



# The Florida Senate

*Interim Project Report 2000-70*

*September 1999*

Committee on Transportation

Senator Roberto Casas, Chairman

## EVALUATION OF THE FDOT'S PROJECT SELECTION AND PRIORITIZATION PROCESS

### SUMMARY

The Florida Department of Transportation's project selection and prioritization process is, for the most part, dependant upon the statutorily mandated transportation planning process. The priorities for transportation projects are set by the entity which has authority over the funding.

Florida receives transportation funding from federal, state and local sources. Local sources of funding are normally project specific with little ability for the state to direct where the funds are spent. A portion of the federal and state transportation funds are specifically directed by law on how they are to be spent.

Because of limited funding and federal restrictions, some states have turned to innovative financing techniques which commit future transportation funds for current projects.

The Legislature should examine current statutory priorities and determine if such priorities are appropriate under the current funding allocations.

If other priorities are established, the Legislature should examine alternative forms of funding and leveraging. Such funding could be used as an inducement to local governments to support statewide transportation priorities.

The Legislature should also consider indexing local option gas taxes to the general rate of inflation.

### BACKGROUND

The Florida Department of Transportation's (FDOT) project selection and prioritization process is, for the most part, dependant upon the statutorily mandated transportation planning process. The priorities for

transportation projects are set by the entity having authority over the funding.

Florida Metropolitan Planning Organizations (MPO) have been involved in the transportation planning and prioritization process through interlocal agreements and public involvement since the early 1970's. The shift toward metropolitan planning began nationally in 1975 with the issuance of joint planning regulations by the Federal Highway Administration and the Urban Mass Transit Administration (now known as the Federal Transit Administration). The new regulations gave major responsibility for transportation planning to MPOs. The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), greatly expanded the role of MPOs in the transportation planning process and the Transportation Equity Act for the 21st Century (TEA-21) solidified the current process.

Florida's transportation planning and prioritization process is substantially the same as set forth in ISTEA and TEA-21 and is found in Chapter 339, F.S.

### METHODOLOGY

Staff met with FDOT on numerous occasions and worked with FDOT in defining its project selection and prioritization process along with its process for programmed funds. Staff reviewed federal and state highway funding practices and reviewed FDOT programs to determine which programs are legislatively mandated or agency policy. Staff attended the Florida Transportation Finance Workshop and participated in sessions which discussed innovative leveraging of transportation funds with state and national experts in the field. Staff also reviewed the leveraging techniques of other states.

### ***Project Planning Process***

In order to carry out transportation planning, federal law (23 USC Sec. 134) and state law (s. 339.175, F.S.) requires a MPO to be designated for each urbanized area of more than 50,000. This designation is accomplished by an agreement between the Governor and the local government which represents at least 75 percent of the population of that urbanized area. The boundaries of a MPO are determined by agreement between the Governor and the MPO.

The federal law also makes a distinction between metropolitan areas with a population of 200,000 or more. These areas are called transportation management areas (TMA) and such distinction offers these areas different forms of federal funding and more federal scrutiny of their transportation plans.

Voting membership for a MPO is determined on a geographic-population ratio basis by the Governor based upon agreement with local governments. A MPO may have no less than five members and no more than 19, and all MPO members must be elected local officials. However, if possible, no less than one-third of a MPO's membership must be county commissioners. Certain counties are authorized to reapportion the membership of the MPO to include more involvement from municipalities.

Federal and state laws establish many requirements for the MPO and statewide transportation planning and prioritization processes. Long and short-range transportation plans are required to be produced at the local and state level and must address a number of specific factors.

In particular, MPOs must develop annually a list of project priorities and a transportation improvement program (TIP) for all federally funded transportation projects and all other transportation projects within non-attainment areas for ozone or carbon monoxide. Those factors which must be considered by MPOs in developing the TIP are:

1. The consistency of transportation planning with applicable federal, state, and local energy conservation programs, goals, and objectives;
2. The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with all applicable short-term and long-term land use and development plans;

3. The preservation of rights-of-way for construction of future transportation projects, including the identification of unused rights-of-way that may be needed for future transportation corridors and the identification of corridors for which action is most needed to prevent destruction or loss;

4. The overall social, economic, energy, and environmental effects of transportation decisions; and

5. Available methods to expand or enhance transit services and increase the use of such services.

Further, each M.P.O. must provide for consideration of projects and strategies that will:

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

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

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

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

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

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

### ***Planning Documents Set Priorities***

The TIP is a short-term planning document covering at least three years, and it must be updated at least every two years by federal standards; however, Florida law requires the TIP to be updated every year.

