

2008682e1

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 requiring the department to conduct a study of
4 transportation alternatives for the Interstate 95
5 corridor; amending s. 20.23, F.S.; providing for the
6 salary and benefits of the executive director of the
7 Florida Transportation Commission to be set in accordance
8 with the Senior Management Service; amending s. 125.42,
9 F.S.; providing for counties to incur certain costs
10 related to relocation or removal of certain utility
11 facilities under specified circumstances; amending s.
12 163.3177, F.S.; revising requirements for comprehensive
13 plans; providing a timeframe for submission of certain
14 information to the state land planning agency; providing
15 for airports, land adjacent to airports, and certain
16 interlocal agreements relating thereto in certain elements
17 of the plan; amending s. 163.3178, F.S.; providing that
18 certain port-related facilities are not developments of
19 regional impact under certain circumstances; amending s.
20 163.3182, F.S., relating to transportation concurrency
21 backlog authorities; providing legislative findings and
22 declarations; expanding the power of authorities to borrow
23 money to include issuing certain debt obligations;
24 providing a maximum maturity date for certain debt
25 incurred to finance or refinance certain transportation
26 concurrency backlog projects; authorizing authorities to
27 continue operations and administer certain trust funds for
28 the period of the remaining outstanding debt; requiring
29 local transportation concurrency backlog trust funds to

2008682e1

30 continue to be funded for certain purposes; providing for
31 increased ad valorem tax increment funding for such trust
32 funds under certain circumstances; revising provisions for
33 dissolution of an authority; amending s. 287.055, F.S.;
34 conforming a cross-reference; amending s. 316.0741, F.S.;
35 redefining the term "hybrid vehicle"; authorizing the
36 driving of a hybrid, low-emission, or energy-efficient
37 vehicle in a high-occupancy-vehicle lane regardless of
38 occupancy; requiring certain vehicles to comply with
39 specified federal standards to be driven in an HOV lane
40 regardless of occupancy; revising provisions for issuance
41 of a decal and certificate; providing for the Department
42 of Highway Safety and Motor Vehicles to limit or
43 discontinue issuance of decals for the use of HOV
44 facilities by hybrid and low-emission and energy-efficient
45 vehicles under certain circumstances; directing the
46 department to review a specified federal rule and make a
47 report to the Legislature; exempting certain vehicles from
48 the payment of certain tolls; amending s. 316.193, F.S.;
49 revising the prohibition against driving under the
50 influence of alcohol; revising the blood-alcohol or
51 breath-alcohol level at which certain penalties apply;
52 revising requirement for placement of an ignition
53 interlock device; amending s. 316.302, F.S.; revising
54 references to rules, regulations, and criteria governing
55 commercial motor vehicles engaged in intrastate commerce;
56 providing that the department performs duties assigned to
57 the Field Administrator of the Federal Motor Carrier
58 Safety Administration under the federal rules and may

2008682e1

59 enforce those rules; amending ss. 316.613 and 316.614,
60 F.S.; revising the definition of "motor vehicle" for
61 purposes of child restraint and safety belt usage
62 requirements; amending s. 316.656, F.S.; revising the
63 prohibition against a judge accepting a plea to a lesser
64 offense from a person charged under certain DUI
65 provisions; revising the blood-alcohol or breath-alcohol
66 level at which the prohibition applies; amending s.
67 322.64, F.S.; providing that refusal to submit to a
68 breath, urine, or blood test disqualifies a person from
69 operating a commercial motor vehicle; providing a period
70 of disqualification if a person has an unlawful blood-
71 alcohol or breath-alcohol level; providing for issuance of
72 a notice of disqualification; revising the requirements
73 for a formal review hearing following a person's
74 disqualification from operating a commercial motor
75 vehicle; providing that a county, municipality, or special
76 district may not own or operate an asphalt plant or a
77 portable or stationary concrete batch plant having an
78 independent mixer; provides exemptions; amending s.
79 337.0261, F.S.; revising the sunset date for the Strategic
80 Aggregate Review Task Force; amending s. 337.11, F.S.;
81 providing for the department to pay a portion of certain
82 proposal development costs; requiring the department to
83 advertise certain contracts as design-build contracts;
84 amending ss. 337.14 and 337.16, F.S.; conforming cross-
85 references; amending s. 337.18, F.S.; requiring the
86 contractor to maintain a copy of the required payment and
87 performance bond at certain locations and provide a copy

2008682e1

88 upon request; providing that a copy may be obtained
89 directly from the department; removing a provision
90 requiring a copy be recorded in the public records of the
91 county; amending s. 337.185, F.S.; providing for the State
92 Arbitration Board to arbitrate certain claims relating to
93 maintenance contracts; providing for a member of the board
94 to be elected by maintenance companies as well as
95 construction companies; amending s. 337.403, F.S.;
96 providing for the department or local governmental entity
97 to pay certain costs of removal or relocation of a utility
98 facility that is found to be interfering with the use,
99 maintenance, improvement, extension, or expansion of a
100 public road or publicly owned rail corridor under
101 described circumstances; amending s. 337.408, F.S.;
102 providing for public pay telephones and advertising
103 thereon to be installed within the right-of-way limits of
104 any municipal, county, or state road; amending s. 338.01,
105 F.S.; requiring new and replacement electronic toll
106 collection systems to be interoperable with the
107 department's system; amending s. 338.165, F.S.; providing
108 that provisions requiring the continuation of tolls
109 following the discharge of bond indebtedness does not
110 apply to high-occupancy toll lanes or express lanes;
111 creating s. 338.166, F.S.; authorizing the department to
112 request that bonds be issued which are secured by toll
113 revenues from high-occupancy toll or express lanes in a
114 specified location; providing for the department to
115 continue to collect tolls after discharge of indebtedness;
116 authorizing the use of excess toll revenues for

2008682e1

117 improvements to the State Highway System; authorizing the
118 implementation of variable rate tolls on high-occupancy
119 toll lanes or express lanes; amending s. 338.2216, F.S.;
120 directing the Florida Turnpike Enterprise to implement new
121 technologies and processes in its operations and
122 collection of tolls and other amounts; providing contract
123 bid requirements for fuel and food on the turnpike system;
124 amending s. 338.223, F.S.; conforming a cross-reference;
125 amending s. 338.231, F.S.; revising provisions for
126 establishing and collecting tolls; authorizing collection
127 of amounts to cover costs of toll collection and payment
128 methods; requiring public notice and hearing; amending s.
129 339.12, F.S.; revising requirements for aid and
130 contributions by governmental entities for transportation
131 projects; revising limits under which the department may
132 enter into an agreement with a county for a project or
133 project phase not in the adopted work program; authorizing
134 the department to enter into certain long-term repayment
135 agreements; amending s. 339.135, F.S.; revising certain
136 notice provisions that require the Department of
137 Transportation to notify local governments regarding
138 amendments to an adopted 5-year work program; amending s.
139 339.155, F.S.; revising provisions for development of the
140 Florida Transportation Plan; amending s. 339.2816, F.S.,
141 relating to the small county road assistance program;
142 providing for resumption of certain funding for the
143 program; revising the criteria for counties eligible to
144 participate in the program; amending ss. 339.2819 and
145 339.285, F.S.; conforming cross-references; repealing part

2008682e1

146 III of ch. 343 F.S.; abolishing the Tampa Bay Commuter
147 Transit Authority; amending s. 348.0003, F.S.; providing
148 for financial disclosure for expressway, transportation,
149 bridge, and toll authorities; amending s. 348.0004, F.S.;
150 providing for certain expressway authorities to index toll
151 rate increases; amending s. 479.01, F.S.; revising
152 provisions for outdoor advertising; revising the
153 definition of the term "automatic changeable facing";
154 amending s. 479.07, F.S.; revising a prohibition against
155 signs on the State Highway System; revising requirements
156 for display of the sign permit tag; directing the
157 department to establish by rule a fee for furnishing a
158 replacement permit tag; revising the pilot project for
159 permitted signs to include Hillsborough County and areas
160 within the boundaries of the City of Miami; amending s.
161 479.08, F.S.; revising provisions for denial or revocation
162 of a sign permit; amending s. 479.156, F.S.; modifying
163 local government control of the regulation of wall murals
164 adjacent to certain federal highways; amending s. 479.261,
165 F.S.; revising requirements for the logo sign program of
166 the interstate highway system; deleting provisions
167 providing for permits to be awarded to the highest
168 bidders; requiring the department to implement a rotation-
169 based logo program; requiring the department to adopt
170 rules that set reasonable rates based on certain factors
171 for annual permit fees; requiring that such fees not
172 exceed a certain amount for sign locations inside and
173 outside an urban area; creating a business partnership
174 pilot program; authorizing the Palm Beach County School

2008682e1

175 District to display names of business partners on district
176 property in unincorporated areas; exempting the program
177 from specified provisions; authorizing the expenditure of
178 public funds for certain alterations of Old Cutler Road in
179 the Village of Palmetto Bay; requiring the official
180 approval of the Department of State before any alterations
181 may begin; amending s. 120.52, F.S.; revising a
182 definition; directing the Department of Transportation to
183 establish an approved transportation methodology for
184 certain purpose; providing requirements; providing
185 effective dates.

186
187 Be It Enacted by the Legislature of the State of Florida:

188
189 Section 1. The Department of Transportation, in
190 consultation with the Department of Law Enforcement, the Division
191 of Emergency Management of the Department of Community Affairs,
192 and the Office of Tourism, Trade, and Economic Development, and
193 regional planning councils within whose jurisdictional area the
194 I-95 corridor lies, shall complete a study of transportation
195 alternatives for the travel corridor parallel to Interstate 95
196 which takes into account the transportation, emergency
197 management, homeland security, and economic development needs of
198 the state. The report must include identification of cost-
199 effective measures that may be implemented to alleviate
200 congestion on Interstate 95, facilitate emergency and security
201 responses, and foster economic development. The Department of
202 Transportation shall send the report to the Governor, the
203 President of the Senate, the Speaker of the House of

2008682e1

204 Representatives, and each affected metropolitan planning
205 organization by June 30, 2009.

206 Section 2. Paragraph (h) of subsection (2) of section
207 20.23, Florida Statutes, is amended to read:

208 20.23 Department of Transportation.--There is created a
209 Department of Transportation which shall be a decentralized
210 agency.

211 (2)

212 (h) The commission shall appoint an executive director and
213 assistant executive director, who shall serve under the
214 direction, supervision, and control of the commission. The
215 executive director, with the consent of the commission, shall
216 employ such staff as are necessary to perform adequately the
217 functions of the commission, within budgetary limitations. All
218 employees of the commission are exempt from part II of chapter
219 110 and shall serve at the pleasure of the commission. The salary
220 and benefits of the executive director shall be set in accordance
221 with the Senior Management Service. The salaries and benefits of
222 all other employees of the commission shall be set in accordance
223 with the Selected Exempt Service; ~~provided, however, that~~ the
224 commission has ~~shall have~~ complete authority for fixing the
225 salary of the executive director and assistant executive
226 director.

227 Section 3. Subsection (5) of section 125.42, Florida
228 Statutes, is amended to read:

229 125.42 Water, sewage, gas, power, telephone, other utility,
230 and television lines along county roads and highways.--

231 (5) In the event of widening, repair, or reconstruction of
232 any such road, the licensee shall move or remove such water,

2008682e1

233 sewage, gas, power, telephone, and other utility lines and
234 television lines at no cost to the county except as provided in
235 s. 337.403(1)(e).

236 Section 4. Paragraphs (a), (h), and (j) of subsection (6)
237 of section 163.3177, Florida Statutes, are amended to read:

238 163.3177 Required and optional elements of comprehensive
239 plan; studies and surveys.--

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

243 (a) A future land use plan element designating proposed
244 future general distribution, location, and extent of the uses of
245 land for residential uses, commercial uses, industry,
246 agriculture, recreation, conservation, education, public
247 buildings and grounds, other public facilities, and other
248 categories of the public and private uses of land. Counties are
249 encouraged to designate rural land stewardship areas, pursuant to
250 the provisions of paragraph (11)(d), as overlays on the future
251 land use map. Each future land use category must be defined in
252 terms of uses included, and must include standards to be followed
253 in the control and distribution of population densities and
254 building and structure intensities. The proposed distribution,
255 location, and extent of the various categories of land use shall
256 be shown on a land use map or map series which shall be
257 supplemented by goals, policies, and measurable objectives. The
258 future land use plan shall be based upon surveys, studies, and
259 data regarding the area, including the amount of land required to
260 accommodate anticipated growth; the projected population of the
261 area; the character of undeveloped land; the availability of

2008682e1

262 water supplies, public facilities, and services; the need for
263 redevelopment, including the renewal of blighted areas and the
264 elimination of nonconforming uses which are inconsistent with the
265 character of the community; the compatibility of uses on lands
266 adjacent to or closely proximate to military installations; lands
267 adjacent to an airport as defined in s. 330.35 and consistent
268 with provisions in s. 333.02; and, in rural communities, the need
269 for job creation, capital investment, and economic development
270 that will strengthen and diversify the community's economy. The
271 future land use plan may designate areas for future planned
272 development use involving combinations of types of uses for which
273 special regulations may be necessary to ensure development in
274 accord with the principles and standards of the comprehensive
275 plan and this act. The future land use plan element shall include
276 criteria to be used to achieve the compatibility of adjacent or
277 closely proximate lands with military installations; lands
278 adjacent to an airport as defined in s. 330.35 and consistent
279 with provisions in s. 333.02. In addition, for rural communities,
280 the amount of land designated for future planned industrial use
281 shall be based upon surveys and studies that reflect the need for
282 job creation, capital investment, and the necessity to strengthen
283 and diversify the local economies, and shall not be limited
284 solely by the projected population of the rural community. The
285 future land use plan of a county may also designate areas for
286 possible future municipal incorporation. The land use maps or map
287 series shall generally identify and depict historic district
288 boundaries and shall designate historically significant
289 properties meriting protection. For coastal counties, the future
290 land use element must include, without limitation, regulatory

2008682e1

291 incentives and criteria that encourage the preservation of
292 recreational and commercial working waterfronts as defined in s.
293 342.07. The future land use element must clearly identify the
294 land use categories in which public schools are an allowable use.
295 When delineating the land use categories in which public schools
296 are an allowable use, a local government shall include in the
297 categories sufficient land proximate to residential development
298 to meet the projected needs for schools in coordination with
299 public school boards and may establish differing criteria for
300 schools of different type or size. Each local government shall
301 include lands contiguous to existing school sites, to the maximum
302 extent possible, within the land use categories in which public
303 schools are an allowable use. The failure by a local government
304 to comply with these school siting requirements will result in
305 the prohibition of the local government's ability to amend the
306 local comprehensive plan, except for plan amendments described in
307 s. 163.3187(1)(b), until the school siting requirements are met.
308 Amendments proposed by a local government for purposes of
309 identifying the land use categories in which public schools are
310 an allowable use are exempt from the limitation on the frequency
311 of plan amendments contained in s. 163.3187. The future land use
312 element shall include criteria that encourage the location of
313 schools proximate to urban residential areas to the extent
314 possible and shall require that the local government seek to
315 collocate public facilities, such as parks, libraries, and
316 community centers, with schools to the extent possible and to
317 encourage the use of elementary schools as focal points for
318 neighborhoods. For schools serving predominantly rural counties,
319 defined as a county with a population of 100,000 or fewer, an

2008682e1

320 agricultural land use category shall be eligible for the location
321 of public school facilities if the local comprehensive plan
322 contains school siting criteria and the location is consistent
323 with such criteria. Local governments required to update or amend
324 their comprehensive plan to include criteria and address
325 compatibility of lands adjacent to an airport as defined in s.
326 330.35 and consistent with provisions in s. 333.02 ~~adjacent or~~
327 ~~closely proximate lands with existing military installations in~~
328 their future land use plan element shall transmit the update or
329 amendment to the state land planning agency ~~department~~ by June
330 30, 2011 ~~2006~~.

