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LEGISLATIVE ACTION

Senate	.	House
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05/01/2009 11:40 AM	.	05/01/2009 02:59 PM
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Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each:

1. State officer and state department, and each

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13 departmental unit described in s. 20.04.
14 2. Authority, including a regional water supply authority.
15 3. Board, including the Board of Governors of the State
16 University System and a state university board of trustees when
17 acting pursuant to statutory authority derived from the
18 Legislature.
19 4. Commission, including the Commission on Ethics and the
20 Fish and Wildlife Conservation Commission when acting pursuant
21 to statutory authority derived from the Legislature.
22 5. Regional planning agency.
23 6. Multicounty special district with a majority of its
24 governing board comprised of nonelected persons.
25 7. Educational units.
26 8. Entity described in chapters 163, 373, 380, and 582 and
27 s. 186.504.
28 (c) Each other unit of government in the state, including
29 counties and municipalities, to the extent they are expressly
30 made subject to this act by general or special law or existing
31 judicial decisions.
32
33 This definition does not include any legal entity or agency
34 created in whole or in part pursuant to chapter 361, part II,
35 any metropolitan planning organization created pursuant to s.
36 339.175, any separate legal or administrative entity created
37 pursuant to s. 339.175 of which a metropolitan planning
38 organization is a member, an expressway authority pursuant to
39 chapter 348 or <u>any</u> transportation authority under <u>chapter 343 or</u>
40 chapter 349, any legal or administrative entity created by an
41 interlocal agreement pursuant to s. 163.01(7), unless any party

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to such agreement is otherwise an agency as defined in this subsection, or any multicounty special district with a majority of its governing board comprised of elected persons; however, this definition shall include a regional water supply authority.

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

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

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

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

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to ~~the provisions of~~ paragraph (11)(d), as overlays on the future land use map. Each future land use category must be

defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02; the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of lands

adjacent or closely proximate to ~~lands with~~ military installations, and lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and may ~~shall~~ not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will


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result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category is ~~shall be~~ eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of lands adjacent or closely proximate to ~~lands with~~ existing military installations, or lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02, in their future land use plan element shall transmit the update or amendment to the state land planning agency ~~department~~ by June 30, 2012 ~~2006~~.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used

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in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

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

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

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

d. The intergovernmental coordination element shall provide


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for interlocal agreements as established pursuant to s. 333.03(1)(b).

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

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

4.a. Local governments shall ~~must~~ execute an interlocal agreement with the district school board, the county, and

nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

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

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

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

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

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

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

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

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

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

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

3. Parking facilities.

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

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

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

7. Airports, projected airport and aviation development,


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and land use compatibility around airports, which includes areas defined in ss. 333.01 and 333.02.

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

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

10. The incorporation of transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.

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

163.3178 Coastal management.—

(3) Expansions to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9); port transportation facilities and projects listed in s. 311.07(3)(b); ~~and~~ intermodal transportation facilities identified pursuant to s. 311.09(3); and facilities determined by the Department of Community Affairs and applicable general-purpose local government to be port-related industrial or commercial projects located within 3 miles of or in a port master plan area which rely upon the use of port and intermodal transportation facilities shall not be designated as

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developments of regional impact if ~~where~~ such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section.

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

163.3182 Transportation concurrency backlogs.—

(2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG AUTHORITIES.—

(c) The Legislature finds and declares that there exists in many counties and municipalities areas that have significant transportation deficiencies and inadequate transportation facilities; that many insufficiencies and inadequacies severely limit or prohibit the satisfaction of transportation concurrency standards; that the transportation insufficiencies and inadequacies affect the health, safety, and welfare of the residents of these counties and municipalities; that the transportation insufficiencies and inadequacies adversely affect economic development and growth of the tax base for the areas in which these insufficiencies and inadequacies exist; and that the elimination of transportation deficiencies and inadequacies and the satisfaction of transportation concurrency standards are paramount public purposes for the state and its counties and municipalities.

