

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

606-08395A-08

20081978c2

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; providing Senior Management
4 Service status to the Executive Director of the Florida
5 Transportation Commission; amending s. 125.42, F.S.;
6 providing an exception to utility owners from the
7 responsibility for relocating utilities along county roads
8 and highways; amending s. 163.3177, F.S.; revising
9 requirements for comprehensive plans; providing for
10 airports, land adjacent to airports, and certain
11 interlocal agreements relating thereto in certain elements
12 of the plan; amending s. 163.3182, F.S., relating to
13 transportation concurrency backlog authorities; providing
14 legislative findings and declarations; expanding the power
15 of authorities to borrow money to include issuing certain
16 debt obligations; providing a maximum maturity date for
17 certain debt incurred to finance or refinance certain
18 transportation concurrency backlog projects; authorizing
19 authorities to continue operations and administer certain
20 trust funds for the period of the remaining outstanding
21 debt; requiring local transportation concurrency backlog
22 trust funds to continue to be funded for certain purposes;
23 providing for increased ad valorem tax increment funding
24 for such trust funds under certain circumstances; revising
25 provisions for dissolution of an authority; amending s.
26 316.0741, F.S.; redefining the term "hybrid vehicle";
27 authorizing the driving of a hybrid, low-emission, or
28 energy-efficient vehicle in a high-occupancy-vehicle lane
29 regardless of occupancy; authorizing the department to

606-08395A-08

20081978c2

30 | limit or discontinue such driving under certain
31 | circumstances; exempting such vehicles from the payment of
32 | certain tolls; amending s. 316.193, F.S.; lowering the
33 | blood-alcohol or breath-alcohol level for which enhanced
34 | penalties are imposed against a person who was accompanied
35 | in the vehicle by a minor at the time of the offense;
36 | clarifying that an ignition interlock device is installed
37 | for a continuous period; amending s. 316.302, F.S.;
38 | revising the application of certain federal rules;
39 | providing for the department to perform certain duties
40 | assigned under federal rules; updating a reference to
41 | federal provisions governing out-of-service requirements
42 | for commercial vehicles; amending ss. 316.613 and 316.614,
43 | F.S.; revising the definition of "motor vehicle" for
44 | purposes of child restraint and safety belt usage
45 | requirements; amending s. 316.656, F.S.; lowering the
46 | percentage of blood or breath alcohol content relating to
47 | the prohibition against pleading guilty to a lesser
48 | offense of driving under the influence than the offense
49 | charged; amending s. 322.64, F.S.; providing that refusal
50 | to submit to a breath, urine, or blood test disqualifies a
51 | person from operating a commercial motor vehicle;
52 | providing a period of disqualification if a person has an
53 | unlawful blood-alcohol or breath-alcohol level; providing
54 | for issuance of a notice of disqualification; revising the
55 | requirements for a formal review hearing following a
56 | person's disqualification from operating a commercial
57 | motor vehicle; amending s. 336.41, F.S.; providing that a
58 | county, municipality, or special district may not own or

606-08395A-08

20081978c2

59 | operate an asphalt plant or a portable or stationary
60 | concrete batch plant having an independent mixer; amending
61 | s. 337.11, F.S.; authorizing the department to pay
62 | stipends to unsuccessful bidders on construction and
63 | maintenance contracts; amending s. 337.18, F.S.; revising
64 | the recording requirements of payment and performance
65 | bonds; amending s. 337.185, F.S.; providing for
66 | maintenance contracts to be included in the types of
67 | claims settled by the State Arbitration Board; amending s.
68 | 337.403, F.S.; providing for the department or a local
69 | governmental entity to pay the costs of removing or
70 | relocating a utility that is interfering with the use of a
71 | road or rail corridor; amending s. 338.01, F.S.; requiring
72 | that newly installed electronic toll collection systems be
73 | interoperable with the department's electronic toll
74 | collection system; amending s. 338.165, F.S.; providing
75 | that provisions requiring the continuation of tolls
76 | following the discharge of bond indebtedness does not
77 | apply to high-occupancy toll lanes or express lanes;
78 | creating s. 338.166, F.S.; authorizing the department to
79 | request that bonds be issued which are secured by toll
80 | revenues from high-occupancy toll or express lanes in a
81 | specified location; providing for the department to
82 | continue to collect tolls after discharge of indebtedness;
83 | authorizing the use of excess toll revenues for
84 | improvements to the State Highway System; authorizing the
85 | implementation of variable rate tolls on high-occupancy
86 | toll lanes or express lanes; amending s. 338.2216, F.S.;
87 | directing the turnpike enterprise to develop new

606-08395A-08

20081978c2

88 technologies and processes for the collection of tolls and
89 usage fees; prohibiting the enterprise from entering into
90 certain joint contracts for the sale of fuel and other
91 goods; providing an exception; providing restrictions on
92 contracts pertaining to service plazas; amending s.
93 338.223, F.S.; conforming a cross-reference; amending s.
94 338.231, F.S.; eliminating reference to uniform toll rates
95 on the Florida Turnpike System; authorizing the department
96 to fix by rule and collect the amounts needed to cover
97 toll collection costs; amending s. 339.12, F.S.;
98 clarifying a provision specifying a maximum total amount
99 of project agreements for certain projects; authorizing
100 the department to enter into certain agreements with
101 counties having a specified maximum population; defining
102 the term "project phase"; requiring that a project or
103 project phase be a high priority of a governmental entity;
104 providing for reimbursement for a project or project
105 phase; specifying a maximum total amount for certain
106 projects and project phases; requiring that such project
107 be included in the local government's adopted
108 comprehensive plan; authorizing the department to enter
109 into long-term repayment agreements up to a specified
110 maximum length; amending s. 339.135, F.S.; revising
111 certain notice provisions that require the Department of
112 Transportation to notify local governments regarding
113 amendments to an adopted 5-year work program; amending s.
114 339.155, F.S.; revising provisions for development of the
115 Florida Transportation Plan; amending s. 339.2816, F.S.,
116 relating to the small county road assistance program;

606-08395A-08

20081978c2

117 providing for resumption of certain funding for the
118 program; revising the criteria for counties eligible to
119 participate in the program; amending ss. 339.2819 and
120 339.285, F.S.; conforming cross-references; amending s.
121 348.0003, F.S.; providing for financial disclosure for
122 expressway, transportation, bridge, and toll authorities;
123 amending s. 348.0004, F.S.; providing for certain
124 expressway authorities to index toll rate increases;
125 repealing part III of ch. 343 F.S.; abolishing the Tampa
126 Bay Commuter Transit Authority; requiring the department
127 to conduct a study of transportation alternatives for the
128 Interstate 95 corridor; amending s. 409.908, F.S.;
129 authorizing the Agency for Health Care Administration to
130 continue to contract for Medicaid nonemergency
131 transportation services in a specified agency service area
132 with managed care plans under certain conditions; amending
133 s. 427.011, F.S.; revising definitions; defining the term
134 "purchasing agency"; amending s. 427.012, F.S.; revising
135 the number of members required for a quorum at a meeting
136 of the Commission for the Transportation Disadvantaged;
137 amending s. 427.013, F.S.; revising responsibilities of
138 the commission; deleting a requirement that the commission
139 establish by rule acceptable ranges of trip costs;
140 removing a provision for functioning and oversight of the
141 quality assurance and management review program; requiring
142 the commission to incur expenses for promotional services
143 and items; amending s. 427.0135, F.S.; revising and
144 creating duties and responsibilities for agencies that
145 purchase transportation services for the transportation

606-08395A-08

20081978c2

146 | disadvantaged; providing requirements for the payment of
147 | rates; requiring an agency to negotiate with the
148 | commission before procuring transportation disadvantaged
149 | services; requiring an agency to identify its allocation
150 | for transportation disadvantaged services in its
151 | legislative budget request; amending s. 427.015, F.S.;
152 | revising provisions relating to the function of the
153 | metropolitan planning organization or designated official
154 | planning agency; amending s. 427.0155, F.S.; revising
155 | duties of community transportation coordinators; amending
156 | s. 427.0157, F.S.; revising duties of coordinating boards;
157 | amending s. 427.0158, F.S.; deleting provisions requiring
158 | the school board to provide information relating to school
159 | buses to the transportation coordinator; providing for the
160 | transportation coordinator to request certain information
161 | regarding public transportation; amending s. 427.0159,
162 | F.S.; revising provisions relating to the Transportation
163 | Disadvantaged Trust Fund; providing for the deposit of
164 | funds by an agency purchasing transportation services;
165 | amending s. 427.016, F.S.; providing for construction and
166 | application of specified provisions to certain acts of a
167 | purchasing agency in lieu of the Medicaid agency;
168 | requiring that an agency identify the allocation of funds
169 | for transportation disadvantaged services in its
170 | legislative budget request; amending s. 479.01, F.S.;
171 | redefining the term "automatic changeable facing" as used
172 | in provisions governing outdoor advertising; amending s.
173 | 479.07, F.S.; revising the locations within which signs
174 | require permitting; providing requirements for the

606-08395A-08

20081978c2

175 placement of permit tags; requiring the department to
176 establish by rule a service fee and specifications for
177 replacement tags; amending s. 479.08, F.S.; deleting a
178 provision allowing a sign permittee to correct false
179 information that was knowingly provided to the department;
180 requiring the department to include certain information in
181 the notice of violation; amending s. 479.156, F.S.;

182 modifying local government control of the regulation of
183 wall murals adjacent to certain federal highways; amending
184 s. 479.261, F.S.; revising requirements for the logo sign
185 program of the interstate highway system; deleting
186 provisions providing for permits to be awarded to the
187 highest bidders; requiring the department to implement a
188 rotation-based logo program; requiring the department to
189 adopt rules that set reasonable rates based on certain
190 factors for annual permit fees; requiring that such fees
191 not exceed a certain amount for sign locations inside and
192 outside an urban area; amending s. 212.0606, F.S.;

193 providing for the imposition by countywide referendum of
194 an additional surcharge on the lease or rental of a motor
195 vehicle; providing the proceeds of the surcharge to be
196 transferred to the Local Option Fuel Tax Trust Fund and
197 used for the construction and maintenance of commuter rail
198 service facilities; providing definitions relating to
199 commuter rail service, rail corridors, and railroad
200 operation for purposes of the rail program within the
201 department; amending s. 341.302, F.S.; authorizing the
202 department to purchase specified property for the purpose
203 of implementing commuter rail service; authorizing the

606-08395A-08

20081978c2

204 department to assume certain liability on a rail corridor;
205 authorizing the department to indemnify and hold harmless
206 a railroad company when the department acquires a rail
207 corridor from the company; providing allocation of risk;
208 providing a specific cap on the amount of the contractual
209 duty for such indemnification; authorizing the department
210 to purchase and provide insurance in relation to rail
211 corridors; authorizing marketing and promotional expenses;
212 extending provisions to other governmental entities
213 providing commuter rail service on public right-of-way;
214 amending s. 768.28, F.S.; expanding the list of entities
215 considered agents of the state; providing for construction
216 in relation to certain federal laws; providing an
217 effective date.

218

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

220

221 Section 1. Paragraph (h) of subsection (2) of section
222 20.23, Florida Statutes, is amended to read:

223 20.23 Department of Transportation.--There is created a
224 Department of Transportation which shall be a decentralized
225 agency.

226 (2)

227 (h) The commission shall appoint an executive director and
228 assistant executive director, who shall serve under the
229 direction, supervision, and control of the commission. The
230 executive director, with the consent of the commission, shall
231 employ such staff as are necessary to perform adequately the
232 functions of the commission, within budgetary limitations. All

606-08395A-08

20081978c2

233 employees of the commission are exempt from part II of chapter
234 110 and shall serve at the pleasure of the commission. The salary
235 and benefits of the executive director shall be set in accordance
236 with the Senior Management Service. The salaries and benefits of
237 all other employees of the commission shall be set in accordance
238 with the Selected Exempt Service; ~~provided, however, that~~ the
239 commission has ~~shall have~~ complete authority for fixing the
240 salary of the executive director and assistant executive
241 director.

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

244 125.42 Water, sewage, gas, power, telephone, other utility,
245 and television lines along county roads and highways.--

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

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

253 163.3177 Required and optional elements of comprehensive
254 plan; studies and surveys.--

255 (6) In addition to the requirements of subsections (1)-(5)
256 and (12), the comprehensive plan shall include the following
257 elements:

258 (a) A future land use plan element designating proposed
259 future general distribution, location, and extent of the uses of
260 land for residential uses, commercial uses, industry,
261 agriculture, recreation, conservation, education, public

606-08395A-08

20081978c2

262 buildings and grounds, other public facilities, and other
263 categories of the public and private uses of land. Counties are
264 encouraged to designate rural land stewardship areas, pursuant to
265 the provisions of paragraph (11)(d), as overlays on the future
266 land use map. Each future land use category must be defined in
267 terms of uses included, and must include standards to be followed
268 in the control and distribution of population densities and
269 building and structure intensities. The proposed distribution,
270 location, and extent of the various categories of land use shall
271 be shown on a land use map or map series which shall be
272 supplemented by goals, policies, and measurable objectives. The
273 future land use plan shall be based upon surveys, studies, and
274 data regarding the area, including the amount of land required to
275 accommodate anticipated growth; the projected population of the
276 area; the character of undeveloped land; the availability of
277 water supplies, public facilities, and services; the need for
278 redevelopment, including the renewal of blighted areas and the
279 elimination of nonconforming uses which are inconsistent with the
280 character of the community; the compatibility of uses on lands
281 adjacent to or closely proximate to military installations; lands
282 adjacent to an airport as defined in s. 330.35 and consistent
283 with provisions in s. 333.02; and, in rural communities, the need
284 for job creation, capital investment, and economic development
285 that will strengthen and diversify the community's economy. The
286 future land use plan may designate areas for future planned
287 development use involving combinations of types of uses for which
288 special regulations may be necessary to ensure development in
289 accord with the principles and standards of the comprehensive
290 plan and this act. The future land use plan element shall include

606-08395A-08

20081978c2

291 criteria to be used to achieve the compatibility of adjacent or
292 closely proximate lands with military installations; lands
293 adjacent to an airport as defined in s. 330.35 and consistent
294 with provisions in s. 333.02. In addition, for rural communities,
295 the amount of land designated for future planned industrial use
296 shall be based upon surveys and studies that reflect the need for
297 job creation, capital investment, and the necessity to strengthen
298 and diversify the local economies, and shall not be limited
299 solely by the projected population of the rural community. The
300 future land use plan of a county may also designate areas for
301 possible future municipal incorporation. The land use maps or map
302 series shall generally identify and depict historic district
303 boundaries and shall designate historically significant
304 properties meriting protection. For coastal counties, the future
305 land use element must include, without limitation, regulatory
306 incentives and criteria that encourage the preservation of
307 recreational and commercial working waterfronts as defined in s.
308 342.07. The future land use element must clearly identify the
309 land use categories in which public schools are an allowable use.
310 When delineating the land use categories in which public schools
311 are an allowable use, a local government shall include in the
312 categories sufficient land proximate to residential development
313 to meet the projected needs for schools in coordination with
314 public school boards and may establish differing criteria for
315 schools of different type or size. Each local government shall
316 include lands contiguous to existing school sites, to the maximum
317 extent possible, within the land use categories in which public
318 schools are an allowable use. The failure by a local government
319 to comply with these school siting requirements will result in

606-08395A-08

20081978c2

320 the prohibition of the local government's ability to amend the
321 local comprehensive plan, except for plan amendments described in
322 s. 163.3187(1)(b), until the school siting requirements are met.
323 Amendments proposed by a local government for purposes of
324 identifying the land use categories in which public schools are
325 an allowable use are exempt from the limitation on the frequency
326 of plan amendments contained in s. 163.3187. The future land use
327 element shall include criteria that encourage the location of
328 schools proximate to urban residential areas to the extent
329 possible and shall require that the local government seek to
330 collocate public facilities, such as parks, libraries, and
331 community centers, with schools to the extent possible and to
332 encourage the use of elementary schools as focal points for
333 neighborhoods. For schools serving predominantly rural counties,
334 defined as a county with a population of 100,000 or fewer, an
335 agricultural land use category shall be eligible for the location
336 of public school facilities if the local comprehensive plan
337 contains school siting criteria and the location is consistent
338 with such criteria. Local governments required to update or amend
339 their comprehensive plan to include criteria and address
340 compatibility of lands adjacent to an airport as defined in s.
341 330.35 and consistent with provisions in s. 333.02 ~~adjacent or~~
342 ~~closely proximate lands with existing military installations~~ in
343 their future land use plan element shall transmit the update or
344 amendment to the state land planning agency ~~department~~ by June
345 30, 2011 ~~2006~~.

346 (h)1. An intergovernmental coordination element showing
347 relationships and stating principles and guidelines to be used in
348 the accomplishment of coordination of the adopted comprehensive

606-08395A-08

20081978c2

349 | plan with the plans of school boards, regional water supply
350 | authorities, and other units of local government providing
351 | services but not having regulatory authority over the use of
352 | land, with the comprehensive plans of adjacent municipalities,
353 | the county, adjacent counties, or the region, with the state
354 | comprehensive plan and with the applicable regional water supply
355 | plan approved pursuant to s. 373.0361, as the case may require
356 | and as such adopted plans or plans in preparation may exist. This
357 | element of the local comprehensive plan shall demonstrate
358 | consideration of the particular effects of the local plan, when
359 | adopted, upon the development of adjacent municipalities, the
360 | county, adjacent counties, or the region, or upon the state
361 | comprehensive plan, as the case may require.

362 | a. The intergovernmental coordination element shall provide
363 | ~~for~~ procedures to identify and implement joint planning areas,
364 | especially for the purpose of annexation, municipal
365 | incorporation, and joint infrastructure service areas.

366 | b. The intergovernmental coordination element shall provide
367 | for recognition of campus master plans prepared pursuant to s.
368 | 1013.30, and airport master plans pursuant to paragraph (k).

