

Committee Substitute for
Committee Substitute for Senate Bill No. 1456

An act relating to transportation; amending s. 20.23, F.S.; authorizing the secretary of the department to appoint an additional assistant secretary and deputy assistant secretaries or directors; revising the organization of the department to specify areas of program responsibility; authorizing the secretary to reorganize offices within the department in consultation with the Executive Office of the Governor; amending s. 110.205, F.S., relating to career service; conforming provisions to changes made by the act; amending 177.031, F.S.; providing that encasement in concrete is optional for survey markers made of certain materials; amending s. 339.175, F.S.; revising planning procedures of metropolitan planning organizations; requiring development of plans and programs that identify transportation facilities that should function as an integrated metropolitan planning system; requiring that the approved list of project priorities include projects on the Strategic Intermodal System; amending s. 338.251, F.S.; authorizing the Emerald Coast Bridge Authority to revise the repayment schedule of any previous advances for funds from the Toll Facilities Revolving Trust Fund within the department; providing that such repayment schedule is not a failure to repay under certain conditions; amending s. 334.30, F.S.; revising provisions for public-private construction of transportation facilities; providing procedures for requests for proposals and receipt of unsolicited proposals by the department; providing for use of certain funds under described conditions; amending s. 338.001, F.S., relating to the Florida Intrastate Highway System Plan; establishing a minimum annual allocation; amending s. 339.08, F.S.; revising provisions for use of moneys in the State Transportation Trust Fund; providing for use of such funds for projects on the Strategic Intermodal System; amending s. 339.135, F.S.; revising provisions for use of new discretionary highway capacity funds; providing for allocation of such funds to the Strategic Intermodal System; repealing s. 339.137, F.S., relating to the Transportation Outreach Program; amending s. 339.1371, F.S.; removing provisions to fund the Transportation Outreach Program; adding provisions to fund the Florida Strategic Intermodal System; amending s. 339.61, F.S., relating to the Florida Strategic Intermodal System; establishing a minimum annual allocation; amending s. 337.401, F.S.; providing that a permit-delegation agreement between the Department of Transportation and a governmental entity does not apply to facilities of electric utilities; amending s. 95.361, F.S.; providing that provisions governing the circumstances under which a road is deemed to be dedicated to the public do not apply to a electric utility facility located on property otherwise subject to those provisions; amending s. 341.8203, F.S.; redefining the terms "authority" and "high-speed rail system"; amending s. 341.840, F.S.; revising the tax exemption of the authority and its agents and contractors; providing for annual re-determination of eligibility for exemption; providing for recapture of

taxes when an exemption is used inappropriately; providing for rules; amending ss. 343.71, 343.72, 343.73, and 343.74, F.S., relating to the Tampa Bay Commuter Rail Authority Act; redesignating the authority as the “Tampa Bay Commuter Transit Authority”; adding representatives of Manatee and Sarasota Counties to the board of authority; including Manatee and Sarasota Counties within the jurisdiction of the authority; amending s. 3 of chapter 88-474, Laws of Florida, as amended, relating to the Greater Orlando Aviation Authority; providing the mayor of Orlando, and chair of the Orange County Commission shall be members of the authority; amending s. 337.408, F.S.; providing for placement of certain modular news racks, including advertising thereon, within the right-of-way limits of any municipal, county, or state road; providing requirements, restrictions, and limitations; authorizing removal under certain circumstances; authorizing the department to adopt rules; repealing s. 348.0004(2)(m), F.S., relating to an obsolete provision authorizing expressway authorities to enter into public-private transportation partnerships; amending s. 348.0004, F.S.; creating a new process for expressway authorities to enter into public-private partnerships with private entities; directing the expressway authorities to adopt rules related to the public-private partnerships; specifying public notice requirements; specifying that public-private entities may impose tolls on the new facilities, but the expressway authority may regulate the amount and use of such tolls; providing that the Department of Transportation may loan funds from the Toll Facilities Revolving Loan Trust Fund for eligible projects; specifying project requirements; authorizing an expressway authority to exercise certain powers to facilitate the partnership projects; providing that intent of the act is not to amend or impact other existing laws; amending s. 2 of chapter 88-418, Laws of Florida, as amended, relating to Crandon Boulevard; allowing expenditure of public funds for certain modifications to enhance life safety vehicular or pedestrian use under certain circumstances; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1), subsection (3), and paragraph (b) of subsection (4) of section 20.23, Florida Statutes, are amended to read:

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

(1)

(d) The secretary ~~may shall~~ appoint up to three ~~two~~ assistant secretaries who shall be directly responsible to the secretary and who shall perform such duties as are assigned by the secretary. The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary.

