CHAPTER 97-280

Committee Substitute for
Committee Substitute for Senate Bill No. 2060

An act relating to transportation administration; directing the Department of Transportation to perform a pilot project; amending s. 20.23, F.S.; providing for the relocation of the turnpike district; providing responsibilities for the Fort Myers Urban Office; authorizing the department to continue to use the model developed for the career service broadbanding compensation and classification system; amending s. 206.46, F.S.; authorizing the department to use State Transportation Trust Fund moneys to pay for the operation and maintenance of existing or future department-owned toll facilities and reimburse the trust fund from turnpike revenues; amending s. 311.07, F.S.; providing funding eligibility for certain seaport intermodal projects; amending s. 316.215, F.S.; exempting front-end-loading vehicles from certain requirements applicable to motor vehicles; amending s. 316.2397, F.S.; allowing petroleum tankers to display amber warning lights; amending s. 316.302, F.S., relating to commercial motor vehicle safety regulations; updating reference to federal regulations; providing exception to specified provisions for public utility and authorized emergency vehicles; revising provisions with respect to requirements for intrastate transporting of hazardous materials; providing for applicability of alcohol and drug testing programs to certain volunteer drivers; providing an exemption to certain federal commercial motor vehicle requirements for certain vehicles operating intrastate; amending s. 316.515, F.S.; providing exception to length limitations for certain utility vehicles under specified conditions; providing an exception to load extension limitation; deleting an axle restriction for straight trucks; amending s. 320.20, F.S.; providing additional funding for the Florida Seaport Transportation and Economic Development Program; providing how such funds may be spent; amending s. 322.53, F.S.; deleting an exemption to the requirement of having a commercial driver's license; amending s. 334.27, F.S.; revising provisions with respect to governmental transportation entities; creating s. 334.351, F.S., relating to youth work experience program within the Department of Transportation; providing for the awarding of program contracts; amending s. 335.0415; providing responsibility for operation and maintenance within the right-of-way of public roads; amending s. 337.25, F.S.; authorizing the department to use projected maintenance costs over a period of time to offset the market value of certain property to establish a value for the disposal of the property; creating s. 338.161, F.S.; authorizing the Department of Transportation to advertise and promote electronic toll collection; amending s. 338.165, F.S.; providing that no tolls may be collected on certain interstate highways; amending s. 338.221, F.S.; providing that interchanges that are added to the existing turnpike system are exempt from the economic feasibility test; providing additional requirements that must be met before turnpike revenue bonds are

issued; amending s. 338.223, F.S.; authorizing the department to acquire right-of-way before the determination of economic feasibility is completed; authorizing the department, with legislative approval, to pay or lend all or a portion of the operating maintenance costs of any turnpike project; amending s. 338.2275, F.S.; deleting certain turnpike projects; increasing the bond cap on turnpike projects; providing for legislative approval to issue bonds; amending s. 338.2276, F.S.; providing a description of the Western Beltway turnpike project; amending s. 338.231, F.S.; providing for public hearings before increases in turnpike toll rates take effect; authorizing the adoption of rules relating to toll rates for new toll projects; providing ratio on return of tolls collected in Dade County, Broward County, and Palm Beach County; amending s. 339.12, F.S.; revising provisions with respect to aid and contributions by governmental entities for department projects; amending ss. 339.135, 339.175, F.S.; providing for metropolitan planning organizations to annually submit lists of project priorities to the Department of Transportation; reconciling state and metropolitan planning organization transportation plans; amending s. 784.07, F.S.; providing enhanced penalties for assault or battery of public transit employees or agents; amending s. 812.015, F.S.; prohibiting transit fare evasion; providing penalties; specifying deadlines and content; revising the membership of certain metropolitan planning organizations; amending s. 348.0003, F.S.; revising the membership of certain expressway authorities; amending s. 348.0004, F.S.; revising provisions with respect to the type of facilities under the jurisdiction of certain expressway authorities; creating s. 348.565, F.S.; authorizing financing and refinancing of Tampa-Hillsborough County Expressway System projects; amending s. 348.754, F.S.; providing for additional powers of the Orlando-Orange County Expressway Authority in certain counties; providing for the creation of a working group; providing responsibilities for the working group related to requisition of transportation disadvantaged services; amending s. 479.261, F.S.; revising provisions with respect to the logo-sign program; revising requirements for the placement of such signs; repealing s. 339.121, F.S., relating to aid and contribution by local governmental entities for public transportation projects; repealing s. 334.35, F.S., relating to the Florida Youth Conservation Corps; providing an effective date.

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

Section 1. The Department of Transportation is directed to perform a pilot project under section 338.231, Florida Statutes, as the SUNPASS electronic toll collection system is implemented, offering at least a 10 percent discount to turnpike commuters who use SUNPASS on the turnpike. The Department of Transportation shall provide a preliminary report to the Legislature by February 15, 1998, and shall report the results of the pilot project by February 15, 1999. The report shall include projected impacts of statewide commuter discounts on the turnpike system, and recommend to the Legislature how to achieve discounts in 5 percent increments up to and including 20 percent. Savings to the commuter shall be a priority in the

analysis. The projected impacts shall include, but not be limited to, ridership increases, SUNPASS utilization, operating and maintenance costs, and future ability to finance capacity requirements. The Department of Transportation is further directed to advise the Legislature as to when the system shall be implemented systemwide and on a county-by-county basis.

Section 2. Paragraph (a) of subsection (4) of section 20.23, Florida Statutes, is amended, and paragraph (e) is added to that subsection, to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(4)(a) The operations of the department shall be organized into eight districts, including a turnpike district, each headed by a district secretary. The district secretaries shall report to the Assistant Secretary for District Operations. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, Hillsborough, and Leon Counties. The turnpike district must be relocated to Orange County in the year 2000. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts. However, before ~~prior to~~ making a decision to centralize or decentralize department operations or relocate the turnpike district, the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.

(e) The district director for the Fort Myers Urban Office of the Department of Transportation is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

Section 3. The Department of Transportation shall continue to use the model system it developed under section 334.0445, Florida Statutes, until July 1, 1999.

Section 4. Subsection (5) is added to section 206.46, Florida Statutes, 1996 Supplement, to read:

206.46 State Transportation Trust Fund.—

(5) Notwithstanding any other provision of law, the department may covenant to pay all or any part of the costs of operation and maintenance of any existing or future department-owned toll facility or system directly from moneys in the State Transportation Trust Fund which will be reimbursed from turnpike revenues after the payment of debt service and other bond resolution accounts as needed to protect the integrity of the toll facility or system. If such reimbursement is determined to adversely impact the toll facility or system, the reimbursement obligation shall become a debt payable to the State Transportation Trust Fund to be reimbursed over an agreed-upon period of time. The department shall take into account projections of operation and maintenance reimbursements in the financing of the tentative and adopted work programs. The state does hereby covenant that it will

not repeal or impair or amend this section in any manner that will materially and adversely affect the rights of bondholders so long as bonds authorized pursuant to the provisions of this subsection are outstanding.

