shall prepare a list of
23 project priorities and shall submit the list to the
24 appropriate district of the department by October 1 of each
25 year; however, the department and a metropolitan planning
26 organization may, in writing, agree to vary this submittal
27 date. The list of project priorities must be formally reviewed
28 by the technical and citizens' advisory committees, and
29 approved by the M.P.O., before it is transmitted to the
30 district. The approved list of project priorities must be used
31 by the district in developing the district work program and

1 must be used by the M.P.O. in developing its transportation
2 improvement program. The annual list of project priorities
3 must be based upon project selection criteria that, at a
4 minimum, consider the following:

- 5 1. The approved M.P.O. long-range transportation plan;
- 6 2. The results of the transportation management
7 systems; and
- 8 3. The M.P.O.'s public-involvement procedures.

9 (c) The transportation improvement program must, at a
10 minimum:

11 1. Include projects and project phases to be funded
12 with state or federal funds within the time period of the
13 transportation improvement program and which are recommended
14 for advancement during the next fiscal year and 4 subsequent
15 fiscal years. Such projects and project phases must be
16 consistent, to the maximum extent feasible, with the approved
17 local government comprehensive plans of the units of local
18 government located within the jurisdiction of the M.P.O. For
19 informational purposes, the transportation improvement program
20 shall also include a list of projects to be funded from local
21 or private revenues.

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

26 3. Provide a financial plan that demonstrates how the
27 transportation improvement program can be implemented;
28 indicates the resources, both public and private, that are
29 reasonably expected to be available to accomplish the program;
30 identifies ~~and recommends~~ any innovative financing techniques
31 that may be used to fund needed projects and programs; and may

1 include, for illustrative purposes, additional projects that
2 would be included in the approved transportation improvement
3 program if reasonable additional resources beyond those
4 identified in the financial plan were available. Innovative
5 financing. ~~Such~~ techniques may include the assessment of
6 tolls, the use of value capture financing, or the use of value
7 ~~congestion~~ pricing. The transportation improvement program
8 may include a project or project phase only if full funding
9 can reasonably be anticipated to be available for the project
10 or project phase within the time period contemplated for
11 completion of the project or project phase.

12 4. Group projects and project phases of similar
13 urgency and anticipated staging into appropriate staging
14 periods.

15 5. Indicate how the transportation improvement program
16 relates to the long-range transportation plan developed under
17 subsection (6), including providing examples of specific
18 projects or project phases that further the goals and policies
19 of the long-range transportation plan.

20 6. Indicate whether any project or project phase is
21 inconsistent with an approved comprehensive plan of a unit of
22 local government located within the jurisdiction of the M.P.O.
23 If a project is inconsistent with an affected comprehensive
24 plan, the M.P.O. must provide justification for including the
25 project in the transportation improvement program.

26 7. Indicate how the improvements are consistent, to
27 the maximum extent feasible, with affected seaport and airport
28 master plans and with public transit development plans of the
29 units of local government located within the jurisdiction of
30 the M.P.O. If a project is located within the boundaries of
31 more than one M.P.O., the M.P.O.'s must coordinate plans

1 regarding the project in the transportation improvement
2 program.

3 (d) Projects included in the transportation
4 improvement program and that have advanced to the design stage
5 of preliminary engineering may be removed from or rescheduled
6 in a subsequent transportation improvement program only by the
7 joint action of the M.P.O. and the department. Except when
8 recommended in writing by the district secretary for good
9 cause, any project removed from or rescheduled in a subsequent
10 transportation improvement program shall not be rescheduled by
11 the M.P.O. in that subsequent program earlier than the 5th
12 year of such program.

13 (e) Before adopting the transportation improvement
14 program, the M.P.O. shall, in cooperation with the department
15 and any affected public transit operation, provide citizens,
16 affected public agencies, representatives of transportation
17 agency employees, freight shippers, providers of freight
18 transportation services, private providers of transportation,
19 representatives of users of public transit, and other
20 interested parties with reasonable notice of and an
21 opportunity to comment on the proposed program.