(3)(a) The central office shall establish departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance

and quality performance by the districts and central office units that implement transportation programs. Major transportation policy initiatives or revisions shall be submitted to the commission for review.

~~(b) The secretary shall appoint an Assistant Secretary for Transportation Development and Operations and an Assistant Secretary for Transportation Support.~~

(b)(e) The secretary may appoint positions at the level of deputy assistant secretary or director which the secretary deems necessary to accomplish the mission and goals of the department, including, but not limited to, the areas of program responsibility provided in this paragraph following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The secretary may combine, separate, or delete offices as needed in consultation with the Executive Office of the Governor. The department's areas of program responsibility include, but are not limited to positions shall be classified at a level equal to a division director:

- ~~1. The Office of Administration;~~
- ~~2. The Office of Planning and Environmental Management;~~
3. Public transportation;
- ~~4.3. The Office of Design;~~
- ~~5.4. The Office of Highway operations;~~
- ~~6.5. The Office of Right-of-way;~~
- ~~7.6. The Office of Toll operations;~~
- ~~8.7. The Office of Information systems;~~
- ~~9.8. The Office of Motor carrier compliance;~~
- ~~10.9. The Office of Management and budget;~~
- ~~11.10. The Office of Comptroller;~~
- ~~12.11. The Office of Construction;~~
- ~~13.12. The Office of Maintenance; and~~
- ~~14.13. The Office of Materials.~~

~~(c)(d) Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter 110. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.~~

(d)(e) The secretary shall appoint an inspector general pursuant to s. 20.055 who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary.

(e)(f) The secretary shall appoint a general counsel who shall be directly responsible to the secretary. The general counsel is responsible for all legal matters of the department. The department may employ as many attorneys as it deems necessary to advise and represent the department in all transportation matters.

~~(g) The secretary shall appoint a state transportation development administrator. This position shall be classified at a level equal to a deputy assistant secretary.~~

~~(h) The secretary shall appoint a state transportation operations administrator. This position shall be classified at a level equal to a deputy assistant secretary.~~

~~(i) The secretary shall appoint a state public transportation and modal administrator. This position shall be classified at a level equal to a deputy assistant secretary.~~

(4)

(b) Each district secretary may appoint up to three a district directors director for transportation development, a district director for transportation operations, and a district director for transportation support or, until July 1, 2005, each district secretary may appoint up to four a district directors director for planning and programming, a district director for production, a district director for operations, and a district director for administration. These positions are exempt from part II of chapter 110.

Section 2. Paragraphs (j) and (m) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(j) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, the State Transportation Development Administrator, State Public Transportation and Modal Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices specified in ~~s. 20.23(3)(b)~~ s. 20.23(3)(c), of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service; and the county health department directors and county health department administrators of the Department of Health.

(m) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to:

1. Positions in the Department of Health and the Department of Children and Family Services that are assigned primary duties of serving as the superintendent or assistant superintendent of an institution.
2. Positions in the Department of Corrections that are assigned primary duties of serving as the warden, assistant warden, colonel, or major of an institution or that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator.
3. Positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(b) ~~s. 20.23(3)(e)~~ and (4)(d), and captains and majors of the Office of Motor Carrier Compliance.
4. Positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator.
5. Positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator.

Unless otherwise fixed by law, the department shall set the salary and benefits of the positions listed in this paragraph in accordance with the rules established for the Selected Exempt Service.

Section 3. Subsections (13) and (15), of section 177.031, Florida Statutes, are amended to read:

177.031 Definitions.—As used in this part:

(13) “P.C.P.” means permanent control point and shall be considered a reference monument.

(a) “P.C.P.s” set in impervious surfaces must:

1. Be composed of a metal marker with a point of reference.
2. Have a metal cap or disk bearing either the Florida registration number of the professional surveyor and mapper in responsible charge or the certificate of authorization number of the legal entity, which number shall be preceded by LS or LB as applicable and the letters “P.C.P.”