369 | c. The intergovernmental coordination element may provide
370 | for a voluntary dispute resolution process as established
371 | pursuant to s. 186.509 for bringing to closure in a timely manner
372 | intergovernmental disputes. A local government may develop and
373 | use an alternative local dispute resolution process for this
374 | purpose.

375 | d. The intergovernmental coordination element shall provide
376 | for interlocal agreements, as established pursuant to s.
377 | 333.03(1)(b).

606-08395A-08

20081978c2

378 2. The intergovernmental coordination element shall further
379 state principles and guidelines to be used in the accomplishment
380 of coordination of the adopted comprehensive plan with the plans
381 of school boards and other units of local government providing
382 facilities and services but not having regulatory authority over
383 the use of land. In addition, the intergovernmental coordination
384 element shall describe joint processes for collaborative planning
385 and decisionmaking on population projections and public school
386 siting, the location and extension of public facilities subject
387 to concurrency, and siting facilities with countywide
388 significance, including locally unwanted land uses whose nature
389 and identity are established in an agreement. Within 1 year of
390 adopting their intergovernmental coordination elements, each
391 county, all the municipalities within that county, the district
392 school board, and any unit of local government service providers
393 in that county shall establish by interlocal or other formal
394 agreement executed by all affected entities, the joint processes
395 described in this subparagraph consistent with their adopted
396 intergovernmental coordination elements.

397 3. To foster coordination between special districts and
398 local general-purpose governments as local general-purpose
399 governments implement local comprehensive plans, each independent
400 special district must submit a public facilities report to the
401 appropriate local government as required by s. 189.415.

402 4.a. Local governments must execute an interlocal agreement
403 with the district school board, the county, and nonexempt
404 municipalities pursuant to s. 163.31777. The local government
405 shall amend the intergovernmental coordination element to provide
406 that coordination between the local government and school board

606-08395A-08

20081978c2

407 | is pursuant to the agreement and shall state the obligations of
408 | the local government under the agreement.

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

411 | 5. The state land planning agency shall establish a
412 | schedule for phased completion and transmittal of plan amendments
413 | to implement subparagraphs 1., 2., and 3. from all jurisdictions
414 | so as to accomplish their adoption by December 31, 1999. A local
415 | government may complete and transmit its plan amendments to carry
416 | out these provisions prior to the scheduled date established by
417 | the state land planning agency. The plan amendments are exempt
418 | from the provisions of s. 163.3187(1).

419 | 6. By January 1, 2004, any county having a population
420 | greater than 100,000, and the municipalities and special
421 | districts within that county, shall submit a report to the
422 | Department of Community Affairs which:

423 | a. Identifies all existing or proposed interlocal service
424 | delivery agreements regarding the following: education; sanitary
425 | sewer; public safety; solid waste; drainage; potable water; parks
426 | and recreation; and transportation facilities.

427 | b. Identifies any deficits or duplication in the provision
428 | of services within its jurisdiction, whether capital or
429 | operational. Upon request, the Department of Community Affairs
430 | shall provide technical assistance to the local governments in
431 | identifying deficits or duplication.

432 | 7. Within 6 months after submission of the report, the
433 | Department of Community Affairs shall, through the appropriate
434 | regional planning council, coordinate a meeting of all local
435 | governments within the regional planning area to discuss the

606-08395A-08

20081978c2

436 reports and potential strategies to remedy any identified
437 deficiencies or duplications.

438 8. Each local government shall update its intergovernmental
439 coordination element based upon the findings in the report
440 submitted pursuant to subparagraph 6. The report may be used as
441 supporting data and analysis for the intergovernmental
442 coordination element.

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

448 1. Traffic circulation, including major thoroughfares and
449 other routes, including bicycle and pedestrian ways.

450 2. All alternative modes of travel, such as public
451 transportation, pedestrian, and bicycle travel.

452 3. Parking facilities.

453 4. Aviation, rail, seaport facilities, access to those
454 facilities, and intermodal terminals.

455 5. The availability of facilities and services to serve
456 existing land uses and the compatibility between future land use
457 and transportation elements.

458 6. The capability to evacuate the coastal population prior
459 to an impending natural disaster.

460 7. Airports, projected airport and aviation development,
461 and land use compatibility around airports that includes areas
462 defined in s. 333.01 and s. 333.02.

463 8. An identification of land use densities, building
464 intensities, and transportation management programs to promote

606-08395A-08

20081978c2

465 public transportation systems in designated public transportation
466 corridors so as to encourage population densities sufficient to
467 support such systems.

468 9. May include transportation corridors, as defined in s.
469 334.03, intended for future transportation facilities designated
470 pursuant to s. 337.273. If transportation corridors are
471 designated, the local government may adopt a transportation
472 corridor management ordinance.

473 Section 4. Paragraph (c) is added to subsection (2) of
474 section 163.3182, Florida Statutes, and paragraph (d) of
475 subsection (3), paragraph (a) of subsection (4), and subsections
476 (5) and (8) of that section are amended, to read:

477 163.3182 Transportation concurrency backlogs.--

478 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG
479 AUTHORITIES.--

480 (c) The Legislature finds and declares that there exists in
481 many counties and municipalities areas having significant
482 transportation deficiencies and inadequate transportation
483 facilities; that many such insufficiencies and inadequacies
484 severely limit or prohibit the satisfaction of transportation
485 concurrency standards; that such transportation insufficiencies
486 and inadequacies affect the health, safety, and welfare of the
487 residents of such counties and municipalities; that such
488 transportation insufficiencies and inadequacies adversely affect
489 economic development and growth of the tax base for the areas in
490 which such insufficiencies and inadequacies exist; and that the
491 elimination of transportation deficiencies and inadequacies and
492 the satisfaction of transportation concurrency standards are
493 paramount public purposes for the state and its counties and

606-08395A-08

20081978c2

494 | municipalities.

495 | (3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG
496 | AUTHORITY.--Each transportation concurrency backlog authority has
497 | the powers necessary or convenient to carry out the purposes of
498 | this section, including the following powers in addition to
499 | others granted in this section:

500 | (d) To borrow money, including, but not limited to, issuing
501 | debt obligations, such as, but not limited to, bonds, notes,
502 | certificates, and similar debt instruments; to apply for and
503 | accept advances, loans, grants, contributions, and any other
504 | forms of financial assistance from the Federal Government or the
505 | state, county, or any other public body or from any sources,
506 | public or private, for the purposes of this part; to give such
507 | security as may be required; to enter into and carry out
508 | contracts or agreements; and to include in any contracts for
509 | financial assistance with the Federal Government for or with
510 | respect to a transportation concurrency backlog project and
511 | related activities such conditions imposed pursuant to federal
512 | laws as the transportation concurrency backlog authority
513 | considers reasonable and appropriate and which are not
514 | inconsistent with the purposes of this section.

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

516 | (a) Each transportation concurrency backlog authority shall
517 | adopt a transportation concurrency backlog plan as a part of the
518 | local government comprehensive plan within 6 months after the
519 | creation of the authority. The plan shall:

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

606-08395A-08

20081978c2

523 2. Include a priority listing of all transportation
524 facilities that have been designated as deficient and do not
525 satisfy concurrency requirements pursuant to s. 163.3180, and the
526 applicable local government comprehensive plan.

527 3. Establish a schedule for financing and construction of
528 transportation concurrency backlog projects that will eliminate
529 transportation concurrency backlogs within the jurisdiction of
530 the authority within 10 years after the transportation
531 concurrency backlog plan adoption. The schedule shall be adopted
532 as part of the local government comprehensive plan.

533 Notwithstanding such schedule requirements, as long as the
534 schedule provides for the elimination of all transportation
535 concurrency backlogs within 10 years after the adoption of the
536 concurrency backlog plan, the final maturity date of any debt
537 incurred to finance or refinance the related projects may be no
538 later than 40 years after the date such debt is incurred and the
539 authority may continue operations and administer the trust fund
540 established as provided in subsection (5) for as long as such
541 debt remains outstanding.

542 (5) ESTABLISHMENT OF LOCAL TRUST FUND.--The transportation
543 concurrency backlog authority shall establish a local
544 transportation concurrency backlog trust fund upon creation of
545 the authority. Each local trust fund shall be administered by the
546 transportation concurrency backlog authority within which a
547 transportation concurrency backlog has been identified. Each
548 local trust fund shall continue to be funded pursuant to this
549 section for as long as the projects set forth in the related
550 transportation concurrency backlog plan remain to be completed or
551 until any debt incurred to finance or refinance the related

606-08395A-08

20081978c2

552 projects are no longer outstanding, whichever occurs later.
553 Beginning in the first fiscal year after the creation of the
554 authority, each local trust fund shall be funded by the proceeds
555 of an ad valorem tax increment collected within each
556 transportation concurrency backlog area to be determined annually
557 and shall be a minimum of 25 percent of the difference between
558 the amounts set forth in paragraphs (a) and (b), except that if
559 all of the affected taxing authorities agree pursuant to an
560 interlocal agreement, a particular local trust fund may be funded
561 by the proceeds of an ad valorem tax increment greater than 25
562 percent of the difference between the amounts set forth in
563 paragraphs (a) and (b):

564 (a) The amount of ad valorem tax levied each year by each
565 taxing authority, exclusive of any amount from any debt service
566 millage, on taxable real property contained within the
567 jurisdiction of the transportation concurrency backlog authority
568 and within the transportation backlog area; and

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

577 (8) DISSOLUTION.--Upon completion of all transportation
578 concurrency backlog projects and repayment or defeasance of all
579 debt issued to finance or refinance such projects, a
580 transportation concurrency backlog authority shall be dissolved,

606-08395A-08

20081978c2

581 and its assets and liabilities shall be transferred to the county
582 or municipality within which the authority is located. All
583 remaining assets of the authority must be used for implementation
584 of transportation projects within the jurisdiction of the
585 authority. The local government comprehensive plan shall be
586 amended to remove the transportation concurrency backlog plan.

587 Section 5. Section 316.0741, Florida Statutes, is amended
588 to read:

589 316.0741 High-occupancy-vehicle ~~High-occupancy vehicle~~
590 lanes.--

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

592 (a) "High-occupancy-vehicle ~~High-occupancy vehicle~~ lane" or
593 "HOV lane" means a lane of a public roadway designated for use by
594 vehicles in which there is more than one occupant unless
595 otherwise authorized by federal law.

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

597 1. That draws propulsion energy from onboard sources of
598 stored energy which are both an internal combustion or heat
599 engine using combustible fuel and a rechargeable energy-storage
600 system; and

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

606 (2) The number of persons that must be in a vehicle to
607 qualify for legal use of the HOV lane and the hours during which
608 the lane will serve as an HOV lane, if it is not designated as
609 such on a full-time basis, must also be indicated on a traffic

606-08395A-08

20081978c2

610 control device.

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

616 (4) (a) Notwithstanding any other provision of this section,
617 an inherently low-emission vehicle (ILEV) that is certified and
618 labeled in accordance with federal regulations may be driven in
619 an HOV lane at any time, regardless of its occupancy. In
620 addition, upon the state's receipt of written notice from the
621 proper federal regulatory agency authorizing such use, a vehicle
622 defined as a hybrid vehicle under this section may be driven in
623 an HOV lane at any time, regardless of its occupancy.

624 (b) All eligible hybrid and all eligible other low-emission
625 and energy-efficient vehicles driven in an HOV lane must comply
626 with the minimum fuel economy standards in 23 U.S.C. s.
627 166(f) (3) (B).

628 (c) Upon issuance of the applicable Environmental
629 Protection Agency final rule pursuant to 23 U.S.C. s. 166(e),
630 relating to the eligibility of hybrid and other low-emission and
631 energy-efficient vehicles for operation in an HOV lane regardless
632 of occupancy, the Department of Transportation shall review the
633 rule and recommend to the Legislature any statutory changes
634 necessary for compliance with the federal rule. The department
635 shall provide its recommendations no later than 30 days following
636 issuance of the final rule.

637 (5) The department shall issue a decal and registration
638 certificate, to be renewed annually, reflecting the HOV lane

606-08395A-08

20081978c2

639 designation on ~~such~~ vehicles meeting the criteria in subsection
640 (4) authorizing driving in an HOV lane at any time such use. The
641 department may charge a fee for a decal, not to exceed the costs
642 of designing, producing, and distributing each decal, or \$5,
643 whichever is less. The proceeds from sale of the decals shall be
644 deposited in the Highway Safety Operating Trust Fund. The
645 department may, for reasons of operation and management of HOV
646 facilities, limit or discontinue issuance of decals for the use
647 of HOV facilities by hybrid and low-emission and energy-efficient
648 vehicles, regardless of occupancy, if it has been determined by
649 the Department of Transportation that the facilities are degraded
650 as defined by 23 U.S.C. s. 166(d) (2).

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

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

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

661 ~~1. An internal combustion or heat engine using combustible~~
662 ~~fuel; and~~

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

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

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

606-08395A-08

20081978c2

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

670 (7)~~(6)~~ The department may adopt rules necessary to
671 administer this section.

672 Section 6. Subsection (4) of section 316.193, Florida
673 Statutes, is amended to read:

674 316.193 Driving under the influence; penalties.--

675 (4) Any person who is convicted of a violation of
676 subsection (1) and who has a blood-alcohol level or breath-
677 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is
678 convicted of a violation of subsection (1) and who at the time of
679 the offense was accompanied in the vehicle by a person under the
680 age of 18 years, shall be punished:

681 (a) By a fine of:

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

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

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

688 (b) By imprisonment for:

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

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

691

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

696 (c) In addition to the penalties in paragraphs (a) and (b),

606-08395A-08

20081978c2

697 the court shall order the mandatory placement, at the convicted
698 person's sole expense, of an ignition interlock device approved
699 by the department in accordance with s. 316.1938 upon all
700 vehicles that are individually or jointly leased or owned and
701 routinely operated by the convicted person for not less than ~~up~~
702 ~~to~~ 6 continuous months for the first offense and for not less
703 than ~~at least~~ 2 continuous years for a second offense, when the
704 convicted person qualifies for a permanent or restricted license.
705 ~~The installation of such device may not occur before July 1,~~
706 ~~2003.~~

707 Section 7. Subsections (1), (6), and (8) of section
708 316.302, Florida Statutes, are amended to read:

709 316.302 Commercial motor vehicles; safety regulations;
710 transporters and shippers of hazardous materials; enforcement.--

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

715 (b) Except as otherwise provided in this section, all
716 owners or drivers of commercial motor vehicles that are engaged
717 in intrastate commerce are subject to the rules and regulations
718 contained in 49 C.F.R. parts 382, 385, and 390-397, with the
719 exception of 49 C.F.R. s. 390.5 as it relates to the definition
720 of bus, as such rules and regulations existed on October 1, 2007
721 ~~2005~~.

722 (c) Except as provided in s. 316.215(5), and except as
723 provided in s. 316.228 for rear overhang lighting and flagging
724 requirements for intrastate operations, the requirements of this
725 section supersede all other safety requirements of this chapter

606-08395A-08

20081978c2

726 for commercial motor vehicles.

727 (6) The state Department of Transportation shall perform
728 the duties that are assigned to the Field Administrator, Federal
729 Motor Carrier Safety Administration ~~Regional Federal Highway~~
730 ~~Administrator~~ under the federal rules, and an agent of that
731 department, as described in s. 316.545(9), may enforce those
732 rules.

733 (8) For the purpose of enforcing this section, any law
734 enforcement officer of the Department of Transportation or duly
735 appointed agent who holds a current safety inspector
736 certification from the Commercial Vehicle Safety Alliance may
737 require the driver of any commercial vehicle operated on the
738 highways of this state to stop and submit to an inspection of the
739 vehicle or the driver's records. If the vehicle or driver is
740 found to be operating in an unsafe condition, or if any required
741 part or equipment is not present or is not in proper repair or
742 adjustment, and the continued operation would present an unduly
743 hazardous operating condition, the officer may require the
744 vehicle or the driver to be removed from service pursuant to the
745 North American Standard ~~Uniform~~ Out-of-Service Criteria, until
746 corrected. However, if continuous operation would not present an
747 unduly hazardous operating condition, the officer may give
748 written notice requiring correction of the condition within 14
749 days.

750 (a) Any member of the Florida Highway Patrol or any law
751 enforcement officer employed by a sheriff's office or municipal
752 police department authorized to enforce the traffic laws of this
753 state pursuant to s. 316.640 who has reason to believe that a
754 vehicle or driver is operating in an unsafe condition may, as

606-08395A-08

20081978c2

755 provided in subsection (10), enforce the provisions of this
756 section.

757 (b) Any person who fails to comply with an officer's
758 request to submit to an inspection under this subsection commits
759 a violation of s. 843.02 if the person resists the officer
760 without violence or a violation of s. 843.01 if the person
761 resists the officer with violence.

762 Section 8. Subsection (2) of section 316.613, Florida
763 Statutes, is amended to read:

764 316.613 Child restraint requirements.--

765 (2) As used in this section, the term "motor vehicle" means
766 a motor vehicle as defined in s. 316.003 which ~~that~~ is operated
767 on the roadways, streets, and highways of the state. The term
768 does not include:

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

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

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

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

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

778 Section 9. Paragraph (a) of subsection (3) of section
779 316.614, Florida Statutes, is amended to read:

780 316.614 Safety belt usage.--

781 (3) As used in this section:

782 (a) "Motor vehicle" means a motor vehicle as defined in s.
783 316.003 which ~~that~~ is operated on the roadways, streets, and

606-08395A-08

20081978c2

784 highways of this state. The term does not include:

785 1. A school bus.

786 2. A bus used for the transportation of persons for
787 compensation.

788 3. A farm tractor or implement of husbandry.

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

791 5. A motorcycle, moped, or bicycle.