22 (f)~~(e)~~ The adopted annual transportation improvement
23 program for M.P.O.'s in nonattainment or maintenance areas
24 must be submitted to the district secretary and the Department
25 of Community Affairs at least 90 days before the submission of
26 the state transportation improvement program by the department
27 to the appropriate federal agencies. The annual transportation
28 improvement program for M.P.O.'s in attainment areas must be
29 submitted to the district secretary and the Department of
30 Community Affairs at least 45 days before the department
31 submits the state transportation improvement program to the

1 appropriate federal agencies; however, the department, the
2 Department of Community Affairs, and a metropolitan planning
3 organization may, in writing, agree to vary this submittal
4 date. The Governor or the Governor's designee shall review
5 and approve each transportation improvement program and any
6 amendments thereto.

7 (g)~~(f)~~ The Department of Community Affairs shall
8 review the annual transportation improvement program of each
9 M.P.O. for consistency with the approved local government
10 comprehensive plans of the units of local government whose
11 boundaries are within the metropolitan area of each M.P.O. and
12 shall identify those projects that are inconsistent with such
13 comprehensive plans. The Department of Community Affairs shall
14 notify an M.P.O. of any transportation projects contained in
15 its transportation improvement program which are inconsistent
16 with the approved local government comprehensive plans of the
17 units of local government whose boundaries are within the
18 metropolitan area of the M.P.O.

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

25 (8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall
26 develop, in cooperation with the department and public
27 transportation providers, a unified planning work program that
28 lists all planning tasks to be undertaken during the program
29 year. The unified planning work program must provide a
30 complete description of each planning task and an estimated
31

1 budget therefor and must comply with applicable state and
2 federal law.

3 (9) AGREEMENTS.--

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

7 1. An agreement with the department clearly
8 establishing the cooperative relationship essential to
9 accomplish the transportation planning requirements of state
10 and federal law.

11 2. An agreement with the metropolitan and regional
12 intergovernmental coordination and review agencies serving the
13 metropolitan areas, specifying the means by which activities
14 will be coordinated and how transportation planning and
15 programming will be part of the comprehensive planned
16 development of the area.

17 3. An agreement with operators of public
18 transportation systems, including transit systems, commuter
19 rail systems, airports, and seaports, describing the means by
20 which activities will be coordinated and specifying how public
21 transit, commuter rail, aviation, and seaport planning and
22 programming will be part of the comprehensive planned
23 development of the metropolitan area.

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

27 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
28 COUNCIL.--

29 (a) A Metropolitan Planning Organization Advisory
30 Council is created to augment, and not supplant, the role of
31

1 the individual M.P.O.'s in the cooperative transportation
2 planning process described in s. 339.155(5).

3 (b) The council shall consist of one representative
4 from each M.P.O. and shall elect a chairperson annually from
5 its number. Each M.P.O. shall also elect an alternate
6 representative from each M.P.O. to vote in the absence of the
7 representative. Members of the council do not receive any
8 compensation for their services, but may be reimbursed from
9 funds made available to council members for travel and per
10 diem expenses incurred in the performance of their council
11 duties as provided in s. 112.061.

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

14 1. Enter into contracts with individuals, private
15 corporations, and public agencies.

16 2. Acquire, own, operate, maintain, sell, or lease
17 personal property essential for the conduct of business.

18 3. Accept funds, grants, assistance, gifts, or
19 bequests from private, local, state, or federal sources.

20 4. Establish bylaws and adopt rules pursuant to ss.
21 120.536(1) and 120.54 to implement provisions of law
22 conferring powers or duties upon it.

23 5. Assist M.P.O.'s in carrying out the urbanized area
24 transportation planning process by serving as the principal
25 forum for collective policy discussion pursuant to law.

26 6. Serve as a clearinghouse for review and comment by
27 M.P.O.'s on the Florida Transportation Plan and on other
28 issues required to comply with federal or state law in
29 carrying out the urbanized area transportation and systematic
30 planning processes instituted pursuant to s. 339.155.

31

1 7. Employ an executive director and such other staff
2 as necessary to perform adequately the functions of the
3 council, within budgetary limitations. The executive director
4 and staff are exempt from part II of chapter 110 and serve at
5 the direction and control of the council. The council is
6 assigned to the Office of the Secretary of the Department of
7 Transportation or for fiscal and accountability purposes, but
8 it shall otherwise function independently of the control and
9 direction of the department.