(b) “P.C.P.s” set in pervious surfaces must:

1. Consist of a metal rod having a minimum length of 18 inches and a minimum cross-section area of material of 0.2 square inches In certain materials, encasement in concrete is optional for stability of the rod. When

~~used, encased in concrete.~~ the concrete shall have a minimum cross-section area of 12.25 square inches and be a minimum of 24 inches long.

2. Be identified with a durable marker or cap with the point of reference marked thereon bearing either the Florida registration number of the professional surveyor and mapper in responsible charge or the certificate of authorization number of the legal entity, which number shall be preceded by LS or LB as applicable and the letters "P.C.P."

(c) "P.C.P.s" must be detectable with conventional instruments for locating ferrous or magnetic objects.

(15) "P.R.M." means a permanent reference monument which must:

(a) Consist of a metal rod having a minimum length of 18 inches and a minimum cross-section area of material of 0.2 square inches In certain materials, encasement in concrete is optional for stability of the rod. When used, encased in concrete. the concrete shall have a minimum cross-section area of 12.25 square inches and be a minimum of 24 inches long.

(b) Be identified with a durable marker or cap with the point of reference marked thereon bearing either the Florida registration number of the professional surveyor and mapper in responsible charge or the certificate of authorization number of the legal entity, which number shall be preceded by LS or LB as applicable and the letters "P.R.M."

(c) Be detectable with conventional instruments for locating ferrous or magnetic objects.

If the location of the "P.R.M." falls in a hard surface such as asphalt or concrete, alternate monumentation may be used that is durable and identifiable.

Section 4. Section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing 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 and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the

statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63.

(1) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. More than one M.P.O. may be designated within an existing metropolitan planning area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing metropolitan planning area makes the designation of more than one M.P.O. for the area appropriate.

(b) Each M.P.O. shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(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, may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning 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, an official of an agency that operates or administers a major mode of transportation, or an official of the Florida Space Authority. 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) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing 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. In all other M.P.O.'s where transportation authorities or agencies are to be represented by elected officials from general purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.

(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a three-fourths vote of its membership;
2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and
3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.

Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

(d) 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 four additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, 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 in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of the Census, 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. 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.

(4) **AUTHORITY AND RESPONSIBILITY.**—The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that, based upon the prevailing principles provided in s. 334.046(1), results in the development of plans and

programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of the affected governmental entities in the development of the plans and programs required by subsections (5), (6), (7), and (8).

(5) **POWERS, DUTIES, AND RESPONSIBILITIES.**—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(a) Each M.P.O. shall, in cooperation with the department, develop:

1. A long-range transportation plan pursuant to the requirements of subsection (6);
2. An annually updated transportation improvement program pursuant to the requirements of subsection (7); and
3. An annual unified planning work program pursuant to the requirements of subsection (8).

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.

(c) In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:

1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;
2. Assist the department in mapping transportation planning boundaries required by state or federal law;
3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;
4. Execute all agreements or certifications necessary to comply with applicable state or federal law;
5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and
6. Perform all other duties required by state or federal law.

(d) Each M.P.O. shall appoint a technical advisory committee that includes planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs, and shall advise the M.P.O. on such matters. In addition, the technical advisory committee shall coordinate its actions with local school boards and other local programs and organizations within the metropolitan area which participate in school safety activities, such as locally established community traffic safety teams. Local school boards must provide the appropriate M.P.O. with information concerning future school sites and in the coordination of transportation service.

(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.

(f) The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

(g) Each M.P.O. may employ personnel or may enter into contracts with local or state agencies, private planning firms, or private engineering firms to accomplish its transportation planning and programming duties required by state or federal law.

(h) A chair's coordinating committee is created, composed of the M.P.O.'s serving Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The committee must, at a minimum:

1. Coordinate transportation projects deemed to be regionally significant by the committee.

2. Review the impact of regionally significant land use decisions on the region.

3. Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.

4. Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.