The approved list of project priorities must be used by the FDOT in developing the projects' funding document (known as the work program) and must be used by the MPOs in developing the TIP.

The FDOT district office negotiates and develops a tentative work program with the affected MPOs in the district. The district must then hold a public hearing in

at least one urbanized area in the district and must make a presentation at a meeting of each MPO in the district to allow for suggestions concerning any deletions, additions or rescheduling of any projects in the tentative work program. If a MPO has a project rescheduled or deleted, the district secretary must notify the MPO in writing justifying the deletion or rescheduling.

If after the tentative work program is submitted to FDOT’s central office and if the MPO is not satisfied with the districts justification for rescheduling or deleting a project, the MPO may file an objection with the FDOT secretary. However, the secretary has the final word on which projects are deleted or rescheduled. The chart on page 4 illustrates the transportation project prioritization process.

Funding capabilities of the state for transportation projects limits FDOT’s priorities to implement the work program and to maintain the current infrastructure investment. Cities, towns, and unincorporated suburbs blend together into larger regions that are functionally interconnected. While traffic ignores jurisdictional boundaries, most decisions relating to transportation project priorities are made at the county level. Florida has few multi-county MPOs. The 2000 census may allow the creation of at least one new MPO in Florida. New MPOs mean additional priorities competing for limited funds. Federal law restricts how MPOs are apportioned, but does allow the executive branch to reapportion with the consent of the affected MPO.

**Project Funding**

Florida receives transportation funding from federal, state and local sources.

Local sources of funding are normally project specific with little ability for the state to direct where the funds are spent. The local governments have not all taken full advantage of the local option transportation taxes. Only 4 counties have enacted the full 12 cent option. Further, these taxes are not indexed to the general rate of inflation.

A portion of the federal and state transportation funds are specifically directed by law on how they are to be spent. For example, the total amount programmed for the Florida Intrastate Highway System (FIHS) in the five-year work program is \$2.683 billion. \$1.770 billion of those funds are non-flexible federal funds, and only \$190 million of the federal portion are flexible. State

funds contribute \$874 million to the FIHS, of which only \$335 million are flexible funds (See chart below).

<b><u>Intrastate Highways</u></b>	<i>(in Millions)</i>
Total Programmed:	\$2,683
Federal Funds:	\$1,770
Federal Funds not Flexible:	\$1,580
Federal Flexible Funds:	\$ 190
State Funds:	\$ 874
State Funds Not Flexible:	\$ 539
State Flexible Funds:	\$ 335
Local Funds:	\$ 39
Local Funds Not Flexible:	\$ 39
Local Flexible Funds:	\$ 0