10 8. Adopt an agency strategic plan that provides the
11 priority directions the agency will take to carry out its
12 mission within the context of the state comprehensive plan and
13 any other statutory mandates and directions given to the
14 agency.

15 (11) APPLICATION OF FEDERAL LAW.--Upon notification by
16 an agency of the Federal Government that any provision of this
17 section conflicts with federal laws or regulations, such
18 federal laws or regulations will take precedence to the extent
19 of the conflict until such conflict is resolved. The
20 department or an M.P.O. may take any necessary action to
21 comply with such federal laws and regulations or to continue
22 to remain eligible to receive federal funds.

23 Section 22. Subsection (14) is added to section
24 341.041, Florida Statutes, 1998 Supplement, to read:

25 341.041 Transit responsibilities of the
26 department.--The department shall, within the resources
27 provided pursuant to chapter 216:

28 (14) Create and maintain a common self-retention
29 insurance fund to support public transit projects throughout
30 the state when there is a contractual or legal obligation to
31 have the fund in existence in order to provide public transit

1 services. The maximum limit of the fund is as required by any
2 contractual or legal obligation.

3 Section 23. Subsections (6) and (8) of section
4 341.302, Florida Statutes, are amended to read:

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

15 (6) Secure and administer federal grants, loans, and
16 apportionments for rail projects within this state when
17 necessary to further the statewide program.

18 (8) Conduct, at a minimum, inspections of track and
19 rolling stock, train signals and related equipment, hazardous
20 materials transportation, including the loading, unloading,
21 and labeling of hazardous materials at shippers', receivers',
22 and transfer points, and train operating practices to
23 determine adherence to state and federal standards.

24 Department personnel may enforce any safety regulation issued
25 under the Federal Government's preemptive authority over
26 interstate commerce.

27 Section 24. Paragraph (a) of subsection (2) and
28 subsections (3), (4), (5), (6), (9), and (10) of section
29 373.4137, Florida Statutes, are amended to read:

30 373.4137 Mitigation requirements.--
31

1 (2) Environmental impact inventories for
2 transportation projects proposed by the Department of
3 Transportation shall be developed as follows:

4 (a) By May 1 of each year ~~Beginning July 1996,~~ the
5 Department of Transportation shall submit ~~annually~~ to the
6 Department of Environmental Protection and the water
7 management districts a copy of its adopted work program and an
8 inventory of habitats addressed in the rules adopted pursuant
9 to this part and s. 404 of the Clean Water Act, 33 U.S.C. s.
10 1344, which may be impacted by its plan of construction for
11 transportation projects in the next first 3 years of the
12 adopted work program. The Department of Transportation may
13 also include in its inventory the habitat impacts of any
14 future transportation project identified in the adopted work
15 program. ~~For the July 1996 submittal, the inventory may~~
16 ~~exclude those projects which have received permits pursuant to~~
17 ~~this part and s. 404 of the Clean Water Act, 33 U.S.C. s.~~
18 ~~1344, projects for which mitigation planning or design has~~
19 ~~commenced, or projects for which mitigation has been~~
20 ~~implemented in anticipation of future permitting needs.~~

21 (3) To fund the mitigation plan for the projected
22 impacts identified in the inventory described in subsection
23 (2), ~~beginning July 1, 1997,~~ the Department of Transportation
24 shall identify funds quarterly in an escrow account within the
25 State Transportation Trust Fund for the environmental
26 mitigation phase of projects budgeted by the Department of
27 Transportation for the current fiscal year. The escrow account
28 will be maintained ~~established~~ by the Department of
29 Transportation for the benefit of the Department of
30 Environmental Protection and the water management districts.
31 Any interest earnings from the escrow account shall remain