331 (h)1. An intergovernmental coordination element showing
332 relationships and stating principles and guidelines to be used in
333 the accomplishment of coordination of the adopted comprehensive
334 plan with the plans of school boards, regional water supply
335 authorities, and other units of local government providing
336 services but not having regulatory authority over the use of
337 land, with the comprehensive plans of adjacent municipalities,
338 the county, adjacent counties, or the region, with the state
339 comprehensive plan and with the applicable regional water supply
340 plan approved pursuant to s. 373.0361, as the case may require
341 and as such adopted plans or plans in preparation may exist. This
342 element of the local comprehensive plan shall demonstrate
343 consideration of the particular effects of the local plan, when
344 adopted, upon the development of adjacent municipalities, the
345 county, adjacent counties, or the region, or upon the state
346 comprehensive plan, as the case may require.

347 a. The intergovernmental coordination element shall provide
348 ~~for~~ procedures to identify and implement joint planning areas,

2008682e1

349 especially for the purpose of annexation, municipal
350 incorporation, and joint infrastructure service areas.

351 b. The intergovernmental coordination element shall provide
352 for recognition of campus master plans prepared pursuant to s.
353 1013.30, and airport master plans pursuant to paragraph (k).

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

360 d. The intergovernmental coordination element shall provide
361 for interlocal agreements, as established pursuant to s.
362 333.03(1)(b).

363 2. The intergovernmental coordination element shall further
364 state principles and guidelines to be used in the accomplishment
365 of coordination of the adopted comprehensive plan with the plans
366 of school boards and other units of local government providing
367 facilities and services but not having regulatory authority over
368 the use of land. In addition, the intergovernmental coordination
369 element shall describe joint processes for collaborative planning
370 and decisionmaking on population projections and public school
371 siting, the location and extension of public facilities subject
372 to concurrency, and siting facilities with countywide
373 significance, including locally unwanted land uses whose nature
374 and identity are established in an agreement. Within 1 year of
375 adopting their intergovernmental coordination elements, each
376 county, all the municipalities within that county, the district
377 school board, and any unit of local government service providers

2008682e1

378 in that county shall establish by interlocal or other formal
379 agreement executed by all affected entities, the joint processes
380 described in this subparagraph consistent with their adopted
381 intergovernmental coordination elements.

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

387 4.a. Local governments must execute an interlocal agreement
388 with the district school board, the county, and nonexempt
389 municipalities pursuant to s. 163.31777. The local government
390 shall amend the intergovernmental coordination element to provide
391 that coordination between the local government and school board
392 is pursuant to the agreement and shall state the obligations of
393 the local government under the agreement.

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

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

404 6. By January 1, 2004, any county having a population
405 greater than 100,000, and the municipalities and special
406 districts within that county, shall submit a report to the

2008682e1

407 Department of Community Affairs which:

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

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

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

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

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

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

435 2. All alternative modes of travel, such as public

2008682e1

436 transportation, pedestrian, and bicycle travel.

437 3. Parking facilities.

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

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

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

445 7. Airports, projected airport and aviation development,
446 and land use compatibility around airports that includes areas
447 defined in ss. 333.01 and 333.02.

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

453 9. May include transportation corridors, as defined in s.
454 334.03, intended for future transportation facilities designated
455 pursuant to s. 337.273. If transportation corridors are
456 designated, the local government may adopt a transportation
457 corridor management ordinance.

458 Section 5. Subsection (3) of section 163.3178, Florida
459 Statutes, is amended to read:

460 163.3178 Coastal management.--

461 (3) Expansions to port harbors, spoil disposal sites,
462 navigation channels, turning basins, harbor berths, and other
463 related inwater harbor facilities of ports listed in s.
464 403.021(9); port transportation facilities and projects listed in

2008682e1

465 s. 311.07(3)(b); and intermodal transportation facilities
466 identified pursuant to s. 311.09(3) and facilities determined by
467 the Department of Community Affairs and applicable general
468 purpose local government to be port-related industrial or
469 commercial projects located within 3 miles of or in a port master
470 plan area which rely upon the utilization of port and intermodal
471 transportation facilities shall not be developments of regional
472 impact where such expansions, projects, or facilities are
473 consistent with comprehensive master plans that are in compliance
474 with this section.

475 Section 6. Paragraph (c) is added to subsection (2) of
476 section 163.3182, Florida Statutes, and paragraph (d) of
477 subsection (3), paragraph (a) of subsection (4), and subsections
478 (5) and (8) of that section are amended, to read:

479 163.3182 Transportation concurrency backlogs.--

480 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG
481 AUTHORITIES.--

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

2008682e1

494 the satisfaction of transportation concurrency standards are
495 paramount public purposes for the state and its counties and
496 municipalities.

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

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

517 (4) TRANSPORTATION CONCURRENCY BACKLOG PLANS.--

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

522 1. Identify all transportation facilities that have been

2008682e1

523 designated as deficient and require the expenditure of moneys to
524 upgrade, modify, or mitigate the deficiency.

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

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

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

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

2008682e1

552 transportation concurrency backlog plan remain to be completed or
553 until any debt incurred to finance or refinance the related
554 projects are no longer outstanding, whichever occurs later.

555 Beginning in the first fiscal year after the creation of the
556 authority, each local trust fund shall be funded by the proceeds
557 of an ad valorem tax increment collected within each
558 transportation concurrency backlog area to be determined annually
559 and shall be a minimum of 25 percent of the difference between
560 the amounts set forth in paragraphs (a) and (b), except that if
561 all of the affected taxing authorities agree pursuant to an
562 interlocal agreement, a particular local trust fund may be funded
563 by the proceeds of an ad valorem tax increment greater than 25
564 percent of the difference between the amounts set forth in
565 paragraphs (a) and (b):

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

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

579 (8) DISSOLUTION.--Upon completion of all transportation
580 concurrency backlog projects and repayment or defeasance of all

2008682e1

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

589 Section 7. Paragraph (c) of subsection (9) of section
590 287.055, Florida Statutes, is amended to read:

591 287.055 Acquisition of professional architectural,
592 engineering, landscape architectural, or surveying and mapping
593 services; definitions; procedures; contingent fees prohibited;
594 penalties.--

595 (9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.--

596 (c) Except as otherwise provided in s. 337.11~~(8)-(7)~~, the
597 Department of Management Services shall adopt rules for the award
598 of design-build contracts to be followed by state agencies. Each
599 other agency must adopt rules or ordinances for the award of
600 design-build contracts. Municipalities, political subdivisions,
601 school districts, and school boards shall award design-build
602 contracts by the use of a competitive proposal selection process
603 as described in this subsection, or by the use of a
604 qualifications-based selection process pursuant to subsections
605 (3), (4), and (5) for entering into a contract whereby the
606 selected firm will, subsequent to competitive negotiations,
607 establish a guaranteed maximum price and guaranteed completion
608 date. If the procuring agency elects the option of
609 qualifications-based selection, during the selection of the

2008682e1

610 design-build firm the procuring agency shall employ or retain a
611 licensed design professional appropriate to the project to serve
612 as the agency's representative. Procedures for the use of a
613 competitive proposal selection process must include as a minimum
614 the following:

615 1. The preparation of a design criteria package for the
616 design and construction of the public construction project.

617 2. The qualification and selection of no fewer than three
618 design-build firms as the most qualified, based on the
619 qualifications, availability, and past work of the firms,
620 including the partners or members thereof.

621 3. The criteria, procedures, and standards for the
622 evaluation of design-build contract proposals or bids, based on
623 price, technical, and design aspects of the public construction
624 project, weighted for the project.

625 4. The solicitation of competitive proposals, pursuant to a
626 design criteria package, from those qualified design-build firms
627 and the evaluation of the responses or bids submitted by those
628 firms based on the evaluation criteria and procedures established
629 prior to the solicitation of competitive proposals.

630 5. For consultation with the employed or retained design
631 criteria professional concerning the evaluation of the responses
632 or bids submitted by the design-build firms, the supervision or
633 approval by the agency of the detailed working drawings of the
634 project; and for evaluation of the compliance of the project
635 construction with the design criteria package by the design
636 criteria professional.

637 6. In the case of public emergencies, for the agency head
638 to declare an emergency and authorize negotiations with the best

2008682e1

639 qualified design-build firm available at that time.

640 Section 8. Section 316.0741, Florida Statutes, is amended
641 to read:

642 316.0741 High-occupancy-vehicle ~~High-occupancy vehicle~~
643 lanes.--

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

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

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

650 1. That draws propulsion energy from onboard sources of
651 stored energy which are both an internal combustion or heat
652 engine using combustible fuel and a rechargeable energy-storage
653 system; and

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

659 (2) The number of persons that must be in a vehicle to
660 qualify for legal use of the HOV lane and the hours during which
661 the lane will serve as an HOV lane, if it is not designated as
662 such on a full-time basis, must also be indicated on a traffic
663 control device.

664 (3) Except as provided in subsection (4), a vehicle may not
665 be driven in an HOV lane if the vehicle is occupied by fewer than
666 the number of occupants indicated by a traffic control device. A
667 driver who violates this section shall be cited for a moving

2008682e1

668 violation, punishable as provided in chapter 318.

669 (4) (a) Notwithstanding any other provision of this section,
670 an inherently low-emission vehicle (ILEV) that is certified and
671 labeled in accordance with federal regulations may be driven in
672 an HOV lane at any time, regardless of its occupancy. In
673 addition, upon the state's receipt of written notice from the
674 proper federal regulatory agency authorizing such use, a vehicle
675 defined as a hybrid vehicle under this section may be driven in
676 an HOV lane at any time, regardless of its occupancy.

677 (b) All eligible hybrid and all eligible other low-emission
678 and energy-efficient vehicles driven in an HOV lane must comply
679 with the minimum fuel economy standards in 23 U.S.C. s.
680 166(f) (3) (B).

681 (c) Upon issuance of the applicable Environmental
682 Protection Agency final rule pursuant to 23 U.S.C. s. 166(e),
683 relating to the eligibility of hybrid and other low-emission and
684 energy-efficient vehicles for operation in an HOV lane regardless
685 of occupancy, the Department of Transportation shall review the
686 rule and recommend to the Legislature any statutory changes
687 necessary for compliance with the federal rule. The department
688 shall provide its recommendations no later than 30 days following
689 issuance of the final rule.

690 (5) The department shall issue a decal and registration
691 certificate, to be renewed annually, reflecting the HOV lane
692 designation on ~~such~~ vehicles meeting the criteria in subsection
693 (4) authorizing driving in an HOV lane at any time ~~such use~~. The
694 department may charge a fee for a decal, not to exceed the costs
695 of designing, producing, and distributing each decal, or \$5,
696 whichever is less. The proceeds from sale of the decals shall be

2008682e1

697 deposited in the Highway Safety Operating Trust Fund. The
698 department may, for reasons of operation and management of HOV
699 facilities, limit or discontinue issuance of decals for the use
700 of HOV facilities by hybrid and low-emission and energy-efficient
701 vehicles, regardless of occupancy, if it has been determined by
702 the Department of Transportation that the facilities are degraded
703 as defined by 23 U.S.C. s. 166(d) (2).

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

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

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

714 ~~1. An internal combustion or heat engine using combustible~~
715 ~~fuel; and~~

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

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

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

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

723 (7) (6) The department may adopt rules necessary to
724 administer this section.

725 Section 9. Subsection (4) of section 316.193, Florida

2008682e1

726 Statutes, is amended to read:

727 316.193 Driving under the influence; penalties.--

728 (4) (a) Any person who is convicted of a violation of
729 subsection (1) and who has a blood-alcohol level or breath-
730 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is
731 convicted of a violation of subsection (1) and who at the time of
732 the offense was accompanied in the vehicle by a person under the
733 age of 18 years, shall be punished:

734 1.(a) By a fine of:

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

737 b.2. Not less than \$1,000 or more than \$2,000 for a second
738 conviction.

739 c.3. Not less than \$2,000 for a third or subsequent
740 conviction.

741 2.(b) By imprisonment for:

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

743 b.2. Not more than 12 months for a second conviction.

744 (b) For the purposes of this subsection, only the instant
745 offense is required to be a violation of subsection (1) by a
746 person who has a blood-alcohol level or breath-alcohol level of
747 0.15 ~~0.20~~ or higher.