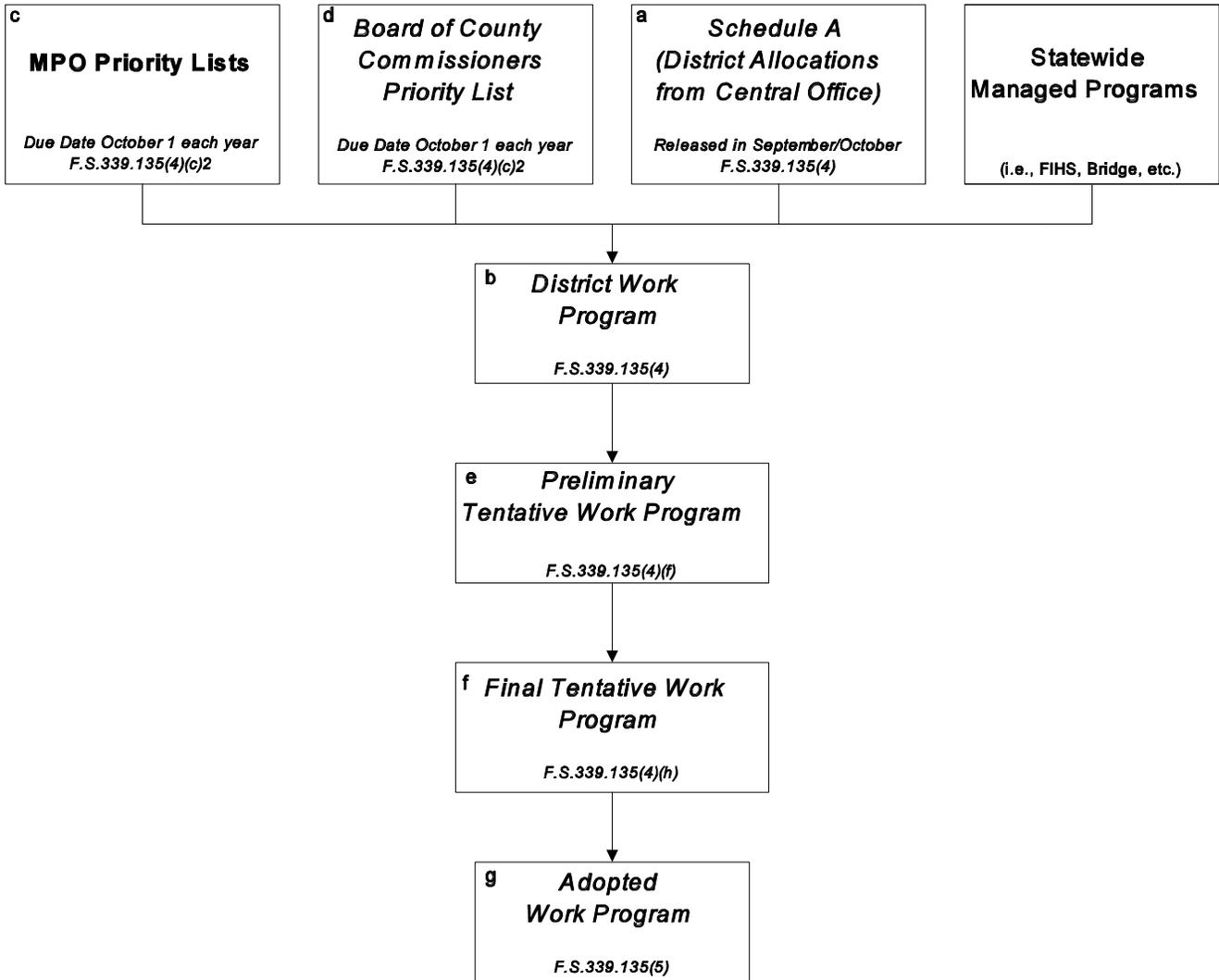
Funds are set aside for improving the FIHS traffic capacity by FDOT policy in addition to those federal funds specifically restricted for use on the Interstate System and toll supported funds restricted for use on the Florida Turnpike System. FDOT districts, by their choice, may also supplement this program using unrestricted funds distributed to them. Priorities are established by the 10 year cost feasible plan prepared by FDOT. There are over 30 different types of federal funds and 6 state funds which go into this program.

The flexible funds which are available to FDOT are committed to the FIHS because of the statutory charge to provide a statewide transportation network, the FIHS, that allows for high-speed and high-volume traffic movements within the state. Section 338.001(3) (a-f) provides:

(3) The department shall adhere to the following policy guidelines in the development of the proposed plan:

(a) Make capacity improvements to existing facilities where feasible to minimize costs and environmental impacts.

## Project Selection District Work Program



**NOTES**

- a) Allocations are based on F.S.339.135(4) and federal regulations.
- b) Information is analyzed. Projects are reviewed to ensure phases are properly scheduled and production constraints are reviewed. In addition, federal funds are reviewed to ensure that all projects programmed with federal funds meet federal guidelines. Projects are scheduled because a project can take several years to complete and the Department tries to avoid tying up funds unnecessarily for long periods of time. It is not unusual for a project to take seven or more years from concept to concrete. Public meetings are held with the local governments to work cooperatively with the various governments to include to the maximum extent feasible the local government priorities. In addition, prior to the submission of the District Work Program to the Central Office, each district office shall hold public hearings. F.S.339.135(4)(d). Districts continually monitor their district programs before and after building a new tentative program to ensure that the counties are receiving their fair share of the available funding.
- c) MPO's provide the Department with their priorities by October 1 of each year. These priorities are included in their Transportation Improvements Program (TIP). Per F.S.339.175(7)(f), the Department of Community Affairs reviews the annual TIP of each MPO for consistency with the approved local comprehensive plans. TIP is adopted July of each year.
- d) Per F.S.339.135(4)(c), the board of county commissions shall serve as the MPO in those counties which are not located in a MPO and shall be involved in the development of the District Work Program to the same extent as a MPO.
- e) Per F.S.339.135(e), following submission of each District Work Program, the Department shall develop the Tentative Work Program. The Tentative Work Program will include the District Work Programs and the statewide Work Program. In addition, the individual District Work Program is reviewed for compliance with Work Program Instructions prepared by the Department and the applicable federal and state laws.
- f) The Tentative Work Program is reviewed by DCA for consistency with approved local comprehensive plans, Department's Secretary, and Florida Transportation Commission. After the reviews are complete, the Department submits the Tentative Work Program to the Executive Office of the Governor and the Legislative Appropriations Committee.
- g) After the appropriations act is approved, the Tentative Work Program is adjusted as necessary. Specific line item appropriations for transportation projects in a district must be deducted from that district's allocation of new construction funds, F.S.339.135(5). In early July, the new Tentative Work Program is adopted by the Secretary. Once adopted, any proposed changes to the Adopted Work Program must be in compliance with F.S.339.135(7).