Section 5. Paragraph (b) of subsection (3) of section 311.07, Florida Statutes, 1996 Supplement, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(3)

(b) Projects eligible for funding by grants under the program are limited to the following port facilities or port transportation projects:

1. Transportation facilities within the jurisdiction of the port.

2. The dredging or deepening of channels, turning basins, or harbors.

3. The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.

4. The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.

5. The acquisition of land to be used for port purposes.

6. The acquisition, improvement, enlargement, or extension of existing port facilities.

7. Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects listed herein.

8. Transportation facilities as defined in s. 334.03(31) which are not otherwise part of the Department of Transportation's adopted work program.

9. Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3).

Section 6. Subsection (5) is added to section 316.215, Florida Statutes, to read:

316.215 Scope and effect of regulations.—

(5) The provisions of this chapter and of 49 C.F.R. part 393 which relate to the number, visibility, and distribution of lights and to mounting-height

requirements for headlamps, auxiliary lamps, and turn signals do not apply to a front-end-loading collection vehicle when:

(a) The front-end-loading mechanism and container or containers are in the lowered position;

(b) The vehicle is engaged in collecting solid waste or recyclable or recovered materials; and

(c) The vehicle is being operated at speeds of less than 20 miles per hour with the vehicular hazard-warning lights activated.

Section 7. Subsection (4) of section 316.2397, Florida Statutes, 1996 Supplement, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists.

Section 8. Paragraphs (b) and (c) of subsection (1), paragraphs (b) and (f) of subsection (2), and subsection (4) of section 316.302, Florida Statutes, 1996 Supplement, are amended, and paragraph (k) is added to subsection (2) of that section, to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on March 1, 1997 ~~1995~~.

(c) Except as provided in s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, and as provided in s. 316.215(5), the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(2)

(b) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material is exempt from 49 C.F.R. s. 395.3(a) and (b) and may, after 8 hours' rest, and following the required initial motor vehicle inspection, be permitted to drive any part of the first 15 on-duty hours in any 24-hour period, but may not be permitted to operate a commercial motor vehicle after that until the requirement of another 8 hours' rest has been fulfilled. This paragraph does not apply to

drivers of public utility vehicles or authorized emergency vehicles during periods of severe weather or other emergencies.

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

(k) A person holding a commercial driver's license who is a regularly employed driver of a commercial motor vehicle and is subject to an alcohol and controlled substance testing program related to that employment shall not be required to be part of a separate testing program for operating any bus owned and operated by a church when the driver does not receive any form of compensation for operating the bus and the bus is used to transport people to or from church-related activities at no charge. The provisions of this paragraph may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the state.

(4)(a) Except as provided in this subsection, all commercial motor vehicles transporting any hazardous material on any road, street, or highway open to the public, whether engaged in interstate or intrastate commerce, and any person who offers hazardous materials for such transportation, are subject to the regulations contained in 49 C.F.R. subpart G of part 107 and parts 171, 172, 173, 177, 178, and 180. Effective July 1, 1997, the exceptions for intrastate motor carriers provided in 49 C.F.R. ss. 173.5 and 173.8 are adopted.

~~(a) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds transporting, solely within intrastate commerce, quantities of petroleum products as defined in s. 376.301(27) is exempt from the requirements of subsection (1) and from the requirements of 49 C.F.R. parts 171, 172, 173, 177, 178, and 180. However, such person must comply with 49 C.F.R. part 172, subpart F, 49 C.F.R. parts 392 and 393, and 49 C.F.R. s. 396.9.~~

~~(b) A person who operates a commercial motor vehicle with a declared gross vehicle weight of less than 26,000 pounds transporting Table 2 commodities, as specified in 49 C.F.R. s. 172.504, solely in intrastate commerce within a 150-air-mile radius of the location where the vehicle is based, is subject only to the following federal regulations while transporting these commodities to be used in a support role for agricultural, horticultural, or forestry production: 49 C.F.R. part 172, subpart F, 49 C.F.R. part 391, subpart H, and 49 C.F.R. parts 382, 392, 393, and 396.9.~~

(b)~~(c)~~ In addition to the penalties provided in s. 316.3025(3)(b), (c), (d), and (e), any motor carrier or any of its officers, drivers, agents, representatives, employees, or shippers of hazardous materials that do not comply with this subsection ~~paragraph~~ or any rule adopted by a state agency that is consistent with the federal rules and regulations regarding hazardous materials commits a misdemeanor of the first degree, punishable as provided in

s. 775.082 or s. 775.083. To ensure compliance with this subsection, enforcement officers of the Motor Carrier Compliance Office within the Department of Transportation and state highway patrol officers may inspect shipping documents and cargo of any vehicle known or suspected to be a transporter of hazardous materials.

Section 9. Subsections (3) and (4) and paragraph (b) of subsection (7) of section 316.515, Florida Statutes, are amended to read:

316.515 Maximum width, height, length.—

(3) LENGTH LIMITATION.—Except as otherwise provided in this section, length limitations apply solely to a semitrailer or trailer, and not to a truck tractor or to the overall length of a combination of vehicles. No combination of commercial motor vehicles coupled together and operating on the public roads may consist of more than one truck tractor and two trailing units. Unless otherwise specifically provided for in this section, a combination of vehicles not qualifying as commercial motor vehicles may consist of no more than two units coupled together; such nonqualifying combination of vehicles may not exceed a total length of 65 feet, inclusive of the load carried thereon, but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Notwithstanding any other provision of this section, a truck tractor-semitrailer combination engaged in the transportation of automobiles or boats may transport motor vehicles or boats on part of the power unit; and, except as may otherwise be mandated under federal law, an automobile or boat transporter semitrailer may not exceed 50 feet in length, exclusive of the load; however, the load may extend up to an additional 6 ~~4~~ feet beyond the rear of the trailer. The 50-feet length limitation does not apply to non-stinger-steered automobile or boat transporters that are 65 feet or less in overall length, exclusive of the load carried thereon, or to stinger-steered automobile or boat transporters that are 75 feet or less in overall length, exclusive of the load carried thereon. For purposes of this subsection, a "stinger-steered automobile or boat transporter" is an automobile or boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit. Notwithstanding paragraphs (a) and (b), any straight truck or truck tractor-semitrailer combination engaged in the transportation of horticultural trees may allow the load to extend up to an additional 10 feet beyond the rear of the vehicle, provided said trees are resting against a retaining bar mounted above the truck bed so that the root balls of the trees rest on the floor and to the front of the truck bed and the tops of the trees extend up over and to the rear of the truck bed, and provided the overhanging portion of the load is covered with protective fabric.