(i)1. The Legislature finds that the state's rapid growth in recent decades has caused many urbanized areas subject to M.P.O. jurisdiction to become contiguous to each other. As a result, various transportation projects may cross from the jurisdiction of one M.P.O. into the jurisdiction of another M.P.O. To more fully accomplish the purposes for which M.P.O.'s have been mandated, M.P.O.'s shall develop coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand.

2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities required to achieve the goal or purpose; provide the purpose for which the entity is created; provide the duration of the agreement and the entity, and specify how the agreement may be terminated, modified, or rescinded; describe the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the relative voting strength is for each constituent M.P.O. or political subdivision; provide the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the

entity; provide the manner in which funds may be paid to and disbursed from the entity; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in which a member of the entity created by the interlocal agreement has a voting member. This paragraph does not require any M.P.O.'s to merge, combine, or otherwise join together as a single M.P.O.

(6) **LONG-RANGE TRANSPORTATION PLAN.**—Each M.P.O. must develop a 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 prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation 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 transportation 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 transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those 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. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(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 any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques 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 value 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 transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation 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 the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The prevailing principles to be considered by each M.P.O. when developing a list of project priorities and a transportation improvement program are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, spaceport, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan 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 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 transportation plan;
2. The Strategic Intermodal System Plan developed under s. 339.64.
- ~~3.2.~~ The results of the transportation management systems; and
- ~~4.3.~~ The M.P.O.'s public-involvement procedures.

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

1. Include 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 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 transportation 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; identifies any innovative financing techniques that may be used to fund needed projects and programs; and may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing techniques may include the assessment of tolls, the use of value capture financing, or the use of value 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 transportation plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation 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, airport, and spaceport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.

(d) 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) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(f) The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Community Affairs at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. 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.

(g) 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.

(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.

(8) UNIFIED PLANNING WORK PROGRAM.—Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.

(9) AGREEMENTS.—

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, seaports, and spaceports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, seaport, and aerospace planning and programming will be part of the comprehensive planned development of the metropolitan area.

(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.

(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 this section.

(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 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

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 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.

(11) APPLICATION OF FEDERAL LAW.—Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.

Section 5. Subsection (12) is added to section 338.251, Florida Statutes, to read:

338.251 Toll Facilities Revolving Trust Fund.—The Toll Facilities Revolving Trust Fund is hereby created for the purpose of encouraging the development and enhancing the financial feasibility of revenue-producing road projects undertaken by local governmental entities in a county or combination of contiguous counties and the turnpike enterprise.

(12) Notwithstanding subsection (4), by agreement with the department, the Emerald Coast Bridge Authority may revise the repayment schedule of any previous advances, which shall not be considered a failure to repay if the effort to undertake a revenue-producing road project is being conducted in good faith and all other requirements of law are met.

Section 6. Section 334.30, Florida Statutes, is amended to read:

334.30 ~~Public-private~~ ~~Private~~ transportation facilities.—The Legislature hereby finds and declares that there is a public need for rapid construction of safe and efficient transportation facilities for the purpose of travel within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program ~~by a separate bill for each facility~~, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department may advance projects programmed in the adopted 5-year work program using funds provided by public-private partnerships or private entities to be reimbursed from department funds for the project as programmed in the adopted work program. The department shall by rule establish an application fee for the submission of proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before ~~seeking legislative~~ approval, the department must determine that the proposed project:

- (a) Is in the public's best interest;
- (b) Would not require state funds to be used unless the project is on the State Highway System ~~there is an overriding state interest~~; and
- (c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the department.

The department shall ensure that all reasonable costs to the state ~~and substantially affected local governments and utilities~~, related to the private transportation facilities that are not part of the State Highway System ~~facility~~, are borne by the private entity. The department shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne

by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(2) Agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues shall ~~may~~ be regulated by the department to avoid unreasonable costs to users of the facility.

(3) Each private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; department rules, policies, procedures, and standards for transportation facilities; and any other conditions which the department determines to be in the public's best interest.

(4) The department may exercise any power possessed by it, including eminent domain, with respect to the development and construction of state transportation projects to facilitate the development and construction of transportation projects pursuant to this section. The department may provide services to the private entity. Agreements for maintenance, law enforcement, and other services entered into pursuant to this section shall provide for full reimbursement for services rendered for projects not on the State Highway System.