(3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG AUTHORITY.—Each transportation concurrency backlog authority has the powers necessary or convenient to carry out the purposes of this section, including the following powers in addition to

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others granted in this section:

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

(4) TRANSPORTATION CONCURRENCY BACKLOG PLANS.—

(a) Each transportation concurrency backlog authority shall adopt a transportation concurrency backlog plan as a part of the local government comprehensive plan within 6 months after the creation of the authority. The plan must ~~shall~~:

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

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

3. Establish a schedule for financing and construction of

transportation concurrency backlog projects that will eliminate transportation concurrency backlogs within the jurisdiction of the authority within 10 years after the transportation concurrency backlog plan adoption. The schedule shall be adopted as part of the local government comprehensive plan.

(b) The adoption of the transportation concurrency backlog plan shall be exempt from the provisions of s. 163.3187(1).

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

(5) ESTABLISHMENT OF LOCAL TRUST FUND.—The transportation concurrency backlog authority shall establish a local transportation concurrency backlog trust fund upon creation of the authority. Each local trust fund shall be administered by the transportation concurrency backlog authority within which a transportation concurrency backlog has been identified. Each local trust fund must continue to be funded under this section for as long as the projects set forth in the related transportation concurrency backlog plan remain to be completed or until any debt incurred to finance or refinance the related projects are no longer outstanding, whichever occurs later. Beginning in the first fiscal year after the creation of the


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authority, each local trust fund shall be funded by the proceeds of an ad valorem tax increment collected within each transportation concurrency backlog area to be determined annually and shall be a minimum of 25 percent of the difference between the amounts set forth in paragraphs (a) and (b), except that if all of the affected taxing authorities agree under an interlocal agreement, a particular local trust fund may be funded by the proceeds of an ad valorem tax increment greater than 25 percent of the difference between the amounts set forth in paragraphs (a) and (b):

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

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

(8) DISSOLUTION.—Upon completion of all transportation concurrency backlog projects and repayment or defeasance of all debt issued to finance or refinance such projects, a transportation concurrency backlog authority shall be dissolved, and its assets and liabilities ~~shall be~~ transferred to the

county or municipality within which the authority is located. All remaining assets of the authority must be used for implementation of transportation projects within the jurisdiction of the authority. The local government comprehensive plan shall be amended to remove the transportation concurrency backlog plan.

Section 6. Subsection (7) of section 337.11, Florida Statutes, is amended, present subsections (8) through (15) of that section are renumbered as subsections (9) through (16), respectively, and a new subsection (8) is added to that section, to read:

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

(7)(a) If ~~the head of~~ the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a building, a major bridge, a limited access facility, or a rail corridor project into a single contract. Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects for which the department has not yet obtained title to the necessary rights-of-way and easements for the construction of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested in the state when

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the title has been dedicated to the public or acquired by prescription.

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

1. Prequalification requirements.

2. Public announcement procedures.

3. Scope of service requirements.

4. Letters of interest requirements.

5. Short-listing criteria and procedures.

6. Bid proposal requirements.

7. Technical review committee.

8. Selection and award processes.

9. Stipend requirements.

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

(8) If the department determines that it is in the best interest of the public, the department may pay a stipend to nonselected design-build firms that have submitted responsive proposals for construction contracts. The decision and amount of a stipend shall be based upon department analysis of the estimated proposal development costs and the anticipated degree of engineering design during the procurement process. The department retains the right to use those designs from

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responsive nonselected design-build firms that accept a stipend.

Section 7. Paragraph (b) of subsection (1) of section 337.18, Florida Statutes, is amended to read:

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

(1)

(b) Before beginning any work under the contract, the contractor shall maintain a copy of the payment and performance bond required under this section at its principal place of business and at the jobsite office, if one is established, and the contractor shall provide a copy of the payment and performance bond within 5 days after receiving a written request for the bond. A copy of the payment and performance bond required under this section may also be obtained directly from the department by making a request pursuant to chapter 119. ~~Upon execution of the contract, and prior to beginning any work under the contract, the contractor shall record in the public records of the county where the improvement is located the payment and performance bond required under this section.~~ A claimant has ~~shall have~~ a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. The ~~Such~~ action may ~~shall~~ not involve the department in any expense.