(a) Straight trucks.—No straight truck may exceed a length of 40 feet in extreme overall dimension, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. ~~Any straight truck, excluding recreational vehicles, in excess of 35 feet in length may have no fewer than three load-bearing axles.~~ A straight truck may tow no more than one trailer, and such trailer may not exceed a length of 28 feet. However, such trailer limitation does not apply if the overall length of the

truck-trailer combination is 65 feet or less, including the load thereon. Notwithstanding any other provisions of this section, a truck-trailer combination engaged in the transportation of boats shall not exceed the length limitations of this paragraph exclusive of the load; however, the load may extend up to an additional 6 4 feet beyond the rear of the trailer.

(b) Semitrailers.—

1. A semitrailer operating in a truck tractor-semitrailer combination may not exceed 48 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads, unless it complies with subparagraph 2. A semitrailer which exceeds 48 feet in length and is used to transport divisible loads may operate in this state only if issued a permit under s. 316.550 and if such trailer meets the requirements of this chapter relating to vehicle equipment and safety. Except for highways on the tandem trailer truck highway network, public roads deemed unsafe for longer semitrailer vehicles or those roads on which such longer vehicles are determined not to be in the interest of public convenience shall, in conformance with s. 316.006, be restricted by the Department of Transportation or by the local authority to use by semitrailers not exceeding a length of 48 feet, inclusive of the load carried thereon but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Truck tractor-semitrailer combinations shall be afforded reasonable access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.

2. A semitrailer which is more than 48 feet but not more than 53 feet in extreme overall outside dimension, as measured pursuant to subparagraph 1., may operate on public roads, except roads on the State Highway System which are restricted by the Department of Transportation or other roads restricted by local authorities, if:

a. The distance between the kingpin or other peg which locks into the fifth wheel of a truck tractor and the center of the rear axle or rear group of axles does not exceed 41 feet; and

b. It is equipped with a substantial rear-end underride protection device meeting the requirements of 49 C.F.R. s. 393.86, “Rear End Protection.”

(c) Tandem trailer trucks.—

1. Except for semitrailers and trailers of up to 28½ feet in length which existed on December 1, 1982, and which were actually and lawfully operating on that date, no semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may exceed a length of 28 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the Department of Transportation for use on vehicles using public roads.

2. Tandem trailer trucks conforming to the weight and size limitations of this chapter and in immediate transit to or from a terminal facility as defined in this chapter may operate on the public roads of this state except for residential neighborhood streets restricted by the Department of Transportation or local jurisdictions. In addition, the Department of Transportation or local jurisdictions may restrict these vehicles from using streets and roads under their maintenance responsibility on the basis of safety and engineering analyses, provided that the restrictions are consistent with the provisions of this chapter. The Department of Transportation shall develop safety and engineering standards to be used by all jurisdictions when identifying public roads and streets to be restricted from tandem trailer truck operations.

3. Except as otherwise provided in this section, within 5 miles of the Federal National Network for large trucks, tandem trailer trucks shall be afforded access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.

4. Notwithstanding the provisions of any general or special law to the contrary, all local system tandem trailer truck route review procedures must be consistent with those adopted by the Department of Transportation.

5. Tandem trailer trucks employed as household goods carriers and conforming to the weight and size limitations of this chapter shall be afforded access to points of loading and unloading on the public streets and roads of this state, except for streets and roads that have been restricted from use by such vehicles on the basis of safety and engineering analyses by the jurisdiction responsible for maintenance of the streets and roads.

(d) Maxi-cube vehicles.—Maxi-cube vehicles shall be allowed to operate on routes open to tandem trailer trucks under the same conditions applicable to tandem trailer trucks as specified by this section.

(4) LOAD EXTENSION LIMITATION.—The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, may not extend more than 3 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a bumper.

(a) The limitations of this subsection do not apply to bicycle racks carrying bicycles on public sector transit vehicles.

(b) This subsection does not apply to a front-end-loading collection vehicle when:

1. The front-end-loading mechanism and container or containers are in the lowered position;

2. The vehicle is engaged in collecting solid waste or recyclable or recovered materials;

3. The vehicle is being operated at speeds of less than 20 miles per hour with the vehicular hazard-warning lights activated; and

4. The extension does not exceed 8 feet 6 inches.

(7) FIRE OR EMERGENCY VEHICLES, UTILITY VEHICLES, AND OTHER VEHICLES TRANSPORTING NONDIVISIBLE LOADS.—The length limitations imposed by this section do not apply to:

(b) Utility vehicles owned or operated by governmental entities or public utility corporations, or operated under contract with such entities or corporations:

1. When transporting poles during daytime, except on weekends and holidays, as defined in the rules of the Department of Transportation, and when the vehicle and load do not exceed 120 feet in overall length, provided proper flags are located at the rearmost end of the load. However, such movements with an overall length in excess of 75 feet:

a. Shall be equipped with a working warning light device.

b. Shall be accompanied by a company-provided flasher-equipped escort vehicle when making turns within corporate city limits.

2.a. When transporting poles during nighttime and when the vehicle and load do not exceed 120 feet in overall length. Such movements shall be equipped with a working warning light device and shall be accompanied by one leading and one trailing company-provided flasher-equipped escort vehicle.

b. The provisions of sub-subparagraph a. notwithstanding, for vehicles and loads with overall lengths not exceeding 85 feet and which are being transported under emergency conditions, only a single trailing company-owned flasher-equipped escort vehicle is required, but the pole being transported must be equipped with active marker lights visible from both sides at a maximum of 6-foot intervals mounted along the pole or trailer extending the length of the trailer and at 36-inch intervals along the pole extending beyond the rear of the trailer.

3. When transporting poles during emergencies or required maintenance. Such movements may be made on all days and at all hours, provided the respective daytime or nighttime requirements are otherwise met.

4. When operating flasher-equipped straight truck utility vehicles that have permanently mounted equipment that extends up to 9 feet beyond the front bumper, provided:

a. Such equipment, when in the travel position, is supported in such a manner that it has a minimum of 80 inches clearance above the roadway;

b. Such equipment is illuminated on the forward most sides with high visibility reflective tape;

c. The respective daytime and nighttime requirements for operation are otherwise met;

d. Nighttime emergency or required maintenance operation of such utility vehicles with overall lengths in excess of 50 feet are led by a company-provided flasher-equipped escort vehicle; and

e. Trailers are not pulled by utility vehicles over 50 feet in length.

A flasher-equipped escort vehicle is defined as an automobile or truck that closely accompanies an over dimensional vehicle or load carried thereon to alert approaching traffic of that vehicle or load. Such escort vehicles shall be equipped with a working warning light device, as defined in this subsection, except that such device shall be located on top of the escort vehicle. Warning light devices required in this subsection shall be consistent with size, color, type, intensity, and mounting requirements developed by the Department of Transportation.