748 (c) In addition to the penalties in subparagraphs (a)1. and
749 2. paragraphs (a) and (b), the court shall order the mandatory
750 placement, at the convicted person's sole expense, of an ignition
751 interlock device approved by the department in accordance with s.
752 316.1938 upon all vehicles that are individually or jointly
753 leased or owned and routinely operated by the convicted person
754 for not less than ~~up to~~ 6 continuous months for the first offense

2008682e1

755 and for not less than ~~at least~~ 2 continuous years for a second
756 offense, when the convicted person qualifies for a permanent or
757 restricted license. ~~The installation of such device may not occur~~
758 ~~before July 1, 2003.~~

759 Section 10. Effective October 1, 2008, paragraph (b) of
760 subsection (1) and subsections (6) and (8) of section 316.302,
761 Florida Statutes, are amended to read:

762 316.302 Commercial motor vehicles; safety regulations;
763 transporters and shippers of hazardous materials; enforcement.--

764 (1)

765 (b) Except as otherwise provided in this section, all
766 owners or drivers of commercial motor vehicles that are engaged
767 in intrastate commerce are subject to the rules and regulations
768 contained in 49 C.F.R. parts 382, 385, and 390-397, with the
769 exception of 49 C.F.R. s. 390.5 as it relates to the definition
770 of bus, as such rules and regulations existed on October 1, 2007
771 ~~2005~~.

772 (6) The state Department of Transportation shall perform
773 the duties that are assigned to the Field Administrator, Federal
774 Motor Carrier Safety Administration ~~Regional Federal Highway~~
775 ~~Administrator~~ under the federal rules, and an agent of that
776 department, as described in s. 316.545(9), may enforce those
777 rules.

778 (8) For the purpose of enforcing this section, any law
779 enforcement officer of the Department of Transportation or duly
780 appointed agent who holds a current safety inspector
781 certification from the Commercial Vehicle Safety Alliance may
782 require the driver of any commercial vehicle operated on the
783 highways of this state to stop and submit to an inspection of the

2008682e1

784 vehicle or the driver's records. If the vehicle or driver is
785 found to be operating in an unsafe condition, or if any required
786 part or equipment is not present or is not in proper repair or
787 adjustment, and the continued operation would present an unduly
788 hazardous operating condition, the officer may require the
789 vehicle or the driver to be removed from service pursuant to the
790 North American Standard ~~Uniform~~ Out-of-Service Criteria, until
791 corrected. However, if continuous operation would not present an
792 unduly hazardous operating condition, the officer may give
793 written notice requiring correction of the condition within 14
794 days.

795 (a) Any member of the Florida Highway Patrol or any law
796 enforcement officer employed by a sheriff's office or municipal
797 police department authorized to enforce the traffic laws of this
798 state pursuant to s. 316.640 who has reason to believe that a
799 vehicle or driver is operating in an unsafe condition may, as
800 provided in subsection (10), enforce the provisions of this
801 section.

802 (b) Any person who fails to comply with an officer's
803 request to submit to an inspection under this subsection commits
804 a violation of s. 843.02 if the person resists the officer
805 without violence or a violation of s. 843.01 if the person
806 resists the officer with violence.

807 Section 11. Subsection (2) of section 316.613, Florida
808 Statutes, is amended to read:

809 316.613 Child restraint requirements.--

810 (2) As used in this section, the term "motor vehicle" means
811 a motor vehicle as defined in s. 316.003 which ~~that~~ is operated
812 on the roadways, streets, and highways of the state. The term

2008682e1

813 does not include:

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

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

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

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

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

823 Section 12. Paragraph (a) of subsection (3) of section
824 316.614, Florida Statutes, is amended to read:

825 316.614 Safety belt usage.--

826 (3) As used in this section:

827 (a) "Motor vehicle" means a motor vehicle as defined in s.
828 316.003 which ~~that~~ is operated on the roadways, streets, and
829 highways of this state. The term does not include:

830 1. A school bus.

831 2. A bus used for the transportation of persons for
832 compensation.

833 3. A farm tractor or implement of husbandry.

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

836 5. A motorcycle, moped, or bicycle.

837 Section 13. Paragraph (a) of subsection (2) of section
838 316.656, Florida Statutes, is amended to read:

839 316.656 Mandatory adjudication; prohibition against
840 accepting plea to lesser included offense.--

841 (2)(a) No trial judge may accept a plea of guilty to a

2008682e1

842 lesser offense from a person charged under the provisions of this
843 act who has been given a breath or blood test to determine blood
844 or breath alcohol content, the results of which show a blood or
845 breath alcohol content by weight of 0.15 ~~0.20~~ percent or more.

846 Section 14. Section 322.64, Florida Statutes, is amended to
847 read:

848 322.64 Holder of commercial driver's license; persons
849 operating a commercial motor vehicle; driving with unlawful
850 blood-alcohol level; refusal to submit to breath, urine, or blood
851 test.--

852 (1)(a) A law enforcement officer or correctional officer
853 shall, on behalf of the department, disqualify from operating any
854 commercial motor vehicle a person who while operating or in
855 actual physical control of a commercial motor vehicle is arrested
856 for a violation of s. 316.193, relating to unlawful blood-alcohol
857 level or breath-alcohol level, or a person who has refused to
858 submit to a breath, urine, or blood test authorized by s. 322.63
859 arising out of the operation or actual physical control of a
860 commercial motor vehicle. A law enforcement officer or
861 correctional officer shall, on behalf of the department,
862 disqualify the holder of a commercial driver's license from
863 operating any commercial motor vehicle if the licenseholder,
864 while operating or in actual physical control of a motor vehicle,
865 is arrested for a violation of s. 316.193, relating to unlawful
866 blood-alcohol level or breath-alcohol level, or refused to submit
867 to a breath, urine, or blood test authorized by s. 322.63. Upon
868 disqualification of the person, the officer shall take the
869 person's driver's license and issue the person a 10-day temporary
870 permit for the operation of noncommercial vehicles only if the

2008682e1

871 person is otherwise eligible for the driving privilege and shall
872 issue the person a notice of disqualification. If the person has
873 been given a blood, breath, or urine test, the results of which
874 are not available to the officer at the time of the arrest, the
875 agency employing the officer shall transmit such results to the
876 department within 5 days after receipt of the results. If the
877 department then determines that the person ~~was arrested for a~~
878 ~~violation of s. 316.193 and that the person~~ had a blood-alcohol
879 level or breath-alcohol level of 0.08 or higher, the department
880 shall disqualify the person from operating a commercial motor
881 vehicle pursuant to subsection (3).

882 (b) The disqualification under paragraph (a) shall be
883 pursuant to, and the notice of disqualification shall inform the
884 driver of, the following:

885 1.a. The driver refused to submit to a lawful breath,
886 blood, or urine test and he or she is disqualified from operating
887 a commercial motor vehicle for a period of 1 year, for a first
888 refusal, or permanently, if he or she has previously been
889 disqualified as a result of a refusal to submit to such a test;
890 or

891 b. The driver was driving or in actual physical control of
892 a commercial motor vehicle, or any motor vehicle if the driver
893 holds a commercial driver's license, had an unlawful blood-
894 alcohol level or breath-alcohol level of 0.08 or higher, and his
895 or her driving privilege shall be disqualified for a period of 1
896 year for a first offense or permanently disqualified if his or
897 her driving privilege has been previously disqualified under this
898 section. ~~violated s. 316.193 by driving with an unlawful blood-~~
899 ~~alcohol level and he or she is disqualified from operating a~~

2008682e1

900 ~~commercial motor vehicle for a period of 6 months for a first~~
901 ~~offense or for a period of 1 year if he or she has previously~~
902 ~~been disqualified, or his or her driving privilege has been~~
903 ~~previously suspended, for a violation of s. 316.193.~~

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

907 3. The driver may request a formal or informal review of
908 the disqualification by the department within 10 days after the
909 date of ~~arrest or~~ issuance of the notice of disqualification,
910 ~~whichever is later.~~

911 4. The temporary permit issued at the time of ~~arrest or~~
912 disqualification expires ~~will expire~~ at midnight of the 10th day
913 following the date of disqualification.

914 5. The driver may submit to the department any materials
915 relevant to the disqualification ~~arrest.~~

916 (2) Except as provided in paragraph (1)(a), the law
917 enforcement officer shall forward to the department, within 5
918 days after the date of the ~~arrest or the~~ issuance of the notice
919 of disqualification, ~~whichever is later,~~ a copy of the notice of
920 disqualification, the driver's license of the person disqualified
921 ~~arrested,~~ and a ~~report of the arrest, including, if applicable,~~
922 an affidavit stating the officer's grounds for belief that the
923 person disqualified ~~arrested~~ was operating or in actual physical
924 control of a commercial motor vehicle, or holds a commercial
925 driver's license, and had an unlawful blood-alcohol or breath-
926 alcohol level in violation of s. 316.193; the results of any
927 breath or blood or urine test or an affidavit stating that a
928 breath, blood, or urine test was requested by a law enforcement

2008682e1

929 officer or correctional officer and that the person arrested
930 refused to submit; a copy of the notice of disqualification
931 ~~citation~~ issued to the person ~~arrested~~; and the officer's
932 description of the person's field sobriety test, if any. The
933 failure of the officer to submit materials within the 5-day
934 period specified in this subsection or subsection (1) does ~~shall~~
935 not affect the department's ability to consider any evidence
936 submitted at or prior to the hearing. The officer may also submit
937 a copy of a videotape of the field sobriety test or the attempt
938 to administer such test and a copy of the crash report, if any.

939 (3) If the department determines that the person arrested
940 should be disqualified from operating a commercial motor vehicle
941 pursuant to this section and if the notice of disqualification
942 has not already been served upon the person by a law enforcement
943 officer or correctional officer as provided in subsection (1),
944 the department shall issue a notice of disqualification and,
945 unless the notice is mailed pursuant to s. 322.251, a temporary
946 permit which expires 10 days after the date of issuance if the
947 driver is otherwise eligible.

948 (4) If the person disqualified ~~arrested~~ requests an
949 informal review pursuant to subparagraph (1)(b)3., the department
950 shall conduct the informal review by a hearing officer employed
951 by the department. Such informal review hearing shall consist
952 solely of an examination by the department of the materials
953 submitted by a law enforcement officer or correctional officer
954 and by the person disqualified ~~arrested~~, and the presence of an
955 officer or witness is not required.

956 (5) After completion of the informal review, notice of the
957 department's decision sustaining, amending, or invalidating the

2008682e1

958 disqualification must be provided to the person. Such notice must
959 be mailed to the person at the last known address shown on the
960 department's records, and to the address provided in the law
961 enforcement officer's report if such address differs from the
962 address of record, within 21 days after the expiration of the
963 temporary permit issued pursuant to subsection (1) or subsection
964 (3).

965 (6) (a) If the person disqualified ~~arrested~~ requests a
966 formal review, the department must schedule a hearing to be held
967 within 30 days after such request is received by the department
968 and must notify the person of the date, time, and place of the
969 hearing.

970 (b) Such formal review hearing shall be held before a
971 hearing officer employed by the department, and the hearing
972 officer shall be authorized to administer oaths, examine
973 witnesses and take testimony, receive relevant evidence, issue
974 subpoenas for the officers and witnesses identified in documents
975 as provided in subsection (2), regulate the course and conduct of
976 the hearing, and make a ruling on the disqualification. The
977 department and the person disqualified ~~arrested~~ may subpoena
978 witnesses, and the party requesting the presence of a witness
979 shall be responsible for the payment of any witness fees. If the
980 person who requests a formal review hearing fails to appear and
981 the hearing officer finds such failure to be without just cause,
982 the right to a formal hearing is waived ~~and the department shall~~
983 ~~conduct an informal review of the disqualification under~~
984 ~~subsection (4)~~.

985 (c) A party may seek enforcement of a subpoena under
986 paragraph (b) by filing a petition for enforcement in the circuit

2008682e1

987 court of the judicial circuit in which the person failing to
988 comply with the subpoena resides. A failure to comply with an
989 order of the court shall result in a finding of contempt of
990 court. However, a person shall not be in contempt while a
991 subpoena is being challenged.

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

996 (7) In a formal review hearing under subsection (6) or an
997 informal review hearing under subsection (4), the hearing officer
998 shall determine by a preponderance of the evidence whether
999 sufficient cause exists to sustain, amend, or invalidate the
1000 disqualification. The scope of the review shall be limited to the
1001 following issues:

1002 (a) If the person was disqualified from operating a
1003 commercial motor vehicle for driving with an unlawful blood-
1004 alcohol level ~~in violation of s. 316.193~~:

1005 1. Whether the arresting law enforcement officer had
1006 probable cause to believe that the person was driving or in
1007 actual physical control of a commercial motor vehicle, or any
1008 motor vehicle if the driver holds a commercial driver's license,
1009 in this state while he or she had any alcohol, chemical
1010 substances, or controlled substances in his or her body.

1011 ~~2. Whether the person was placed under lawful arrest for a~~
1012 ~~violation of s. 316.193.~~

1013 ~~2.3.~~ Whether the person had an unlawful blood-alcohol level
1014 or breath-alcohol level of 0.08 or higher ~~as provided in s.~~
1015 ~~316.193.~~

2008682e1

1016 (b) If the person was disqualified from operating a
1017 commercial motor vehicle for refusal to submit to a breath,
1018 blood, or urine test:

1019 1. Whether the law enforcement officer had probable cause
1020 to believe that the person was driving or in actual physical
1021 control of a commercial motor vehicle, or any motor vehicle if
1022 the driver holds a commercial driver's license, in this state
1023 while he or she had any alcohol, chemical substances, or
1024 controlled substances in his or her body.

1025 2. Whether the person refused to submit to the test after
1026 being requested to do so by a law enforcement officer or
1027 correctional officer.

1028 3. Whether the person was told that if he or she refused to
1029 submit to such test he or she would be disqualified from
1030 operating a commercial motor vehicle for a period of 1 year or,
1031 in the case of a second refusal, permanently.

1032 (8) Based on the determination of the hearing officer
1033 pursuant to subsection (7) for both informal hearings under
1034 subsection (4) and formal hearings under subsection (6), the
1035 department shall:

1036 (a) Sustain the disqualification for a period of 1 year for
1037 a first refusal, or permanently if such person has been
1038 previously disqualified from operating a commercial motor vehicle
1039 as a result of a refusal to submit to such tests. The
1040 disqualification period commences on the date of the arrest or
1041 issuance of the notice of disqualification, whichever is later.