792 Section 10. Paragraph (a) of subsection (2) of section
793 316.656, Florida Statutes, is amended to read:

794 316.656 Mandatory adjudication; prohibition against
795 accepting plea to lesser included offense.--

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

801 Section 11. Section 322.64, Florida Statutes, is amended to
802 read:

803 322.64 Holder of commercial driver's license; persons
804 operating a commercial motor vehicle; driving with unlawful
805 blood-alcohol level; refusal to submit to breath, urine, or blood
806 test.--

807 (1) (a) A law enforcement officer or correctional officer
808 shall, on behalf of the department, disqualify from operating any
809 commercial motor vehicle a person who while operating or in
810 actual physical control of a commercial motor vehicle is arrested
811 for a violation of s. 316.193, relating to unlawful blood-alcohol
812 level or breath-alcohol level, or a person who has refused to

606-08395A-08

20081978c2

813 submit to a breath, urine, or blood test authorized by s. 322.63
814 arising out of the operation or actual physical control of a
815 commercial motor vehicle. A law enforcement officer or
816 correctional officer shall, on behalf of the department,
817 disqualify the holder of a commercial driver's license from
818 operating any commercial motor vehicle if the licenseholder,
819 while operating or in actual physical control of a motor vehicle,
820 is arrested for a violation of s. 316.193, relating to unlawful
821 blood-alcohol level or breath-alcohol level, or refused to submit
822 to a breath, urine, or blood test authorized by s. 322.63. Upon
823 disqualification of the person, the officer shall take the
824 person's driver's license and issue the person a 10-day temporary
825 permit for the operation of noncommercial vehicles only if the
826 person is otherwise eligible for the driving privilege and shall
827 issue the person a notice of disqualification. If the person has
828 been given a blood, breath, or urine test, the results of which
829 are not available to the officer at the time of the arrest, the
830 agency employing the officer shall transmit such results to the
831 department within 5 days after receipt of the results. If the
832 department then determines that the person ~~was arrested for a~~
833 ~~violation of s. 316.193 and that the person~~ had a blood-alcohol
834 level or breath-alcohol level of 0.08 or higher, the department
835 shall disqualify the person from operating a commercial motor
836 vehicle pursuant to subsection (3).

837 (b) The disqualification under paragraph (a) shall be
838 pursuant to, and the notice of disqualification shall inform the
839 driver of, the following:

840 1.a. The driver refused to submit to a lawful breath,
841 blood, or urine test and he or she is disqualified from operating

606-08395A-08

20081978c2

842 a commercial motor vehicle for a period of 1 year, for a first
843 refusal, or permanently, if he or she has previously been
844 disqualified as a result of a refusal to submit to such a test;
845 or

846 b. The driver was driving or in actual physical control of
847 a commercial motor vehicle, or any motor vehicle if the driver
848 holds a commercial driver's license, had an unlawful blood-
849 alcohol level or breath-alcohol level of 0.08 or higher, and his
850 or her driving privilege shall be disqualified for a period of 1
851 year for a first offense or permanently if his or her driving
852 privilege has been previously disqualified under this section.
853 ~~violated s. 316.193 by driving with an unlawful blood-alcohol~~
854 ~~level and he or she is disqualified from operating a commercial~~
855 ~~motor vehicle for a period of 6 months for a first offense or for~~
856 ~~a period of 1 year if he or she has previously been disqualified,~~
857 ~~or his or her driving privilege has been previously suspended,~~
858 ~~for a violation of s. 316.193.~~

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

862 3. The driver may request a formal or informal review of
863 the disqualification by the department within 10 days after the
864 date of ~~arrest or~~ issuance of the notice of disqualification,
865 ~~whichever is later.~~

866 4. The temporary permit issued at the time of ~~arrest or~~
867 disqualification expires ~~will expire~~ at midnight of the 10th day
868 following the date of disqualification.

869 5. The driver may submit to the department any materials
870 relevant to the disqualification ~~arrest.~~

606-08395A-08

20081978c2

871 (2) Except as provided in paragraph (1) (a), the law
872 enforcement officer shall forward to the department, within 5
873 days after the date of the ~~arrest or the~~ issuance of the notice
874 of disqualification, ~~whichever is later,~~ a copy of the notice of
875 disqualification, the driver's license of the person disqualified
876 ~~arrested,~~ and ~~a report of the arrest, including, if applicable,~~
877 an affidavit stating the officer's grounds for belief that the
878 person disqualified arrested was operating or in actual physical
879 control of a commercial motor vehicle, or holds a commercial
880 driver's license, and had an unlawful blood-alcohol or breath-
881 alcohol level in violation of s. 316.193; the results of any
882 breath or blood or urine test or an affidavit stating that a
883 breath, blood, or urine test was requested by a law enforcement
884 officer or correctional officer and that the person arrested
885 refused to submit; a copy of the notice of disqualification
886 ~~citation~~ issued to the person ~~arrested;~~ and the officer's
887 description of the person's field sobriety test, if any. The
888 failure of the officer to submit materials within the 5-day
889 period specified in this subsection or subsection (1) does shall
890 not affect the department's ability to consider any evidence
891 submitted at or prior to the hearing. The officer may also submit
892 a copy of a videotape of the field sobriety test or the attempt
893 to administer such test and a copy of the crash report, if any.

894 (3) If the department determines that the person arrested
895 should be disqualified from operating a commercial motor vehicle
896 pursuant to this section and if the notice of disqualification
897 has not already been served upon the person by a law enforcement
898 officer or correctional officer as provided in subsection (1),
899 the department shall issue a notice of disqualification and,

606-08395A-08

20081978c2

900 unless the notice is mailed pursuant to s. 322.251, a temporary
901 permit which expires 10 days after the date of issuance if the
902 driver is otherwise eligible.

903 (4) If the person disqualified ~~arrested~~ requests an
904 informal review pursuant to subparagraph (1)(b)3., the department
905 shall conduct the informal review by a hearing officer employed
906 by the department. Such informal review hearing shall consist
907 solely of an examination by the department of the materials
908 submitted by a law enforcement officer or correctional officer
909 and by the person disqualified ~~arrested~~, and the presence of an
910 officer or witness is not required.

911 (5) After completion of the informal review, notice of the
912 department's decision sustaining, amending, or invalidating the
913 disqualification must be provided to the person. Such notice must
914 be mailed to the person at the last known address shown on the
915 department's records, and to the address provided in the law
916 enforcement officer's report if such address differs from the
917 address of record, within 21 days after the expiration of the
918 temporary permit issued pursuant to subsection (1) or subsection
919 (3).

920 (6) (a) If the person disqualified ~~arrested~~ requests a
921 formal review, the department must schedule a hearing to be held
922 within 30 days after such request is received by the department
923 and must notify the person of the date, time, and place of the
924 hearing.

925 (b) Such formal review hearing shall be held before a
926 hearing officer employed by the department, and the hearing
927 officer shall be authorized to administer oaths, examine
928 witnesses and take testimony, receive relevant evidence, issue

606-08395A-08

20081978c2

929 subpoenas for the officers and witnesses identified in documents
930 as provided in subsection (2), regulate the course and conduct of
931 the hearing, and make a ruling on the disqualification. The
932 department and the person disqualified ~~arrested~~ may subpoena
933 witnesses, and the party requesting the presence of a witness
934 shall be responsible for the payment of any witness fees. If the
935 person who requests a formal review hearing fails to appear and
936 the hearing officer finds such failure to be without just cause,
937 the right to a formal hearing is waived ~~and the department shall~~
938 ~~conduct an informal review of the disqualification under~~
939 ~~subsection (4)~~.

940 (c) A party may seek enforcement of a subpoena under
941 paragraph (b) by filing a petition for enforcement in the circuit
942 court of the judicial circuit in which the person failing to
943 comply with the subpoena resides. A failure to comply with an
944 order of the court shall result in a finding of contempt of
945 court. However, a person shall not be in contempt while a
946 subpoena is being challenged.

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

951 (7) In a formal review hearing under subsection (6) or an
952 informal review hearing under subsection (4), the hearing officer
953 shall determine by a preponderance of the evidence whether
954 sufficient cause exists to sustain, amend, or invalidate the
955 disqualification. The scope of the review shall be limited to the
956 following issues:

957 (a) If the person was disqualified from operating a

606-08395A-08

20081978c2

958 commercial motor vehicle for driving with an unlawful blood-
959 alcohol level ~~in violation of s. 316.193:~~

960 1. Whether the arresting law enforcement officer had
961 probable cause to believe that the person was driving or in
962 actual physical control of a commercial motor vehicle, or any
963 motor vehicle if the driver holds a commercial driver's license,
964 in this state while he or she had any alcohol, chemical
965 substances, or controlled substances in his or her body.

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

968 ~~2.3.~~ Whether the person had an unlawful blood-alcohol level
969 or breath-alcohol level of 0.08 or higher as provided in s.
970 316.193.

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

974 1. Whether the law enforcement officer had probable cause
975 to believe that the person was driving or in actual physical
976 control of a commercial motor vehicle, or any motor vehicle if
977 the driver holds a commercial driver's license, in this state
978 while he or she had any alcohol, chemical substances, or
979 controlled substances in his or her body.

980 2. Whether the person refused to submit to the test after
981 being requested to do so by a law enforcement officer or
982 correctional officer.

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

606-08395A-08

20081978c2

987 (8) Based on the determination of the hearing officer
988 pursuant to subsection (7) for both informal hearings under
989 subsection (4) and formal hearings under subsection (6), the
990 department shall:

991 (a) Sustain the disqualification for a period of 1 year for
992 a first refusal, or permanently if such person has been
993 previously disqualified from operating a commercial motor vehicle
994 as a result of a refusal to submit to such tests. The
995 disqualification period commences on the date of the arrest or
996 issuance of the notice of disqualification, whichever is later.

997 (b) Sustain the disqualification:

998 1. For a period of 1 year if the person was driving or in
999 actual physical control of a commercial motor vehicle, or any
1000 motor vehicle if the driver holds a commercial driver's license,
1001 and had an unlawful blood-alcohol level or breath-alcohol level
1002 of 0.08 or higher; or ~~6 months for a violation of s. 316.193 or~~
1003 for a period of 1 year

1004 2. Permanently if the person has been previously
1005 disqualified from operating a commercial motor vehicle or his or
1006 her driving privilege has been previously suspended for driving
1007 or being in actual physical control of a commercial motor
1008 vehicle, or any motor vehicle if the driver holds a commercial
1009 driver's license, and had an unlawful blood-alcohol level or
1010 breath-alcohol level of 0.08 or higher ~~as a result of a~~
1011 violation of s. 316.193.

1012
1013 The disqualification period commences on the date of the arrest
1014 or issuance of the notice of disqualification, ~~whichever is~~
1015 ~~later.~~

606-08395A-08

20081978c2

1016 (9) A request for a formal review hearing or an informal
1017 review hearing shall not stay the disqualification. If the
1018 department fails to schedule the formal review hearing to be held
1019 within 30 days after receipt of the request therefor, the
1020 department shall invalidate the disqualification. If the
1021 scheduled hearing is continued at the department's initiative,
1022 the department shall issue a temporary driving permit limited to
1023 noncommercial vehicles which is ~~shall be~~ valid until the hearing
1024 is conducted if the person is otherwise eligible for the driving
1025 privilege. Such permit shall not be issued to a person who sought
1026 and obtained a continuance of the hearing. The permit issued
1027 under this subsection shall authorize driving for business
1028 purposes ~~or employment use~~ only.

1029 (10) A person who is disqualified from operating a
1030 commercial motor vehicle under subsection (1) or subsection (3)
1031 is eligible for issuance of a license for business or employment
1032 purposes only under s. 322.271 if the person is otherwise
1033 eligible for the driving privilege. However, such business or
1034 employment purposes license shall not authorize the driver to
1035 operate a commercial motor vehicle.

1036 (11) The formal review hearing may be conducted upon a
1037 review of the reports of a law enforcement officer or a
1038 correctional officer, including documents relating to the
1039 administration of a breath test or blood test or the refusal to
1040 take either test. However, as provided in subsection (6), the
1041 driver may subpoena the officer or any person who administered or
1042 analyzed a breath or blood test.

1043 (12) The formal review hearing and the informal review
1044 hearing are exempt from the provisions of chapter 120. The

606-08395A-08

20081978c2

1045 department is authorized to adopt rules for the conduct of
1046 reviews under this section.

1047 (13) A person may appeal any decision of the department
1048 sustaining the disqualification from operating a commercial motor
1049 vehicle by a petition for writ of certiorari to the circuit court
1050 in the county wherein such person resides or wherein a formal or
1051 informal review was conducted pursuant to s. 322.31. However, an
1052 appeal shall not stay the disqualification. This subsection shall
1053 not be construed to provide for a de novo appeal.

1054 (14) The decision of the department under this section
1055 shall not be considered in any trial for a violation of s.
1056 316.193, s. 322.61, or s. 322.62, nor shall any written statement
1057 submitted by a person in his or her request for departmental
1058 review under this section be admissible into evidence against him
1059 or her in any such trial. The disposition of any related criminal
1060 proceedings shall not affect a disqualification imposed pursuant
1061 to this section.

1062 (15) This section does not preclude the suspension of the
1063 driving privilege pursuant to s. 322.2615. The driving privilege
1064 of a person who has been disqualified from operating a commercial
1065 motor vehicle also may be suspended for a violation of s.
1066 316.193.

1067 Section 12. Subsections (3) and (4) of section 336.41,
1068 Florida Statutes, are renumbered as subsections (4) and (5),
1069 respectively, and a new subsection (3) is added to that section,
1070 to read:

1071 336.41 Counties; employing labor and providing road
1072 equipment; accounting; when competitive bidding required.--

1073 (3) Notwithstanding any law to the contrary, a county,

606-08395A-08

20081978c2

1074 municipality, or special district may not own or operate an
1075 asphalt plant or a portable or stationary concrete batch plant
1076 that has an independent mixer; however, this prohibition does not
1077 apply to any county that owns or is under contract to purchase an
1078 asphalt plant as of April 15, 2008, and that furnishes its plant-
1079 generated asphalt solely for use by local governments or
1080 companies under contract with local governments for projects
1081 within the boundaries of the county. Sale of plant-generated
1082 asphalt to private entities or local governments outside the
1083 boundaries of the county is prohibited.

1084 Section 13. Subsections (8) through (15) of section 337.11,
1085 Florida Statutes, are renumbered as subsections (9) through (16),
1086 respectively, present subsection (7) is renumbered as subsection
1087 (8) and amended, and a new subsection (7) is added to that
1088 section, to read:

1089 337.11 Contracting authority of department; bids; emergency
1090 repairs, supplemental agreements, and change orders; combined
1091 design and construction contracts; progress payments; records;
1092 requirements of vehicle registration.--

1093 (7) If the department determines that it is in the best
1094 interest of the public, the department may pay a stipend to
1095 unsuccessful firms who have submitted responsive proposals for
1096 construction or maintenance contracts. The decision and amount of
1097 a stipend will be based upon department analysis of the estimated
1098 proposal development costs and the anticipated degree of
1099 competition during the procurement process. Stipends shall be
1100 used to encourage competition and compensate unsuccessful firms
1101 for a portion of their proposal development costs. The department
1102 shall retain the right to use ideas from unsuccessful firms that

606-08395A-08

20081978c2

1103 | accept a stipend.

1104 | ~~(8)(7)~~(a) If ~~the head of~~ the department determines that it
1105 | is in the best interests of the public, the department may
1106 | combine the design and construction phases of a building, a major
1107 | bridge, a limited access facility, or a rail corridor project
1108 | into a single contract. Such contract is referred to as a design-
1109 | build contract. The department's goal shall be to procure up to
1110 | 25 percent of the construction contracts which add capacity in
1111 | the 5-year adopted work program as design-build contracts by July
1112 | 1, 2013. Design-build contracts may be advertised and awarded
1113 | notwithstanding the requirements of paragraph (3)(c). However,
1114 | construction activities may not begin on any portion of such
1115 | projects for which the department has not yet obtained title to
1116 | the necessary rights-of-way and easements for the construction of
1117 | that portion of the project has vested in the state or a local
1118 | governmental entity and all railroad crossing and utility
1119 | agreements have been executed. Title to rights-of-way shall be
1120 | deemed to have vested in the state when the title has been
1121 | dedicated to the public or acquired by prescription.

1122 | (b) The department shall adopt by rule procedures for
1123 | administering design-build contracts. Such procedures shall
1124 | include, but not be limited to:

- 1125 | 1. Prequalification requirements.
- 1126 | 2. Public announcement procedures.
- 1127 | 3. Scope of service requirements.
- 1128 | 4. Letters of interest requirements.
- 1129 | 5. Short-listing criteria and procedures.
- 1130 | 6. Bid proposal requirements.
- 1131 | 7. Technical review committee.

606-08395A-08

20081978c2

1132 8. Selection and award processes.

1133 9. Stipend requirements.

1134 (c) The department must receive at least three letters of
1135 interest in order to proceed with a request for proposals. The
1136 department shall request proposals from no fewer than three of
1137 the design-build firms submitting letters of interest. If a
1138 design-build firm withdraws from consideration after the
1139 department requests proposals, the department may continue if at
1140 least two proposals are received.

1141 Section 14. Paragraph (b) of subsection (1) of section
1142 337.18, Florida Statutes, is amended to read:

1143 337.18 Surety bonds for construction or maintenance
1144 contracts; requirement with respect to contract award; bond
1145 requirements; defaults; damage assessments.--

1146 (1)

1147 (b) Prior to beginning any work under the contract, the
1148 contractor shall maintain a copy of the payment and performance
1149 bond required under this section at its principal place of
1150 business, and at the jobsite office if one is established, and
1151 the contractor shall provide a copy of the payment and
1152 performance bond within 5 days after receipt of any written
1153 request therefore. A copy of the payment and performance bond
1154 required under this section may also be obtained directly from
1155 the department via a request made pursuant to chapter 119. ~~Upon~~
1156 ~~execution of the contract, and prior to beginning any work under~~
1157 ~~the contract, the contractor shall record in the public records~~
1158 ~~of the county where the improvement is located the payment and~~
1159 ~~performance bond required under this section. A claimant shall~~
1160 have a right of action against the contractor and surety for the

606-08395A-08

20081978c2

1161 amount due him or her, including unpaid finance charges due under
1162 the claimant's contract. Such action shall not involve the
1163 department in any expense.