Section 10. Present subsection (4) of section 320.20, Florida Statutes, 1996 Supplement, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(4) Notwithstanding any other provision of law except subsections (1), (2), and (3), on July 1, 2001, and annually thereafter, $10 million shall be deposited in the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided in chapter 311 and for funding seaport intermodal access projects of statewide significance as provided in s. 341.053. Such revenues shall be distributed to any port listed in s. 311.09(1), to be used for funding projects as follows:

(a) For any seaport intermodal access projects that are identified in the 1997-1998 Tentative Work Program of the Department of Transportation, up to the amounts needed to offset the funding requirements of this section;

(b) For seaport intermodal access projects as described in s. 341.053(5) that are identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3). Funding for such projects shall be on a matching basis as mutually determined by the Florida Seaport Transportation and Economic Development Council and the Department of Transportation; provided, however, that a minimum of 25 percent of total project funds shall come from any port funds, local funds, private funds, or specifically earmarked federal funds; or

(c) On a 50-50 matching basis for projects as described in s. 311.07(3)(b).

Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal

agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt shall not constitute a general obligation of the state. This state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal or impair or amend in any manner which will materially and adversely affect the rights of holders so long as bonds authorized by this section are outstanding. Any revenues that are not pledged to the repayment of bonds as authorized by this section may be used for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with ss. 311.07 and 320.20(3). The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects that have been approved pursuant to s. 311.09(5)-(9), or for seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3) and mutually agreed upon by the FSTED Council and the Department of Transportation. All contracts for actual construction of projects authorized by this subsection must include a provision encouraging employment of WAGES participants. The goal for employment of WAGES participants is 25 percent of all new employees employed specifically for the project, unless the Department of Transportation and the Florida Seaport Transportation and Economic Development Council can demonstrate to the satisfaction of the Secretary of Labor and Employment Security that such a requirement would severely hamper the successful completion of the project. In such an instance, the Secretary of Labor and Employment Security shall establish an appropriate percentage of employees that must be WAGES participants. The council and the Department of Transportation are authorized to perform such acts as are required to facilitate and implement the provisions of this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise powers provided to municipalities or counties in s. 163.01(7)(d) subject to the provisions of chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection is limited to eligible projects listed in this subsection. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection.

Section 11. Paragraph (g) of subsection (2) and subsection (5) of section 322.53, Florida Statutes, 1996 Supplement, are amended to read:

322.53 License required; exemptions.—

(2) The following persons are exempt from the requirement to obtain a commercial driver's license:

~~(g) A driver operating any bus owned and operated by a church, when the driver does not receive any form of compensation for operating the bus, and when the bus is used to transport people to or from church-related activities at no charge.~~

(5) A resident who is exempt from obtaining a commercial driver's license pursuant to paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f)~~, or paragraph (2)(g)~~ may drive a commercial motor vehicle pur-

suant to the exemption granted in paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f), ~~or paragraph (2)(g)~~ if he or she possesses a valid Class D or Class E driver's license or a military license.

Section 12. Section 334.27, Florida Statutes, 1996 Supplement, is amended to read:

334.27 Governmental transportation entities; property acquired for transportation purposes; limitation on soil or groundwater contamination liability.—

(1) For the purposes of this section, the term "governmental transportation entity" means the department; an authority created pursuant to chapter 343, chapter 348, or chapter 349; airports as defined in s. 332.004(14); a port enumerated in s. 311.09(1); a county; or a municipality.

(2) When a governmental transportation entity acquires property for a transportation facility or in a transportation corridor through the exercise of eminent domain authority, or by purchase or donation, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. A governmental transportation entity and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the governmental transportation entity ~~department~~.

Section 13. Section 334.351, Florida Statutes, is created to read:

334.351 Youth work experience program; findings and intent; authority to contract; limitation.—The Legislature finds and declares that young men and women of the state should be given an opportunity to obtain public service work and training experience that protects and conserves the valuable resources of the state and promotes participation in other community enhancement projects. Notwithstanding the requirements of chapters 287 and 337, the Department of Transportation is authorized to contract with public agencies and nonprofit organizations for the performance of work related to the construction and maintenance of transportation-related facilities by youths enrolled in youth work experience programs. The total amount of contracts entered into by the department under this section in any fiscal year may not exceed the amount specifically appropriated by the Legislature for this program.

Section 14. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road system shall be that which exists on July 1, 1995.

Section 15. Paragraph (j) is added to subsection (4) of section 337.25, Florida Statutes, 1996 Supplement, to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

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

(j) If the department determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the department to significant liability risks, the department may use the projected maintenance costs over the next 5 years to offset the market value in establishing a value for disposal of the property, even if that value is zero.

Section 16. Section 338.161, Florida Statutes, is created to read:

338.161 Authority of department to advertise and promote electronic toll collection.—

(1) The department is authorized to incur expenses for paid advertising, marketing, and promotion of electronic toll collection products and services. Promotions may include discounts and free products.

(2) The department is authorized to receive funds from advertising placed on electronic toll collection products and promotional materials to defray the costs of products and services.

Section 17. Subsection (6) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(6) Notwithstanding the provisions of subsection (1), no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997 ~~in order to facilitate expeditious completion of the Interstate System, the department is authorized to continue to collect the toll on a revenue-producing project currently designated as part of the Interstate System~~.

Section 18. Subsections (7), (8), and (9) of section 338.221, Florida Statutes, are amended to read:

338.221 Definitions of terms used in ss. 338.22-338.244.—As used in ss. 338.22-338.244, the following words and terms have the following meanings, unless the context indicates another or different meaning or intent:

(7) "Turnpike improvement" means any betterment necessary or desirable for the operation of the turnpike system, including, but not limited to, widenings, the addition of interchanges to the existing turnpike system, resurfacings, toll plazas, machinery, and equipment.

(8) "Economically feasible" means:

(a) For a proposed turnpike project, that, as determined by the department before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the debt service on the bonds by the end of the 5th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 15th year of operation. In implementing this subparagraph, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues. ~~turnpike projects financed from the proceeds of bonds pledging the revenues of the turnpike system:~~

~~1. Such project, or such group of projects, shall be expected to have bonding capacity supported by project revenues equal to at least 50 percent of project costs to be paid from department funds. However, the department is authorized, with the approval of the Legislature, to pay from the State Transportation Trust Fund a portion of the capital cost of a project as necessary to meet economic feasibility requirements.~~

~~2. Within 15 years of opening to traffic, the annual total revenue from such project, or such group of projects, shall be expected to meet or exceed annual debt service requirements and operating and maintenance costs attributable to such project or such group of projects.~~

(b) For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is ~~shall be~~ expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

~~Nothing in~~ This subsection does not ~~shall be construed to~~ prohibit the pledging of revenues from the entire turnpike system to bonds issued to finance or refinance a turnpike project~~,~~ or group of turnpike projects.