1 ~~with be returned to~~ the Department of Transportation. The
2 Department of Environmental Protection or water management
3 districts may ~~shall~~ request a transfer of funds from the
4 escrow account ~~to the Ecosystem Management and Restoration~~
5 ~~Trust Fund~~ no sooner than 30 days prior to the date the funds
6 are needed to pay for activities associated with development
7 or implementation of the approved mitigation plan described in
8 subsection (4) for the current fiscal year, including, but not
9 limited to, design, engineering, production, and staff
10 support. Actual conceptual plan preparation costs incurred
11 before plan approval may be submitted to the Department of
12 Transportation and the Department of Environmental Protection
13 by November 1 of each year with the plan. The conceptual plan
14 preparation costs of each water management district will be
15 paid based on the amount approved on the mitigation plan and
16 allocated to the current fiscal year projects identified by
17 the water management district contained in the mitigation
18 programs. The amount transferred to the escrow account each
19 year by the Department of Transportation shall correspond to a
20 cost per acre of \$75,000 multiplied by the projected acres of
21 impact identified in the inventory described in subsection (2)
22 ~~within the water management district for that year. The water~~
23 ~~management district may draw from the trust fund no sooner~~
24 ~~than 30 days prior to the date funds are needed to pay for~~
25 ~~activities associated with development or implementation of~~
26 ~~the mitigation plan described in subsection (4).~~ Each May
27 July 1, beginning in 1998, the cost per acre shall be adjusted
28 by the percentage change in the average of the Consumer Price
29 Index issued by the United States Department of Labor for the
30 most recent 12-month period ending September 30, compared to
31 the base year average, which is the average for the 12-month

1 period ending September 30, 1996. At the end of each year,
2 the projected acreage of impact shall be reconciled with the
3 acreage of impact of projects as permitted, including permit
4 modifications, pursuant to this part and s. 404 of the Clean
5 Water Act, 33 U.S.C. s. 1344. ~~The subject, and the following~~
6 year's transfer of funds shall be adjusted accordingly to
7 reflect the overtransfer or undertransfer of funds from the
8 preceding year. The Department of Transportation ~~Environmental~~
9 ~~Protection~~ is authorized to transfer such funds from the
10 escrow account to the Department of Environmental Protection
11 and Ecosystem Management and Restoration Trust Fund to the
12 water management districts to carry out the mitigation
13 programs.

14 (4) Prior to December 1 of each year ~~31, 1996~~, each
15 water management district, in consultation with the Department
16 of Environmental Protection, the United States Army Corps of
17 Engineers, the Department of Transportation, and other
18 appropriate federal, state, and local governments, and other
19 interested parties, including entities operating mitigation
20 banks, shall develop a plan for the primary purpose of
21 complying with the mitigation requirements adopted pursuant to
22 this part and 33 U.S.C. s. 1344. This plan shall also address
23 significant invasive aquatic and exotic plant problems within
24 wetlands and other surface waters. In developing such plans,
25 the districts shall utilize sound ecosystem management
26 practices to address significant water resource needs and
27 shall focus on restoration activities of the Department of
28 Environmental Protection and the water management districts,
29 such as surface water improvement and management (SWIM)
30 waterbodies and lands identified for potential acquisition and
31 restoration, to the extent that such activities comply with

1 the mitigation requirements adopted under this part and 33
2 U.S.C. s. 1344. In determining the activities to be included
3 in such plans, the districts shall also consider the purchase
4 of credits from public or private mitigation banks permitted
5 under s. 373.4136 and associated federal authorization ~~under~~
6 ~~this part~~ and shall include such purchase as a part of the
7 mitigation plan when such purchase would offset the impact of
8 the transportation project, provide equal benefits to the
9 water resources than other mitigation options being
10 considered, and provide the most cost-effective mitigation
11 option. The mitigation plan shall be preliminarily approved
12 by the water management district governing board and shall be
13 submitted to the secretary of the Department of Environmental
14 Protection for review and final approval. The preliminary
15 approval by the water management district governing board does
16 not constitute a decision that affects substantial interests
17 as provided by s. 120.569.At least 30 days prior to
18 preliminary approval, the water management district shall
19 provide a copy of the draft mitigation plan to any person who
20 has requested a copy.