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

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction and

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maintenance contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." For the purpose of this section, the term "claim" means ~~shall mean~~ the aggregate of all outstanding claims by a party arising out of a construction or maintenance contract. Every contractual claim in an amount up to $250,000 per contract or, at the claimant's option, up to $500,000 per contract or, upon agreement of the parties, up to $1 million per contract that cannot be resolved by negotiation between the department and the contractor shall be arbitrated by the board after acceptance of the project by the department. As an exception, either party to the dispute may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction or maintenance companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. The head of the department may select an alternative or substitute to serve as the department member for any hearing or term. Each member shall serve a 2-year term. The board shall elect a chair, each term, who shall be the administrator of the board and custodian of its records.


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

Section 9. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road or publicly owned rail corridor that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs (a)-(f) ~~(a), (b), and (c)~~.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627 of the 84th Congress, is necessitated by the construction of

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a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of the ~~such~~ project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate the ~~such~~ facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

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

(c) When an agreement between the department and utility is executed for utility improvement, relocation, or removal work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the

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cost of clearing and grubbing necessary to perform such work.

(d) If the utility facility being removed or relocated was initially installed to exclusively serve the department, its tenants, or both, the department shall bear the costs of removing or relocating that utility facility. However, the department is not responsible for bearing the cost of removing or relocating any subsequent additions to that facility for the purpose of serving others.

(e) If, under an agreement between a utility and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of removing or relocating the utility, the authority shall bear the cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009.

(f) If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past 5 years, the department shall incur all costs of the relocation.

Section 10. Subsections (4) and (5) of section 337.408, Florida Statutes, are amended, present subsection (7) of that section is renumbered as subsection (8), and a new subsection (7) is added to that section, to read:

337.408 Regulation of benches, transit shelters, street

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light poles, waste disposal receptacles, and modular news racks within rights-of-way.—

(4) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack that ~~which~~ endangers life or property, except that transit bus benches that were ~~which have been~~ placed in service before ~~prior to~~ April 1, 1992, are not required to comply with bench size and advertising display size requirements ~~which have been~~ established by the department before ~~prior to~~ March 1, 1992. Any transit bus bench that was in service before ~~prior to~~ April 1, 1992, may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable. The department may ~~is authorized to~~ adopt rules relating to the regulation of bench size and advertising display size requirements. If a municipality or county within which a bench is to be located has adopted an ordinance or other applicable regulation that establishes bench size or advertising display sign requirements different from requirements specified in department rule, the local government requirement applies ~~shall be applicable~~ within the respective municipality or county. Placement of any bench or advertising display on the National Highway System under a local ordinance or regulation adopted under ~~pursuant to~~ this subsection is ~~shall be~~ subject to approval of the Federal Highway Administration.

(5) A ~~No~~ bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack, or advertising thereon, may not ~~shall~~ be erected or ~~so~~ placed on the right-of-way of any road in a manner that ~~which~~ conflicts with the

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requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack services or advertising on such benches, shelters, receptacles, public pay telephone, or news racks may be regulated, restricted, or denied by the appropriate local government entity consistent with ~~the provisions of~~ this section.

(7) A public pay telephone, including advertising displayed thereon, may be installed within the right-of-way limits of any municipal, county, or state road, except on a limited access highway, if the pay telephone is installed by a provider duly authorized and regulated by the Public Service Commission under s. 364.3375, if the pay telephone is operated in accordance with all applicable state and federal telecommunications regulations, and if written authorization has been given to a public pay telephone provider by the appropriate municipal or county government. Each advertisement must be limited to a size no greater than 8 square feet and a public pay telephone booth may not display more than three advertisements at any given time. An advertisement is not allowed on public pay telephones located in rest areas, welcome centers, or other such facilities located on an interstate highway.

Section 11. Subsection (6) is added to section 338.01, Florida Statutes, to read:

338.01 Authority to establish and regulate limited access facilities.—

(6) All new limited access facilities and existing

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transportation facilities on which new or replacement electronic toll collection systems are installed shall be interoperable with the department's electronic toll-collection system.