(9) "Turnpike project" means any extension to or expansion of the existing turnpike system and new limited access toll highways and associated feeder roads and other structures, interchanges, appurtenances, or rights as may be approved in accordance with the Florida Turnpike Law.

Section 19. Subsections (2) and (3) of section 338.223, Florida Statutes, 1996 Supplement, are amended to read:

338.223 Proposed turnpike projects.—

(2)(a) Subject to the provisions of s. 338.228, the department is authorized to expend, out of any funds available for the purpose, such moneys as

may be necessary for studies, preliminary engineering, construction, right-of-way acquisition, and construction engineering inspection of any turnpike project and is authorized to use its engineering and other resources for such purposes.

(b) In accordance with the legislative intent expressed in s. 337.273, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues.

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.244 except when such reimbursement is prohibited by state or federal law.

(4) ~~However,~~ The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike ~~toll~~ projects ~~as necessary to meet the requirements of paragraph (1)(a)~~. Federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a ~~proposed~~ turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project. For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed 0.5 percent of state transportation tax revenues for that fiscal year.

Section 20. Section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—

(1) Legislative approval of the department's tentative work program that contains the turnpike project constitutes approval to issue bonds as required by ~~Pursuant to~~ s. 11(e), Art. VII of the State Constitution. Turnpike projects approved to be included in future tentative work programs include, but are not limited to, projects contained in the 1997-1998 tentative work program and potential expansion projects listed in the January 25, 1997 report submitted to the Florida Transportation Commission titled "Florida's Turnpike Building on the Past - Preparing for the Future.", ~~the Legislature hereby approves:~~

~~(1) The turnpike system as of July 1, 1988.~~

~~(2) Subject to verification of economic feasibility by the department in accordance with s. 338.221(8), those projects listed in Alternative IV of the April 1987 report on the Future of Florida's Turnpike as recommended to the Legislature by the secretary to be financed by the issuance of revenue bonds in an amount not to exceed $220 million.~~

~~(3) Subject to verification of economic feasibility by the department, determination that such projects are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local government jurisdiction in which such projects are located, and completion of a statement of environmental feasibility in accordance with s. 338.221(8) and (10), respectively, the following projects are approved:~~

~~(a) The Polk County Parkway; a 24.8-mile, two-lane and four-lane, limited access expressway in Polk County extending from the intersection of I-4 and Clark Road near the Hillsborough County Line through Lakeland near Drainfield Road eastward to State Road 540 and to U.S. 98 and then east and northward to near Polk City to intersect with I-4 near Mount Olive Road.~~

~~(b) Branan Field/Chaffee Road Facility; an 11-mile limited access expressway extending north from State Road 21 in Clay County to Chaffee Road in western Duval County.~~

~~(c) Palmer Expressway; a 6.2-mile, four-lane, limited access expressway in St. Lucie County extending from Glades Cut-off Road to U.S. 1.~~

~~(d) Seminole County Expressway, Project 1; a four-lane limited access expressway extending 12 miles from State Road 426 near the Orange/Seminole County line in east Orlando to U.S. 17/92.~~

~~(e) Northwest Hillsborough Expressway; a 14.9-mile, four-lane, limited access toll facility extending north from the Courtney Campbell Causeway near the Tampa International Airport to Dale Mabry Highway (State Road 597) just north of Van Dyke Road.~~

~~(f) The Southern Connector Extension; a 6.0-mile, four-lane, limited access extension of the Southern Connector toll facility extending southwesterly from a point one mile east of State Road 535 to an interchange with I-4 south of U.S. 192.~~

~~(g) Seminole County Expressway, Project 2; a 5.7-mile, four-lane, limited access highway extending from U.S. 17/92 interchange to an interchange with C.R. 46A and I-4.~~

~~(h) Suncoast Parkway, Project 1; a 44-mile, four-lane, limited access highway extending north from the Northwest Hillsborough Expressway to S.R. 700 (U.S. 98) in Hernando County.~~

~~(i) Suncoast Parkway, Project 2; an approximately 30-mile, four-lane, limited access highway extending north from State Road 700 (U.S. 98) in Hernando County to a point near the Citrus-Levy County line.~~

~~(j) Western Beltway; a 55.0-mile, four-lane, limited access highway originating at I-4 in the vicinity of C.R. 46A in Seminole County and extending westerly and southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk county line, excluding that portion known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka.~~

~~(k) Northern Extension Project; a 49.0-mile, four-lane, limited access highway extending from the northern terminus of the Florida Turnpike in Sumter County to an interchange with U.S. 19 at Lebanon Station in Levy County.~~

~~(l) Atlantic Boulevard Interchange in Broward County.~~

~~(m) N.W. 37th Avenue Interchange in Broward County.~~

~~(n) S.R. 80/Southern Boulevard Interchange in Palm Beach County.~~

~~(o) Forest Hill Boulevard Interchange in Palm Beach County.~~

~~(p) N.W. 45th Street Interchange in Palm Beach County.~~

~~(q) Lake Worth Road Interchange in Palm Beach County.~~

~~(r) East/West Expressway Interchange in Orange County.~~

~~(s) Southern Connector Interchange in Orange County.~~

~~(t) S.R. 50 Interchange in Orange County.~~

~~(u) Dart Boulevard Interchange in Osceola County.~~

~~(v) N.W. 74th Street Interchange in Dade County.~~

~~(w) Allapattah Road Interchange in Dade County.~~

~~(x) Tallahassee Road Interchange in Dade County.~~

~~(y) Biscayne Drive Interchange in Dade County.~~

~~(z) Campbell Drive Interchange in Dade County.~~

A maximum of $3 ~~$1.5~~ billion of bonds may be issued to fund approved turnpike ~~the~~ projects ~~listed in this subsection~~.

(2) The department is authorized to use turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 338.001, federal funds, and bond proceeds ~~for the projects listed in this subsection~~, and shall use the most cost-efficient combination of such funds, in developing a financial plan for funding turnpike ~~the~~ projects. ~~Up to 10 percent of the total amount of the approved costs of all of the projects listed in this subsection may be set aside as a contingency amount, from which the department may allocate funds for a project that exceeds its anticipated cost, but in no event shall the funds allocated from this contingency amount exceed 15 percent of the project's anticipated cost.~~ The department must submit a report of the estimated cost for each ongoing turnpike project and for each planned project to the Legislature 14 days before the convening of the regular legislative session. Verification of economic feasibility and statements of environmental feasibility for individual turnpike projects must be based on the entire project as approved. Statements of environmental feasibility are not required for those projects listed in section 12 of chapter 90-136, Laws of Florida, ~~this subsection~~ for which the Project Development and

Environmental Reports were completed by July 1, 1990. All required environmental permits must be obtained before the department may advertise for bids for contracts for the construction of any turnpike project.