21 (a) For each transportation project with a funding
22 request for the next fiscal year, the mitigation plan must
23 include a brief explanation of why a mitigation bank was or
24 was not chosen as a mitigation option, including an estimation
25 of identifiable costs of the mitigation bank and nonbank
26 options to the extent practicable.~~If the Department of~~
27 ~~Environmental Protection and water management districts are~~
28 ~~unable to identify mitigation that would offset the impacts of~~
29 ~~a project included in the inventory, either due to the nature~~
30 ~~of the impact or the amount of funds available, that project~~
31

1 ~~shall not be addressed in the mitigation plan and the project~~
2 ~~shall not be subject to the provisions of this section.~~

3 (b) Specific projects may be excluded from the
4 mitigation plan and shall not be subject to this section upon
5 the agreement of the Department of Transportation, the
6 Department of Environmental Protection, and the appropriate
7 water management district that the inclusion of such projects
8 would hamper the efficiency or timeliness of the mitigation
9 planning and permitting process, or the Department of
10 Environmental Protection and the water management district are
11 able to identify mitigation that would offset the impacts of
12 the project.

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

1 ~~commence in fiscal year 1996-1997 shall not be addressed in~~
2 ~~the mitigation plan, and the provisions of subsection (7)~~
3 ~~shall not apply to these projects. The Department of~~
4 ~~Transportation may enter into interagency agreements with the~~
5 ~~Department of Environmental Protection or any water management~~
6 ~~district to perform mitigation planning and implementation for~~
7 ~~these projects.~~

8 (d) ~~On July 1, 1996, the Department of Transportation~~
9 ~~shall transfer to the Department of Environmental Protection~~
10 ~~\$12 million from the State Transportation Trust Fund for the~~
11 ~~purposes of the surface water improvement management program~~
12 ~~and to address statewide aquatic and exotic plant problems~~
13 ~~within wetlands and other surface waters. Such funds shall be~~
14 ~~considered an advance upon funds that the Department of~~
15 ~~Transportation would provide for statewide mitigation during~~
16 ~~the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This~~
17 ~~use of mitigation funds for surface water improvement~~
18 ~~management projects or aquatic and exotic plant control may be~~
19 ~~utilized as mitigation for transportation projects to the~~
20 ~~extent that it complies with the mitigation requirements~~
21 ~~adopted pursuant to this part and 33 U.S.C. s. 1344. To the~~
22 ~~extent that such activities result in mitigation credit for~~
23 ~~projects permitted in fiscal year 1996-1997, all or part of~~
24 ~~the \$12 million funding for surface water improvement~~
25 ~~management projects or aquatic and exotic plant control in~~
26 ~~fiscal year 1996-1997 shall be drawn from Department of~~
27 ~~Transportation mitigation funding for fiscal year 1996-1997~~
28 ~~rather than from mitigation funding for fiscal years~~
29 ~~1997-1998, 1998-1999, and 1999-2000, in an amount equal to the~~
30 ~~cost per acre of impact described in subsection (3), times the~~
31 ~~acreage of impact that is mitigated by such plant control~~

1 ~~activities. Any part of the \$12 million that does not result~~
2 ~~in mitigation credit for projects permitted in fiscal year~~
3 ~~1996-1997 shall remain available for mitigation credit during~~
4 ~~fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

5 (5) The water management district shall be responsible
6 for ensuring that mitigation requirements pursuant to 33
7 U.S.C. s. 1344 are met for the impacts identified in the
8 inventory described in subsection (2), by implementation of
9 the approved plan described in subsection (4) to the extent
10 funding is provided ~~as funded~~ by the Department of
11 Transportation. During the federal permitting process, the
12 water management district may deviate from the approved
13 mitigation plan in order to comply with federal permitting
14 requirements.

15 (6) The mitigation plan shall be updated annually to
16 reflect the most current Department of Transportation work
17 program and may be amended throughout the year to anticipate
18 schedule changes or additional projects which may arise. Each
19 update and amendment of the mitigation plan shall be submitted
20 to the secretary of the Department of Environmental Protection
21 for approval ~~as described in subsection (4)~~. However, such
22 approval shall not be applicable to a deviation as described
23 in subsection (5).