1042 (b) Sustain the disqualification:

1043 1. For a period of 1 year if the person was driving or in
1044 actual physical control of a commercial motor vehicle, or any

2008682e1

1045 motor vehicle if the driver holds a commercial driver's license,
1046 and had an unlawful blood-alcohol level or breath-alcohol level
1047 of 0.08 or higher; or ~~6 months for a violation of s. 316.193 or~~
1048 ~~for a period of 1 year~~

1049 2. Permanently if the person has been previously
1050 disqualified from operating a commercial motor vehicle or his or
1051 her driving privilege has been previously suspended for driving
1052 or being in actual physical control of a commercial motor
1053 vehicle, or any motor vehicle if the driver holds a commercial
1054 driver's license, and had an unlawful blood-alcohol level or
1055 breath-alcohol level of 0.08 or higher ~~as a result of a violation~~
1056 ~~of s. 316.193.~~

1057
1058 The disqualification period commences on the date of the arrest
1059 or issuance of the notice of disqualification, ~~whichever is~~
1060 ~~later.~~

1061 (9) A request for a formal review hearing or an informal
1062 review hearing shall not stay the disqualification. If the
1063 department fails to schedule the formal review hearing to be held
1064 within 30 days after receipt of the request therefor, the
1065 department shall invalidate the disqualification. If the
1066 scheduled hearing is continued at the department's initiative,
1067 the department shall issue a temporary driving permit limited to
1068 noncommercial vehicles which is ~~shall be~~ valid until the hearing
1069 is conducted if the person is otherwise eligible for the driving
1070 privilege. Such permit shall not be issued to a person who sought
1071 and obtained a continuance of the hearing. The permit issued
1072 under this subsection shall authorize driving for business
1073 purposes ~~or employment use~~ only.

2008682e1

1074 (10) A person who is disqualified from operating a
1075 commercial motor vehicle under subsection (1) or subsection (3)
1076 is eligible for issuance of a license for business or employment
1077 purposes only under s. 322.271 if the person is otherwise
1078 eligible for the driving privilege. However, such business or
1079 employment purposes license shall not authorize the driver to
1080 operate a commercial motor vehicle.

1081 (11) The formal review hearing may be conducted upon a
1082 review of the reports of a law enforcement officer or a
1083 correctional officer, including documents relating to the
1084 administration of a breath test or blood test or the refusal to
1085 take either test. However, as provided in subsection (6), the
1086 driver may subpoena the officer or any person who administered or
1087 analyzed a breath or blood test.

1088 (12) The formal review hearing and the informal review
1089 hearing are exempt from the provisions of chapter 120. The
1090 department is authorized to adopt rules for the conduct of
1091 reviews under this section.

1092 (13) A person may appeal any decision of the department
1093 sustaining the disqualification from operating a commercial motor
1094 vehicle by a petition for writ of certiorari to the circuit court
1095 in the county wherein such person resides or wherein a formal or
1096 informal review was conducted pursuant to s. 322.31. However, an
1097 appeal shall not stay the disqualification. This subsection shall
1098 not be construed to provide for a de novo appeal.

1099 (14) The decision of the department under this section
1100 shall not be considered in any trial for a violation of s.
1101 316.193, s. 322.61, or s. 322.62, nor shall any written statement
1102 submitted by a person in his or her request for departmental

2008682e1

1103 review under this section be admissible into evidence against him
1104 or her in any such trial. The disposition of any related criminal
1105 proceedings shall not affect a disqualification imposed pursuant
1106 to this section.

1107 (15) This section does not preclude the suspension of the
1108 driving privilege pursuant to s. 322.2615. The driving privilege
1109 of a person who has been disqualified from operating a commercial
1110 motor vehicle also may be suspended for a violation of s.
1111 316.193.

1112 Section 15. Notwithstanding any law to the contrary, a
1113 county, municipality, or special district may not own or operate
1114 an asphalt plant or a portable or stationary concrete batch plant
1115 having an independent mixer; however, this prohibition does not
1116 apply to any county that owns or is under contract to purchase an
1117 asphalt plant as of April 15, 2008, and that furnishes its plant-
1118 generated asphalt solely for use by local governments or
1119 company's under contract with local governments for projects
1120 within the boundaries of such county. Sale of plant generated
1121 asphalt to private entities or local governments outside the
1122 boundaries of such county is prohibited.

1123 Section 16. Paragraph (g) of subsection (5) of section
1124 337.0261, Florida Statutes, is amended to read:

1125 337.0261 Construction aggregate materials.--

1126 (5) STRATEGIC AGGREGATES REVIEW TASK FORCE.--

1127 (g) The task force shall be dissolved on June 30, 2009 ~~July~~
1128 ~~1, 2008~~.

1129 Section 17. Subsection (7) of section 337.11, Florida
1130 Statutes, is amended to read:

1131 337.11 Contracting authority of department; bids; emergency

2008682e1

1132 repairs, supplemental agreements, and change orders; combined
1133 design and construction contracts; progress payments; records;
1134 requirements of vehicle registration.--

1135 (7) If the department determines that it is in the best
1136 interest of the public, the department may pay a stipend to
1137 unsuccessful firms who have submitted responsive proposals for
1138 construction or maintenance contracts. The decision and amount of
1139 a stipend will be based upon department analysis of the estimated
1140 proposal development costs and the anticipated degree of
1141 competition during the procurement process. Stipends shall be
1142 used to encourage competition and compensate unsuccessful firms
1143 for a portion of their proposal development costs. The department
1144 shall retain the right to use ideas from unsuccessful firms that
1145 accept a stipend.

1146 (8)~~(7)~~(a) If the head of the department determines that it
1147 is in the best interests of the public, the department may
1148 combine the design and construction phases of a building, a major
1149 bridge, a limited access facility, or a rail corridor project
1150 into a single contract. Such contract is referred to as a design-
1151 build contract. The department's goal shall be to procure up to
1152 25 percent of the construction contracts which add capacity in
1153 the 5-year adopted work program as design-build contracts by July
1154 1, 2013. Design-build contracts may be advertised and awarded
1155 notwithstanding the requirements of paragraph (3) (c). However,
1156 construction activities may not begin on any portion of such
1157 projects for which the department has not yet obtained title to
1158 the necessary rights-of-way and easements for the construction of
1159 that portion of the project has vested in the state or a local
1160 governmental entity and all railroad crossing and utility

2008682e1

1161 agreements have been executed. Title to rights-of-way shall be
1162 deemed to have vested in the state when the title has been
1163 dedicated to the public or acquired by prescription.

1164 (b) The department shall adopt by rule procedures for
1165 administering design-build contracts. Such procedures shall
1166 include, but not be limited to:

- 1167 1. Prequalification requirements.
- 1168 2. Public announcement procedures.
- 1169 3. Scope of service requirements.
- 1170 4. Letters of interest requirements.
- 1171 5. Short-listing criteria and procedures.
- 1172 6. Bid proposal requirements.
- 1173 7. Technical review committee.
- 1174 8. Selection and award processes.
- 1175 9. Stipend requirements.

1176 Section 18. Subsection (7) of section 337.14, Florida
1177 Statutes, is amended to read:

1178 337.14 Application for qualification; certificate of
1179 qualification; restrictions; request for hearing.--

1180 (7) No "contractor" as defined in s. 337.165(1)(d) or his
1181 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
1182 the department under this section may also qualify under s.
1183 287.055 or s. 337.105 to provide testing services, construction,
1184 engineering, and inspection services to the department. This
1185 limitation shall not apply to any design-build prequalification
1186 under s. 337.11(8)~~(7)~~.

1187 Section 19. Paragraph (a) of subsection (2) of section
1188 337.16, Florida Statutes, is amended to read:

1189 337.16 Disqualification of delinquent contractors from

2008682e1

1190 bidding; determination of contractor nonresponsibility; denial,
1191 suspension, and revocation of certificates of qualification;
1192 grounds; hearing.--

1193 (2) For reasons other than delinquency in progress, the
1194 department, for good cause, may determine any contractor not
1195 having a certificate of qualification nonresponsible for a
1196 specified period of time or may deny, suspend, or revoke any
1197 certificate of qualification. Good cause includes, but is not
1198 limited to, circumstances in which a contractor or the
1199 contractor's official representative:

1200 (a) Makes or submits to the department false, deceptive, or
1201 fraudulent statements or materials in any bid proposal to the
1202 department, any application for a certificate of qualification,
1203 any certification of payment pursuant to s. 337.11(11)~~(10)~~, or
1204 any administrative or judicial proceeding;

1205 Section 20. Paragraph (b) of subsection (1) of section
1206 337.18 is amended to read:

1207 337.18 Surety bonds for construction or maintenance
1208 contracts; requirement with respect to contract award; bond
1209 requirements; defaults; damage assessments.--

1210 (1)

1211 (b) Prior to beginning any work under the contract, the
1212 contractor shall maintain a copy of the payment and performance
1213 bond required under this section at its principal place of
1214 business and at the jobsite office, if one is established, and
1215 the contractor shall provide a copy of the payment and
1216 performance bond within 5 days after receipt of any written
1217 request therefor. A copy of the payment and performance bond
1218 required under this section may also be obtained directly from

2008682e1

1219 ~~the department via a request made pursuant to chapter 119. Upon~~
1220 ~~execution of the contract, and prior to beginning any work under~~
1221 ~~the contract, the contractor shall record in the public records~~
1222 ~~of the county where the improvement is located the payment and~~
1223 ~~performance bond required under this section.~~ A claimant shall
1224 have a right of action against the contractor and surety for the
1225 amount due him or her, including unpaid finance charges due under
1226 the claimant's contract. Such action shall not involve the
1227 department in any expense.

1228 Section 21. Subsections (1), (2), and (7) of section
1229 337.185, Florida Statutes, are amended to read:

1230 337.185 State Arbitration Board.--

1231 (1) To facilitate the prompt settlement of claims for
1232 additional compensation arising out of construction and
1233 maintenance contracts between the department and the various
1234 contractors with whom it transacts business, the Legislature does
1235 hereby establish the State Arbitration Board, referred to in this
1236 section as the "board." For the purpose of this section, "claim"
1237 shall mean the aggregate of all outstanding claims by a party
1238 arising out of a construction or maintenance contract. Every
1239 contractual claim in an amount up to \$250,000 per contract or, at
1240 the claimant's option, up to \$500,000 per contract or, upon
1241 agreement of the parties, up to \$1 million per contract that
1242 cannot be resolved by negotiation between the department and the
1243 contractor shall be arbitrated by the board after acceptance of
1244 the project by the department. As an exception, either party to
1245 the dispute may request that the claim be submitted to binding
1246 private arbitration. A court of law may not consider the
1247 settlement of such a claim until the process established by this

2008682e1

1248 section has been exhausted.

1249 (2) The board shall be composed of three members. One
1250 member shall be appointed by the head of the department, and one
1251 member shall be elected by those construction or maintenance
1252 companies who are under contract with the department. The third
1253 member shall be chosen by agreement of the other two members.
1254 Whenever the third member has a conflict of interest regarding
1255 affiliation with one of the parties, the other two members shall
1256 select an alternate member for that hearing. The head of the
1257 department may select an alternative or substitute to serve as
1258 the department member for any hearing or term. Each member shall
1259 serve a 2-year term. The board shall elect a chair, each term,
1260 who shall be the administrator of the board and custodian of its
1261 records.

1262 (7) The members of the board may receive compensation for
1263 the performance of their duties hereunder, from administrative
1264 fees received by the board, except that no employee of the
1265 department may receive compensation from the board. The
1266 compensation amount shall be determined by the board, but shall
1267 not exceed \$125 per hour, up to a maximum of \$1,000 per day for
1268 each member authorized to receive compensation. Nothing in this
1269 section shall prevent the member elected by construction or
1270 maintenance companies from being an employee of an association
1271 affiliated with the industry, even if the sole responsibility of
1272 that member is service on the board. Travel expenses for the
1273 industry member may be paid by an industry association, if
1274 necessary. The board may allocate funds annually for clerical and
1275 other administrative services.

1276 Section 22. Subsection (1) of section 337.403, Florida

2008682e1

1277 Statutes, is amended to read:

1278 337.403 Relocation of utility; expenses.--

1279 (1) Any utility heretofore or hereafter placed upon, under,
1280 over, or along any public road or publicly owned rail corridor
1281 that is found by the authority to be unreasonably interfering in
1282 any way with the convenient, safe, or continuous use, or the
1283 maintenance, improvement, extension, or expansion, of such public
1284 road or publicly owned rail corridor shall, upon 30 days' written
1285 notice to the utility or its agent by the authority, be removed
1286 or relocated by such utility at its own expense except as
1287 provided in paragraphs (a)-(f) ~~(a), (b), and (c)~~.

1288 (a) If the relocation of utility facilities, as referred to
1289 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627
1290 of the 84th Congress, is necessitated by the construction of a
1291 project on the federal-aid interstate system, including
1292 extensions thereof within urban areas, and the cost of such
1293 project is eligible and approved for reimbursement by the Federal
1294 Government to the extent of 90 percent or more under the Federal
1295 Aid Highway Act, or any amendment thereof, then in that event the
1296 utility owning or operating such facilities shall relocate such
1297 facilities upon order of the department, and the state shall pay
1298 the entire expense properly attributable to such relocation after
1299 deducting therefrom any increase in the value of the new facility
1300 and any salvage value derived from the old facility.

1301 (b) When a joint agreement between the department and the
1302 utility is executed for utility improvement, relocation, or
1303 removal work to be accomplished as part of a contract for
1304 construction of a transportation facility, the department may
1305 participate in those utility improvement, relocation, or removal

2008682e1

1306 costs that exceed the department's official estimate of the cost
1307 of such work by more than 10 percent. The amount of such
1308 participation shall be limited to the difference between the
1309 official estimate of all the work in the joint agreement plus 10
1310 percent and the amount awarded for this work in the construction
1311 contract for such work. The department may not participate in any
1312 utility improvement, relocation, or removal costs that occur as a
1313 result of changes or additions during the course of the contract.

1314 (c) When an agreement between the department and utility is
1315 executed for utility improvement, relocation, or removal work to
1316 be accomplished in advance of a contract for construction of a
1317 transportation facility, the department may participate in the
1318 cost of clearing and grubbing necessary to perform such work.