Section 12. Present subsections (7) and (8) of section 338.165, Florida Statutes, are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

338.165 Continuation of tolls.—

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

Section 13. Section 338.166, Florida Statutes, is created to read:

338.166 High-occupancy toll lanes or express lanes.—

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

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

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


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(4) The department may implement variable-rate tolls on high-occupancy toll lanes or express lanes.

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

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

Section 14. Paragraph (d) is added to subsection (1) of section 338.2216, Florida Statutes, to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(1)

(d) The Florida Turnpike Enterprise shall pursue and implement new technologies and processes in its operations and collection of tolls and the collection of other amounts associated with road and infrastructure usage. Such technologies and processes must include, without limitation, video billing and variable pricing.

Section 15. Section 338.231, Florida Statutes, is amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls and amounts for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all

such purposes.

~~(1) In the process of effectuating toll rate increases over the period 1988 through 1992, the department shall, to the maximum extent feasible, equalize the toll structure, within each vehicle classification, so that the per mile toll rate will be approximately the same throughout the turnpike system. New turnpike projects may have toll rates higher than the uniform system rate where such higher toll rates are necessary to qualify the project in accordance with the financial criteria in the turnpike law. Such higher rates may be reduced to the uniform system rate when the project is generating sufficient revenues to pay the full amount of debt service and operating and maintenance costs at the uniform system rate. If, after 15 years of opening to traffic, the annual revenue of a turnpike project does not meet or exceed the annual debt service requirements and operating and maintenance costs attributable to such project, the department shall, to the maximum extent feasible, establish a toll rate for the project which is higher than the uniform system rate as necessary to meet such annual debt service requirements and operating and maintenance costs. The department may, to the extent feasible, establish a temporary toll rate at less than the uniform system rate for the purpose of building patronage for the ultimate benefit of the turnpike system. In no case shall the temporary rate be established for more than 1 year. The requirements of this subsection shall not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds.~~


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

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

(3)(a)~~(4)~~ For the period July 1, 1998, through June 30, 2017, the department shall, to the maximum extent feasible, program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade County, Broward County, and Palm Beach County as

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compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system. ~~The requirements of~~ This subsection does ~~do~~ not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds. The department may at any time for economic considerations establish lower temporary toll rates for a new or existing toll facility for a period not to exceed 1 year, after which the toll rates adopted pursuant to s. 120.54 shall become effective.

(b) The department shall also fix, adjust, charge, and collect such amounts needed to cover the costs of administering the different toll-collection and payment methods, and types of accounts being offered and used, in the manner provided for in s. 120.54 which will provide for public notice and the opportunity for a public hearing before adoption. Such amounts may stand alone, be incorporated in a toll rate structure, or be a combination of the two.

(4) ~~(5)~~ When bonds are outstanding which have been issued to finance or refinance any turnpike project, the tolls and all other revenues derived from the turnpike system and pledged to such bonds shall be set aside as may be provided in the resolution authorizing the issuance of such bonds or the trust agreement securing the same. The tolls or other revenues or other moneys so pledged and thereafter received by the department are immediately subject to the lien of such pledge

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without any physical delivery thereof or further act. The lien of any such pledge is valid and binding as against all parties having claims of any kind in tort or contract or otherwise against the department irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the department.

(5)~~(6)~~ In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement must ~~shall~~ establish that the Sawgrass Expressway is ~~shall be~~ subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues is ~~shall be~~ subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to ~~provisions of~~ any subsequent resolution or trust indenture relating to the issuance of such turnpike

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bonds.

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

Section 16. Subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess of the actual cost of the project or project phase. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases that are not revenue producing and are contained in the department's adopted work program, or any public transportation project contained in the adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases. Reimbursement to the governmental entity for such a project or project phase must be made from

funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.01401(19).

(b) Prior to entering an agreement to advance a project or project phase pursuant to this subsection and subsection (5), the department shall first update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in s. 339.135(7). The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of

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the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program authorized by this paragraph may not at any time exceed $250 ~~$100~~ million. However, notwithstanding such $250 ~~$100~~ million limit and any similar limit in s. 334.30, project advances for any inland county with a population greater than 500,000 dedicating amounts equal to $500 million or more of its Local Government Infrastructure Surtax pursuant to s. 212.055(2) for improvements to the State Highway System which are included in the local metropolitan planning organization's or the department's long-range transportation plans shall be excluded from the calculation of the statewide limit of project advances.