(3)~~(4)~~ Subject to verification of economic feasibility by the department in accordance with s. 338.221(8), the department shall acquire the assets and assume the liabilities of the Sawgrass Expressway as a candidate project from the Broward County Expressway Authority. The agreement to acquire the Sawgrass Expressway shall be subject to the terms and covenants of the Broward County Expressway Authority Bond Series 1984 and 1986A lease-purchase agreements and shall not act to the detriment of the bondholders nor decrease the quality of the bonds. The department shall provide for the cost of operations and maintenance expenses and for the replacement of future Broward County gasoline tax funds pledged for the payment of principal and interest on such bonds. The department shall repay, to the extent possible, Broward County gasoline tax funds used since July 6, 1988, for debt service on such bonds. For the purpose of calculating the economic feasibility of this project, the department is authorized to exclude operations and maintenance expenses accumulated between July 6, 1988, and the date of the agreement. Upon performance of all terms of the agreement between the parties, the Sawgrass Expressway will become a part of the turnpike system.

(4)~~(5)~~ ~~No~~ Bonds may not ~~shall~~ be issued to fund a turnpike project until the department has made a final determination that the project is economically feasible in accordance with s. 338.221, based on the most current information available.

Section 21. Section 338.2276, Florida Statutes, is amended to read:

338.2276 Western Beltway turnpike project; financing.—Upon a determination of economic feasibility, as defined in s. 338.221(8), for part C of the Western Beltway turnpike project, which part extends from Florida's Turnpike near Ocoee in Orange County southerly through Orange County and Osceola County to an interchange with I-4 near the Osceola/Polk County line ~~as described in s. 338.2275, or any segment thereof~~, the Department of Transportation shall include a request for the issuance of turnpike revenue bonds to construct the project as part of its next legislative budget request and tentative work program. If ~~In the event that~~ funding is insufficient to construct part C ~~the Western Beltway project, or any segment thereof~~, it is the intent of the Legislature that such project be given priority as a project financed from subsequent issuances of turnpike revenue bonds approved by the Legislature; however, ~~provided that~~ such priority consideration is ~~shall be~~ contingent on the project's ~~project~~ meeting all economic feasibility requirements~~,~~ and upon the project's being financed without the use of capitalized interest.

Section 22. Present subsections (3), (4), and (5) of section 338.231, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and new subsections (3) and (4) are added to that section, to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls for

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

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

(4) For the period July 1, 1998, through June 30, 2007, the department shall, to the maximum extent feasible, program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Dade County, Broward County, and Palm Beach County as compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections attributable to users of the turnpike system in Dade County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system. The requirements of this subsection do not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds.

Section 23. Section 339.12, Florida Statutes, 1996 Supplement, is amended to read:

339.12 Aid and contributions by governmental entities for department projects ~~rights-of-way, construction, or maintenance of roads in State Highway System~~; federal aid.—

(1) Any governmental entity may aid in any project or project phase included in the adopted work program~~, including, but not limited to, preliminary engineering, design, acquisition of rights-of-way, construction, or maintenance of any road on the State Highway System,~~ by contributions to the department of cash, bond proceeds, time warrants, or other goods or services of value.

(2) The department may accept and receive any such aid and contributions and dispose of and use the same for any project or project phase included in the adopted work program~~, including, but not limited to, preliminary engineering, design, acquisition of rights-of-way, construction, or maintenance of such state roads~~. The Executive Office of the Governor is

authorized to amend the department's budget and adopted work program in the appropriate categories to utilize contributions received.

(3) In case any such aid or contribution is given or made by any governmental entity, such aid or contribution shall be used by the department only for the project or project phase included in the adopted work program ~~or maintenance of such state roads~~ as are designated and agreed upon by the department and the governing body of the governmental entity.

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases ~~of the roads and bridges~~ in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess of the actual cost of the project or project phase ~~of such state roads~~. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases ~~in the State Highway System~~ that are not revenue producing and are contained in the department's adopted work program, or any public transportation project contained in the adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases ~~in the State Highway System~~. Reimbursement to the governmental entity for such a project or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.01401(18) ~~s. 607.108(1)(l)~~.

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

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

governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. At no time shall the total amount of project agreements for projects or project phases not included in the adopted work program exceed $50 million.

(5) The department and the governing body of a governmental entity may enter into an agreement by which the governmental entity agrees to perform a highway project or project phase in the department's adopted work program ~~for a road in the State Highway System~~ that is not revenue producing or any public transportation project in the adopted work program. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity the actual cost ~~of preliminary engineering, project design, acquisition of the right-of-way necessary for the project, construction engineering inspection, or the construction contract~~ for the project or project phase contained in the adopted work program. Reimbursement to the governmental entity for such project or project phases must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement.

(6) The department may propose and obtain the designation of any project or project phase ~~of the roads and bridges~~ to be constructed as a federal-aid project and obtain reimbursement from the United States in accordance with existing regulations. If federal-aid funds are used, governmental entities other than the department are prohibited from performing projects or project phases authorized in subsection (5), unless the entity is qualified and authorized by the Federal Highway Administration to perform the appropriate project phase.

(7) The federal-aid money obtained under subsection (6) shall first be applied to the completion of the project or project phase ~~roads~~ for which the bonds have been voted, if the money from the bonds is not sufficient therefor; and any residue shall be expended in the acquisition of rights-of-way or the construction of any project or project phase ~~state road~~ that the department and the governing body of the governmental entity may agree upon.

(8) The financial provisions of any agreement that are made in accordance with the provisions of this section shall be approved by the department comptroller.

(9) Notwithstanding any other provision of law, prior to commencement of the project or project phase, governmental entities are authorized to release control of such contributions to the department, pursuant to a written agreement between the governmental entity and the department.

Section 24. Paragraph (c) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

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

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(c)1. For purposes of this section, the board of county commissioners shall serve as the metropolitan planning organization in those counties which are not located in a metropolitan planning organization and shall be involved in the development of the district work program to the same extent as a metropolitan planning organization.

2. The district work program shall be developed cooperatively from the outset with the various metropolitan planning organizations of the state and include, to the maximum extent feasible, the project priorities ~~transportation improvement programs~~ of metropolitan planning organizations which ~~, and changes to the improvement programs that~~ have been submitted to the district by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, cooperatively agree to vary this submittal date ~~department at least 120 days prior to the submission of the tentative work program to the Florida Transportation Commission~~. To assist the metropolitan planning organizations in developing their lists of project priorities, the district shall disclose to each metropolitan planning organization any anticipated changes in the allocation or programming of state and federal funds which may affect the inclusion of metropolitan planning organization project priorities in the district work program.