(5) Except as herein provided, the provisions of this section are not intended to amend existing laws by granting additional powers to, or further restricting, local governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(6) The department may request proposals from private entities for public-private transportation projects or, if the department receives an unsolicited proposal, the department shall publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for 2 weeks stating that the department has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area. After the public notification period has expired, the department shall rank the proposals in order of preference. In ranking the proposals the department may consider factors, including, but not limited to, professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the project. If the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the department may go to the second-ranked and lower-ranked firms, in order, using this same procedure. If only one proposal is received, the department may negotiate in good faith and, if the department is not satisfied with the results of the negotiations, the department may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the department may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(7) The department may lend funds from the Toll Facilities Revolving Trust Fund, as outlined in s. 338.251, to private entities that construct projects on the State Highway System containing toll facilities that are approved under this section. To be eligible, a private entity must comply with s. 338.251 and must provide an indication from a nationally recognized rating agency that the senior bonds for the project will be investment grade, or must provide credit support such as a letter of credit or other means acceptable to the department, to ensure that the loans will be fully repaid. The state's liability for the funding of a facility is limited to the amount approved for that specific facility in the department's 5-year work program adopted pursuant to s. 339.135.

~~(8)~~(6) A fixed-guideway transportation system authorized by the department to be wholly or partially within the department's right-of-way pursuant to a lease granted under s. 337.251 may operate at any safe speed.

Section 7. Subsection (6) of section 338.001, Florida Statutes, is amended to read:

338.001 Florida Intrastate Highway System Plan.—

(6) For the purposes of developing the proposed plan, beginning in fiscal year ~~2003-2004~~ ~~1993-1994~~ and for each fiscal year thereafter, the minimum amount allocated shall be based on the fiscal year ~~2003-2004~~ ~~1992-1993~~ allocation of \$450 ~~\$151.3~~ million adjusted annually by the change in the Consumer Price Index for the prior fiscal year compared to the Consumer Price Index for fiscal year ~~2003-2004~~ ~~1991-1992~~. No amounts from the funds dedicated to the Florida Intrastate Highway System shall be allocated to turnpike projects after the ~~1993-1994~~ fiscal year.

Section 8. Section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(1) The department shall ~~expend by rule provide for the expenditure of~~ the moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget.

~~(2) These rules must restrict~~ The use of such moneys shall be restricted to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts, but excluding administrative expenses of commuter rail authorities that do not operate rail service.

(b) To pay the cost of construction of the State Highway System.

(c) To pay the cost of maintaining the State Highway System.

(d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007.

(e) To reimburse counties or municipalities for expenditures made on projects in the State Highway System as authorized by s. 339.12(4) upon legislative approval.

(f) To pay the cost of economic development transportation projects in accordance with s. 288.063.

(g) To lend or pay a portion of the operating, maintenance, and capital costs of a revenue-producing transportation project that is located on the State Highway System or that is demonstrated to relieve traffic congestion on the State Highway System.

(h) To match any federal-aid funds allocated for any other transportation purpose, including funds allocated to projects not located in the State Highway System.

(i) To pay the cost of county road projects selected in accordance with the Small County Road Assistance Program created in s. 339.2816.

(j) To pay the cost of county or municipal road projects selected in accordance with the County Incentive Grant Program created in s. 339.2817 and the Small County Outreach Program created in s. 339.2818.

(k) To provide loans and credit enhancements for use in constructing and improving highway transportation facilities selected in accordance with the state-funded infrastructure bank created in s. 339.55.

(l) To pay the cost of projects on the Florida Strategic Intermodal System created in s. 339.61 ~~fund the Transportation Outreach Program created in s. 339.137.~~

(m) To pay other lawful expenditures of the department.

~~(2)~~(3) Unless specifically provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, no moneys in the State Transportation Trust Fund may be used to fund the operational or capital outlay cost for any correctional facility of the Department of Corrections. The department shall, however, enter into contractual arrangements with the Department of Corrections for those specific maintenance functions that can be performed effectively by prison inmates under the supervision of Department of Corrections personnel with technical assistance being provided by the department. The cost of such contracts must not exceed the cost that would be incurred by the department if these functions were to be performed by its personnel or by contract with another entity unless, notwithstanding cost, the department can clearly demonstrate that for reasons of expediency or efficiency it is in the best interests of the department to contract with the Department of Corrections.