1164

1165 Section 15. Subsections (1), (2), and (7) of section
1166 337.185, Florida Statutes, are amended to read:

1167 337.185 State Arbitration Board.--

1168 (1) To facilitate the prompt settlement of claims for
1169 additional compensation arising out of construction and
1170 maintenance contracts between the department and the various
1171 contractors with whom it transacts business, the Legislature does
1172 hereby establish the State Arbitration Board, referred to in this
1173 section as the "board." For the purpose of this section, "claim"
1174 means ~~shall mean~~ the aggregate of all outstanding claims by a
1175 party arising out of a construction or maintenance contract.
1176 Every contractual claim in an amount up to \$250,000 per contract
1177 or, at the claimant's option, up to \$500,000 per contract or,
1178 upon agreement of the parties, up to \$1 million per contract
1179 which ~~that~~ cannot be resolved by negotiation between the
1180 department and the contractor shall be arbitrated by the board
1181 after acceptance of the project by the department. As an
1182 exception, either party to the dispute may request that the claim
1183 be submitted to binding private arbitration. A court of law may
1184 not consider the settlement of such a claim until the process
1185 established by this section has been exhausted.

1186 (2) The board shall be composed of three members. One
1187 member shall be appointed by the head of the department, and one
1188 member shall be elected by those construction or maintenance
1189 companies who are under contract with the department. The third

606-08395A-08

20081978c2

1190 member shall be chosen by agreement of the other two members.
1191 Whenever the third member has a conflict of interest regarding
1192 affiliation with one of the parties, the other two members shall
1193 select an alternate member for that hearing. The head of the
1194 department may select an alternative or substitute to serve as
1195 the department member for any hearing or term. Each member shall
1196 serve a 2-year term. The board shall elect a chair, each term,
1197 who shall be the administrator of the board and custodian of its
1198 records.

1199 (7) The members of the board may receive compensation for
1200 the performance of their duties hereunder, from administrative
1201 fees received by the board, except that no employee of the
1202 department may receive compensation from the board. The
1203 compensation amount shall be determined by the board, but shall
1204 not exceed \$125 per hour, up to a maximum of \$1,000 per day for
1205 each member authorized to receive compensation. ~~Nothing in this~~
1206 section does not shall prevent the member elected by construction
1207 or maintenance companies from being an employee of an association
1208 affiliated with the industry, even if the sole responsibility of
1209 that member is service on the board. Travel expenses for the
1210 industry member may be paid by an industry association, if
1211 necessary. The board may allocate funds annually for clerical and
1212 other administrative services.

1213 Section 16. Subsection (1) of section 337.403, Florida
1214 Statutes, is amended to read:

1215 337.403 Relocation of utility; expenses.--

1216 (1) Any utility heretofore or hereafter placed upon, under,
1217 over, or along any public road or publicly owned rail corridor
1218 which ~~that~~ is found by the authority to be unreasonably

606-08395A-08

20081978c2

1219 interfering in any way with the convenient, safe, or continuous
1220 use, or the maintenance, improvement, extension, or expansion, of
1221 such public road or publicly owned rail corridor shall, upon 30
1222 days' written notice to the utility or its agent by the
1223 authority, be removed or relocated by such utility at its own
1224 expense except as provided in paragraphs (a), (b), ~~and (c)~~, (d),
1225 and (e).

1226 (a) If the relocation of utility facilities, as referred to
1227 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627
1228 of the 84th Congress, is necessitated by the construction of a
1229 project on the federal-aid interstate system, including
1230 extensions thereof within urban areas, and the cost of such
1231 project is eligible and approved for reimbursement by the Federal
1232 Government to the extent of 90 percent or more under the Federal
1233 Aid Highway Act, or any amendment thereof, then in that event the
1234 utility owning or operating such facilities shall relocate such
1235 facilities upon order of the department, and the state shall pay
1236 the entire expense properly attributable to such relocation after
1237 deducting therefrom any increase in the value of the new facility
1238 and any salvage value derived from the old facility.

1239 (b) When a joint agreement between the department and the
1240 utility is executed for utility improvement, relocation, or
1241 removal work to be accomplished as part of a contract for
1242 construction of a transportation facility, the department may
1243 participate in those utility improvement, relocation, or removal
1244 costs that exceed the department's official estimate of the cost
1245 of such work by more than 10 percent. The amount of such
1246 participation shall be limited to the difference between the
1247 official estimate of all the work in the joint agreement plus 10

606-08395A-08

20081978c2

1248 percent and the amount awarded for this work in the construction
1249 contract for such work. The department may not participate in any
1250 utility improvement, relocation, or removal costs that occur as a
1251 result of changes or additions during the course of the contract.

1252 (c) When an agreement between the department and utility is
1253 executed for utility improvement, relocation, or removal work to
1254 be accomplished in advance of a contract for construction of a
1255 transportation facility, the department may participate in the
1256 cost of clearing and grubbing necessary to perform such work.

1257 (d) If the utility facility being removed or relocated was
1258 initially installed exclusively to serve the department, its
1259 tenants, or both the department and its tenants, the department
1260 shall bear the costs of removal or relocation of that utility
1261 facility. However, the department is not responsible for bearing
1262 the cost of removal or relocation of any subsequent additions to
1263 the utility facility for the purpose of serving others.

1264 (e) If pursuant to an agreement between a utility and the
1265 authority entered into after July 1, 2008, the utility conveys,
1266 subordinates, or relinquishes a compensable property right to the
1267 authority for the purpose of accommodating the acquisition or use
1268 of the right-of-way by the authority without the agreement
1269 expressly addressing future responsibility for cost of removal or
1270 relocation of the utility, the authority shall bear the cost of
1271 such removal or relocation. Nothing herein is intended to impair
1272 or restrict, or be used to interpret, the terms of any agreement
1273 entered into prior to July 1, 2008.

1274 Section 17. Subsection (6) is added to section 338.01,
1275 Florida Statutes, to read:

1276 338.01 Authority to establish and regulate limited access

606-08395A-08

20081978c2

1277 facilities.--

1278 (6) Notwithstanding any other provision of law, all new
1279 limited access facilities and existing transportation facilities
1280 on which new or replacement electronic toll collection systems
1281 are installed shall be interoperable with the department's
1282 electronic toll collection system.

1283 Section 18. Present subsections (7) and (8) of section
1284 338.165, Florida Statutes, are redesignated as subsections (8)
1285 and (9), respectively, and a new subsection (7) is added to that
1286 section, to read:

1287 338.165 Continuation of tolls.--

1288 (7) This section does not apply to high-occupancy toll
1289 lanes or express lanes.

1290 Section 19. Section 338.166, Florida Statutes, is created
1291 to read:

1292 338.166 High-occupancy toll lanes or express lanes.--

1293 (1) Under s. 11, Art. VII of the State Constitution, the
1294 department may request the Division of Bond Finance to issue
1295 bonds secured by toll revenues collected on high-occupancy toll
1296 lanes or express lanes located on Interstate 95 in Miami-Dade and
1297 Broward Counties.

1298 (2) The department may continue to collect the toll on the
1299 high-occupancy toll lanes or express lanes after the discharge of
1300 any bond indebtedness related to such project. All tolls so
1301 collected shall first be used to pay the annual cost of the
1302 operation, maintenance, and improvement of the high-occupancy
1303 toll lanes or express lanes project or associated transportation
1304 system.

606-08395A-08

20081978c2

1305 (3) Any remaining toll revenue from the high-occupancy toll
1306 lanes or express lanes shall be used by the department for the
1307 construction, maintenance, or improvement of any road on the
1308 State Highway System.

1309 (4) The department is authorized to implement variable rate
1310 tolls on high-occupancy toll lanes or express lanes.

1311 (5) Except for high-occupancy toll lanes or express lanes,
1312 tolls may not be charged for use of an interstate highway where
1313 tolls were not charged as of July 1, 1997.

1314 (6) This section does not apply to the turnpike system as
1315 defined under the Florida Turnpike Enterprise Law.

1316 Section 20. Paragraphs (d) and (e) are added to subsection
1317 (1) of section 338.2216, Florida Statutes, to read:

1318 338.2216 Florida Turnpike Enterprise; powers and
1319 authority.--

1320 (1)

1321 (d) The Florida Turnpike Enterprise is directed to pursue
1322 and implement new technologies and processes in its operations
1323 and collection of tolls and the collection of other amounts
1324 associated with road and infrastructure usage. Such technologies
1325 and processes shall include, without limitation, video billing
1326 and variable pricing.

1327 (e)1. The Florida Turnpike Enterprise may not contract with
1328 any vendor for the retail sale of fuel along the Florida Turnpike
1329 if such contract is negotiated or bid together with any other
1330 contract, including, but not limited to, the retail sale of food,
1331 maintenance services, or construction, except that a contract for
1332 the retail sale of fuel along the Florida Turnpike shall be bid
1333 and contracted with the retail sale of food at any convenience

606-08395A-08

20081978c2

1334 store attached to the fuel station.

1335 2. All contracts related to service plazas, including, but
1336 not limited to, the sale of fuel, the retail sale of food,
1337 maintenance services, or construction, awarded by the Florida
1338 Turnpike Enterprise shall be procured through individual
1339 competitive solicitations and awarded to the most cost-effective
1340 responder. This subparagraph does not prohibit the award of more
1341 than one individual contract to a single vendor who submits the
1342 most cost-effective response.

1343 Section 21. Paragraph (b) of subsection (1) of section
1344 338.223, Florida Statutes, is amended to read:

1345 338.223 Proposed turnpike projects.--

1346 (1)

1347 (b) Any proposed turnpike project or improvement shall be
1348 developed in accordance with the Florida Transportation Plan and
1349 the work program pursuant to s. 339.135. Turnpike projects that
1350 add capacity, alter access, affect feeder roads, or affect the
1351 operation of the local transportation system shall be included in
1352 the transportation improvement plan of the affected metropolitan
1353 planning organization. If such turnpike project does not fall
1354 within the jurisdiction of a metropolitan planning organization,
1355 the department shall notify the affected county and provide for
1356 public hearings in accordance with s. 339.155(5)(c) ~~s.~~
1357 ~~339.155(6)(e)~~.

1358 Section 22. Section 338.231, Florida Statutes, is amended
1359 to read:

1360 338.231 Turnpike tolls, fixing; pledge of tolls and other
1361 revenues.--The department shall at all times fix, adjust, charge,
1362 and collect such tolls for the use of the turnpike system as are

606-08395A-08

20081978c2

1363 required in order to provide a fund sufficient with other
1364 revenues of the turnpike system to pay the cost of maintaining,
1365 improving, repairing, and operating such turnpike system; to pay
1366 the principal of and interest on all bonds issued to finance or
1367 refinance any portion of the turnpike system as the same become
1368 due and payable; and to create reserves for all such purposes.

1369 ~~(1) In the process of effectuating toll rate increases over~~
1370 ~~the period 1988 through 1992, the department shall, to the~~
1371 ~~maximum extent feasible, equalize the toll structure, within each~~
1372 ~~vehicle classification, so that the per mile toll rate will be~~
1373 ~~approximately the same throughout the turnpike system. New~~
1374 ~~turnpike projects may have toll rates higher than the uniform~~
1375 ~~system rate where such higher toll rates are necessary to qualify~~
1376 ~~the project in accordance with the financial criteria in the~~
1377 ~~turnpike law. Such higher rates may be reduced to the uniform~~
1378 ~~system rate when the project is generating sufficient revenues to~~
1379 ~~pay the full amount of debt service and operating and maintenance~~
1380 ~~costs at the uniform system rate. If, after 15 years of opening~~
1381 ~~to traffic, the annual revenue of a turnpike project does not~~
1382 ~~meet or exceed the annual debt service requirements and operating~~
1383 ~~and maintenance costs attributable to such project, the~~
1384 ~~department shall, to the maximum extent feasible, establish a~~
1385 ~~toll rate for the project which is higher than the uniform system~~
1386 ~~rate as necessary to meet such annual debt service requirements~~
1387 ~~and operating and maintenance costs. The department may, to the~~
1388 ~~extent feasible, establish a temporary toll rate at less than the~~
1389 ~~uniform system rate for the purpose of building patronage for the~~
1390 ~~ultimate benefit of the turnpike system. In no case shall the~~
1391 ~~temporary rate be established for more than 1 year. The~~

606-08395A-08

20081978c2

1392 ~~requirements of this subsection shall not apply when the~~
1393 ~~application of such requirements would violate any covenant~~
1394 ~~established in a resolution or trust indenture relating to the~~
1395 ~~issuance of turnpike bonds.~~

1396 (1)~~(2)~~ Notwithstanding any other provision of law, the
1397 department may defer the scheduled July 1, 1993, toll rate
1398 increase on the Homestead Extension of the Florida Turnpike until
1399 July 1, 1995. The department may also advance funds to the
1400 Turnpike General Reserve Trust Fund to replace estimated lost
1401 revenues resulting from this deferral. The amount advanced must
1402 be repaid within 12 years from the date of advance; however, the
1403 repayment is subordinate to all other debt financing of the
1404 turnpike system outstanding at the time repayment is due.

1405 (2)~~(3)~~ The department shall publish a proposed change in
1406 the toll rate for the use of an existing toll facility, in the
1407 manner provided for in s. 120.54, which will provide for public
1408 notice and the opportunity for a public hearing before the
1409 adoption of the proposed rate change. When the department is
1410 evaluating a proposed turnpike toll project under s. 338.223 and
1411 has determined that there is a high probability that the project
1412 will pass the test of economic feasibility predicated on proposed
1413 toll rates, the toll rate that is proposed to be charged after
1414 the project is constructed must be adopted during the planning
1415 and project development phase of the project, in the manner
1416 provided for in s. 120.54, including public notice and the
1417 opportunity for a public hearing. For such a new project, the
1418 toll rate becomes effective upon the opening of the project to
1419 traffic.

1420 (3) (a)~~(4)~~ For the period July 1, 1998, through June 30,

606-08395A-08

20081978c2

1421 | 2017, the department shall, to the maximum extent feasible,
1422 | program sufficient funds in the tentative work program such that
1423 | the percentage of turnpike toll and bond financed commitments in
1424 | Dade County, Broward County, and Palm Beach County as compared to
1425 | total turnpike toll and bond financed commitments shall be at
1426 | least 90 percent of the share of net toll collections
1427 | attributable to users of the turnpike system in Dade County,
1428 | Broward County, and Palm Beach County as compared to total net
1429 | toll collections attributable to users of the turnpike system.
1430 | The requirements of this subsection do not apply when the
1431 | application of such requirements would violate any covenant
1432 | established in a resolution or trust indenture relating to the
1433 | issuance of turnpike bonds. The department may establish at any
1434 | time for economic considerations lower temporary toll rates for a
1435 | new or existing toll facility for a period not to exceed 1 year,
1436 | after which period the toll rates adopted under s. 120.54 shall
1437 | become effective.

1438 | (b) The department shall also fix, adjust, charge, and
1439 | collect such amounts needed to cover the costs of administering
1440 | the different toll collection and payment methods and types of
1441 | accounts being offered and used in the manner provided for in s.
1442 | 120.54, which provides for public notice and the opportunity for
1443 | a public hearing before adoption. Such amounts may stand alone,
1444 | be incorporated into a toll rate structure, or be a combination
1445 | thereof.

1446 | (4)-(5) When bonds are outstanding which have been issued to
1447 | finance or refinance any turnpike project, the tolls and all
1448 | other revenues derived from the turnpike system and pledged to
1449 | such bonds shall be set aside as may be provided in the

606-08395A-08

20081978c2

1450 resolution authorizing the issuance of such bonds or the trust
1451 agreement securing the same. The tolls or other revenues or other
1452 moneys so pledged and thereafter received by the department are
1453 immediately subject to the lien of such pledge without any
1454 physical delivery thereof or further act. The lien of any such
1455 pledge is valid and binding as against all parties having claims
1456 of any kind in tort or contract or otherwise against the
1457 department irrespective of whether such parties have notice
1458 thereof. Neither the resolution nor any trust agreement by which
1459 a pledge is created need be filed or recorded except in the
1460 records of the department.

1461 (5)~~(6)~~ In each fiscal year while any of the bonds of the
1462 Broward County Expressway Authority series 1984 and series 1986-A
1463 remain outstanding, the department is authorized to pledge
1464 revenues from the turnpike system to the payment of principal and
1465 interest of such series of bonds and the operation and
1466 maintenance expenses of the Sawgrass Expressway, to the extent
1467 gross toll revenues of the Sawgrass Expressway are insufficient
1468 to make such payments. The terms of an agreement relative to the
1469 pledge of turnpike system revenue will be negotiated with the
1470 parties of the 1984 and 1986 Broward County Expressway Authority
1471 lease-purchase agreements, and subject to the covenants of those
1472 agreements. The agreement shall establish that the Sawgrass
1473 Expressway shall be subject to the planning, management, and
1474 operating control of the department limited only by the terms of
1475 the lease-purchase agreements. The department shall provide for
1476 the payment of operation and maintenance expenses of the Sawgrass
1477 Expressway until such agreement is in effect. This pledge of
1478 turnpike system revenues shall be subordinate to the debt service

606-08395A-08

20081978c2

1479 requirements of any future issue of turnpike bonds, the payment
1480 of turnpike system operation and maintenance expenses, and
1481 subject to provisions of any subsequent resolution or trust
1482 indenture relating to the issuance of such turnpike bonds.

1483 ~~(6)~~⁽⁷⁾ The use and disposition of revenues pledged to bonds
1484 are subject to the provisions of ss. 338.22-338.241 and such
1485 regulations as the resolution authorizing the issuance of such
1486 bonds or such trust agreement may provide.