(d) The department may enter into agreements under this subsection with any county that has a population of 150,000 or fewer as determined by the most recent official estimate under s. 186.901 for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature under s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not

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included in the adopted work program authorized by this paragraph may not at any time exceed $200 million. The project must be included in the local government's adopted comprehensive plan. The department may enter into long-term repayment agreements of up to 30 years.

Section 17. Paragraph (d) of subsection (7) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(d)1. Whenever the department proposes any amendment to the adopted work program, as defined in subparagraph (c)1. or subparagraph (c)3., which deletes or defers a construction phase on a capacity project, it shall notify each county affected by the amendment and each municipality within the county. The notification shall be issued in writing to the chief elected official of each affected county, each municipality within the county, and the chair of each affected metropolitan planning organization. Each affected county and each municipality in the county is encouraged to coordinate with each other in order to determine how the amendment affects local concurrency management and regional transportation planning efforts. Each affected county, and each municipality within the county, shall have 14 days to provide written comments to the department regarding how the amendment will affect its respective concurrency management systems, including whether any development permits were issued contingent upon the capacity improvement, if applicable. After receipt of written comments from the affected local governments, the department shall include any written comments submitted by

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such local governments in its preparation of the proposed amendment.

2. Following the 14-day comment period in subparagraph 1., if applicable, whenever the department proposes any amendment to the adopted work program, which amendment is defined in subparagraph (c)1., subparagraph (c)2., subparagraph (c)3., or subparagraph (c)4., it shall submit the proposed amendment to the Governor for approval and shall immediately notify the chairs of the legislative appropriations committees, the chairs of the legislative transportation committees, and each member of the Legislature who represents a district affected by the proposed amendment. It shall also notify~~,~~ each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment, unless it provided to each the notification required by subparagraph 1. Such proposed amendment shall provide a complete justification of the need for the proposed amendment.

3.~~2.~~ The Governor may ~~shall~~ not approve a proposed amendment until 14 days following the notification required in subparagraph 2. ~~1.~~

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

Section 18. Subsection (3) and paragraphs (b) and (c) of subsection (4) of section 339.2816, Florida Statutes, are amended to read:

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339.2816 Small County Road Assistance Program.—

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

(4)

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

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

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

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

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

2. As secondary criteria the department may consider:

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

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

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

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d. Whether a road is considered a feeder road.

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

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

Section 19. Paragraph (c) of subsection (4) of section 348.0003, Florida Statutes, is amended to read:

348.0003 Expressway authority; formation; membership.—

(4)

(c) Members of each expressway ~~an~~ authority, transportation authority, bridge authority, or toll authority, created pursuant to this chapter, chapter 343, or chapter 349 or any other legislative enactment shall ~~be required to~~ comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. This paragraph does not subject any statutorily created authority, other than an expressway authority created under this part, to any other requirement of this part except the requirement of this paragraph.

Section 20. Subsection (1) of section 479.01, Florida Statutes, is amended to read:

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

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

Section 21. Subsections (1), (5), and (9) of section 479.07, Florida Statutes, are amended to read:

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479.07 Sign permits.—

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

(5)(a) For each permit issued, the department shall furnish to the applicant a serially numbered permanent metal permit tag. The permittee is responsible for maintaining a valid permit tag on each permitted sign facing at all times. The tag shall be securely attached to the sign facing or, if there is no facing, on the pole nearest the highway; and it shall be attached in such a manner as to be plainly visible from the main-traveled way. Effective July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main-traveled way. The permit becomes ~~will become~~ void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance. If the permittee fails to erect a completed sign on the permitted site within 270 days after the date on which the permit was issued, the permit will be void, and the department

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may not issue a new permit to that permittee for the same location for 270 days after the date on which the permit became void.