3. Prior to submittal of the district work program to the central office, the district shall provide the affected metropolitan planning organization with written justification for any project proposed to be rescheduled or deleted from the district work program which project is part of the metropolitan planning organization's transportation improvement program and is contained in the last 4 years of the previous adopted work program. By no later than 14 days after submittal of the district work program to the central office, the affected metropolitan planning organization may file an objection to such rescheduling or deletion. When an objection is filed with the secretary, the rescheduling or deletion shall not be included in the district work program unless the inclusion of such rescheduling or deletion is specifically approved by the secretary. The Florida Transportation Commission shall include such objections in its evaluation of the tentative work program only when the secretary has approved the rescheduling or deletion.

Section 25. Subsections (2), (3), (6), (7), and (10) of section 339.175, Florida Statutes, 1996 Supplement, are amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s,

shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(2) VOTING MEMBERSHIP.—

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

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

(3) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership at least every 5 years and reapportion it as necessary to comply with subsection (2).

(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. ~~serve on an annual basis~~ as provided in paragraph (2)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a) may serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (1)(b). The membership of a member who is a public official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

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

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

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

~~special~~ emphasis to those ~~on~~ transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends innovative financing techniques that may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of congestion pricing.

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

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

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

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

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

In the development of its long-range plan, each M.P.O. must provide affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and members of the general public with a reasonable opportunity to comment on the long-range plan. The long-range plan must be approved by the M.P.O.

(7) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide affected public transit agencies, representatives of transportation agency employees, private providers of transportation, other interested parties, and members of the general public with a reasonable opportunity to comment on the transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and ~~the development of~~ a transportation improvement program. The transportation improvement program will be used to initiate ~~and for initiating~~ federally aided transportation facilities and improvements as well

as other transportation facilities and improvements including transit, rail, aviation, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan ~~urbanized~~ area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan ~~urbanized~~ area of the M.P.O.

(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:

1. The approved M.P.O. long-range plan;

2. The results of the transportation management systems; and

3. The M.P.O.'s public-involvement procedures.

(c)~~(b)~~ The transportation improvement program must, at a minimum:

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

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

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; and recommends any innovative financing techniques that may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of congestion pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be

anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

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

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

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

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport and airport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O.

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

(e)~~(d)~~ The annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must ~~shall~~ be submitted to the district secretary~~, each member of the Legislature who represents the M.P.O. area,~~ and the Department of Community Affairs at least 90 ~~120~~ days before ~~prior to~~ the submission of the state transportation improvement program by the department to the appropriate federal agencies ~~tentative work program to the Florida Transportation Commission~~. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Community Affairs at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Community Affairs, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.

(f)~~(e)~~ The Department of Community Affairs shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and shall identify those projects that are inconsistent with such comprehensive plans. The Department of Community Affairs shall notify an

M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in s. 339.155(5).

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

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

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

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

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

4. Establish bylaws and make rules to effectuate its powers, responsibilities, and obligations.

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

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

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

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state

comprehensive plan and any other statutory mandates and directions given to the agency.

Section 26. Paragraph (d) of subsection (2) of section 348.0003, Florida Statutes, is amended to read:

348.0003 Expressway authority; formation; membership.—

(2) The governing body of an authority shall consist of not fewer than five nor more than nine voting members. The district secretary of the affected department district shall serve as a nonvoting member of the governing body of each authority located within the district. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(d) Notwithstanding any provision to the contrary in this subsection, in any county as defined in s. 125.011(1), the governing body of an authority shall consist of up to 13 members, and the following provisions of this paragraph shall apply specifically to such authority. Except for the district secretary of the department, the members must be residents of the county. Seven ~~Five~~ voting members shall be appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of the members appointed by the governing body of the county may be elected officials residing in the county. Five ~~Three~~ voting members of the authority shall be appointed by the Governor. One member shall be the district secretary of the department serving in the district that contains such county. This member shall be an ex officio voting member of the authority. If the governing board of an authority includes any member originally appointed by the governing body of the county as a nonvoting member, when the term of such member expires, that member shall be replaced by a member appointed by the Governor until the governing body of the authority is composed of seven members appointed by the governing body of the county and five members appointed by the Governor. ~~The appointment and qualifications of the remaining members, who shall be nonvoting members of the authority, and the terms of office, and the obligations and rights of members of the authority shall be determined by resolution of the governing body of the county in a manner that is consistent with subsections (3) and (4).~~

Section 27. Subsection (7) of section 348.0004, Florida Statutes, 1996 Supplement, is amended to read:

348.0004 Purposes and powers.—

(7) In any county as defined in s. 125.011(1), an expressway authority may finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of a public transportation facility or transportation facilities owned or operated by such county, an intermodal facility or facilities, multimodal corridor or corridors, including, but not limited to, bicycle facilities or greenways that will improve transportation services within the county, or any programs or projects that will improve the levels of service on an expressway system, subject to approval of the governing body of such county after public hearing.

Section 28. Section 348.565, Florida Statutes, is created to read:

348.565 Revenue bonds for specified projects.—The existing facilities that constitute the Tampa-Hillsborough County Expressway System are hereby approved to be refinanced by the issuance of revenue bonds by the Division of Bond Finance of the State Board of Administration pursuant to Art. VII, s. 11(e) of the State Constitution. In addition, the following projects of the Tampa-Hillsborough County Expressway Authority are approved to be financed or refinanced by the issuance of revenue bonds pursuant to Art. VII, s. 11(e) of the State Constitution:

(1) Brandon area feeder roads;

(2) Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment; and

(3) Lee Roy Selmon Crosstown Expressway System widening.

Section 29. Paragraph (n) is added to subsection (2) of section 348.754, Florida Statutes, to read:

348.754 Purposes and powers.—

(2) The authority is hereby granted, and shall have and may exercise all powers necessary, appurtenant, convenient or incidental to the carrying out of the aforesaid purposes, including, but without being limited to, the following rights and powers:

(n) With the consent of the county within whose jurisdiction the following activities occur, the authority shall have the right to construct, operate, and maintain roads, bridges, avenue of access, thoroughfares, and boulevards outside the jurisdictional boundaries of Orange County, together with the right to construct, repair, replace, operate, install, and maintain electronic toll payment systems thereon, with all necessary and incidental powers to accomplish the foregoing.

Section 30. (1) The Governor shall convene, by July 1, 1997, a working group consisting of the secretary of the Department of Transportation; the secretary of the Department of Children and Family Services; the Commissioner of Education; the secretary of the Department of Labor and Employment Security; the executive director of the Department of Veterans' Affairs; the secretary of the Department of Elderly Affairs; and the director of the Agency for Health Care Administration.