1319 (d) If the utility facility being removed or relocated was
1320 initially installed to exclusively serve the department, its
1321 tenants, or both the department and its tenants, the department
1322 shall bear the costs of removal or relocation of that utility
1323 facility. The department shall not be responsible, however, for
1324 bearing the cost of removal or relocation of any subsequent
1325 additions to that facility for the purpose of serving others.

1326 (e) If, pursuant to an agreement between a utility and the
1327 authority entered into after the effective date of this
1328 subsection, the utility conveys, subordinates, or relinquishes a
1329 compensable property right to the authority for the purpose of
1330 accommodating the acquisition or use of the right-of-way by the
1331 authority, without the agreement expressly addressing future
1332 responsibility for cost of removal or relocation of the utility,
1333 then the authority shall bear the cost of such removal or
1334 relocation. Nothing in this paragraph is intended to impair or

2008682e1

1335 restrict, or be used to interpret, the terms of any such
1336 agreement entered into prior to the effective date of this
1337 paragraph.

1338 (f) If the utility is an electric facility being relocated
1339 underground in order to enhance vehicular, bicycle, and
1340 pedestrian safety and in which ownership of the electric facility
1341 to be placed underground has been transferred from a private to a
1342 public utility within the past 5 years, the department shall
1343 incur all costs of the relocation.

1344 Section 23. Subsections (4) and (5) of section 337.408,
1345 Florida Statutes, are amended, subsection (7) is renumbered as
1346 subsection (8), and a new subsection (7) is added to that
1347 section, to read:

1348 337.408 Regulation of benches, transit shelters, street
1349 light poles, waste disposal receptacles, and modular news racks
1350 within rights-of-way.--

1351 (4) The department has the authority to direct the
1352 immediate relocation or removal of any bench, transit shelter,
1353 waste disposal receptacle, public pay telephone, or modular news
1354 rack which endangers life or property, except that transit bus
1355 benches which have been placed in service prior to April 1, 1992,
1356 are not required to comply with bench size and advertising
1357 display size requirements which have been established by the
1358 department prior to March 1, 1992. Any transit bus bench that was
1359 in service prior to April 1, 1992, may be replaced with a bus
1360 bench of the same size or smaller, if the bench is damaged or
1361 destroyed or otherwise becomes unusable. The department is
1362 authorized to adopt rules relating to the regulation of bench
1363 size and advertising display size requirements. If a municipality

2008682e1

1364 or county within which a bench is to be located has adopted an
1365 ordinance or other applicable regulation that establishes bench
1366 size or advertising display sign requirements different from
1367 requirements specified in department rule, the local government
1368 requirement shall be applicable within the respective
1369 municipality or county. Placement of any bench or advertising
1370 display on the National Highway System under a local ordinance or
1371 regulation adopted pursuant to this subsection shall be subject
1372 to approval of the Federal Highway Administration.

1373 (5) No bench, transit shelter, waste disposal receptacle,
1374 public pay telephone, or modular news rack, or advertising
1375 thereon, shall be erected or so placed on the right-of-way of any
1376 road which conflicts with the requirements of federal law,
1377 regulations, or safety standards, thereby causing the state or
1378 any political subdivision the loss of federal funds. Competition
1379 among persons seeking to provide bench, transit shelter, waste
1380 disposal receptacle, or modular news rack services or advertising
1381 on such benches, shelters, receptacles, or news racks may be
1382 regulated, restricted, or denied by the appropriate local
1383 government entity consistent with the provisions of this section.

1384 (7) Public pay telephones, including advertising displayed
1385 thereon, may be installed within the right-of-way limits of any
1386 municipal, county, or state road, except on a limited access
1387 highway, provided that such pay telephones are installed by a
1388 provider duly authorized and regulated by the Public Service
1389 Commission pursuant to s. 364.3375, that such pay telephones are
1390 operated in accordance with all applicable state and federal
1391 telecommunications regulations, and that written authorization
1392 has been given to a public pay telephone provider by the

2008682e1

1393 appropriate municipal or county government. Each advertisement
1394 shall be limited to a size no greater than 8 square feet and no
1395 public pay telephone booth shall display more than 3 such
1396 advertisements at any given time. No advertisements shall be
1397 allowed on public pay telephones located in rest areas, welcome
1398 centers, and other such facilities located on an interstate
1399 highway.

1400 Section 24. Subsection (6) is added to section 338.01,
1401 Florida Statutes, to read:

1402 338.01 Authority to establish and regulate limited access
1403 facilities.--

1404 (6) All new limited access facilities and existing
1405 transportation facilities on which new or replacement electronic
1406 toll collection systems are installed shall be interoperable with
1407 the department's electronic toll collection system.

1408 Section 25. Present subsections (7) and (8) of section
1409 338.165, Florida Statutes, are redesignated as subsections (8)
1410 and (9), respectively, and a new subsection (7) is added to that
1411 section, to read:

1412 338.165 Continuation of tolls.--

1413 (7) This section does not apply to high-occupancy toll
1414 lanes or express lanes.

1415 Section 26. Section 338.166, Florida Statutes, is created
1416 to read:

1417 338.166 High-occupancy toll lanes or express lanes.--

1418 (1) Under s. 11, Art. VII of the State Constitution, the
1419 department may request the Division of Bond Finance to issue
1420 bonds secured by toll revenues collected on high-occupancy toll
1421 lanes or express lanes located on Interstate 95 in Miami-Dade and

2008682e1

1422 Broward Counties.

1423 (2) The department may continue to collect the toll on the
1424 high-occupancy toll lanes or express lanes after the discharge of
1425 any bond indebtedness related to such project. All tolls so
1426 collected shall first be used to pay the annual cost of the
1427 operation, maintenance, and improvement of the high-occupancy
1428 toll lanes or express lanes project or associated transportation
1429 system.

1430 (3) Any remaining toll revenue from the high-occupancy toll
1431 lanes or express lanes shall be used by the department for the
1432 construction, maintenance, or improvement of any road on the
1433 State Highway System.

1434 (4) The department is authorized to implement variable rate
1435 tolls on high-occupancy toll lanes or express lanes.

1436 (5) Except for high-occupancy toll lanes or express lanes,
1437 tolls may not be charged for use of an interstate highway where
1438 tolls were not charged as of July 1, 1997.

1439 (6) This section does not apply to the turnpike system as
1440 defined under the Florida Turnpike Enterprise Law.

1441 Section 27. Paragraphs (d) and (e) are added to subsection
1442 (1) of section 338.2216, Florida Statutes, to read:

1443 338.2216 Florida Turnpike Enterprise; powers and
1444 authority.--

1445 (1)

1446 (d) The Florida Turnpike Enterprise is directed to pursue
1447 and implement new technologies and processes in its operations
1448 and collection of tolls and the collection of other amounts
1449 associated with road and infrastructure usage. Such technologies
1450 and processes shall include, without limitation, video billing

2008682e1

1451 and variable pricing.

1452 (e)1. The Florida Turnpike Enterprise shall not under any
1453 circumstances contract with any vendor for the retail sale of
1454 fuel along the Florida Turnpike if such contract is negotiated or
1455 bid together with any other contract, including, but not limited
1456 to, the retail sale of food, maintenance services, or
1457 construction, with the exception that any contract for the retail
1458 sale of fuel along the Florida Turnpike shall be bid and
1459 contracted together with the retail sale of food at any
1460 convenience store attached to the fuel station.

1461 2. All contracts related to service plazas, including, but
1462 not limited to, the sale of fuel, the retail sale of food,
1463 maintenance services, or construction, except for services
1464 provided as defined in s. 287.055(2) (a), awarded by the Florida
1465 Turnpike Enterprise shall be procured through individual
1466 competitive solicitations and awarded to the most cost-effective
1467 responder. This paragraph does not prohibit the award of more
1468 than one individual contract to a single vendor if he or she
1469 submits the most cost-effective response.

1470 Section 28. Paragraph (b) of subsection (1) of section
1471 338.223, Florida Statutes, is amended to read:

1472 338.223 Proposed turnpike projects.--

1473 (1)

1474 (b) Any proposed turnpike project or improvement shall be
1475 developed in accordance with the Florida Transportation Plan and
1476 the work program pursuant to s. 339.135. Turnpike projects that
1477 add capacity, alter access, affect feeder roads, or affect the
1478 operation of the local transportation system shall be included in
1479 the transportation improvement plan of the affected metropolitan

2008682e1

1480 planning organization. If such turnpike project does not fall
1481 within the jurisdiction of a metropolitan planning organization,
1482 the department shall notify the affected county and provide for
1483 public hearings in accordance with s. 339.155(5)~~(6)~~(c).

1484 Section 29. Section 338.231, Florida Statutes, is amended
1485 to read:

1486 338.231 Turnpike tolls, fixing; pledge of tolls and other
1487 revenues.--The department shall at all times fix, adjust, charge,
1488 and collect such tolls and amounts for the use of the turnpike
1489 system as are required in order to provide a fund sufficient with
1490 other revenues of the turnpike system to pay the cost of
1491 maintaining, improving, repairing, and operating such turnpike
1492 system; to pay the principal of and interest on all bonds issued
1493 to finance or refinance any portion of the turnpike system as the
1494 same become due and payable; and to create reserves for all such
1495 purposes.

1496 ~~(1) In the process of effectuating toll rate increases over~~
1497 ~~the period 1988 through 1992, the department shall, to the~~
1498 ~~maximum extent feasible, equalize the toll structure, within each~~
1499 ~~vehicle classification, so that the per mile toll rate will be~~
1500 ~~approximately the same throughout the turnpike system. New~~
1501 ~~turnpike projects may have toll rates higher than the uniform~~
1502 ~~system rate where such higher toll rates are necessary to qualify~~
1503 ~~the project in accordance with the financial criteria in the~~
1504 ~~turnpike law. Such higher rates may be reduced to the uniform~~
1505 ~~system rate when the project is generating sufficient revenues to~~
1506 ~~pay the full amount of debt service and operating and maintenance~~
1507 ~~costs at the uniform system rate. If, after 15 years of opening~~
1508 ~~to traffic, the annual revenue of a turnpike project does not~~

2008682e1

1509 ~~meet or exceed the annual debt service requirements and operating~~
1510 ~~and maintenance costs attributable to such project, the~~
1511 ~~department shall, to the maximum extent feasible, establish a~~
1512 ~~toll rate for the project which is higher than the uniform system~~
1513 ~~rate as necessary to meet such annual debt service requirements~~
1514 ~~and operating and maintenance costs. The department may, to the~~
1515 ~~extent feasible, establish a temporary toll rate at less than the~~
1516 ~~uniform system rate for the purpose of building patronage for the~~
1517 ~~ultimate benefit of the turnpike system. In no case shall the~~
1518 ~~temporary rate be established for more than 1 year. The~~
1519 ~~requirements of this subsection shall not apply when the~~
1520 ~~application of such requirements would violate any covenant~~
1521 ~~established in a resolution or trust indenture relating to the~~
1522 ~~issuance of turnpike bonds.~~

1523 (1)~~(2)~~ Notwithstanding any other provision of law, the
1524 department may defer the scheduled July 1, 1993, toll rate
1525 increase on the Homestead Extension of the Florida Turnpike until
1526 July 1, 1995. The department may also advance funds to the
1527 Turnpike General Reserve Trust Fund to replace estimated lost
1528 revenues resulting from this deferral. The amount advanced must
1529 be repaid within 12 years from the date of advance; however, the
1530 repayment is subordinate to all other debt financing of the
1531 turnpike system outstanding at the time repayment is due.

1532 (2)~~(3)~~ The department shall publish a proposed change in
1533 the toll rate for the use of an existing toll facility, in the
1534 manner provided for in s. 120.54, which will provide for public
1535 notice and the opportunity for a public hearing before the
1536 adoption of the proposed rate change. When the department is
1537 evaluating a proposed turnpike toll project under s. 338.223 and

2008682e1

1538 has determined that there is a high probability that the project
1539 will pass the test of economic feasibility predicated on proposed
1540 toll rates, the toll rate that is proposed to be charged after
1541 the project is constructed must be adopted during the planning
1542 and project development phase of the project, in the manner
1543 provided for in s. 120.54, including public notice and the
1544 opportunity for a public hearing. For such a new project, the
1545 toll rate becomes effective upon the opening of the project to
1546 traffic.

1547 (3) (a) ~~(4)~~ For the period July 1, 1998, through June 30,
1548 2017, the department shall, to the maximum extent feasible,
1549 program sufficient funds in the tentative work program such that
1550 the percentage of turnpike toll and bond financed commitments in
1551 Dade County, Broward County, and Palm Beach County as compared to
1552 total turnpike toll and bond financed commitments shall be at
1553 least 90 percent of the share of net toll collections
1554 attributable to users of the turnpike system in Dade County,
1555 Broward County, and Palm Beach County as compared to total net
1556 toll collections attributable to users of the turnpike system.
1557 The requirements of this subsection do not apply when the
1558 application of such requirements would violate any covenant
1559 established in a resolution or trust indenture relating to the
1560 issuance of turnpike bonds. The department at any time for
1561 economic considerations may establish lower temporary toll rates
1562 for a new or existing toll facility for a period not to exceed 1
1563 year, after which the toll rates promulgated under s. 120.54
1564 shall become effective.

1565 (b) The department shall also fix, adjust, charge, and
1566 collect such amounts needed to cover the costs of administering

2008682e1

1567 the different toll collection and payment methods and types of
1568 accounts being offered and utilized, in the manner provided for
1569 in s. 120.54, which will provide for public notice and the
1570 opportunity for a public hearing before adoption. Such amounts
1571 may stand alone, or be incorporated in a toll rate structure, or
1572 be a combination thereof.

1573 (4)~~(5)~~ When bonds are outstanding which have been issued to
1574 finance or refinance any turnpike project, the tolls and all
1575 other revenues derived from the turnpike system and pledged to
1576 such bonds shall be set aside as may be provided in the
1577 resolution authorizing the issuance of such bonds or the trust
1578 agreement securing the same. The tolls or other revenues or other
1579 moneys so pledged and thereafter received by the department are
1580 immediately subject to the lien of such pledge without any
1581 physical delivery thereof or further act. The lien of any such
1582 pledge is valid and binding as against all parties having claims
1583 of any kind in tort or contract or otherwise against the
1584 department irrespective of whether such parties have notice
1585 thereof. Neither the resolution nor any trust agreement by which
1586 a pledge is created need be filed or recorded except in the
1587 records of the department.