1487 Section 23. Paragraph (c) of subsection (4) of section
1488 339.12, Florida Statutes, is amended, and paragraph (d) is added
1489 to that subsection, to read:

1490 339.12 Aid and contributions by governmental entities for
1491 department projects; federal aid.--

1492 (4)

1493 (c) The department may enter into agreements under this
1494 subsection for a project or project phase not included in the
1495 adopted work program. As used in this paragraph, the term
1496 "project phase" means acquisition of rights-of-way, construction,
1497 construction inspection, and related support phases. The project
1498 or project phase must be a high priority of the governmental
1499 entity. Reimbursement for a project or project phase must be made
1500 from funds appropriated by the Legislature pursuant to s.
1501 339.135(5). All other provisions of this subsection apply to
1502 agreements entered into under this paragraph. The total amount of
1503 project agreements for projects or project phases not included in
1504 the adopted work program authorized by this paragraph may not at
1505 any time exceed \$100 million. However, notwithstanding such \$100
1506 million limit and any similar limit in s. 334.30, project
1507 advances for any inland county with a population greater than

606-08395A-08

20081978c2

1508 500,000 dedicating amounts equal to \$500 million or more of its
1509 Local Government Infrastructure Surtax pursuant to s. 212.055(2)
1510 for improvements to the State Highway System which are included
1511 in the local metropolitan planning organization's or the
1512 department's long-range transportation plans shall be excluded
1513 from the calculation of the statewide limit of project advances.

1514 (d) The department may enter into agreements under this
1515 subsection with any county having a population of 150,000 or
1516 fewer as determined by the most recent official estimate pursuant
1517 to s. 186.901 for a project or project phase not included in the
1518 adopted work program. As used in this paragraph, the term
1519 "project phase" means acquisition of rights-of-way, construction,
1520 construction inspection, and related support phases. The project
1521 or project phase must be a high priority of the governmental
1522 entity. Reimbursement for a project or project phase must be made
1523 from funds appropriated by the Legislature pursuant to s.
1524 339.135(5). All other provisions of this subsection apply to
1525 agreements entered into under this paragraph. The total amount of
1526 project agreements for projects or project phases not included in
1527 the adopted work program authorized by this paragraph may not at
1528 any time exceed \$200 million. The project must be included in the
1529 local government's adopted comprehensive plan. The department is
1530 authorized to enter into long-term repayment agreements of up to
1531 30 years.

1532 Section 24. Paragraph (d) of subsection (7) of section
1533 339.135, Florida Statutes, is amended to read:

1534 339.135 Work program; legislative budget request;
1535 definitions; preparation, adoption, execution, and amendment.--

1536 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--

606-08395A-08

20081978c2

1537 (d)1. Whenever the department proposes any amendment to the
1538 adopted work program, as defined in subparagraph (c)1. or
1539 subparagraph (c)3., which deletes or defers a construction phase
1540 on a capacity project, it shall notify each county affected by
1541 the amendment and each municipality within the county. The
1542 notification shall be issued in writing to the chief elected
1543 official of each affected county, each municipality within the
1544 county, and the chair of each affected metropolitan planning
1545 organization. Each affected county and each municipality in the
1546 county, is encouraged to coordinate with each other to determine
1547 how the amendment effects local concurrency management and
1548 regional transportation planning efforts. Each affected county,
1549 and each municipality within the county, shall have 14 days to
1550 provide written comments to the department regarding how the
1551 amendment will effect its respective concurrency management
1552 systems, including whether any development permits were issued
1553 contingent upon the capacity improvement, if applicable. After
1554 receipt of written comments from the affected local governments,
1555 the department shall include any written comments submitted by
1556 such local governments in its preparation of the proposed
1557 amendment.

1558 2. Following the 14-day comment period in subparagraph 1.,
1559 if applicable, whenever the department proposes any amendment to
1560 the adopted work program, which amendment is defined in
1561 subparagraph (c)1., subparagraph (c)2., subparagraph (c)3., or
1562 subparagraph (c)4., it shall submit the proposed amendment to the
1563 Governor for approval and shall immediately notify the chairs of
1564 the legislative appropriations committees, the chairs of the
1565 legislative transportation committees, and each member of the

606-08395A-08

20081978c2

1566 Legislature who represents a district affected by the proposed
1567 amendment. It shall also notify each metropolitan planning
1568 organization affected by the proposed amendment, and each unit of
1569 local government affected by the proposed amendment, unless it
1570 provided to each the notification required by subparagraph 1.
1571 Such proposed amendment shall provide a complete justification of
1572 the need for the proposed amendment.

1573 3.2. The Governor shall not approve a proposed amendment
1574 until 14 days following the notification required in subparagraph
1575 2. 1.

1576 4.3. If either of the chairs of the legislative
1577 appropriations committees or the President of the Senate or the
1578 Speaker of the House of Representatives objects in writing to a
1579 proposed amendment within 14 days following notification and
1580 specifies the reasons for such objection, the Governor shall
1581 disapprove the proposed amendment.

1582 Section 25. Section 339.155, Florida Statutes, is amended
1583 to read:

1584 339.155 Transportation planning.--

1585 (1) THE FLORIDA TRANSPORTATION PLAN.--The department shall
1586 develop ~~and annually update~~ a statewide transportation plan, to
1587 be known as the Florida Transportation Plan. The plan shall be
1588 designed so as to be easily read and understood by the general
1589 public. The purpose of the Florida Transportation Plan is to
1590 establish and define the state's long-range transportation goals
1591 and objectives to be accomplished over a period of at least 20
1592 years within the context of the State Comprehensive Plan, and any
1593 other statutory mandates and authorizations and based upon the
1594 prevailing principles of: preserving the existing transportation

606-08395A-08

20081978c2

1595 infrastructure; enhancing Florida's economic competitiveness; and
1596 improving travel choices to ensure mobility. The Florida
1597 Transportation Plan shall consider the needs of the entire state
1598 transportation system and examine the use of all modes of
1599 transportation to effectively and efficiently meet such needs.

1600 (2) SCOPE OF PLANNING PROCESS.--The department shall carry
1601 out a transportation planning process in conformance with s.
1602 334.046(1). ~~which provides for consideration of projects and~~
1603 ~~strategies that will:~~

1604 ~~(a) Support the economic vitality of the United States,~~
1605 ~~Florida, and the metropolitan areas, especially by enabling~~
1606 ~~global competitiveness, productivity, and efficiency;~~

1607 ~~(b) Increase the safety and security of the transportation~~
1608 ~~system for motorized and nonmotorized users;~~

1609 ~~(c) Increase the accessibility and mobility options~~
1610 ~~available to people and for freight;~~

1611 ~~(d) Protect and enhance the environment, promote energy~~
1612 ~~conservation, and improve quality of life;~~

1613 ~~(e) Enhance the integration and connectivity of the~~
1614 ~~transportation system, across and between modes throughout~~
1615 ~~Florida, for people and freight;~~

1616 ~~(f) Promote efficient system management and operation; and~~

1617 ~~(g) Emphasize the preservation of the existing~~
1618 ~~transportation system.~~

1619 (3) FORMAT, SCHEDULE, AND REVIEW.--The Florida
1620 Transportation Plan shall be a unified, concise planning document
1621 that clearly defines the state's long-range transportation goals
1622 and objectives ~~and documents the department's short-range~~
1623 ~~objectives developed to further such goals and objectives.~~ The

606-08395A-08

20081978c2

1624 | plan shall:

1625 | (a) Include a glossary that clearly and succinctly defines
1626 | any and all phrases, words, or terms of art included in the plan,
1627 | with which the general public may be unfamiliar, ~~and shall~~
1628 | ~~consist of, at a minimum, the following components:~~

1629 | (b) ~~(a)~~ Document ~~A long-range component~~ documenting the
1630 | goals and long-term objectives necessary to implement the results
1631 | of the department's findings from its examination of the
1632 | prevailing principles and criteria provided under ~~listed in~~
1633 | subsection (2) and s. 334.046(1). ~~The long-range component must~~

1634 | (c) Be developed in cooperation with the metropolitan
1635 | planning organizations and reconciled, to the maximum extent
1636 | feasible, with the long-range plans developed by metropolitan
1637 | planning organizations pursuant to s. 339.175. ~~The plan must also~~

1638 | (d) Be developed in consultation with affected local
1639 | officials in nonmetropolitan areas and with any affected Indian
1640 | tribal governments. ~~The plan must~~

1641 | (e) Provide an examination of transportation issues likely
1642 | to arise during at least a 20-year period. ~~The long-range~~
1643 | ~~component shall~~

1644 | (f) Be updated at least once every 5 years, or more often
1645 | as necessary, to reflect substantive changes to federal or state
1646 | law.

1647 | ~~(b)~~ ~~A short-range component~~ documenting the short-term
1648 | ~~objectives and strategies necessary to implement the goals and~~
1649 | ~~long-term objectives contained in the long-range component. The~~
1650 | ~~short-range component must define the relationship between the~~
1651 | ~~long-range goals and the short-range objectives, specify those~~
1652 | ~~objectives against which the department's achievement of such~~

606-08395A-08

20081978c2

1653 ~~goals will be measured, and identify transportation strategies~~
1654 ~~necessary to efficiently achieve the goals and objectives in the~~
1655 ~~plan. It must provide a policy framework within which the~~
1656 ~~department's legislative budget request, the strategic~~
1657 ~~information resource management plan, and the work program are~~
1658 ~~developed. The short-range component shall serve as the~~
1659 ~~department's annual agency strategic plan pursuant to s. 186.021.~~
1660 ~~The short-range component shall be developed consistent with~~
1661 ~~available and forecasted state and federal funds. The short-range~~
1662 ~~component shall also be submitted to the Florida Transportation~~
1663 ~~Commission.~~

1664 ~~(4) ANNUAL PERFORMANCE REPORT.--The department shall~~
1665 ~~develop an annual performance report evaluating the operation of~~
1666 ~~the department for the preceding fiscal year. The report shall~~
1667 ~~also include a summary of the financial operations of the~~
1668 ~~department and shall annually evaluate how well the adopted work~~
1669 ~~program meets the short-term objectives contained in the short-~~
1670 ~~range component of the Florida Transportation Plan. This~~
1671 ~~performance report shall be submitted to the Florida~~
1672 ~~Transportation Commission and the legislative appropriations and~~
1673 ~~transportation committees.~~

1674 (4) ~~(5)~~ ADDITIONAL TRANSPORTATION PLANS.--

1675 (a) Upon request by local governmental entities, the
1676 department may in its discretion develop and design
1677 transportation corridors, arterial and collector streets,
1678 vehicular parking areas, and other support facilities which are
1679 consistent with the plans of the department for major
1680 transportation facilities. The department may render to local
1681 governmental entities or their planning agencies such technical

606-08395A-08

20081978c2

1682 assistance and services as are necessary so that local plans and
1683 facilities are coordinated with the plans and facilities of the
1684 department.

1685 (b) Each regional planning council, as provided for in s.
1686 186.504, or any successor agency thereto, shall develop, as an
1687 element of its strategic regional policy plan, transportation
1688 goals and policies. The transportation goals and policies must be
1689 prioritized to comply with the prevailing principles provided in
1690 subsection (2) and s. 334.046(1). The transportation goals and
1691 policies shall be consistent, to the maximum extent feasible,
1692 with the goals and policies of the metropolitan planning
1693 organization and the Florida Transportation Plan. The
1694 transportation goals and policies of the regional planning
1695 council will be advisory only and shall be submitted to the
1696 department and any affected metropolitan planning organization
1697 for their consideration and comments. Metropolitan planning
1698 organization plans and other local transportation plans shall be
1699 developed consistent, to the maximum extent feasible, with the
1700 regional transportation goals and policies. The regional planning
1701 council shall review urbanized area transportation plans and any
1702 other planning products stipulated in s. 339.175 and provide the
1703 department and respective metropolitan planning organizations
1704 with written recommendations which the department and the
1705 metropolitan planning organizations shall take under advisement.
1706 Further, the regional planning councils shall directly assist
1707 local governments which are not part of a metropolitan area
1708 transportation planning process in the development of the
1709 transportation element of their comprehensive plans as required
1710 by s. 163.3177.

606-08395A-08

20081978c2

1711 (c) Regional transportation plans may be developed in
1712 regional transportation areas in accordance with an interlocal
1713 agreement entered into pursuant to s. 163.01 by two or more
1714 contiguous metropolitan planning organizations; one or more
1715 metropolitan planning organizations and one or more contiguous
1716 counties, none of which is a member of a metropolitan planning
1717 organization; a multicounty regional transportation authority
1718 created by or pursuant to law; two or more contiguous counties
1719 that are not members of a metropolitan planning organization; or
1720 metropolitan planning organizations comprised of three or more
1721 counties.

1722 (d) The interlocal agreement must, at a minimum, identify
1723 the entity that will coordinate the development of the regional
1724 transportation plan; delineate the boundaries of the regional
1725 transportation area; provide the duration of the agreement and
1726 specify how the agreement may be terminated, modified, or
1727 rescinded; describe the process by which the regional
1728 transportation plan will be developed; and provide how members of
1729 the entity will resolve disagreements regarding interpretation of
1730 the interlocal agreement or disputes relating to the development
1731 or content of the regional transportation plan. Such interlocal
1732 agreement shall become effective upon its recordation in the
1733 official public records of each county in the regional
1734 transportation area.

1735 (e) The regional transportation plan developed pursuant to
1736 this section must, at a minimum, identify regionally significant
1737 transportation facilities located within a regional
1738 transportation area and contain a prioritized list of regionally
1739 significant projects. The level-of-service standards for

606-08395A-08

20081978c2

1740 facilities to be funded under this subsection shall be adopted by
1741 the appropriate local government in accordance with s.
1742 163.3180(10). The projects shall be adopted into the capital
1743 improvements schedule of the local government comprehensive plan
1744 pursuant to s. 163.3177(3).

1745 (5)~~(6)~~ PROCEDURES FOR PUBLIC PARTICIPATION IN
1746 TRANSPORTATION PLANNING.--

1747 (a) During the development of the ~~long-range component of~~
1748 ~~the~~ Florida Transportation Plan and prior to substantive
1749 revisions, the department shall provide citizens, affected public
1750 agencies, representatives of transportation agency employees,
1751 other affected employee representatives, private providers of
1752 transportation, and other known interested parties with an
1753 opportunity to comment on the proposed plan or revisions. These
1754 opportunities shall include, at a minimum, publishing a notice in
1755 the Florida Administrative Weekly and within a newspaper of
1756 general circulation within the area of each department district
1757 office.

1758 (b) During development of major transportation
1759 improvements, such as those increasing the capacity of a facility
1760 through the addition of new lanes or providing new access to a
1761 limited or controlled access facility or construction of a
1762 facility in a new location, the department shall hold one or more
1763 hearings prior to the selection of the facility to be provided;
1764 prior to the selection of the site or corridor of the proposed
1765 facility; and prior to the selection of and commitment to a
1766 specific design proposal for the proposed facility. Such public
1767 hearings shall be conducted so as to provide an opportunity for
1768 effective participation by interested persons in the process of

606-08395A-08

20081978c2

1769 transportation planning and site and route selection and in the
1770 specific location and design of transportation facilities. The
1771 various factors involved in the decision or decisions and any
1772 alternative proposals shall be clearly presented so that the
1773 persons attending the hearing may present their views relating to
1774 the decision or decisions which will be made.

1775 (c) Opportunity for design hearings:

1776 1. The department, prior to holding a design hearing, shall
1777 duly notify all affected property owners of record, as recorded
1778 in the property appraiser's office, by mail at least 20 days
1779 prior to the date set for the hearing. The affected property
1780 owners shall be:

1781 a. Those whose property lies in whole or in part within 300
1782 feet on either side of the centerline of the proposed facility.

1783 b. Those whom the department determines will be
1784 substantially affected environmentally, economically, socially,
1785 or safetywise.

1786 2. For each subsequent hearing, the department shall
1787 publish notice prior to the hearing date in a newspaper of
1788 general circulation for the area affected. These notices must be
1789 published twice, with the first notice appearing at least 15
1790 days, but no later than 30 days, before the hearing.

1791 3. A copy of the notice of opportunity for the hearing must
1792 be furnished to the United States Department of Transportation
1793 and to the appropriate departments of the state government at the
1794 time of publication.

1795 4. The opportunity for another hearing shall be afforded in
1796 any case when proposed locations or designs are so changed from
1797 those presented in the notices specified above or at a hearing as

606-08395A-08

20081978c2

1798 to have a substantially different social, economic, or
1799 environmental effect.

1800 5. The opportunity for a hearing shall be afforded in each
1801 case in which the department is in doubt as to whether a hearing
1802 is required.

1803 Section 26. Subsection (3) and paragraphs (b) and (c) of
1804 subsection (4) of section 339.2816, Florida Statutes, are amended
1805 to read:

1806 339.2816 Small County Road Assistance Program.--

1807 (3) Beginning with fiscal year 1999-2000 until fiscal year
1808 2009-2010, and beginning again with fiscal year 2012-2013, up to
1809 \$25 million annually from the State Transportation Trust Fund may
1810 be used for the purposes of funding the Small County Road
1811 Assistance Program as described in this section.

1812 (4)

1813 (b) In determining a county's eligibility for assistance
1814 under this program, the department may consider whether the
1815 county has attempted to keep county roads in satisfactory
1816 condition, including the amount of local option fuel tax ~~and ad~~
1817 ~~valorem millage rate~~ imposed by the county. The department may
1818 also consider the extent to which the county has offered to
1819 provide a match of local funds with state funds provided under
1820 the program. At a minimum, small counties shall be eligible only
1821 if:

1822 ~~1. The county has enacted the maximum rate of the local~~
1823 ~~option fuel tax authorized by s. 336.025(1) (a) ., and has imposed~~
1824 ~~an ad valorem millage rate of at least 8 mills; or~~

1825 ~~2. The county has imposed an ad valorem millage rate of 10~~
1826 ~~mills.~~

606-08395A-08

20081978c2

1827 (c) The following criteria shall be used to prioritize road
1828 projects for funding under the program:

1829 1. The primary criterion is the physical condition of the
1830 road as measured by the department.