(2) The working group must develop recommendations to the Legislature for changes to the provision of services to the transportation disadvantaged. The working group shall review all state, federal, and local programs providing transportation disadvantaged services and consult with all purchasers of services not represented by a member of the working group. By January 15, 1998, the working group shall submit to the Legislature a report that identifies:

(a) Changes to the size, composition, and role of the Commission for the Transportation Disadvantaged which would best serve the coordination of

services to the transportation disadvantaged, including eliminating the commission.

(b) Changes to eligibility and screening requirements for the transportation disadvantaged program which would ensure that limited resources are expended on those individuals most in need who lack the ability to transport themselves or purchase transportation services.

(c) Changes to the transportation disadvantaged program to eliminate conflicting policies and requirements. Where appropriate, the working group should seek waivers from federal program requirements that hinder the coordination of transportation disadvantaged services.

(d) Changes to the transportation disadvantaged program which would facilitate enhanced local decisionmaking and supervision.

(e) Changes to the transportation disadvantaged funding formula which would ensure an equitable distribution of program funds based on available state and federal funding.

(f) Changes to the contracting for transportation disadvantaged and medicaid transportation services including contracting on a competitive bid basis with a single provider in a service area and the impact on future bidding for services.

(g) Any other changes to the transportation disadvantaged program which the working group deems necessary to improve the efficiency and effectiveness of transportation disadvantaged services.

Section 31. Subsection (7) of section 479.261, Florida Statutes, 1996 Supplement, is amended to read:

479.261 Logo sign program.—

(7) The department may adopt rules to establish requirements for qualification and location of logo sign sites, qualification and distance of businesses, permit application and processing, and other criteria necessary to implement this program and to provide for variances when necessary to serve the interest of the traveling public or when required to ensure equitable treatment of program participants. However, the department or its agent may erect logo signs only where spacing requirements allow at least one ~~three~~ logo sign structure ~~structures~~ on the main road, one ~~three~~ logo sign structure ~~structures~~ on the ramp, and all necessary traffic control signs for each direction of travel.

Section 32. Effective October 1, 1997, section 784.07, Florida Statutes, 1996 Supplement, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

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

(a) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the Game and Fresh Water Fish Commission, the Department of Environmental Protection, or the Department of Law Enforcement.

(b) "Firefighter" means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(c) "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, medical director as defined in s. 401.23, or any person authorized by an emergency medical service licensed under chapter 401.

(d) "Public transit employees or agents" means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l).

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in s. 318.141, a parking enforcement specialist as defined in s. 316.640, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

Section 33. Effective October 1, 1997, section 812.015, Florida Statutes, 1996 Supplement, is amended to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(a) "Merchandise" means any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.

(b) "Merchant" means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.

(c) "Value of merchandise" means the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of his lawful right to ownership and sale of said item.

(d) "Retail theft" means the taking possession of or carrying away of merchandise, money, or negotiable documents; altering or removing a label or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

(e) "Farm produce" means livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.

(f) "Farmer" means a person who is engaging in the growing or producing of farm produce, milk products, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as his agent. No person defined as a farm labor contractor pursuant to s. 450.28 shall be designated to act as an agent for purposes of this section.

(g) "Farm theft" means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person.

(h) "Antishoplifting or inventory control device" means a mechanism or other device designed and operated for the purpose of detecting the removal

from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise.

(i) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

(j) "Transit fare evasion" means the unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare paying passengers, and shall constitute petit theft as proscribed by this chapter.

(k) "Mass transit vehicle" means buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare paying passengers.

(l) "Transit agency" means any state agency, political subdivision of the state, or municipality which operates mass transit vehicles.

(m) "Trespass" means the violation as described in s. 810.08.

(2) Upon a second or subsequent conviction for petit theft from a merchant, ~~or~~ farmer, or transit agency, the offender shall be punished as provided in s. 812.014(3), except that the court shall impose a fine of not less than $50 or more than $1,000. However, in lieu of such fine, the court may require the offender to perform public services designated by the court. In no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

(3)(a) A law enforcement officer, a merchant, ~~or~~ a farmer, or a transit agency's employee or agent, who has probable cause to believe that a retail theft, farm theft, a transit fare evasion, or trespass, or unlawful use or attempted use of any antishoplifting or inventory control device countermeasure, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time. In the case of a farmer, taking into custody shall be effectuated only on property owned or leased by the farmer. In the event the merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody.

(b) The activation of an antishoplifting or inventory control device as a result of a person exiting an establishment or a protected area within an establishment shall constitute reasonable cause for the detention of the person so exiting by the owner or operator of the establishment or by an agent or employee of the owner or operator, provided sufficient notice has

been posted to advise the patrons that such a device is being utilized. Each such detention shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device.

(c) The taking into custody and detention by a law enforcement officer, merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent, if done in compliance with all the requirements of this subsection, shall not render such law enforcement officer, merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent, criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(4) Any law enforcement officer may arrest, either on or off the premises and without warrant, any person the officer has probable cause to believe unlawfully possesses, or is unlawfully using or attempting to use or has used or attempted to use, any antishoplifting or inventory control device countermeasure or has committed theft in a retail or wholesale establishment or on commercial or private farm lands of a farmer or transit fare evasion or trespass.

(5) A merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent who takes a person into custody, as provided in subsection (3), or who causes an arrest, as provided in subsection (4), of a person for retail theft, ~~or~~ farm theft, transit fare evasion, or trespass shall not be criminally or civilly liable for false arrest or false imprisonment when the merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent has probable cause to believe that the person committed retail theft, ~~or~~ farm theft, transit fare evasion, or trespass.

(6) An individual who, while committing or after committing theft of property, transit fare evasion, or trespass, resists the reasonable effort of a law enforcement officer, merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent to recover the property or cause the individual to pay the proper transit fare or vacate the transit facility which the law enforcement officer, merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent had probable cause to believe the individual had concealed or removed from its place of display or elsewhere or perpetrated a transit fare evasion or trespass commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless the individual did not know, or did not have reason to know, that the person seeking to recover the property was a law enforcement officer, merchant, merchant's employee, ~~or~~ farmer, or a transit agency's employee or agent. For purposes of this section the charge of theft and the charge of resisting may be tried concurrently.

(7) It is unlawful to possess, or use or attempt to use, any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise. Any person who possesses any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who uses or attempts to use any antishoplifting or

inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 34. Section 334.35, Florida Statutes, as created by section 18 of chapter 96-423, Laws of Florida, and section 339.121, Florida Statutes, are repealed.

Section 35. This act shall take effect July 1, 1997.

Approved by the Governor May 30, 1997.

Filed in Office Secretary of State May 30, 1997.