1588 (5)~~(6)~~ In each fiscal year while any of the bonds of the
1589 Broward County Expressway Authority series 1984 and series 1986-A
1590 remain outstanding, the department is authorized to pledge
1591 revenues from the turnpike system to the payment of principal and
1592 interest of such series of bonds and the operation and
1593 maintenance expenses of the Sawgrass Expressway, to the extent
1594 gross toll revenues of the Sawgrass Expressway are insufficient
1595 to make such payments. The terms of an agreement relative to the

2008682e1

1596 pledge of turnpike system revenue will be negotiated with the
1597 parties of the 1984 and 1986 Broward County Expressway Authority
1598 lease-purchase agreements, and subject to the covenants of those
1599 agreements. The agreement shall establish that the Sawgrass
1600 Expressway shall be subject to the planning, management, and
1601 operating control of the department limited only by the terms of
1602 the lease-purchase agreements. The department shall provide for
1603 the payment of operation and maintenance expenses of the Sawgrass
1604 Expressway until such agreement is in effect. This pledge of
1605 turnpike system revenues shall be subordinate to the debt service
1606 requirements of any future issue of turnpike bonds, the payment
1607 of turnpike system operation and maintenance expenses, and
1608 subject to provisions of any subsequent resolution or trust
1609 indenture relating to the issuance of such turnpike bonds.

1610 (6)~~(7)~~ The use and disposition of revenues pledged to bonds
1611 are subject to the provisions of ss. 338.22-338.241 and such
1612 regulations as the resolution authorizing the issuance of such
1613 bonds or such trust agreement may provide.

1614 Section 30. Subsection (4) of section 339.12, Florida
1615 Statutes, is amended to read:

1616 339.12 Aid and contributions by governmental entities for
1617 department projects; federal aid.--

1618 (4) (a) Prior to accepting the contribution of road bond
1619 proceeds, time warrants, or cash for which reimbursement is
1620 sought, the department shall enter into agreements with the
1621 governing body of the governmental entity for the project or
1622 project phases in accordance with specifications agreed upon
1623 between the department and the governing body of the governmental
1624 entity. The department in no instance is to receive from such

2008682e1

1625 governmental entity an amount in excess of the actual cost of the
1626 project or project phase. By specific provision in the written
1627 agreement between the department and the governing body of the
1628 governmental entity, the department may agree to reimburse the
1629 governmental entity for the actual amount of the bond proceeds,
1630 time warrants, or cash used on a highway project or project
1631 phases that are not revenue producing and are contained in the
1632 department's adopted work program, or any public transportation
1633 project contained in the adopted work program. Subject to
1634 appropriation of funds by the Legislature, the department may
1635 commit state funds for reimbursement of such projects or project
1636 phases. Reimbursement to the governmental entity for such a
1637 project or project phase must be made from funds appropriated by
1638 the Legislature, and reimbursement for the cost of the project or
1639 project phase is to begin in the year the project or project
1640 phase is scheduled in the work program as of the date of the
1641 agreement. Funds advanced pursuant to this section, which were
1642 originally designated for transportation purposes and so
1643 reimbursed to a county or municipality, shall be used by the
1644 county or municipality for any transportation expenditure
1645 authorized under s. 336.025(7). Also, cities and counties may
1646 receive funds from persons, and reimburse those persons, for the
1647 purposes of this section. Such persons may include, but are not
1648 limited to, those persons defined in s. 607.01401(19).

1649 (b) Prior to entering an agreement to advance a project or
1650 project phase pursuant to this subsection and subsection (5), the
1651 department shall first update the estimated cost of the project
1652 or project phase and certify that the estimate is accurate and
1653 consistent with the amount estimated in the adopted work program.

2008682e1

1654 If the original estimate and the updated estimate vary, the
1655 department shall amend the adopted work program according to the
1656 amendatory procedures for the work program set forth in s.
1657 339.135(7). The amendment shall reflect all corresponding
1658 increases and decreases to the affected projects within the
1659 adopted work program.

1660 (c) The department may enter into agreements under this
1661 subsection for a project or project phase not included in the
1662 adopted work program. As used in this paragraph, the term
1663 "project phase" means acquisition of rights-of-way, construction,
1664 construction inspection, and related support phases. The project
1665 or project phase must be a high priority of the governmental
1666 entity. Reimbursement for a project or project phase must be made
1667 from funds appropriated by the Legislature pursuant to s.
1668 339.135(5). All other provisions of this subsection apply to
1669 agreements entered into under this paragraph. The total amount of
1670 project agreements for projects or project phases not included in
1671 the adopted work program authorized by this paragraph may not at
1672 any time exceed \$250 ~~\$100~~ million. However, notwithstanding such
1673 \$250 ~~\$100~~ million limit and any similar limit in s. 334.30,
1674 project advances for any inland county with a population greater
1675 than 500,000 dedicating amounts equal to \$500 million or more of
1676 its Local Government Infrastructure Surtax pursuant to s.
1677 212.055(2) for improvements to the State Highway System which are
1678 included in the local metropolitan planning organization's or the
1679 department's long-range transportation plans shall be excluded
1680 from the calculation of the statewide limit of project advances.

1681 (d) The department may enter into agreements under this
1682 subsection with any county that has a population of 150,000 or

2008682e1

1683 less as determined by the most recent official estimate pursuant
1684 to s. 186.901 for a project or project phase not included in the
1685 adopted work program. As used in this paragraph, the term
1686 "project phase" means acquisition of rights-of-way, construction,
1687 construction inspection, and related support phases. The project
1688 or project phase must be a high priority of the governmental
1689 entity. Reimbursement for a project or project phase must be made
1690 from funds appropriated by the Legislature pursuant to s.
1691 339.135(5). All other provisions of this subsection apply to
1692 agreements entered into under this paragraph. The total amount of
1693 project agreements for projects or project phases not included in
1694 the adopted work program authorized by this paragraph may not at
1695 any time exceed \$200 million. The project must be included in the
1696 local government's adopted comprehensive plan. The department is
1697 authorized to enter into long-term repayment agreements of up to
1698 30 years.

1699 Section 31. Paragraph (d) of subsection (7) of section
1700 339.135, Florida Statutes, is amended to read:

1701 339.135 Work program; legislative budget request;
1702 definitions; preparation, adoption, execution, and amendment.--

1703 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--

1704 (d)1. Whenever the department proposes any amendment to the
1705 adopted work program, as defined in subparagraph (c)1. or
1706 subparagraph (c)3., which deletes or defers a construction phase
1707 on a capacity project, it shall notify each county affected by
1708 the amendment and each municipality within the county. The
1709 notification shall be issued in writing to the chief elected
1710 official of each affected county, each municipality within the
1711 county, and the chair of each affected metropolitan planning

2008682e1

1712 organization. Each affected county and each municipality in the
1713 county, is encouraged to coordinate with each other to determine
1714 how the amendment effects local concurrency management and
1715 regional transportation planning efforts. Each affected county,
1716 and each municipality within the county, shall have 14 days to
1717 provide written comments to the department regarding how the
1718 amendment will effect its respective concurrency management
1719 systems, including whether any development permits were issued
1720 contingent upon the capacity improvement, if applicable. After
1721 receipt of written comments from the affected local governments,
1722 the department shall include any written comments submitted by
1723 such local governments in its preparation of the proposed
1724 amendment.

1725 2. Following the 14-day comment period in subparagraph 1.,
1726 if applicable, whenever the department proposes any amendment to
1727 the adopted work program, which amendment is defined in
1728 subparagraph (c)1., subparagraph (c)2., subparagraph (c)3., or
1729 subparagraph (c)4., it shall submit the proposed amendment to the
1730 Governor for approval and shall immediately notify the chairs of
1731 the legislative appropriations committees, the chairs of the
1732 legislative transportation committees, and each member of the
1733 Legislature who represents a district affected by the proposed
1734 amendment. It shall also notify each metropolitan planning
1735 organization affected by the proposed amendment, and each unit of
1736 local government affected by the proposed amendment, unless it
1737 provided to each the notification required by subparagraph 1.
1738 Such proposed amendment shall provide a complete justification of
1739 the need for the proposed amendment.

1740 3.2. The Governor shall not approve a proposed amendment

2008682e1

1741 until 14 days following the notification required in subparagraph
1742 2. ~~1.~~

1743 4.3. If either of the chairs of the legislative
1744 appropriations committees or the President of the Senate or the
1745 Speaker of the House of Representatives objects in writing to a
1746 proposed amendment within 14 days following notification and
1747 specifies the reasons for such objection, the Governor shall
1748 disapprove the proposed amendment.

1749 Section 32. Section 339.155, Florida Statutes, is amended
1750 to read:

1751 339.155 Transportation planning.--

1752 (1) THE FLORIDA TRANSPORTATION PLAN.--The department shall
1753 develop ~~and annually update~~ a statewide transportation plan, to
1754 be known as the Florida Transportation Plan. The plan shall be
1755 designed so as to be easily read and understood by the general
1756 public. The purpose of the Florida Transportation Plan is to
1757 establish and define the state's long-range transportation goals
1758 and objectives to be accomplished over a period of at least 20
1759 years within the context of the State Comprehensive Plan, and any
1760 other statutory mandates and authorizations and based upon the
1761 prevailing principles of: preserving the existing transportation
1762 infrastructure; enhancing Florida's economic competitiveness; and
1763 improving travel choices to ensure mobility. The Florida
1764 Transportation Plan shall consider the needs of the entire state
1765 transportation system and examine the use of all modes of
1766 transportation to effectively and efficiently meet such needs.

1767 (2) SCOPE OF PLANNING PROCESS.--The department shall carry
1768 out a transportation planning process in conformance with s.
1769 334.046(1). ~~which provides for consideration of projects and~~

2008682e1

1770 ~~strategies that will:~~

1771 ~~(a) Support the economic vitality of the United States,~~
1772 ~~Florida, and the metropolitan areas, especially by enabling~~
1773 ~~global competitiveness, productivity, and efficiency;~~

1774 ~~(b) Increase the safety and security of the transportation~~
1775 ~~system for motorized and nonmotorized users;~~

1776 ~~(c) Increase the accessibility and mobility options~~
1777 ~~available to people and for freight;~~

1778 ~~(d) Protect and enhance the environment, promote energy~~
1779 ~~conservation, and improve quality of life;~~

1780 ~~(e) Enhance the integration and connectivity of the~~
1781 ~~transportation system, across and between modes throughout~~
1782 ~~Florida, for people and freight;~~

1783 ~~(f) Promote efficient system management and operation; and~~

1784 ~~(g) Emphasize the preservation of the existing~~
1785 ~~transportation system.~~

1786 (3) FORMAT, SCHEDULE, AND REVIEW.--The Florida
1787 Transportation Plan shall be a unified, concise planning document
1788 that clearly defines the state's long-range transportation goals
1789 and objectives ~~and documents the department's short-range~~
1790 ~~objectives developed to further such goals and objectives.~~ The
1791 plan shall:

1792 (a) Include a glossary that clearly and succinctly defines
1793 any and all phrases, words, or terms of art included in the plan,
1794 with which the general public may be unfamiliar. ~~and shall~~
1795 ~~consist of, at a minimum, the following components:~~

1796 (b) ~~(a)~~ Document A long-range component documenting the
1797 goals and long-term objectives necessary to implement the results
1798 of the department's findings from its examination of the

2008682e1

1799 prevailing principles and criteria provided under ~~listed in~~
1800 subsection (2) and s. 334.046(1). ~~The long-range component must~~

1801 (c) Be developed in cooperation with the metropolitan
1802 planning organizations and reconciled, to the maximum extent
1803 feasible, with the long-range plans developed by metropolitan
1804 planning organizations pursuant to s. 339.175. ~~The plan must also~~

1805 (d) Be developed in consultation with affected local
1806 officials in nonmetropolitan areas and with any affected Indian
1807 tribal governments. ~~The plan must~~

1808 (e) Provide an examination of transportation issues likely
1809 to arise during at least a 20-year period. ~~The long-range~~
1810 ~~component shall~~

1811 (f) Be updated at least once every 5 years, or more often
1812 as necessary, to reflect substantive changes to federal or state
1813 law.

1814 ~~(b) A short-range component documenting the short-term~~
1815 ~~objectives and strategies necessary to implement the goals and~~
1816 ~~long-term objectives contained in the long-range component. The~~
1817 ~~short-range component must define the relationship between the~~
1818 ~~long-range goals and the short-range objectives, specify those~~
1819 ~~objectives against which the department's achievement of such~~
1820 ~~goals will be measured, and identify transportation strategies~~
1821 ~~necessary to efficiently achieve the goals and objectives in the~~
1822 ~~plan. It must provide a policy framework within which the~~
1823 ~~department's legislative budget request, the strategic~~
1824 ~~information resource management plan, and the work program are~~
1825 ~~developed. The short-range component shall serve as the~~
1826 ~~department's annual agency strategic plan pursuant to s. 186.021.~~
1827 ~~The short-range component shall be developed consistent with~~

2008682e1

1828 ~~available and forecasted state and federal funds. The short-range~~
1829 ~~component shall also be submitted to the Florida Transportation~~
1830 ~~Commission.~~

1831 ~~(4) ANNUAL PERFORMANCE REPORT. The department shall~~
1832 ~~develop an annual performance report evaluating the operation of~~
1833 ~~the department for the preceding fiscal year. The report shall~~
1834 ~~also include a summary of the financial operations of the~~
1835 ~~department and shall annually evaluate how well the adopted work~~
1836 ~~program meets the short-term objectives contained in the short-~~
1837 ~~range component of the Florida Transportation Plan. This~~
1838 ~~performance report shall be submitted to the Florida~~
1839 ~~Transportation Commission and the legislative appropriations and~~
1840 ~~transportation committees.~~

1841 ~~(4)~~(5) ADDITIONAL TRANSPORTATION PLANS.--

1842 (a) Upon request by local governmental entities, the
1843 department may in its discretion develop and design
1844 transportation corridors, arterial and collector streets,
1845 vehicular parking areas, and other support facilities which are
1846 consistent with the plans of the department for major
1847 transportation facilities. The department may render to local
1848 governmental entities or their planning agencies such technical
1849 assistance and services as are necessary so that local plans and
1850 facilities are coordinated with the plans and facilities of the
1851 department.