(b) If a permit tag is lost, stolen, or destroyed, the permittee to whom the tag was issued must apply to the department for a replacement tag. The department shall adopt a rule establishing a service fee for replacement tags in an amount that will recover the actual cost of providing the replacement tag. Upon receipt of the application accompanied by the ~~a~~ service fee ~~of $3~~, the department shall issue a replacement permit tag. Alternatively, the permittee may provide its own replacement tag pursuant to department specifications that the department shall adopt by rule at the time it establishes the service fee for replacement tags.

(9)(a) A permit shall not be granted for any sign for which a permit had not been granted by the effective date of this act unless such sign is located at least:

1. One thousand five hundred feet from any other permitted sign on the same side of the highway, if on an interstate highway.

2. One thousand feet from any other permitted sign on the same side of the highway, if on a federal-aid primary highway.

The minimum spacing provided in this paragraph does not preclude the permitting of V-type, back-to-back, side-to-side, stacked, or double-faced signs at the permitted sign site. If a sign is visible from the controlled area of more than one highway subject to the jurisdiction of the department, the sign shall meet the permitting requirements of, and, if the sign

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meets the applicable permitting requirements, be permitted to, the highway having the more stringent permitting requirements.

(b) A permit shall not be granted for a sign pursuant to this chapter to locate such sign on any portion of the interstate or federal-aid primary highway system, which sign:

1. Exceeds 50 feet in sign structure height above the crown of the main-traveled way, if outside an incorporated area;

2. Exceeds 65 feet in sign structure height above the crown of the main-traveled way, if inside an incorporated area; or

3. Exceeds 950 square feet of sign facing including all embellishments.

(c) Notwithstanding subparagraph (a)1., there is established a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet if all other requirements of this chapter are met and if:

1. The local government has adopted a plan, program, resolution, ordinance, or other policy encouraging the voluntary removal of signs in a downtown, historic, redevelopment, infill, or other designated area which also provides for a new or replacement sign to be erected on an interstate highway within that jurisdiction if a sign in the designated area is removed;

2. The sign owner and the local government mutually agree to the terms of the removal and replacement; and

3. The local government notifies the department of its intention to allow such removal and replacement as agreed upon pursuant to subparagraph 2.

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The department shall maintain statistics tracking the use of the provisions of this pilot program based on the notifications received by the department from local governments under this paragraph.

(d) ~~Nothing in~~ This subsection does not ~~shall be construed so as to~~ cause a sign that ~~which~~ was conforming on October 1, 1984, to become nonconforming.

Section 22. Section 479.08, Florida Statutes, is amended to read:

479.08 Denial or revocation of permit.—The department may ~~has the authority to~~ deny or revoke any permit requested or granted under this chapter in any case in which it determines that the application for the permit contains knowingly false or misleading information. The department may revoke any permit granted under this chapter in any case in which ~~or that~~ the permittee has violated any of the provisions of this chapter, unless such permittee, within 30 days after the receipt of notice by the department, ~~corrects such false or misleading information and~~ complies with the provisions of this chapter. For the purpose of this section, the notice of violation issued by the department must describe in detail the alleged violation. Any person aggrieved by any action of the department in denying or revoking a permit under this chapter may, within 30 days after receipt of the notice, apply to the department for an administrative hearing pursuant to chapter 120. If a timely request for hearing has been filed and the department issues a final order revoking a permit, such revocation shall be effective 30 days after the date of rendition. Except for department action pursuant to s. 479.107(1), the filing of a

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timely and proper notice of appeal shall operate to stay the revocation until the department's action is upheld.