- (b) Identify appropriate arterial highways in major transportation corridors for inclusion in a program to bring these facilities up to controlled access facility standards.
- (c) Coordinate proposed system projects with appropriate limited access projects undertaken by expressway authorities and local governmental entities.
- (d) Maximize the use of limited access facility standards when constructing new arterial highways.
- (e) Identify appropriate new limited access highways for inclusion as a part of the Florida Turnpike System.
- (f) To the maximum extent feasible, ensure that proposed system projects are consistent with approved local government comprehensive plans of the local jurisdictions in which such facilities are to be located and with the transportation improvement program of any metropolitan planning organization in which such facilities are to be located.

The statute demonstrates the broad guidelines set for the FIHS by the Legislature. Therefore, while some of the funds available for this program are flexible, the FDOT considers them necessary to fulfill the statutory requirements. According to FDOT estimates, the cost of needed improvements to the FIHS total \$28 billion through 2010. Currently, according to FDOT standards, one-half of the FIHS mileage falls below minimum operating standards. Projected FIHS funding is expected to total only \$6 billion during this period, resulting in a shortfall of \$22 billion.

### ***National Funding Priorities***

National policy directions, as per TEA-21, are dictated through the federal funding process. Certain non-flexible funds which are distributed to Florida must be spent on particular programs. For example, Congestion Mitigation and Air Quality funds must be used in certain areas to improve air quality. However, such funds are not project specific and FDOT has flexibility on what projects these funds can be used within certain parameters.

### ***State Statutory Funding Priorities***

The state funds which are programmed by statute are essentially priorities set by the Legislature. The FIHS is one example of priorities set by the Legislature for FDOT, what follows are other statutory priorities.

Section 339.135, F.S., provides funds must be allocated on a needs basis for resurfacing, repair, replacement of bridges, routine maintenance of the State Highway System and other programs with quantitative needs assessments. Maintaining the current investment in the state's transportation infrastructure is a legislatively mandated priority for FDOT. Resurfacing is determined by an annual pavement condition survey, bridge maintenance is determined by bridge inspections, and other routine maintenance on the state highway system is determined by workload and a needs analysis.

The section also provides new construction funds must be distributed to FDOT districts by formula based on equal parts population and motor fuel tax collections. Further, specific line item appropriations for transportation projects in a district must be deducted from that district's allocation of new construction funds.

The section further provides at least 50 percent of any new discretionary highway capacity funds must be allocated to the FIHS.

Section 206.46, F.S., provides through fiscal year 1999-2000, a minimum of 14.3 percent of all state funds in the State Transportation Trust Fund (STTF) must be committed annually by FDOT for public transportation projects. Beginning in fiscal year 2000-2001, and each year thereafter, the percentage will increase to 15 percent. Public transportation programs include the Aviation, Public Transit, Rail and Intermodal Development Program.

Section 206.608, F.S., provides all proceeds from the State Comprehensive Enhanced Transportation System (SCETS) tax must be returned to be used in the county it was collected.

Section 320.20, F.S., allocates \$35 million annually to Florida seaports from the proceeds of license tax funds.

A system which is sensitive to local transportation needs and still able to promote state and regional priorities would be optimal. As stated earlier, the priorities for transportation projects are set by the entity which has authority over the funding. After the FDOT carries out the statutory responsibilities outlined in this report by allocating statutorily required funds and maintaining the current system the remaining priorities are largely set by local governments.

**Limited Leveraging Techniques**

Because of limited funding and federal restrictions, some states have turned to innovative financing techniques which commit future transportation funds for current projects.

Most transportation projects are funded from pay-as-you-go financing. The advantages to this payment system are there are no added costs associated with using current funds and it does not commit future funds. The disadvantages are no added leverage is gained above the current funds, enough funding for major projects is difficult, dealing with temporary cash needs may be difficult and projects which are a high priority for the state or region, but not for the local government could be set aside and forced to wait in line for funding.

Leveraging current transportation funds has been and may be used to advance projects which the Legislature, FDOT or MPOs find to be of a high priority but currently are either not in the 5-year work program or are in the work program but are in the latter years of that work program.

Most leveraging currently being implemented by FDOT and the Expressway Authorities is limited leveraging. Limited leveraging relates to funds that may form a small portion of the overall project funding, short-term borrowing (less than 5 years), or fund shifts to more flexible areas. This is commonly used to help solve temporary cash needs, meet production schedules or finish out the funding for a large project. Some disadvantages to leveraging are it obligates future funds and may add costs to a project through interest charges.