1852 (b) Each regional planning council, as provided for in s.
1853 186.504, or any successor agency thereto, shall develop, as an
1854 element of its strategic regional policy plan, transportation
1855 goals and policies. The transportation goals and policies must be
1856 prioritized to comply with the prevailing principles provided in

2008682e1

1857 subsection (2) and s. 334.046(1). The transportation goals and
1858 policies shall be consistent, to the maximum extent feasible,
1859 with the goals and policies of the metropolitan planning
1860 organization and the Florida Transportation Plan. The
1861 transportation goals and policies of the regional planning
1862 council will be advisory only and shall be submitted to the
1863 department and any affected metropolitan planning organization
1864 for their consideration and comments. Metropolitan planning
1865 organization plans and other local transportation plans shall be
1866 developed consistent, to the maximum extent feasible, with the
1867 regional transportation goals and policies. The regional planning
1868 council shall review urbanized area transportation plans and any
1869 other planning products stipulated in s. 339.175 and provide the
1870 department and respective metropolitan planning organizations
1871 with written recommendations which the department and the
1872 metropolitan planning organizations shall take under advisement.
1873 Further, the regional planning councils shall directly assist
1874 local governments which are not part of a metropolitan area
1875 transportation planning process in the development of the
1876 transportation element of their comprehensive plans as required
1877 by s. 163.3177.

1878 (c) Regional transportation plans may be developed in
1879 regional transportation areas in accordance with an interlocal
1880 agreement entered into pursuant to s. 163.01 by two or more
1881 contiguous metropolitan planning organizations; one or more
1882 metropolitan planning organizations and one or more contiguous
1883 counties, none of which is a member of a metropolitan planning
1884 organization; a multicounty regional transportation authority
1885 created by or pursuant to law; two or more contiguous counties

2008682e1

1886 that are not members of a metropolitan planning organization; or
1887 metropolitan planning organizations comprised of three or more
1888 counties.

1889 (d) The interlocal agreement must, at a minimum, identify
1890 the entity that will coordinate the development of the regional
1891 transportation plan; delineate the boundaries of the regional
1892 transportation area; provide the duration of the agreement and
1893 specify how the agreement may be terminated, modified, or
1894 rescinded; describe the process by which the regional
1895 transportation plan will be developed; and provide how members of
1896 the entity will resolve disagreements regarding interpretation of
1897 the interlocal agreement or disputes relating to the development
1898 or content of the regional transportation plan. Such interlocal
1899 agreement shall become effective upon its recordation in the
1900 official public records of each county in the regional
1901 transportation area.

1902 (e) The regional transportation plan developed pursuant to
1903 this section must, at a minimum, identify regionally significant
1904 transportation facilities located within a regional
1905 transportation area and contain a prioritized list of regionally
1906 significant projects. The level-of-service standards for
1907 facilities to be funded under this subsection shall be adopted by
1908 the appropriate local government in accordance with s.
1909 163.3180(10). The projects shall be adopted into the capital
1910 improvements schedule of the local government comprehensive plan
1911 pursuant to s. 163.3177(3).

1912 (5) ~~(6)~~ PROCEDURES FOR PUBLIC PARTICIPATION IN
1913 TRANSPORTATION PLANNING.--

1914 (a) During the development of the ~~long range component of~~

2008682e1

1915 ~~the~~ Florida Transportation Plan and prior to substantive
1916 revisions, the department shall provide citizens, affected public
1917 agencies, representatives of transportation agency employees,
1918 other affected employee representatives, private providers of
1919 transportation, and other known interested parties with an
1920 opportunity to comment on the proposed plan or revisions. These
1921 opportunities shall include, at a minimum, publishing a notice in
1922 the Florida Administrative Weekly and within a newspaper of
1923 general circulation within the area of each department district
1924 office.

1925 (b) During development of major transportation
1926 improvements, such as those increasing the capacity of a facility
1927 through the addition of new lanes or providing new access to a
1928 limited or controlled access facility or construction of a
1929 facility in a new location, the department shall hold one or more
1930 hearings prior to the selection of the facility to be provided;
1931 prior to the selection of the site or corridor of the proposed
1932 facility; and prior to the selection of and commitment to a
1933 specific design proposal for the proposed facility. Such public
1934 hearings shall be conducted so as to provide an opportunity for
1935 effective participation by interested persons in the process of
1936 transportation planning and site and route selection and in the
1937 specific location and design of transportation facilities. The
1938 various factors involved in the decision or decisions and any
1939 alternative proposals shall be clearly presented so that the
1940 persons attending the hearing may present their views relating to
1941 the decision or decisions which will be made.

1942 (c) Opportunity for design hearings:

1943 1. The department, prior to holding a design hearing, shall

2008682e1

1944 | duly notify all affected property owners of record, as recorded
1945 | in the property appraiser's office, by mail at least 20 days
1946 | prior to the date set for the hearing. The affected property
1947 | owners shall be:

1948 | a. Those whose property lies in whole or in part within 300
1949 | feet on either side of the centerline of the proposed facility.

1950 | b. Those whom the department determines will be
1951 | substantially affected environmentally, economically, socially,
1952 | or safetywise.

1953 | 2. For each subsequent hearing, the department shall
1954 | publish notice prior to the hearing date in a newspaper of
1955 | general circulation for the area affected. These notices must be
1956 | published twice, with the first notice appearing at least 15
1957 | days, but no later than 30 days, before the hearing.

1958 | 3. A copy of the notice of opportunity for the hearing must
1959 | be furnished to the United States Department of Transportation
1960 | and to the appropriate departments of the state government at the
1961 | time of publication.

1962 | 4. The opportunity for another hearing shall be afforded in
1963 | any case when proposed locations or designs are so changed from
1964 | those presented in the notices specified above or at a hearing as
1965 | to have a substantially different social, economic, or
1966 | environmental effect.

1967 | 5. The opportunity for a hearing shall be afforded in each
1968 | case in which the department is in doubt as to whether a hearing
1969 | is required.

1970 | Section 33. Subsection (3) and paragraphs (b) and (c) of
1971 | subsection (4) of section 339.2816, Florida Statutes, are amended
1972 | to read:

2008682e1

1973 339.2816 Small County Road Assistance Program.--
1974 (3) Beginning with fiscal year 1999-2000 until fiscal year
1975 2009-2010, and beginning again with fiscal year 2012-2013, up to
1976 \$25 million annually from the State Transportation Trust Fund may
1977 be used for the purposes of funding the Small County Road
1978 Assistance Program as described in this section.

1979 (4)

1980 (b) In determining a county's eligibility for assistance
1981 under this program, the department may consider whether the
1982 county has attempted to keep county roads in satisfactory
1983 condition, including the amount of local option fuel tax ~~and ad~~
1984 ~~valorem millage rate~~ imposed by the county. The department may
1985 also consider the extent to which the county has offered to
1986 provide a match of local funds with state funds provided under
1987 the program. At a minimum, small counties shall be eligible only
1988 if:

1989 ~~1. The county has enacted the maximum rate of the local~~
1990 ~~option fuel tax authorized by s. 336.025(1) (a) .7, and has imposed~~
1991 ~~an ad valorem millage rate of at least 8 mills; or~~

1992 ~~2. The county has imposed an ad valorem millage rate of 10~~
1993 ~~mills.~~

1994 (c) The following criteria shall be used to prioritize road
1995 projects for funding under the program:

1996 1. The primary criterion is the physical condition of the
1997 road as measured by the department.

1998 2. As secondary criteria the department may consider:

1999 a. Whether a road is used as an evacuation route.

2000 b. Whether a road has high levels of agricultural travel.

2001 c. Whether a road is considered a major arterial route.

2008682e1

2002 d. Whether a road is considered a feeder road.

2003 e. Whether a road is located in a fiscally constrained
2004 county, as defined in s. 218.67(1).

2005 ~~f.e.~~ Other criteria related to the impact of a project on
2006 the public road system or on the state or local economy as
2007 determined by the department.

2008 Section 34. Subsections (1) and (3) of section 339.2819,
2009 Florida Statutes, are amended to read:

2010 339.2819 Transportation Regional Incentive Program.--

2011 (1) There is created within the Department of
2012 Transportation a Transportation Regional Incentive Program for
2013 the purpose of providing funds to improve regionally significant
2014 transportation facilities in regional transportation areas
2015 created pursuant to s. 339.155(4)~~(5)~~.

2016 (3) The department shall allocate funding available for the
2017 Transportation Regional Incentive Program to the districts based
2018 on a factor derived from equal parts of population and motor fuel
2019 collections for eligible counties in regional transportation
2020 areas created pursuant to s. 339.155(4)~~(5)~~.

2021 Section 35. Subsection (6) of section 339.285, Florida
2022 Statutes, is amended to read:

2023 339.285 Enhanced Bridge Program for Sustainable
2024 Transportation.--

2025 (6) Preference shall be given to bridge projects located on
2026 corridors that connect to the Strategic Intermodal System,
2027 created under s. 339.64, and that have been identified as
2028 regionally significant in accordance with s. 339.155(4)~~(5)~~(c),
2029 (d), and (e).

2030 Section 36. Part III of chapter 343, Florida Statutes,

2008682e1

2031 consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75,
2032 343.76, and 343.77, is repealed.

2033 Section 37. Subsection (4) of section 348.0003, Florida
2034 Statutes, is amended to read:

2035 348.0003 Expressway authority; formation; membership.--

2036 (4) (a) An authority may employ an executive secretary, an
2037 executive director, its own counsel and legal staff, technical
2038 experts, and such engineers and employees, permanent or
2039 temporary, as it may require and shall determine the
2040 qualifications and fix the compensation of such persons, firms,
2041 or corporations. An authority may employ a fiscal agent or
2042 agents; however, the authority must solicit sealed proposals from
2043 at least three persons, firms, or corporations for the
2044 performance of any services as fiscal agents. An authority may
2045 delegate to one or more of its agents or employees such of its
2046 power as it deems necessary to carry out the purposes of the
2047 Florida Expressway Authority Act, subject always to the
2048 supervision and control of the authority. Members of an authority
2049 may be removed from office by the Governor for misconduct,
2050 malfeasance, misfeasance, or nonfeasance in office.

2051 (b) Members of an authority are entitled to receive from
2052 the authority their travel and other necessary expenses incurred
2053 in connection with the business of the authority as provided in
2054 s. 112.061, but they may not draw salaries or other compensation.

2055 (c) Members of each expressway an authority, transportation
2056 authority, bridge authority, or toll authority, created pursuant
2057 to this chapter, chapter 343, or chapter 349, or pursuant to any
2058 other legislative enactment, shall be required to comply with the
2059 applicable financial disclosure requirements of s. 8, Art. II of

2008682e1

2060 the State Constitution. This subsection does not subject a
2061 statutorily created expressway authority, transportation
2062 authority, bridge authority, or toll authority, other than one
2063 created under this part, to any of the requirements of this part
2064 other than those contained in this subsection.

2065 Section 38. Paragraph (c) is added to subsection (1) of
2066 section 348.0004, Florida Statutes, to read:

2067 348.0004 Purposes and powers.--

2068 (1)

2069 (c) Notwithstanding any other provision of law, expressway
2070 authorities created under parts I-X of chapter 348 may index toll
2071 rates on toll facilities to the annual Consumer Price Index or
2072 similar inflation indicators. Once a toll rate index has been
2073 implemented pursuant to this paragraph, the toll rate index shall
2074 remain in place and may not be revoked. Toll rate index for
2075 inflation under this subsection must be adopted and approved by
2076 the expressway authority board at a public meeting and may be
2077 made no more frequently than once a year and must be made no less
2078 frequently than once every 5 years as necessary to accommodate
2079 cash toll rate schedules. Toll rates may be increased beyond
2080 these limits as directed by bond documents, covenants, or
2081 governing body authorization or pursuant to department
2082 administrative rule.

2083 Section 39. Subsection (1) of section 479.01, Florida
2084 Statutes, is amended to read:

2085 479.01 Definitions.--As used in this chapter, the term:

2086 (1) "Automatic changeable facing" means a facing that ~~which~~
2087 ~~through a mechanical system~~ is capable of delivering two or more
2088 advertising messages through an automated or remotely controlled

2008682e1

2089 ~~process and shall not rotate so rapidly as to cause distraction~~
2090 ~~to a motorist.~~

2091 Section 40. Subsections (1), (5), and (9) of section
2092 479.07, Florida Statutes, are amended to read:

2093 479.07 Sign permits.--

2094 (1) Except as provided in ss. 479.105(1)(e) and 479.16, a
2095 person may not erect, operate, use, or maintain, or cause to be
2096 erected, operated, used, or maintained, any sign on the State
2097 Highway System outside an urban incorporated area, as defined in
2098 s. 334.03(32), or on any portion of the interstate or federal-aid
2099 primary highway system without first obtaining a permit for the
2100 sign from the department and paying the annual fee as provided in
2101 this section. For purposes of this section, "on any portion of
2102 the State Highway System, interstate, or federal-aid primary
2103 system" shall mean a sign located within the controlled area
2104 which is visible from any portion of the main-traveled way of
2105 such system.

2106 (5) (a) For each permit issued, the department shall furnish
2107 to the applicant a serially numbered permanent metal permit tag.
2108 The permittee is responsible for maintaining a valid permit tag
2109 on each permitted sign facing at all times. The tag shall be
2110 securely attached to the sign facing or, if there is no facing,
2111 on the pole nearest the highway; and it shall be attached in such
2112 a manner as to be plainly visible from the main-traveled way.
2113 Effective July 1, 2011, the tag shall be securely attached to the
2114 upper 50 percent of the pole nearest the highway and shall be
2115 attached in such a manner as to be plainly visible from the main-
2116 traveled way. The permit will become void unless the permit tag
2117 is properly and permanently displayed at the permitted site

2008682e1

2118 within 30 days after the date of permit issuance. If the
2119 permittee fails to erect a completed sign on the permitted site
2120 within 270 days after the date on which the permit was issued,
2121 the permit will be void, and the department may not issue a new
2122 permit to that permittee for the same location for 270 days after
2123 the date on which the permit became void.