Section 23. Section 479.156, Florida Statutes, is amended to read:

479.156 Wall murals.—Notwithstanding any other provision of this chapter, a municipality or county may permit and regulate wall murals within areas designated by such government. If a municipality or county permits wall murals, a wall mural that displays a commercial message and is within 660 feet of the nearest edge of the right-of-way within an area adjacent to the interstate highway system or the federal-aid primary highway system shall be located in an area that is zoned for industrial or commercial use and the municipality or county shall establish and enforce regulations for such areas that, at a minimum, set forth criteria governing the size, lighting, and spacing of wall murals consistent with the intent of the Highway Beautification Act of 1965 and with customary use. Whenever a municipality or county exercises such control and makes a determination of customary use pursuant to 23 U.S.C. s. 131(d), such determination shall be accepted in lieu of controls in the agreement between the state and the United States Department of Transportation, and the department shall notify the Federal Highway Administration pursuant to the agreement, 23 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c). A wall mural that is subject to municipal or county regulation and the Highway Beautification Act of 1965 must be approved by the Department of Transportation and the Federal Highway Administration when required by federal law and federal regulation under ~~and may not violate~~ the agreement between the state and the United States

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Department of Transportation and ~~or violate~~ federal regulations enforced by the Department of Transportation under s. 479.02(1). The existence of a wall mural as defined in s. 479.01(27) shall not be considered in determining whether a sign as defined in s. 479.01(17), either existing or new, is in compliance with s. 479.07(9)(a).

Section 24. Subsections (1), (3), (4), and (5) of section 479.261, Florida Statutes, are amended to read:

479.261 Logo sign program.—

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

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

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~~the fees established for logo participants in other logo categories.~~

(b) The department shall incorporate the use of RV-friendly markers on specific information logo signs for establishments that cater to the needs of persons driving recreational vehicles. Establishments that qualify for participation in the specific information logo program and that also qualify as "RV-friendly" may request the RV-friendly marker on their specific information logo sign. An RV-friendly marker must consist of a design approved by the Federal Highway Administration. The department shall adopt rules in accordance with chapter 120 to administer this paragraph, including rules setting forth the minimum requirements that establishments must meet in order to qualify as RV-friendly. These requirements shall include large parking spaces, entrances, and exits that can easily accommodate recreational vehicles and facilities having appropriate overhead clearances, if applicable.

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

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

(4) The department may contract pursuant to s. 287.057 for the provision of services related to the logo sign program, including recruitment and qualification of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of logo signs. The department may reject all proposals and seek another request for proposals or otherwise


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perform the work. ~~If the department contracts for the provision of services for the logo sign program, the contract must require, unless the business owner declines, that businesses that previously entered into agreements with the department to privately fund logo sign construction and installation be reimbursed by the contractor for the cost of the signs which has not been recovered through a previously agreed upon waiver of fees.~~ The contract also may allow the contractor to retain a portion of the annual fees as compensation for its services.

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

Section 25. The Department of Transportation, in consultation with the Department of Law Enforcement, the Department of Environmental Protection, the Division of

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Emergency Management of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, affected metropolitan planning organizations, and regional planning councils within whose jurisdictional area the I-95 corridor lies, shall complete a study of transportation alternatives for the travel corridor parallel to Interstate 95 which takes into account the transportation, emergency management, homeland security, and economic development needs of the state. The report must include identification of cost-effective measures that may be implemented to alleviate congestion on Interstate 95, facilitate emergency and security responses, and foster economic development. The Department of Transportation shall send the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each affected metropolitan planning organization by June 30, 2010.

Section 26. (1) Part III of chapter 343, Florida Statutes, consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75, 343.76, and 343.77, is repealed.

(2) Any assets or liabilities of the Tampa Bay Commuter Transit Authority are transferred to the Tampa Bay Area Regional Transportation Authority as created under s. 343.92, Florida Statutes.

Section 27. This act shall take effect July 1, 2009.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled


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An act relating to transportation; amending s. 120.52, F.S.; redefining the term "agency" for purposes of ch. 120, F.S., to include certain regional transportation and transit authorities; amending s. 125.42, F.S.; providing for counties to incur certain costs related to the relocation or removal of certain utility facilities under specified circumstances; amending s. 163.3177, F.S.; revising requirements for comprehensive plans; providing a timeframe for submission of certain information to the state land planning agency; providing for airports, land adjacent to airports, and certain interlocal agreements relating thereto in certain elements of the plan; amending s. 163.3178, F.S.; providing that certain port-related facilities may not be designated as developments of regional impact under certain circumstances; amending s. 163.3182, F.S., relating to transportation concurrency backlog authorities; providing legislative findings and declarations; expanding the power of authorities to borrow money to include issuing certain debt obligations; providing a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects; authorizing authorities to continue operations and administer certain trust funds for the period of the remaining outstanding debt; requiring local transportation concurrency backlog trust funds to continue to be funded for certain purposes; providing for increased ad valorem tax increment funding for such trust funds under certain circumstances; revising provisions for dissolution of an authority; amending s. 337.11, F.S.; providing for the department to pay a portion of certain proposal development costs; requiring the department to advertise certain contracts