Below is a brief discussion of limited leveraging techniques.

**Advanced Construction**

The federal government allows states to begin a Federal-aid project using state funds and then convert to Federal-aid at a later date. Florida sets a level of advanced construction programming, now at about 15 percent of the Federal-aid program over 5-years (about \$1 billion).

**Local Government Loan Program**

Local governments may loan funds to the FDOT to advance a project forward in the existing work program. The local government is repaid by FDOT in the year the

project was originally scheduled in the work program. For fiscal years 1988-1999 a total of \$128,670,000 was loaned to FDOT by local governments to advance projects.

**Toll Facilities Revolving Trust Fund**

Toll roads in general are able to be built by leveraging future revenue.

The Toll Facilities Revolving Trust Fund provides interest free loans as seed money to pay initial project development costs for toll facilities. Since 1986, \$143 million has been awarded to Expressway authorities, and \$62.9 million has been repaid and revolved as new loans.

**State Infrastructure Bank**

A state infrastructure bank (SIB) is designed to be self-sustaining revolving loan fund operating like a bank. A SIB can be capitalized with state or federal seed money and can offer a menu of loan and credit enhancement assistance. The state, especially in a state funded SIB, can have more flexibility in project selection and financial management, and can provide a mechanism to significantly and permanently increase state financing capacity.

FDOT currently has a Federally funded SIB, but the uses of these funds are limited. TEA -21 authorized four pilot states for a state infrastructure bank including Florida, California, Rhode Island and Missouri. The current SIB is capitalized to date at \$57.6 million.

	SIB Loans (millions)	Total Project (millions)
Awards to Date	\$ 140.2	\$ 511.2
Awards Pending	\$ 72.7	\$2,052.9
Total	\$ 212.9	\$2,564.1

The large amount of the total project which the SIB contributed to is because the SIB has helped fill funding gaps for large transportation projects.

*Right of Way and Bridge Bonds*

Until July 1999, section 206.46, F.S., provided for the transfer of up to 6 percent of revenues deposited into the State Transportation Trust Fund annually, not to exceed \$115 million, to pay for debt service on Right-of-Way Acquisition and Bridge Construction Bonds. The Legislature approved use of bonds for advanced right of way acquisition in 1991 and bridge construction in 1994. Last Legislative session the cap was raised to 7 percent of revenues deposited into the State Transportation Trust Fund, and up to \$135 million annual debt service. This will generate about \$475 million of additional bond capacity, or about \$370 million net of debt service in the first 5 years. However, as stated earlier, the FDOT is not moving ahead with this option until the Governor's study is complete.

*GARVEE Bonds*

This past legislative session FDOT was authorized to use the Grant Anticipation Revenue bond program for Federal-Aid Highway Construction . This would authorize FDOT to borrow against future year apportionments of Federal funds for the payment of debt service on bonds issued to provide for costs of Federal-aid projects. The FDOT's Official Federal-Aid Forecasts estimates Florida will receive an average of \$1.24 billion of federal aid annually for highway transportation purposes during federal fiscal years 1999-2004. This provision will allow the pledge of up to 10 percent of future federal-aid funding as the repayment source of debt service on bonds to advance transportation projects. As with the Right of Way and Bridge Bonds enhancements, the FDOT is not moving

ahead with this option until the Governor's study is complete.

The Governor has shown some reservation at increasing FDOT's bonding capacity. In a letter dated June 22, 1999 to the FDOT Secretary, the Governor expressed these concerns specifically over the GARVEE bonds and the Fixed Guideway bonds. The Governor has called for a study of the state's debt, and FDOT is waiting for the results of the study before utilizing any new bond proceeds.

The state has currently not leveraged any Federal funds (100 percent pay-as-you-go). Five and one half percent of revenues deposited into the State Transportation Trust Fund are currently leveraged (94 and one half percent pay-as-you-go). GARVEE bonds would allow the FDOT to, for the first time, leverage future federal funds up to 10 percent.

**RECOMMENDATIONS**

The Legislature should consider indexing local option gas taxes to the general rate of inflation.

The Legislature should examine current statutory priorities and determine if such priorities are appropriate under the current funding allocations.

If other priorities are established, the Legislature should examine alternative forms of funding and leveraging. Such funding could be used as an inducement to local governments to support statewide transportation priorities.

**COMMITTEE(S) INVOLVED IN REPORT (Contact first committee for more information.)**

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**MEMBER OVERSIGHT**

Senators King and Lee