2124 (b) If a permit tag is lost, stolen, or destroyed, the
2125 permittee to whom the tag was issued may ~~must~~ apply to the
2126 department for a replacement tag. The department shall establish
2127 by rule a service fee for replacement tags in an amount that will
2128 recover the actual cost of providing the replacement tag. Upon
2129 receipt of the application accompanied by the a service fee of
2130 ~~\$3~~, the department shall issue a replacement permit tag.
2131 Alternatively, the permittee may provide its own replacement tag
2132 pursuant to department specifications which the department shall
2133 establish by rule at the time it establishes the service fee for
2134 replacement tags.

2135 (9) (a) A permit shall not be granted for any sign for which
2136 a permit had not been granted by the effective date of this act
2137 unless such sign is located at least:

2138 1. One thousand five hundred feet from any other permitted
2139 sign on the same side of the highway, if on an interstate
2140 highway.

2141 2. One thousand feet from any other permitted sign on the
2142 same side of the highway, if on a federal-aid primary highway.

2143
2144 The minimum spacing provided in this paragraph does not preclude
2145 the permitting of V-type, back-to-back, side-to-side, stacked, or
2146 double-faced signs at the permitted sign site. If a sign is

2008682e1

2147 visible from the controlled area of more than one highway subject
2148 to the jurisdiction of the department, the sign shall meet the
2149 permitting requirements of, and, if the sign meets the applicable
2150 permitting requirements, be permitted to, the highway with the
2151 more stringent permitting requirements.

2152 (b) A permit shall not be granted for a sign pursuant to
2153 this chapter to locate such sign on any portion of the interstate
2154 or federal-aid primary highway system, which sign:

2155 1. Exceeds 50 feet in sign structure height above the crown
2156 of the main-traveled way, if outside an incorporated area;

2157 2. Exceeds 65 feet in sign structure height above the crown
2158 of the main-traveled way, if inside an incorporated area; or

2159 3. Exceeds 950 square feet of sign facing including all
2160 embellishments.

2161 (c) Notwithstanding subparagraph (a)1., there is
2162 established a pilot program in Orange, Hillsborough, and Osceola
2163 Counties, and within the boundaries of the City of Miami, under
2164 which the distance between permitted signs on the same side of an
2165 interstate highway may be reduced to 1,000 feet if all other
2166 requirements of this chapter are met and if:

2167 1. The local government has adopted a plan, program,
2168 resolution, ordinance, or other policy encouraging the voluntary
2169 removal of signs in a downtown, historic, redevelopment, infill,
2170 or other designated area which also provides for a new or
2171 replacement sign to be erected on an interstate highway within
2172 that jurisdiction if a sign in the designated area is removed;

2173 2. The sign owner and the local government mutually agree
2174 to the terms of the removal and replacement; and

2175 3. The local government notifies the department of its

2008682e1

2176 intention to allow such removal and replacement as agreed upon
2177 pursuant to subparagraph 2.

2178

2179 The department shall maintain statistics tracking the use of the
2180 provisions of this pilot program based on the notifications
2181 received by the department from local governments under this
2182 paragraph.

2183 Section 41. Section 479.08, Florida Statutes, is amended to
2184 read:

2185 479.08 Denial or revocation of permit.--The department has
2186 the authority to deny or revoke any permit requested or granted
2187 under this chapter in any case in which it determines that the
2188 application for the permit contains knowingly false or knowingly
2189 misleading information. The department has the authority to
2190 revoke any permit granted under this chapter in any case in which
2191 or that the permittee has violated any of the provisions of this
2192 chapter, unless such permittee, within 30 days after the receipt
2193 of notice by the department, corrects such false or misleading
2194 information and complies with the provisions of this chapter. For
2195 the purpose of this section, the notice of violation issued by
2196 the department shall describe in detail the alleged violation.

2197 Any person aggrieved by any action of the department in denying
2198 or revoking a permit under this chapter may, within 30 days after
2199 receipt of the notice, apply to the department for an
2200 administrative hearing pursuant to chapter 120. If a timely
2201 request for hearing has been filed and the department issues a
2202 final order revoking a permit, such revocation shall be effective
2203 30 days after the date of rendition. Except for department action
2204 pursuant to s. 479.107(1), the filing of a timely and proper

2008682e1

2205 notice of appeal shall operate to stay the revocation until the
2206 department's action is upheld.

2207 Section 42. Section 479.156, Florida Statutes, is amended
2208 to read:

2209 479.156 Wall murals.--Notwithstanding any other provision
2210 of this chapter, a municipality or county may permit and regulate
2211 wall murals within areas designated by such government. If a
2212 municipality or county permits wall murals, a wall mural that
2213 displays a commercial message and is within 660 feet of the
2214 nearest edge of the right-of-way within an area adjacent to the
2215 interstate highway system or the federal-aid primary highway
2216 system shall be located in an area that is zoned for industrial
2217 or commercial use and the municipality or county shall establish
2218 and enforce regulations for such areas that, at a minimum, set
2219 forth criteria governing the size, lighting, and spacing of wall
2220 murals consistent with the intent of the Highway Beautification
2221 Act of 1965 and with customary use. Whenever a municipality or
2222 county exercises such control and makes a determination of
2223 customary use, pursuant to 23 U.S.C. s. 131(d), such
2224 determination shall be accepted in lieu of controls in the
2225 agreement between the state and the United States Department of
2226 Transportation, and the Department of Transportation shall notify
2227 the Federal Highway Administration pursuant to the agreement, 23
2228 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c). A wall mural that
2229 is subject to municipal or county regulation and the Highway
2230 Beautification Act of 1965 must be approved by the Department of
2231 Transportation and the Federal Highway Administration where
2232 required by federal law and federal regulation pursuant to ~~and~~
2233 ~~may not violate~~ the agreement between the state and the United

2008682e1

2234 States Department of Transportation and ~~or violate~~ federal
2235 regulations enforced by the Department of Transportation under s.
2236 479.02(1). The existence of a wall mural as defined in s.
2237 479.01(27) shall not be considered in determining whether a sign
2238 as defined in s. 479.01(17), either existing or new, is in
2239 compliance with s. 479.07(9) (a).

2240 Section 43. Subsections (1), (3), (4), and (5) of section
2241 479.261, Florida Statutes, are amended to read:

2242 479.261 Logo sign program.--

2243 (1) The department shall establish a logo sign program for
2244 the rights-of-way of the interstate highway system to provide
2245 information to motorists about available gas, food, lodging, ~~and~~
2246 camping, attractions, and other services, as approved by the
2247 Federal Highway Administration, at interchanges, through the use
2248 of business logos, and may include additional interchanges under
2249 the program. ~~A logo sign for nearby attractions may be added to~~
2250 ~~this program if allowed by federal rules.~~

2251 (a) An attraction as used in this chapter is defined as an
2252 establishment, site, facility, or landmark that ~~which~~ is open a
2253 minimum of 5 days a week for 52 weeks a year; that ~~which~~ ~~charges~~
2254 ~~an admission for entry; which~~ has as its principal focus family-
2255 oriented entertainment, cultural, educational, recreational,
2256 scientific, or historical activities; and that ~~which~~ is publicly
2257 recognized as a bona fide tourist attraction. ~~However, the~~
2258 ~~permits for businesses seeking to participate in the attractions~~
2259 ~~logo sign program shall be awarded by the department annually to~~
2260 ~~the highest bidders, notwithstanding the limitation on fees in~~
2261 ~~subsection (5), which are qualified for available space at each~~
2262 ~~qualified location, but the fees therefor may not be less than~~

2008682e1

2263 ~~the fees established for logo participants in other logo~~
2264 ~~categories.~~

2265 (b) The department shall incorporate the use of RV-friendly
2266 markers on specific information logo signs for establishments
2267 that cater to the needs of persons driving recreational vehicles.
2268 Establishments that qualify for participation in the specific
2269 information logo program and that also qualify as "RV-friendly"
2270 may request the RV-friendly marker on their specific information
2271 logo sign. An RV-friendly marker must consist of a design
2272 approved by the Federal Highway Administration. The department
2273 shall adopt rules in accordance with chapter 120 to administer
2274 this paragraph, including rules setting forth the minimum
2275 requirements that establishments must meet in order to qualify as
2276 RV-friendly. These requirements shall include large parking
2277 spaces, entrances, and exits that can easily accommodate
2278 recreational vehicles and facilities having appropriate overhead
2279 clearances, if applicable.

2280 (c) The department may implement a 3-year rotation-based
2281 logo program providing for the removal and addition of
2282 participating businesses in the program.

2283 (3) Logo signs may be installed upon the issuance of an
2284 annual permit by the department or its agent and payment of a ~~an~~
2285 ~~application and~~ permit fee to the department or its agent.

2286 (4) The department may contract pursuant to s. 287.057 for
2287 the provision of services related to the logo sign program,
2288 including recruitment and qualification of businesses, review of
2289 applications, permit issuance, and fabrication, installation, and
2290 maintenance of logo signs. The department may reject all
2291 proposals and seek another request for proposals or otherwise

2008682e1

2292 perform the work. ~~If the department contracts for the provision~~
2293 ~~of services for the logo sign program, the contract must require,~~
2294 ~~unless the business owner declines, that businesses that~~
2295 ~~previously entered into agreements with the department to~~
2296 ~~privately fund logo sign construction and installation be~~
2297 ~~reimbursed by the contractor for the cost of the signs which has~~
2298 ~~not been recovered through a previously agreed upon waiver of~~
2299 ~~fees.~~ The contract also may allow the contractor to retain a
2300 portion of the annual fees as compensation for its services.

2301 (5) Permit fees for businesses that participate in the
2302 program must be established in an amount sufficient to offset the
2303 total cost to the department for the program, including contract
2304 costs. The department shall provide the services in the most
2305 efficient and cost-effective manner through department staff or
2306 by contracting for some or all of the services. The department
2307 shall adopt rules that set reasonable rates based upon factors
2308 such as population, traffic volume, market demand, and costs for
2309 annual permit fees. However, annual permit fees for sign
2310 locations inside an urban area, as defined in s. 334.03(32), may
2311 not exceed \$5,000 and annual permit fees for sign locations
2312 outside an urban area, as defined in s. 334.03(32), may not
2313 exceed \$2,500. After recovering program costs, the proceeds from
2314 the logo program shall be deposited into the State Transportation
2315 Trust Fund and used for transportation purposes. Such annual
2316 permit fee shall not exceed \$1,250.

2317 Section 44. Business partnerships; display of names.--

2318 (1) School districts are encouraged to partner with local
2319 businesses for the purposes of mentorship opportunities,
2320 development of employment options and additional funding sources,

2008682e1

2321 and other mutual benefits.

2322 (2) As a pilot program through June 30, 2011, the Palm
2323 Beach County School District may publicly display the names and
2324 recognitions of their business partners on school district
2325 property in unincorporated areas. Examples of appropriate
2326 business partner recognition include "Project Graduation" and
2327 athletic sponsorships. The district shall make every effort to
2328 display business partner names in a manner that is consistent
2329 with the county standards for uniformity in size, color, and
2330 placement of the signs. Whenever the provisions of this section
2331 are inconsistent with the provisions of the county ordinances or
2332 regulations relating to signs or the provisions of chapter 125,
2333 chapter 166, or chapter 479, Florida Statutes, in the
2334 unincorporated areas, the provisions of this section shall
2335 prevail.

2336 Section 45. Notwithstanding any provision of chapter 74-
2337 400, Laws of Florida, public funds may be used for the alteration
2338 of Old Cutler Road, between Southwest 136th Street and Southwest
2339 184th Street, in the Village of Palmetto Bay.

2340 (1) The alteration may include the installation of
2341 sidewalks, curbing, and landscaping to enhance pedestrian access
2342 to the road.

2343 (2) The official approval of the project by the Department
2344 of State must be obtained before any alteration is started.

2345 Section 46. Subsection (1) of section 120.52, Florida
2346 Statutes, is amended to read:

2347 120.52 Definitions.--As used in this act:

2348 (1) "Agency" means:

2349 (a) The Governor in the exercise of all executive powers

2008682e1

2350 other than those derived from the constitution.

2351 (b) Each:

2352 1. State officer and state department, and each
2353 departmental unit described in s. 20.04.

2354 2. Authority, including a regional water supply authority.

2355 3. Board, including the Board of Governors of the State
2356 University System and a state university board of trustees when
2357 acting pursuant to statutory authority derived from the
2358 Legislature.

2359 4. Commission, including the Commission on Ethics and the
2360 Fish and Wildlife Conservation Commission when acting pursuant to
2361 statutory authority derived from the Legislature.

2362 5. Regional planning agency.

2363 6. Multicounty special district with a majority of its
2364 governing board comprised of nonelected persons.

2365 7. Educational units.

2366 8. Entity described in chapters 163, 373, 380, and 582 and
2367 s. 186.504.

2368 (c) Each other unit of government in the state, including
2369 counties and municipalities, to the extent they are expressly
2370 made subject to this act by general or special law or existing
2371 judicial decisions.

2372

2373 This definition does not include any legal entity or agency
2374 created in whole or in part pursuant to chapter 361, part II, any
2375 metropolitan planning organization created pursuant to s.
2376 339.175, any separate legal or administrative entity created
2377 pursuant to s. 339.175 of which a metropolitan planning
2378 organization is a member, an expressway authority pursuant to

2008682e1

2379 chapter 348 or any transportation authority under chapter 343 or
2380 chapter 349, any legal or administrative entity created by an
2381 interlocal agreement pursuant to s. 163.01(7), unless any party
2382 to such agreement is otherwise an agency as defined in this
2383 subsection, or any multicounty special district with a majority
2384 of its governing board comprised of elected persons; however,
2385 this definition shall include a regional water supply authority.

2386 Section 47. The Legislature directs the Department of
2387 Transportation to establish an approved transportation
2388 methodology which recognizes that a planned, sustainable
2389 development of regional impact will likely achieve an internal
2390 capture rate greater than 30 percent when fully developed. The
2391 transportation methodology must use a regional transportation
2392 model that incorporates professionally accepted modeling
2393 techniques applicable to well-planned, sustainable communities of
2394 the size, location, mix of uses, and design features consistent
2395 with such communities. The adopted transportation methodology
2396 shall serve as the basis for sustainable development traffic
2397 impact assessments by the department. The methodology review must
2398 be completed and in use by March 1, 2009.

2399 Section 48. Except as otherwise expressly provided in this
2400 act, this act shall take effect upon becoming a law.