24 ~~(9) The recommended mitigation plan shall be annually~~
25 ~~submitted to the Executive Office of the Governor and the~~
26 ~~Legislature through the legislative budget request of the~~
27 ~~Department of Environmental Protection in accordance with~~
28 ~~chapter 216. Any funds not directed to implement the~~
29 ~~mitigation plan should, to the greatest extent possible, be~~
30 ~~directed to fund aquatic and exotic plant problems within the~~
31 ~~wetlands and other surface waters.~~

1 ~~(10) By December 1, 1997, the Department of~~
2 ~~Environmental Protection, in consultation with the water~~
3 ~~management districts, shall submit a report to the Governor,~~
4 ~~the President of the Senate, and the Speaker of the House of~~
5 ~~Representatives describing the implementation of this section,~~
6 ~~including the use of public and private mitigation banks and~~
7 ~~other types of mitigation approved in the mitigation plan.~~
8 ~~The report shall also recommend any amendments to this section~~
9 ~~necessary to improve the process for developing and~~
10 ~~implementing mitigation plans for the Department of~~
11 ~~Transportation. The report shall also include a specific~~
12 ~~section on how private and public mitigation banks are~~
13 ~~utilized within the mitigation plans.~~

14 Section 25. Subsections (3) and (23) of section
15 479.01, Florida Statutes, are amended to read:

16 479.01 Definitions.--As used in this chapter, the
17 term:

18 (3) "Commercial or industrial zone" means a parcel of
19 land an area within 660 feet of the nearest edge of the
20 right-of-way of the interstate or federal-aid primary system
21 designated predominately for commercial or industrial use
22 under both the future land use map of the comprehensive plan
23 and the land use development regulations adopted pursuant to
24 chapter 163. If a parcel is located in an area designated for
25 multiple uses on the future land use map of a comprehensive
26 plan and the land development regulations do not clearly
27 designate that parcel for a specific use, the area will be
28 considered an unzoned commercial or industrial area if it
29 meets the criteria of subsection (23).~~Where a local~~
30 ~~governmental entity has not enacted a comprehensive plan by~~
31 ~~local ordinance but has zoning regulations governing the area,~~

1 ~~the zoning of an area shall determine whether the area is~~
2 ~~designated predominately for commercial or industrial uses.~~

3 (23) "Unzoned commercial or industrial area" means a
4 parcel of land designated by the ~~an area within 660 feet of~~
5 ~~the nearest edge of the right-of-way of the interstate or~~
6 ~~federal-aid primary system where the land use is not covered~~
7 ~~by a future land use map of the comprehensive plan for~~
8 multiple uses that include commercial or industrial uses but
9 are not specifically designated for commercial or industrial
10 uses under the land development regulations ~~or zoning~~
11 ~~regulation pursuant to subsection (2), in which there are~~
12 ~~located~~ three or more separate and distinct conforming
13 industrial or commercial activities are located.

14 (a) These activities must satisfy the following
15 criteria:

16 1. At least one of the commercial or industrial
17 activities must be located on the same side of the highway and
18 within 800 feet of the sign location;

19 2. The commercial or industrial activities must be
20 within 660 feet from the nearest edge of the right-of-way; and

21 3. The commercial industrial activities must be within
22 1,600 feet of each other.

23
24 Distances specified in this paragraph must be measured from
25 the nearest outer edge of the primary building or primary
26 building complex when the individual units of the complex are
27 connected by covered walkways. ~~uses located within a~~
28 ~~1,600-foot radius of each other and generally recognized as~~
29 ~~commercial or industrial by zoning authorities in this state.~~

30
31

1 **(b)** Certain activities, including, but not limited to,
2 the following, may not be so recognized as commercial or
3 industrial activities:

4 **1.(a)** Signs.

5 **2.(b)** Agricultural, forestry, ranching, grazing,
6 farming, and related activities, including, but not limited
7 to, wayside fresh produce stands.

8 **3.(c)** Transient or temporary activities.

9 **4.(d)** Activities not visible from the main-traveled
10 way.

11 **5.(e)** Activities conducted more than 660 feet from the
12 nearest edge of the right-of-way.