1831 2. As secondary criteria the department may consider:

1832 a. Whether a road is used as an evacuation route.

1833 b. Whether a road has high levels of agricultural travel.

1834 c. Whether a road is considered a major arterial route.

1835 d. Whether a road is considered a feeder road.

1836 e. Whether a road is located in a fiscally constrained
1837 county, as defined in s. 218.67(1).

1838 ~~f.e.~~ Other criteria related to the impact of a project on
1839 the public road system or on the state or local economy as
1840 determined by the department.

1841 Section 27. Subsections (1) and (3) of section 339.2819,
1842 Florida Statutes, are amended to read:

1843 339.2819 Transportation Regional Incentive Program.--

1844 (1) There is created within the Department of
1845 Transportation a Transportation Regional Incentive Program for
1846 the purpose of providing funds to improve regionally significant
1847 transportation facilities in regional transportation areas
1848 created pursuant to s. 339.155(4)~~(5)~~.

1849 (3) The department shall allocate funding available for the
1850 Transportation Regional Incentive Program to the districts based
1851 on a factor derived from equal parts of population and motor fuel
1852 collections for eligible counties in regional transportation
1853 areas created pursuant to s. 339.155(4)~~(5)~~.

1854 Section 28. Subsection (6) of section 339.285, Florida
1855 Statutes, is amended to read:

606-08395A-08

20081978c2

1856 339.285 Enhanced Bridge Program for Sustainable
1857 Transportation.--

1858 (6) Preference shall be given to bridge projects located on
1859 corridors that connect to the Strategic Intermodal System,
1860 created under s. 339.64, and that have been identified as
1861 regionally significant in accordance with s. 339.155(4)~~(5)~~(c),
1862 (d), and (e).

1863 Section 29. Subsection (4) of section 348.0003, Florida
1864 Statutes, is amended to read:

1865 348.0003 Expressway authority; formation; membership.--

1866 (4) (a) An authority may employ an executive secretary, an
1867 executive director, its own counsel and legal staff, technical
1868 experts, and such engineers and employees, permanent or
1869 temporary, as it may require and shall determine the
1870 qualifications and fix the compensation of such persons, firms,
1871 or corporations. An authority may employ a fiscal agent or
1872 agents; however, the authority must solicit sealed proposals from
1873 at least three persons, firms, or corporations for the
1874 performance of any services as fiscal agents. An authority may
1875 delegate to one or more of its agents or employees such of its
1876 power as it deems necessary to carry out the purposes of the
1877 Florida Expressway Authority Act, subject always to the
1878 supervision and control of the authority. Members of an authority
1879 may be removed from office by the Governor for misconduct,
1880 malfeasance, misfeasance, or nonfeasance in office.

1881 (b) Members of an authority are entitled to receive from
1882 the authority their travel and other necessary expenses incurred
1883 in connection with the business of the authority as provided in
1884 s. 112.061, but they may not draw salaries or other compensation.

606-08395A-08

20081978c2

1885 (c) Members of each expressway an authority, transportation
1886 authority, bridge authority, or toll authority, created pursuant
1887 to this chapter, chapter 343 or chapter 349, or pursuant to any
1888 other legislative enactment, shall be required to comply with the
1889 applicable financial disclosure requirements of s. 8, Art. II of
1890 the State Constitution. This subsection does not subject a
1891 statutorily created expressway authority, transportation
1892 authority, bridge authority, or toll authority, other than one
1893 created under this part, to any of the requirements of this part
1894 other than those contained in this subsection.

1895 Section 30. Paragraph (c) is added to subsection (1) of
1896 section 348.0004, Florida Statutes, to read:

1897 348.0004 Purposes and powers.--

1898 (1)

1899 (c) Notwithstanding any other provision of law, expressway
1900 authorities as defined in chapter 348 shall index toll rates on
1901 toll facilities to the annual Consumer Price Index or similar
1902 inflation indicators. Toll rate index for inflation under this
1903 subsection must be adopted and approved by the expressway
1904 authority board at a public meeting and may be made no more
1905 frequently than once a year and must be made no less frequently
1906 than once every 5 years as necessary to accommodate cash toll
1907 rate schedules. Toll rates may be increased beyond these limits
1908 as directed by bond documents, covenants, or governing body
1909 authorization or pursuant to department administrative rule.

1910 Section 31. Part III of chapter 343, Florida Statutes,
1911 consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75,
1912 343.76, and 343.77, is repealed.

1913 Section 32. The Department of Transportation, in

606-08395A-08

20081978c2

1914 consultation with the Department of Law Enforcement, the Division
1915 of Emergency Management of the Department of Community Affairs,
1916 and the Office of Tourism, Trade, and Economic Development, and
1917 regional planning councils within whose jurisdictional area the
1918 I-95 corridor lies, shall complete a study of transportation
1919 alternatives for the travel corridor parallel to Interstate 95
1920 which takes into account the transportation, emergency
1921 management, homeland security, and economic development needs of
1922 the state. The report must include identification of cost-
1923 effective measures that may be implemented to alleviate
1924 congestion on Interstate 95, facilitate emergency and security
1925 responses, and foster economic development. The Department of
1926 Transportation shall send the report to the Governor, the
1927 President of the Senate, the Speaker of the House of
1928 Representatives, and each affected metropolitan planning
1929 organization by June 30, 2009.

1930 Section 33. Subsection (18) of section 409.908, Florida
1931 Statutes, is amended to read:

1932 409.908 Reimbursement of Medicaid providers.--Subject to
1933 specific appropriations, the agency shall reimburse Medicaid
1934 providers, in accordance with state and federal law, according to
1935 methodologies set forth in the rules of the agency and in policy
1936 manuals and handbooks incorporated by reference therein. These
1937 methodologies may include fee schedules, reimbursement methods
1938 based on cost reporting, negotiated fees, competitive bidding
1939 pursuant to s. 287.057, and other mechanisms the agency considers
1940 efficient and effective for purchasing services or goods on
1941 behalf of recipients. If a provider is reimbursed based on cost
1942 reporting and submits a cost report late and that cost report

606-08395A-08

20081978c2

1943 would have been used to set a lower reimbursement rate for a rate
1944 semester, then the provider's rate for that semester shall be
1945 retroactively calculated using the new cost report, and full
1946 payment at the recalculated rate shall be effected retroactively.
1947 Medicare-granted extensions for filing cost reports, if
1948 applicable, shall also apply to Medicaid cost reports. Payment
1949 for Medicaid compensable services made on behalf of Medicaid
1950 eligible persons is subject to the availability of moneys and any
1951 limitations or directions provided for in the General
1952 Appropriations Act or chapter 216. Further, nothing in this
1953 section shall be construed to prevent or limit the agency from
1954 adjusting fees, reimbursement rates, lengths of stay, number of
1955 visits, or number of services, or making any other adjustments
1956 necessary to comply with the availability of moneys and any
1957 limitations or directions provided for in the General
1958 Appropriations Act, provided the adjustment is consistent with
1959 legislative intent.

1960 (18) Unless otherwise provided for in the General
1961 Appropriations Act, a provider of transportation services shall
1962 be reimbursed the lesser of the amount billed by the provider or
1963 the Medicaid maximum allowable fee established by the agency,
1964 except when the agency has entered into a direct contract with
1965 the provider, or with a community transportation coordinator, for
1966 the provision of an all-inclusive service, or when services are
1967 provided pursuant to an agreement negotiated between the agency
1968 and the provider. The agency, as provided for in s. 427.0135,
1969 shall purchase transportation services through the community
1970 coordinated transportation system, if available, unless the
1971 agency, after consultation with the commission, determines that

606-08395A-08

20081978c2

1972 it cannot reach mutually acceptable contract terms with the
1973 commission. The agency may then contract for the same
1974 transportation services provided in a more cost-effective manner
1975 and of comparable or higher quality and standards ~~determines a~~
1976 ~~more cost-effective method for Medicaid clients.~~ Nothing in this
1977 subsection shall be construed to limit or preclude the agency
1978 from contracting for services using a prepaid capitation rate or
1979 from establishing maximum fee schedules, individualized
1980 reimbursement policies by provider type, negotiated fees, prior
1981 authorization, competitive bidding, increased use of mass
1982 transit, or any other mechanism that the agency considers
1983 efficient and effective for the purchase of services on behalf of
1984 Medicaid clients, including implementing a transportation
1985 eligibility process. The agency shall not be required to contract
1986 with any community transportation coordinator or transportation
1987 operator that has been determined by the agency, the Department
1988 of Legal Affairs Medicaid Fraud Control Unit, or any other state
1989 or federal agency to have engaged in any abusive or fraudulent
1990 billing activities. The agency is authorized to competitively
1991 procure transportation services or make other changes necessary
1992 to secure approval of federal waivers needed to permit federal
1993 financing of Medicaid transportation services at the service
1994 matching rate rather than the administrative matching rate.
1995 Notwithstanding chapter 427, the agency is authorized to continue
1996 contracting for Medicaid nonemergency transportation services in
1997 agency service area 11 with managed care plans that were under
1998 contract for those services before July 1, 2004.

1999 Section 34. Subsections (8), (12), and (13) of section
2000 427.011, Florida Statutes, are amended to read:

606-08395A-08

20081978c2

2001 427.011 Definitions.--For the purposes of ss. 427.011-
2002 427.017:

2003 (8) "Purchasing agency" ~~"Member department"~~ means a
2004 department or agency whose head is an ex officio, nonvoting
2005 advisor to a member of the commission, or an agency that
2006 purchases transportation services for the transportation
2007 disadvantaged.

2008 ~~(12) "Annual budget estimate" means a budget estimate of~~
2009 ~~funding resources available for providing transportation services~~
2010 ~~to the transportation disadvantaged and which is prepared~~
2011 ~~annually to cover a period of 1 state fiscal year.~~

2012 ~~(12)~~(13) "Nonsponsored transportation disadvantaged
2013 services" means transportation disadvantaged services that are
2014 not sponsored or subsidized by any funding source other than the
2015 Transportation Disadvantaged Trust Fund.

2016 Section 35. Subsection (4) of section 427.012, Florida
2017 Statutes, is amended to read:

2018 427.012 The Commission for the Transportation
2019 Disadvantaged.--There is created the Commission for the
2020 Transportation Disadvantaged in the Department of Transportation.

2021 (4) The commission shall meet at least quarterly, or more
2022 frequently at the call of the chairperson. Four ~~Five~~ members of
2023 the commission constitute a quorum, and a majority vote of the
2024 members present is necessary for any action taken by the
2025 commission.

2026 Section 36. Subsections (7), (8), (9), (14), and (26) of
2027 section 427.013, Florida Statutes, are amended, and subsection
2028 (29) is added to that section, to read:

2029 427.013 The Commission for the Transportation

606-08395A-08

20081978c2

2030 Disadvantaged; purpose and responsibilities.--The purpose of the
2031 commission is to accomplish the coordination of transportation
2032 services provided to the transportation disadvantaged. The goal
2033 of this coordination is ~~shall be~~ to assure the cost-effective
2034 provision of transportation by qualified community transportation
2035 coordinators or transportation operators for the transportation
2036 disadvantaged without any bias or presumption in favor of
2037 multioperator systems or not-for-profit transportation operators
2038 over single operator systems or for-profit transportation
2039 operators. In carrying out this purpose, the commission shall:

2040 (7) Unless otherwise provided by state or federal law,
2041 ensure ~~Assure~~ that all procedures, guidelines, and directives
2042 issued by purchasing agencies ~~member departments~~ are conducive to
2043 the coordination of transportation services.

2044 (8) (a) Ensure ~~Assure~~ that purchasing agencies ~~member~~
2045 ~~departments~~ purchase all trips within the coordinated system,
2046 unless they have fulfilled the requirements of s. 427.0135(3) and
2047 use a more cost-effective alternative provider that meets
2048 comparable quality and standards.

2049 (b) Unless the purchasing agency has negotiated with the
2050 commission pursuant to the requirements of s. 427.0135(3),
2051 provide, by rule, criteria and procedures for purchasing agencies
2052 ~~member departments~~ to use if they wish to use an alternative
2053 provider. Agencies ~~Departments~~ must demonstrate ~~either~~ that the
2054 proposed alternative provider can provide a trip of comparable
2055 ~~acceptable~~ quality and standards for the clients at a lower cost
2056 than that provided within the coordinated system, or that the
2057 coordinated system cannot accommodate the agency's ~~department's~~
2058 clients.

606-08395A-08

20081978c2

2059 (9) Unless the purchasing agency has negotiated with the
2060 commission pursuant to the requirements of s. 427.0135(3),
2061 develop by rule standards for community transportation
2062 coordinators and any transportation operator or coordination
2063 contractor from whom service is purchased or arranged by the
2064 community transportation coordinator covering coordination,
2065 operation, safety, insurance, eligibility for service, costs, and
2066 utilization of transportation disadvantaged services. These
2067 standards and rules must include, but are not limited to:
2068 ~~(a) Inclusion, by rule, of acceptable ranges of trip costs~~
2069 ~~for the various modes and types of transportation services~~
2070 ~~provided.~~
2071 (a) ~~(b)~~ Minimum performance standards for the delivery of
2072 services. These standards must be included in coordinator
2073 contracts and transportation operator contracts with clear
2074 penalties for repeated or continuing violations.
2075 (b) ~~(c)~~ Minimum liability insurance requirements for all
2076 transportation services purchased, provided, or coordinated for
2077 the transportation disadvantaged through the community
2078 transportation coordinator.
2079 (14) Consolidate, for each state agency, ~~the annual budget~~
2080 ~~estimates for transportation disadvantaged services,~~ and the
2081 amounts of each agency's actual expenditures, together with the
2082 actual expenditures annual budget estimates of each official
2083 ~~planning agency,~~ local government, and directly federally funded
2084 agency and the amounts collected by each official planning agency
2085 ~~issue a report.~~
2086 (26) Develop a quality assurance and management review
2087 program to monitor, based upon approved commission standards,

606-08395A-08

20081978c2

2088 services contracted for by an agency, and those provided by a
2089 community transportation operator pursuant to s. 427.0155. ~~Staff~~
2090 ~~of the quality assurance and management review program shall~~
2091 ~~function independently and be directly responsible to the~~
2092 ~~executive director.~~

2093 (29) Incur expenses for the purchase of advertisements,
2094 marketing services, and promotional items.

2095 Section 37. Section 427.0135, Florida Statutes, is amended
2096 to read:

2097 427.0135 Purchasing agencies ~~Member departments~~; duties and
2098 responsibilities.--Each purchasing agency ~~member department~~, in
2099 carrying out the policies and procedures of the commission,
2100 shall:

2101 (1) ~~(a)~~ Use the coordinated transportation system for
2102 provision of services to its clients, unless each department or
2103 purchasing agency meets the criteria outlined in rule or statute
2104 to use an alternative provider.

2105 ~~(b) Subject to the provisions of s. 409.908(18), the~~
2106 ~~Medicaid agency shall purchase transportation services through~~
2107 ~~the community coordinated transportation system unless a more~~
2108 ~~cost-effective method is determined by the agency for Medicaid~~
2109 ~~clients or unless otherwise limited or directed by the General~~
2110 ~~Appropriations Act.~~

2111 (2) Pay the rates established in the service plan or
2112 negotiated statewide contract, unless the purchasing agency has
2113 completed the procedure for using an alternative provider and
2114 demonstrated that a proposed alternative provider can provide a
2115 more cost-effective transportation service of comparable quality
2116 and standards or unless the agency has satisfied the requirements

606-08395A-08

20081978c2

2117 | of subsection (3).

2118 | (3) Not procure transportation disadvantaged services
2119 | without initially negotiating with the commission, as provided in
2120 | s. 287.057(5)(f)13., or unless otherwise authorized by statute.
2121 | If the purchasing agency, after consultation with the commission,
2122 | determines that it cannot reach mutually acceptable contract
2123 | terms with the commission, the purchasing agency may contract for
2124 | the same transportation services provided in a more cost-
2125 | effective manner and of comparable or higher quality and
2126 | standards. The Medicaid agency shall implement this subsection in
2127 | a manner consistent with s. 409.908(18) and as otherwise limited
2128 | or directed by the General Appropriations Act.

2129 | (4) Identify in the legislative budget request provided to
2130 | the Governor each year for the General Appropriations Act the
2131 | specific amount of money the purchasing agency will allocate to
2132 | provide transportation disadvantaged services.

2133 | (5)~~(2)~~ Provide the commission, by September 15 of each
2134 | year, an accounting of all funds spent as well as how many trips
2135 | were purchased with agency funds.

2136 | (6)~~(3)~~ Assist communities in developing coordinated
2137 | transportation systems designed to serve the transportation
2138 | disadvantaged. However, a purchasing agency ~~member department~~ may
2139 | not serve as the community transportation coordinator in any
2140 | designated service area.

2141 | (7)~~(4)~~ Ensure ~~Assure~~ that its rules, procedures,
2142 | guidelines, and directives are conducive to the coordination of
2143 | transportation funds and services for the transportation
2144 | disadvantaged.

2145 | (8)~~(5)~~ Provide technical assistance, as needed, to

606-08395A-08

20081978c2

2146 community transportation coordinators or transportation operators
2147 or participating agencies.

2148 Section 38. Subsections (2) and (3) of section 427.015,
2149 Florida Statutes, are amended to read:

2150 427.015 Function of the metropolitan planning organization
2151 or designated official planning agency in coordinating
2152 transportation for the transportation disadvantaged.--

2153 (2) Each metropolitan planning organization or designated
2154 official planning agency shall recommend to the commission a
2155 single community transportation coordinator. However, a
2156 purchasing agency ~~member department~~ may not serve as the
2157 community transportation coordinator in any designated service
2158 area. The coordinator may provide all or a portion of needed
2159 transportation services for the transportation disadvantaged but
2160 shall be responsible for the provision of those coordinated
2161 services. Based on approved commission evaluation criteria, the
2162 coordinator shall subcontract or broker those services that are
2163 more cost-effectively and efficiently provided by subcontracting
2164 or brokering. The performance of the coordinator shall be
2165 evaluated based on the commission's approved evaluation criteria
2166 by the coordinating board at least annually. A copy of the
2167 evaluation shall be submitted to the metropolitan planning
2168 organization or the designated official planning agency, and the
2169 commission. The recommendation or termination of any community
2170 transportation coordinator shall be subject to approval by the
2171 commission.