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as design-build contracts; amending s. 337.18, F.S.; requiring the contractor to maintain a copy of the required payment and performance bond at certain locations and provide a copy upon request; providing that a copy may be obtained directly from the department; removing a provision requiring that a copy be recorded in the public records of the county; amending s. 337.185, F.S.; providing for the State Arbitration Board to arbitrate certain claims relating to maintenance contracts; providing for a member of the board to be elected by maintenance companies as well as construction companies; amending s. 337.403, F.S.; providing for the department or local governmental entity to pay certain costs of removal or relocation of a utility facility that is found to be interfering with the use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor under described circumstances; amending s. 337.408, F.S.; providing for public pay telephones and advertising thereon to be installed within the right-of-way limits of any municipal, county, or state road; amending s. 338.01, F.S.; requiring new and replacement electronic toll collection systems to be interoperable with the department's system; amending s. 338.165, F.S.; providing that provisions requiring the continuation of tolls following the discharge of bond indebtedness does not apply to high-occupancy toll lanes or express lanes; creating s. 338.166, F.S.; authorizing the department to request that bonds be issued which are secured by toll revenues from high-occupancy toll or express lanes in a specified location; providing for the department to continue to collect tolls after discharge of indebtedness; authorizing the use of excess toll revenues for improvements to

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the State Highway System; authorizing the implementation of variable rate tolls on high-occupancy toll lanes or express lanes; amending s. 338.2216, F.S.; directing the Florida Turnpike Enterprise to implement new technologies and processes in its operations and collection of tolls and other amounts; amending s. 338.231, F.S.; revising provisions for establishing and collecting tolls; authorizing the collection of amounts to cover costs of toll collection and payment methods; requiring public notice and hearing; amending s. 339.12, F.S.; revising requirements for aid and contributions by governmental entities for transportation projects; revising limits under which the department may enter into an agreement with a county for a project or project phase not in the adopted work program; authorizing the department to enter into certain long-term repayment agreements; amending s. 339.135, F.S.; revising certain notice provisions that require the Department of Transportation to notify local governments regarding amendments to an adopted 5-year work program; amending s. 339.2816, F.S., relating to the small county road assistance program; providing for resumption of certain funding for the program; revising the criteria for counties eligible to participate in the program; amending s. 348.0003, F.S.; requiring transportation, bridge, and toll authorities to comply with the financial disclosure requirements of the State Constitution; amending s. 479.01, F.S.; revising provisions for outdoor advertising; revising the definition of the term “automatic changeable facing”; amending s. 479.07, F.S.; revising a prohibition against signs on the State Highway System; revising requirements for display of the sign permit tag; directing the department to establish by rule a

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fee for furnishing a replacement permit tag; revising the pilot project for permitted signs to include Hillsborough County and areas within the boundaries of the City of Miami; amending s. 479.08, F.S.; revising provisions for denial or revocation of a sign permit; amending s. 479.156, F.S.; clarifying that a municipality or county is authorized to make a determination of customary use with respect to regulations governing commercial wall murals and that such determination must be accepted in lieu of any agreement between the state and the United States Department of Transportation; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; deleting provisions providing for permits to be awarded to the highest bidders; requiring the department to implement a rotation-based logo program; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for sign locations inside and outside an urban area; requiring the department to conduct a study of transportation alternatives for the Interstate 95 corridor and report to the Governor, the Legislature, and the affected metropolitan planning organizations; repealing part III of ch. 343 F.S., relating to the Tampa Bay Commuter Transit Authority; transferring any assets to the Tampa Bay Area Regional Transportation Authority; providing an effective date.