13 **6.(f)** Activities conducted in a building principally
14 used as a residence.

15 **7.(g)** Railroad tracks and minor sidings.

16 **8.** Communication towers.

17 Section 26. Paragraphs (b) and (c) of subsection (8)
18 of section 479.07, Florida Statutes, are amended to read:

19 479.07 Sign permits.--

20 (8)

21 (b) If a permittee has not submitted his or her fee
22 payment by the expiration date of the licenses or permits, the
23 department shall send a notice of violation to the permittee
24 within 45 days after the expiration date, requiring the
25 payment of the permit fee within 30 days after the date of the
26 notice and payment of a delinquency fee equal to 10 percent of
27 the original amount due or, in the alternative to these
28 payments, requiring the filing of a request for an
29 administrative hearing to show cause why his or her sign
30 should not be subject to immediate removal due to expiration
31 of his or her license or permit. If the permittee submits

1 payment as required by the violation notice, his or her
2 license or permit will be automatically reinstated and such
3 reinstatement will be retroactive to the original expiration
4 date. If the permittee does not respond to the notice of
5 violation within the 30-day period, the department shall,
6 within 30 days, issue a final notice of sign removal and may,
7 following 90 days after the date of the department's final
8 notice of sign removal, remove the sign without incurring any
9 liability as a result of such removal. However, if at any time
10 before removal of the sign within 90 days after the date of
11 the department's final notice of sign removal, the permittee
12 demonstrates that a good faith error on the part of the
13 permittee resulted in cancellation or nonrenewal of the
14 permit, the department may reinstate the permit if:

15 1. ~~The sign has not yet been disassembled by the~~
16 ~~permittee.~~

17 2. ~~Conflicting applications have not been filed by~~
18 ~~other persons.~~

19 1.3. The permit reinstatement fee of up to \$300 based
20 on the size of the sign is paid;

21 2.4. All other permit renewal and delinquent permit
22 fees due as of the reinstatement date are paid; and

23 3.5. The permittee reimburses the department for all
24 actual costs resulting from the permit cancellation or
25 nonrenewal ~~and sign removal~~.

26 (c) Conflicting applications filed by other persons
27 for the same or competing sites covered by a permit subject to
28 paragraph (b) may not be approved until after the sign subject
29 to the expired permit has been removed.

30
31

1 (d)~~(c)~~ The cost for removing a sign, whether by the
2 department or an independent contractor, shall be assessed by
3 the department against the permittee.

4 Section 27. Subsection (15) of section 479.16, Florida
5 Statutes, is amended to read:

6 479.16 Signs for which permits are not required.--The
7 following signs are exempt from the requirement that a permit
8 for a sign be obtained under the provisions of this chapter
9 but are required to comply with the provisions of s.

10 479.11(4)-(8):

11 (15) Signs not in excess of 16 square feet placed at a
12 road junction with the State Highway System denoting only the
13 distance or direction of a residence or farm operation, or, in
14 a rural area where a hardship is created because a small
15 business is not visible from the road junction with the State
16 Highway System, one sign not in excess of 16 ~~8~~ square feet,
17 denoting only the name of the business and the distance and
18 direction to the business. The small-business-sign provision
19 of this subsection does not apply to charter counties and may
20 not be implemented if the Federal Government notifies the
21 department that implementation will adversely affect the
22 allocation of federal funds to the department.

23 Section 28. This act shall take effect upon becoming a
24 law.

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SENATE SUMMARY

Revises statutes relating to the Federal Transportation Equity Act for the Twenty-First Century by authorizing the Department of Transportation to secure and administer federal loans for rail projects, to bond federal aid, and by amending the planning process for metropolitan planning organizations and the department. Revises the department's construction contracting operations by removing the liquidated damages schedule, raising the limit for binding arbitration contract disputes, eliminating intermediate delinquency as grounds for suspension or revocation of a contractor's certificate of qualification, and by providing for fast response contracting. Authorizes the department to conduct hazardous materials inspections at manufacturer's and shipper's facilities on Florida rail lines and authorizes the creation and maintenance of a common self-retention insurance fund to support public transit projects. Provides for technical changes in the department's internal operations.