2172 (3) Each metropolitan planning organization or designated
2173 official planning agency shall request each local government in
2174 its jurisdiction to provide the actual expenditures ~~an estimate~~

606-08395A-08

20081978c2

2175 of all local and direct federal funds to be expended for
2176 transportation for the disadvantaged. The metropolitan planning
2177 organization or designated official planning agency shall
2178 consolidate this information into a single report and forward it,
2179 by September 15 ~~the beginning of each fiscal year~~, to the
2180 commission.

2181 Section 39. Subsection (7) of section 427.0155, Florida
2182 Statutes, is amended to read:

2183 427.0155 Community transportation coordinators; powers and
2184 duties.--Community transportation coordinators shall have the
2185 following powers and duties:

2186 (7) In cooperation with the coordinating board and pursuant
2187 to criteria developed by the Commission for the Transportation
2188 Disadvantaged, establish eligibility guidelines and priorities
2189 with regard to the recipients of nonsponsored transportation
2190 disadvantaged services that are purchased with Transportation
2191 Disadvantaged Trust Fund moneys.

2192 Section 40. Subsection (4) of section 427.0157, Florida
2193 Statutes, is amended to read:

2194 427.0157 Coordinating boards; powers and duties.--The
2195 purpose of each coordinating board is to develop local service
2196 needs and to provide information, advice, and direction to the
2197 community transportation coordinators on the coordination of
2198 services to be provided to the transportation disadvantaged. The
2199 commission shall, by rule, establish the membership of
2200 coordinating boards. The members of each board shall be appointed
2201 by the metropolitan planning organization or designated official
2202 planning agency. The appointing authority shall provide each
2203 board with sufficient staff support and resources to enable the

606-08395A-08

20081978c2

2204 board to fulfill its responsibilities under this section. Each
2205 board shall meet at least quarterly and shall:

2206 (4) Assist the community transportation coordinator in
2207 establishing eligibility guidelines and priorities with regard to
2208 the recipients of nonsponsored transportation disadvantaged
2209 services that are purchased with Transportation Disadvantaged
2210 Trust Fund moneys.

2211 Section 41. Subsections (2) and (3) of section 427.0158,
2212 Florida Statutes, are amended to read:

2213 427.0158 School bus and public transportation.--

2214 (2) The school boards shall cooperate in the utilization of
2215 their vehicles to enhance coordinated ~~disadvantaged~~
2216 transportation disadvantaged services by providing ~~the~~
2217 information as requested by the community transportation
2218 coordinator ~~required by this section~~ and by allowing the use of
2219 their vehicles at actual cost upon request when those vehicles
2220 are available for such use and are not transporting students.
2221 ~~Semiannually, no later than October 1 and April 30, a designee~~
2222 ~~from the local school board shall provide the community~~
2223 ~~transportation coordinator with copies to the coordinated~~
2224 ~~transportation board, the following information for vehicles not~~
2225 ~~scheduled 100 percent of the time for student transportation use:~~

2226 ~~(a) The number and type of vehicles by adult capacity,~~
2227 ~~including days and times, that the vehicles are available for~~
2228 ~~coordinated transportation disadvantaged services;~~

2229 ~~(b) The actual cost per mile by vehicle type available;~~

2230 ~~(c) The actual driver cost per hour;~~

2231 ~~(d) Additional actual cost associated with vehicle use~~
2232 ~~outside the established workday or workweek of the entity; and~~

606-08395A-08

20081978c2

2233 ~~(e) Notification of lead time required for vehicle use.~~

2234 (3) The public transit fixed route or fixed schedule system

2235 shall cooperate in the utilization of its regular service to

2236 enhance coordinated transportation disadvantaged services by

2237 providing the information as requested by the community

2238 transportation coordinator ~~required by this section. Annually, no~~

2239 ~~later than October 1, a designee from the local public transit~~

2240 ~~fixed route or fixed schedule system shall provide~~ The community

2241 transportation coordinator may request, without limitation, with

2242 ~~copies to the coordinated transportation board,~~ the following

2243 information:

2244 (a) A copy of all current schedules, route maps, system

2245 map, and fare structure;

2246 (b) A copy of the current charter policy;

2247 (c) A copy of the current charter rates and hour

2248 requirements; and

2249 (d) Required notification time to arrange for a charter.

2250 Section 42. Subsection (4) is added to section 427.0159,

2251 Florida Statutes, to read:

2252 427.0159 Transportation Disadvantaged Trust Fund.--

2253 (4) A purchasing agency may deposit funds into the

2254 Transportation Disadvantaged Trust Fund for the commission to

2255 implement, manage, and administer the purchasing agency's

2256 transportation disadvantaged funds, as defined in s. 427.011(10).

2257 Section 43. Paragraph (b) of subsection (1) and subsection

2258 (2) of section 427.016, Florida Statutes, are amended to read:

2259 427.016 Expenditure of local government, state, and federal

2260 funds for the transportation disadvantaged.--

2261 (1)

606-08395A-08

20081978c2

2262 (b) ~~Nothing in~~ This subsection does not ~~shall be construed~~
2263 ~~to limit or~~ preclude a purchasing ~~the Medicaid~~ agency from
2264 establishing maximum fee schedules, individualized reimbursement
2265 policies by provider type, negotiated fees, ~~competitive bidding,~~
2266 or any other mechanism, including contracting after initial
2267 negotiation with the commission, which ~~that~~ the agency considers
2268 more cost-effective and of comparable or higher quality and
2269 standards than those of the commission ~~efficient and effective~~
2270 for the purchase of services on behalf of its Medicaid clients if
2271 it has fulfilled the requirements of s. 427.0135(3) or the
2272 procedure for using an alternative provider. State and local
2273 agencies shall not contract for any transportation disadvantaged
2274 services, including Medicaid reimbursable transportation
2275 services, with any community transportation coordinator or
2276 transportation operator that has been determined by the Agency
2277 for Health Care Administration, the Department of Legal Affairs
2278 Medicaid Fraud Control Unit, or any state or federal agency to
2279 have engaged in any abusive or fraudulent billing activities.

2280 (2) Each year, each agency, whether or not it is an ex
2281 officio, nonvoting advisor to a member of the Commission for the
2282 Transportation Disadvantaged, shall identify in the legislative
2283 budget request provided to the Governor for the General
2284 Appropriations Act ~~inform the commission in writing, before the~~
2285 ~~beginning of each fiscal year,~~ of the specific amount of any
2286 money the agency will allocate ~~allocated~~ for the provision of
2287 transportation disadvantaged services. Additionally, each state
2288 agency shall, by September 15 of each year, provide the
2289 commission with an accounting of the actual amount of funds
2290 expended and the total number of trips purchased.

606-08395A-08

20081978c2

2291 Section 44. Subsection (1) of section 479.01, Florida
2292 Statutes, is amended to read:

2293 479.01 Definitions.--As used in this chapter, the term:

2294 (1) "Automatic changeable facing" means a facing that ~~which~~
2295 ~~through a mechanical system~~ is capable of delivering two or more
2296 advertising messages through an automated or remotely controlled
2297 process ~~and shall not rotate so rapidly as to cause distraction~~
2298 ~~to a motorist.~~

2299 Section 45. Subsections (1) and (5) of section 479.07,
2300 Florida Statutes, are amended to read:

2301 479.07 Sign permits.--

2302 (1) Except as provided in ss. 479.105(1)(e) and 479.16, a
2303 person may not erect, operate, use, or maintain, or cause to be
2304 erected, operated, used, or maintained, any sign on the State
2305 Highway System outside an urban incorporated area, as defined in
2306 s. 334.03(32), or on any portion of the interstate or federal-aid
2307 primary highway system without first obtaining a permit for the
2308 sign from the department and paying the annual fee as provided in
2309 this section. For purposes of this section, "on any portion of
2310 the State Highway System, interstate, or federal-aid primary
2311 system" shall mean a sign located within the controlled area
2312 which is visible from any portion of the main-traveled way of
2313 such system.

2314 (5) (a) For each permit issued, the department shall furnish
2315 to the applicant a serially numbered permanent metal permit tag.
2316 The permittee is responsible for maintaining a valid permit tag
2317 on each permitted sign facing at all times. The tag shall be
2318 securely attached to the sign facing or, if there is no facing,
2319 on the pole nearest the highway; and it shall be attached in such

606-08395A-08

20081978c2

2320 a manner as to be plainly visible from the main-traveled way.
2321 Effective July 1, 2011, the tag shall be securely attached to the
2322 upper 50 percent of the pole nearest the highway in a manner as
2323 to be plainly visible from the main-traveled way. The permit will
2324 become void unless the permit tag is properly and permanently
2325 displayed at the permitted site within 30 days after the date of
2326 permit issuance. If the permittee fails to erect a completed sign
2327 on the permitted site within 270 days after the date on which the
2328 permit was issued, the permit will be void, and the department
2329 may not issue a new permit to that permittee for the same
2330 location for 270 days after the date on which the permit became
2331 void.

2332 (b) If a permit tag is lost, stolen, or destroyed, the
2333 permittee to whom the tag was issued may ~~must~~ apply to the
2334 department for a replacement tag. The department shall establish
2335 by rule a service fee for replacement tags in an amount that will
2336 recover the actual cost of providing the replacement tag. Upon
2337 receipt of the application accompanied by the a service fee ~~of~~
2338 \$3, the department shall issue a replacement permit tag.
2339 Alternatively, the permittee may provide its own replacement tag
2340 pursuant to department specifications which the department shall
2341 establish by rule at the time it establishes the service fee for
2342 replacement tags.

2343 Section 46. Section 479.08, Florida Statutes, is amended to
2344 read:

2345 479.08 Denial or revocation of permit.--The department has
2346 the authority to deny or revoke any permit requested or granted
2347 under this chapter in any case in which it determines that the
2348 application for the permit contains knowingly false or knowingly

606-08395A-08

20081978c2

2349 | misleading information. The department may revoke any permit
2350 | granted under this chapter in any case where ~~or that~~ the
2351 | permittee has violated any of the provisions of this chapter,
2352 | unless such permittee, within 30 days after the receipt of notice
2353 | by the department, ~~corrects such false or misleading information~~
2354 | ~~and~~ complies with the provisions of this chapter. For the purpose
2355 | of this subsection, the notice of violation issued by the
2356 | department shall describe in detail the alleged violation. Any
2357 | person aggrieved by any action of the department in denying or
2358 | revoking a permit under this chapter may, within 30 days after
2359 | receipt of the notice, apply to the department for an
2360 | administrative hearing pursuant to chapter 120. If a timely
2361 | request for hearing has been filed and the department issues a
2362 | final order revoking a permit, such revocation shall be effective
2363 | 30 days after the date of rendition. Except for department action
2364 | pursuant to s. 479.107(1), the filing of a timely and proper
2365 | notice of appeal shall operate to stay the revocation until the
2366 | department's action is upheld.

2367 | Section 47. Section 479.156, Florida Statutes, is amended
2368 | to read:

2369 | 479.156 Wall murals.--Notwithstanding any other provision
2370 | of this chapter, a municipality or county may permit and regulate
2371 | wall murals within areas designated by such government. If a
2372 | municipality or county permits wall murals, a wall mural that
2373 | displays a commercial message and is within 660 feet of the
2374 | nearest edge of the right-of-way within an area adjacent to the
2375 | interstate highway system or the federal-aid primary highway
2376 | system shall be located in an area that is zoned for industrial
2377 | or commercial use and the municipality or county shall establish

606-08395A-08

20081978c2

2378 and enforce regulations for such areas that, at a minimum, set
2379 forth criteria governing the size, lighting, and spacing of wall
2380 murals consistent with the intent of the Highway Beautification
2381 Act of 1965 and with customary use. Whenever a municipality or
2382 county exercises such control and makes a determination of
2383 customary use, pursuant to 23 U.S.C. s. 131(d), such
2384 determination shall be accepted in lieu of controls in the
2385 agreement between the state and the United States Department of
2386 Transportation, and the Department of Transportation shall notify
2387 the Federal Highway Administration pursuant to the agreement, 23
2388 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c). A wall mural that
2389 is subject to municipal or county regulation and the Highway
2390 Beautification Act of 1965 must be approved by the Department of
2391 Transportation and the Federal Highway Administration where
2392 required by federal law and federal regulation pursuant to ~~and~~
2393 ~~may not violate~~ the agreement between the state and the United
2394 States Department of Transportation and ~~or violate~~ federal
2395 regulations enforced by the Department of Transportation under s.
2396 479.02(1). The existence of a wall mural as defined in s.
2397 479.01(27) shall not be considered in determining whether a sign
2398 as defined in s. 479.01(17), either existing or new, is in
2399 compliance with s. 479.07(9) (a).

2400 Section 48. Subsections (1), (3), (4), and (5) of section
2401 479.261, Florida Statutes, are amended to read:

2402 479.261 Logo sign program.--

2403 (1) The department shall establish a logo sign program for
2404 the rights-of-way of the interstate highway system to provide
2405 information to motorists about available gas, food, lodging, ~~and~~
2406 camping, attractions, and other services, as approved by the

606-08395A-08

20081978c2

2407 Federal Highway Administration, at interchanges, through the use
2408 of business logos, and may include additional interchanges under
2409 the program. ~~A logo sign for nearby attractions may be added to~~
2410 ~~this program if allowed by federal rules.~~

2411 (a) An attraction as used in this chapter is defined as an
2412 establishment, site, facility, or landmark that ~~which~~ is open a
2413 minimum of 5 days a week for 52 weeks a year; that ~~which~~ ~~charges~~
2414 ~~an admission for entry; which~~ has as its principal focus family-
2415 oriented entertainment, cultural, educational, recreational,
2416 scientific, or historical activities; and that ~~which~~ is publicly
2417 recognized as a bona fide tourist attraction. ~~However, the~~
2418 ~~permits for businesses seeking to participate in the attractions~~
2419 ~~logo sign program shall be awarded by the department annually to~~
2420 ~~the highest bidders, notwithstanding the limitation on fees in~~
2421 ~~subsection (5), which are qualified for available space at each~~
2422 ~~qualified location, but the fees therefor may not be less than~~
2423 ~~the fees established for logo participants in other logo~~
2424 ~~categories.~~

2425 (b) The department shall incorporate the use of RV-friendly
2426 markers on specific information logo signs for establishments
2427 that cater to the needs of persons driving recreational vehicles.
2428 Establishments that qualify for participation in the specific
2429 information logo program and that also qualify as "RV-friendly"
2430 may request the RV-friendly marker on their specific information
2431 logo sign. An RV-friendly marker must consist of a design
2432 approved by the Federal Highway Administration. The department
2433 shall adopt rules in accordance with chapter 120 to administer
2434 this paragraph, including rules setting forth the minimum
2435 requirements that establishments must meet in order to qualify as

606-08395A-08

20081978c2

2436 RV-friendly. These requirements shall include large parking
2437 spaces, entrances, and exits that can easily accommodate
2438 recreational vehicles and facilities having appropriate overhead
2439 clearances, if applicable.

2440 (c) The department may implement a 3-year rotation-based
2441 logo program providing for the removal and addition of
2442 participating businesses in the program.

2443 (3) Logo signs may be installed upon the issuance of an
2444 annual permit by the department or its agent and payment of a ~~an~~
2445 ~~application and~~ permit fee to the department or its agent.

2446 (4) The department may contract pursuant to s. 287.057 for
2447 the provision of services related to the logo sign program,
2448 including recruitment and qualification of businesses, review of
2449 applications, permit issuance, and fabrication, installation, and
2450 maintenance of logo signs. The department may reject all
2451 proposals and seek another request for proposals or otherwise
2452 perform the work. ~~If the department contracts for the provision~~
2453 ~~of services for the logo sign program, the contract must require,~~
2454 ~~unless the business owner declines, that businesses that~~
2455 ~~previously entered into agreements with the department to~~
2456 ~~privately fund logo sign construction and installation be~~
2457 ~~reimbursed by the contractor for the cost of the signs which has~~
2458 ~~not been recovered through a previously agreed upon waiver of~~
2459 ~~fees.~~ The contract also may allow the contractor to retain a
2460 portion of the annual fees as compensation for its services.

2461 (5) Permit fees for businesses that participate in the
2462 program must be established in an amount sufficient to offset the
2463 total cost to the department for the program, including contract
2464 costs. The department shall provide the services in the most

606-08395A-08

20081978c2

2465 efficient and cost-effective manner through department staff or
2466 by contracting for some or all of the services. The department
2467 shall adopt rules that set reasonable rates based upon factors
2468 such as population, traffic volume, market demand, and costs for
2469 annual permit fees. However, annual permit fees for sign
2470 locations inside an urban area, as defined in s. 334.03(32), may
2471 not exceed \$5,000 and annual permit fees for sign locations
2472 outside an urban area, as defined in s. 334.03(32), may not
2473 exceed \$2,500. After recovering program costs, the proceeds from
2474 the logo program shall be deposited into the State Transportation
2475 Trust Fund and used for transportation purposes. ~~Such annual~~
2476 permit fee shall not exceed \$1,250.

2477 Section 49. Section 212.0606, Florida Statutes, is amended
2478 to read:

2479 212.0606 Rental car surcharge; discretionary local rental
2480 car surcharge.--

2481 (1) A surcharge of \$2 ~~\$2.00~~ per day or any part of a day is
2482 imposed upon the lease or rental of a motor vehicle licensed for
2483 hire and designed to carry fewer ~~less~~ than nine passengers,
2484 regardless of whether such motor vehicle is licensed in Florida.
2485 The surcharge applies to only the first 30 days of the term of
2486 any lease or rental and. ~~The surcharge~~ is subject to all
2487 applicable taxes imposed by this chapter.

2488 (2) (a) Notwithstanding s. ~~the provisions of section~~ 212.20,
2489 and less costs of administration, 80 percent of the proceeds of
2490 the ~~this~~ surcharge imposed under subsection (1) shall be
2491 deposited in the State Transportation Trust Fund, 15.75 percent
2492 of the proceeds of this surcharge shall be deposited in the
2493 Tourism Promotional Trust Fund created in s. 288.122, and 4.25

606-08395A-08

20081978c2

2494 | percent of the proceeds of this surcharge shall be deposited in
2495 | the Florida International Trade and Promotion Trust Fund. As used
2496 | in ~~For the purposes of~~ this subsection, "proceeds" of the
2497 | surcharge means all funds collected and received by the
2498 | department under subsection (1) ~~this section~~, including interest
2499 | and penalties on delinquent surcharges. The department shall
2500 | provide the Department of Transportation rental car surcharge
2501 | revenue information for the previous state fiscal year by
2502 | September 1 of each year.

2503 | (b) Notwithstanding any other provision of law, in fiscal
2504 | year 2007-2008 and each year thereafter, the proceeds deposited
2505 | in the State Transportation Trust Fund shall be allocated on an
2506 | annual basis in the Department of Transportation's work program
2507 | to each department district, except the Turnpike District. The
2508 | amount allocated for each district shall be based upon the amount
2509 | of proceeds attributed to the counties within each respective
2510 | district.

2511 | (3) (a) In addition to the surcharge imposed under
2512 | subsection (1), each county containing an international airport
2513 | may levy a discretionary local surcharge pursuant to county
2514 | ordinance and subject to approval by a majority vote of the
2515 | electorate of the county voting in a referendum on the local
2516 | surcharge of \$2 per day, or any part of a day, upon the lease or
2517 | rental, originating at an international airport, of a motor
2518 | vehicle licensed for hire and designed to carry fewer than nine
2519 | passengers, regardless of whether such motor vehicle is licensed
2520 | in this state. The surcharge may be applied to only the first 30
2521 | days of the term of the lease or rental and is subject to all
2522 | applicable taxes imposed by this chapter.

606-08395A-08

20081978c2

2523 (b) If the ordinance authorizing the imposition of the
2524 surcharge is approved by such referendum, a certified copy of the
2525 ordinance shall be furnished by the county to the department
2526 within 10 days after such approval, but no later than November 16
2527 prior to the effective date. The notice must specify the time
2528 period during which the surcharge will be in effect and must
2529 include a copy of the ordinance and such other information as the
2530 department requires by rule. Failure to timely provide such
2531 notification to the department shall result in delay of the
2532 effective date for a period of 1 year. The effective date for any
2533 county to impose the surcharge shall be January 1 following the
2534 year in which the ordinance was approved by referendum. A local
2535 surcharge may not terminate on a date other than December 31.

2536 (c) Any dealer that collects the local surcharge but fails
2537 to report surcharge collections by county, as required by
2538 paragraph (4) (b), shall have the surcharge proceeds deposited
2539 into the Solid Waste Management Trust Fund and then transferred
2540 to the Local Option Fuel Tax Trust Fund, which is separate from
2541 the county surcharge collection accounts. The department shall
2542 distribute funds in this account, less the cost of
2543 administration, using a distribution factor determined for each
2544 county that levies a surcharge based on the county's latest
2545 official population determined pursuant to s. 186.901 and
2546 multiplied by the amount of funds in the account and available
2547 for distribution.

2548 (d) Notwithstanding s. 212.20, and less the costs of
2549 administration, the proceeds of the local surcharge imposed under
2550 paragraph (a) shall be transferred to the Local Option Fuel Tax
2551 Trust Fund and distributed monthly by the department under s.

606-08395A-08

20081978c2

2552 336.025(3)(a)1. or (4)(a) and used solely for costs associated
2553 with the construction, reconstruction, operation, maintenance,
2554 and repair of facilities under a commuter rail service program
2555 provided by the state or other governmental entity. As used in
2556 this subsection, "proceeds" of the local surcharge means all
2557 funds collected and received by the department under this
2558 subsection, including interest and penalties on delinquent
2559 surcharges.

2560 (4)~~(3)~~(a) Except as provided in this section, the
2561 department shall administer, collect, and enforce the surcharge
2562 and local surcharge as provided in this chapter.

2563 (b) The department shall require dealers to report
2564 surcharge collections according to the county to which the
2565 surcharge and local surcharge was attributed. For purposes of
2566 this section, the surcharge and local surcharge shall be
2567 attributed to the county where the rental agreement was entered
2568 into.

2569 (c) Dealers who collect a ~~the~~ rental car surcharge shall
2570 report to the department all surcharge and local surcharge
2571 revenues attributed to the county where the rental agreement was
2572 entered into on a timely filed return for each required reporting
2573 period. The provisions of this chapter which apply to interest
2574 and penalties on delinquent taxes shall apply to the surcharge
2575 and local surcharge. The surcharge and local surcharge shall not
2576 be included in the calculation of estimated taxes pursuant to s.
2577 212.11. The dealer's credit provided in s. 212.12 shall not apply
2578 to any amount collected under this section.

2579 (5)~~(4)~~ The surcharge and any local surcharge imposed by
2580 this section does not apply to a motor vehicle provided at no

606-08395A-08

20081978c2

2581 charge to a person whose motor vehicle is being repaired,
2582 adjusted, or serviced by the entity providing the replacement
2583 motor vehicle.

2584 Section 50. Subsections (8), (9), (10), (11), (12), (13),
2585 and (14) are added to section 341.301, Florida Statutes, to read:
2586 341.301 Definitions; ss. 341.302 and 341.303.--As used in
2587 ss. 341.302 and 341.303, the term:

2588 (8) "Commuter rail passenger" or "passengers" means and
2589 includes any and all persons, ticketed or unticketed, using the
2590 commuter rail service on a department owned rail corridor:

2591 (a) On board trains, locomotives, rail cars, or rail
2592 equipment employed in commuter rail service or entraining and
2593 detraining therefrom;

2594 (b) On or about the rail corridor for any purpose related
2595 to the commuter rail service, including, without limitation,
2596 parking, inquiring about commuter rail service or purchasing
2597 tickets therefor, and coming to, waiting for, leaving from, or
2598 observing trains, locomotives, rail cars, or rail equipment; or

2599 (c) Meeting, assisting, or in the company of any person
2600 described in paragraph (a) or paragraph (b).

2601 (9) "Commuter rail service" means the transportation of
2602 commuter rail passengers and other passengers by rail pursuant to
2603 a rail program provided by the department or any other
2604 governmental entities.

2605 (10) "Rail corridor invitee" means and includes any and all
2606 persons who are on or about a department-owned rail corridor:

2607 (a) For any purpose related to any ancillary development
2608 thereon; or

2609 (b) Meeting, assisting, or in the company of any person

606-08395A-08

20081978c2

2610 described in paragraph (a).

2611 (11) "Rail corridor" means a linear contiguous strip of
2612 real property that is used for rail service. The term includes
2613 the corridor and structures essential to the operation of a
2614 railroad, including the land, structures, improvements, rights-
2615 of-way, easements, rail lines, rail beds, guideway structures,
2616 switches, yards, parking facilities, power relays, switching
2617 houses, rail stations, ancillary development, and any other
2618 facilities or equipment used for the purposes of construction,
2619 operation, or maintenance of a railroad that provides rail
2620 service.

2621 (12) "Railroad operations" means the use of the rail
2622 corridor to conduct commuter rail service, intercity rail
2623 passenger service, or freight rail service.

2624 (13) "Ancillary development" includes any lessee or
2625 licensee of the department, including, but not limited to, other
2626 governmental entities, vendors, retailers, restaurateurs, or
2627 contract service providers, within a department-owned rail
2628 corridor, except for providers of commuter rail service,
2629 intercity rail passenger service, or freight rail service.

2630 (14) "Governmental entity" or "entities" means as defined
2631 in s. 11.45, including a "public agency" as defined in s. 163.01.

2632 Section 51. Present subsection (17) of Section 341.302,
2633 Florida Statutes, is redesignated as subsection (19) and new
2634 subsections (17) and (18) are added to that section, to read:

2635 341.302 Rail program, duties and responsibilities of the
2636 department.--The department, in conjunction with other
2637 governmental entities ~~units~~ and the private sector, shall develop
2638 and implement a rail program of statewide application designed to

606-08395A-08

20081978c2

2639 ensure the proper maintenance, safety, revitalization, and
2640 expansion of the rail system to assure its continued and
2641 increased availability to respond to statewide mobility needs.
2642 Within the resources provided pursuant to chapter 216, and as
2643 authorized under federal law ~~Title 49 C.F.R. part 212~~, the
2644 department shall:

2645 (17) The department is authorized to purchase the required
2646 right-of-way, improvements, and appurtenances of the A-Line rail
2647 corridor from CSX Transportation, Inc., for a maximum purchase
2648 price of \$450 million for the primary purpose of implementing
2649 commuter rail service in what is commonly identified as the
2650 Central Florida Rail Corridor, and consisting of an approximately
2651 61.5-mile section of the existing A-Line rail corridor running
2652 from a point at or near Deland, Florida to a point at or near
2653 Poinciana, Florida.

2654 (18) Prior to operation of commuter rail in Central
2655 Florida, CSX and the department shall enter into a written
2656 agreement with the labor unions which will protect the interests
2657 of the employees who could be adversely affected.

2658 (19) In conjunction with the acquisition, ownership,
2659 construction, operation, maintenance, and management of a rail
2660 corridor, the department shall have the authority to:

2661 (a) Assume the obligation by contract to forever protect,
2662 defend, and indemnify and hold harmless the freight rail
2663 operator, or its successors, from whom the department has
2664 acquired a real property interest in the rail corridor, and that
2665 freight rail operator's officers, agents, and employees, from and
2666 against any liability, cost, and expense including, but not
2667 limited to, commuter rail passengers, rail corridor invitees, and

606-08395A-08

20081978c2

2668 trespassers in the rail corridor, regardless of whether the loss,
2669 damage, destruction, injury, or death giving rise to any such
2670 liability, cost, or expense is caused in whole or in part and to
2671 whatever nature or degree by the fault, failure, negligence,
2672 misconduct, nonfeasance, or misfeasance of such freight rail
2673 operator, its successors, or its officers, agents, and employees,
2674 or any other person or persons whomsoever, provided that such
2675 assumption of liability of the department by contract shall not
2676 in any instance exceed the following parameters of allocation of
2677 risk:

2678 1. The department may be solely responsible for any loss,
2679 injury, or damage to commuter rail passengers, rail corridor
2680 invitees, or trespassers, regardless of circumstances or cause,
2681 subject to subparagraphs 2., 3., and 4.

2682 2. When only one train is involved in an incident, the
2683 department may be solely responsible for any loss, injury, or
2684 damage if the train is a department train or other train pursuant
2685 to subparagraph 3., but only if in an instance when only a
2686 freight rail operator train is involved the freight rail operator
2687 is solely responsible for any loss, injury, or damage, except for
2688 commuter rail passengers, rail corridor invitees, and
2689 trespassers, and the freight rail operator is solely responsible
2690 for its property and all of its people in any instance when its
2691 train is involved in an incident.

2692 3. For the purposes of this subsection, any train involved
2693 in an incident that is neither the department's train nor the
2694 freight rail operator's train, hereinafter referred to in this
2695 subsection as an "other train," may be treated as a department
2696 train, solely for purposes of any allocation of liability between

606-08395A-08

20081978c2

2697 the department and the freight rail operator only, but only if
2698 the department and the freight rail operator share responsibility
2699 equally as to third parties outside the rail corridor who incur
2700 loss, injury, or damage as a result of any incident involving
2701 both a department train and a freight rail operator train, and
2702 the allocation as between the department and the freight rail
2703 operator, regardless of whether the other train is treated as a
2704 department train, shall remain one-half each as to third parties
2705 outside the rail corridor who incur loss, injury, or damage as a
2706 result of the incident, and the involvement of any other train
2707 shall not alter the sharing of equal responsibility as to third
2708 parties outside the rail corridor who incur loss, injury, or
2709 damage as a result of the incident.

2710 4. When more than one train is involved in an incident:

2711 a. If only a department train and a freight rail operator's
2712 train, or only another train as described in subparagraph 3. and
2713 a freight rail operator's train, are involved in an incident, the
2714 department may be responsible for its property and all of its
2715 people, all commuter rail passengers, rail corridor invitees, and
2716 trespassers, but only if the freight rail operator is responsible
2717 for its property and all of its people, and the department and
2718 the freight rail operator share responsibility one-half each as
2719 to third parties outside the rail corridor who incur loss,
2720 injury, or damage as a result of the incident.

2721 b. If a department train, a freight rail operator train,
2722 and any other train are involved in an incident, the allocation
2723 of liability as between the department and the freight rail
2724 operator, regardless of whether the other train is treated as a
2725 department train, shall remain one-half each as to third parties

606-08395A-08

20081978c2

2726 outside the rail corridor who incur loss, injury, or damage as a
2727 result of the incident; the involvement of any other train shall
2728 not alter the sharing of equal responsibility as to third parties
2729 outside the rail corridor who incur loss, injury, or damage as a
2730 result of the incident; and, if the owner, operator, or insurer
2731 of the other train makes any payment to injured third parties
2732 outside the rail corridor who incur loss, injury, or damage as a
2733 result of the incident, the allocation of credit between the
2734 department and the freight rail operator as to such payment shall
2735 not in any case reduce the freight rail operator's third party
2736 sharing allocation of one-half under this paragraph to less than
2737 one-third of the total third party liability.

2738 5. Any such contractual duty to protect, defend, indemnify,
2739 and hold harmless such a freight rail operator shall expressly
2740 include a specific cap on the amount of the contractual duty,
2741 which amount shall not exceed \$200 million without prior
2742 legislative approval; require the department to purchase
2743 liability insurance and establish a self-insurance retention fund
2744 in the amount of the specific cap established under this
2745 paragraph; provide that no such contractual duty shall in any
2746 case be effective nor otherwise extend the department's liability
2747 in scope and effect beyond the contractual liability insurance
2748 and self-insurance retention fund required pursuant to this
2749 paragraph; and provide that the freight rail operator's
2750 compensation to the department for future use of the department's
2751 rail corridor shall include a monetary contribution to the cost
2752 of such liability coverage for the sole benefit of the freight
2753 rail operator.

2754 (b) Purchase liability insurance which amount shall not

606-08395A-08

20081978c2

2755 exceed \$250 million and establish a self-insurance retention fund
2756 for the purpose of paying the deductible limit established in the
2757 insurance policies it may obtain, including coverage for the
2758 department, any freight rail operator as described in paragraph
2759 (a), commuter rail service providers, governmental entities, or
2760 ancillary development; however, the insureds shall pay a
2761 reasonable monetary contribution to the cost of such liability
2762 coverage for the sole benefit of the insured. Such insurance and
2763 self-insurance retention fund may provide coverage for all
2764 damages, including, but not limited to, compensatory, special,
2765 and exemplary, and be maintained to provide an adequate fund to
2766 cover claims and liabilities for loss, injury, or damage arising
2767 out of or connected with the ownership, operation, maintenance,
2768 and management of a rail corridor.

2769 (c) Incur expenses for the purchase of advertisements,
2770 marketing, and promotional items.

2771
2772 Neither the assumption by contract to protect, defend, indemnify,
2773 and hold harmless; the purchase of insurance; nor the
2774 establishment of a self-insurance retention fund shall be deemed
2775 to be a waiver of any defense of sovereign immunity for torts nor
2776 deemed to increase the limits of the department's or the
2777 governmental entity's liability for torts as provided in s.
2778 768.28. The requirements of s. 287.022(1) shall not apply to the
2779 purchase of any insurance hereunder. The provisions of this
2780 subsection shall apply and inure fully as to any other
2781 governmental entity providing commuter rail service and
2782 constructing, operating, maintaining, or managing a rail corridor
2783 on publicly owned right-of-way under contract by the governmental

606-08395A-08

20081978c2

2784 entity with the department or a governmental entity designated by
2785 the department.

2786 Section 52. Paragraph (d) of subsection (10) of section
2787 768.28, Florida Statutes, is amended to read:

2788 768.28 Waiver of sovereign immunity in tort actions;
2789 recovery limits; limitation on attorney fees; statute of
2790 limitations; exclusions; indemnification; risk management
2791 programs.--

2792 (10)

2793 (d) For the purposes of this section, operators,
2794 dispatchers, and providers of security for rail services and rail
2795 facility maintenance providers in the South Florida Rail Corridor
2796 or the Central Florida Rail Corridor, or any of their employees
2797 or agents, performing such services under contract with and on
2798 behalf of the ~~South Florida Regional Transportation Authority or~~
2799 ~~the~~ Department of Transportation shall be considered agents of
2800 the state while acting within the scope of and pursuant to
2801 guidelines established in the said contract or by rule; provided,
2802 however, that the state, for itself, the Department of
2803 Transportation and such agents, hereby waives sovereign immunity
2804 for liability for torts within the limits of insurance and self
2805 insurance coverage provided for each rail corridor, which
2806 coverage shall not be less than \$250 million per year aggregate
2807 coverage per corridor with limits of not less than \$250,000 per
2808 person and \$500,000 per incident or occurrence. Notwithstanding
2809 subsection (8), an attorney may charge, demand, receive, or
2810 collect, for services rendered, fees up to 40 percent of any
2811 judgment or settlement related to the South Florida Rail Corridor
2812 or the Central Florida Rail Corridor. This subsection shall not

606-08395A-08

20081978c2

2813 | be construed as designating persons providing contracted
2814 | operator, dispatcher, security officer, rail facility
2815 | maintenance, or other services as employees or agents for the
2816 | state for purposes of the Federal Employers Liability Act, the
2817 | Federal Railway Labor Act, or chapter 440.

2818 | Section 53. This act shall take effect July 1, 2008.