~~(3)~~(4) The department may authorize the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(6)(b). Such investment shall be limited as provided in s. 288.9607(7).

(4)(5) For the 2003-2004 fiscal year only and notwithstanding the provisions of this section and s. 339.09(1), \$200 million may be transferred from the State Transportation Trust Fund to the General Revenue Fund in the 2003-2004 General Appropriations Act. Such transfer may be comprised of several smaller transfers made during the 2003-2004 fiscal year. Notwithstanding ss. 206.46(3) and 206.606(2), the total amount transferred shall be reduced from total state revenues deposited into the State Transportation Trust Fund for the calculation requirements of ss. 206.46(3) and 206.606(2). This subsection expires July 1, 2004.

Section 9. Paragraph (a) 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.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike enterprise, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052. Funds for the intercity bus program provided for under s. 5311(f) of the federal nonurbanized area formula program shall be administered and allocated directly to eligible bus carriers as defined in s. 341.031(12) at the state level rather than the district. In order to provide state funding to support the intercity bus program provided for under provisions of the federal 5311(f) program, the department shall allocate an amount equal to the federal share of the 5311(f) program from amounts calculated pursuant to s. 206.46(3).

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Strategic Intermodal Intrastate Highway System created ~~established~~ pursuant to s. 339.61 ~~s. 338.001~~. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term “new discretionary highway capacity funds” means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

Section 10. Section 339.137, Florida Statutes, is repealed.

Section 11. Section 339.1371, Florida Statutes, is amended to read:

339.1371 Mobility 2000; ~~Transportation Outreach Program~~; funding.—

(1) Beginning in fiscal year 2000-2001 the Department of Transportation shall allocate sufficient funds to implement the Mobility 2000 (Building Roads for the 21st Century) initiative. The department shall develop a plan to expend these revenues and amend the current tentative work program for the time period 2000-2001 through 2004-2005 prior to adoption to include Mobility 2000 projects. In addition, prior to work program adoption, the department shall submit a budget amendment pursuant to s. 339.135(7), requesting budget authority needed to implement the Mobility 2000 initiative. Funds will be used for corridors that link Florida's economic regions to seaports, international airports, and markets to provide connections through major gateways, improved mobility in major urbanized areas, and access routes for emergency evacuation to coastal communities based on analysis of current and projected traffic conditions.

(2) Notwithstanding any other provision of law, in fiscal year 2001-2002 and each year thereafter, the increase in revenue to the State Transportation Trust Fund derived from ss. 1, 2, 3, 7, 9, and 10, ch. 2000-257, Laws of Florida, shall be first used by the Department of Transportation to fund the Mobility 2000 initiative and any remaining funds shall be used to fund the Florida Strategic Intermodal System ~~Transportation Outreach Program~~ created pursuant to ~~s. 339.61 s. 339.137~~. Notwithstanding any other law to the contrary, the requirements of ss. 206.46(3) and 206.606(2) shall not apply to the Mobility 2000 initiative.

Section 12. Subsection (1) of section 339.61, Florida Statutes, is amended to read:

339.61 Florida Strategic Intermodal System; legislative findings, declaration, and intent.—

(1) There is hereby created the Florida Strategic Intermodal System. For purposes of funding projects under the system, the department shall allocate from the State Transportation Trust Fund in its program and resource plan a minimum of \$60 million each year, beginning in the 2004-2005 fiscal year. This allocation of funds is in addition to any funding provided to this system by any other provision of law.

Section 13. Subsection (1) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(1) The department and local governmental entities, referred to in ss. 337.401-337.404 as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along, across, or on any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, telephone,

telegraph, or other communications services lines; pole lines; poles; rail-ways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to as the “utility.” The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

Section 14. Section 95.361, Florida Statutes, is amended to read:

95.361 Roads presumed to be dedicated.—

(1) When a road, constructed by a county, a municipality, or the Department of Transportation, has been maintained or repaired continuously and uninterruptedly for 4 years by the county, municipality, or the Department of Transportation, jointly or severally, the road shall be deemed to be dedicated to the public to the extent in width that has been actually maintained for the prescribed period, whether or not the road has been formally established as a public highway. The dedication shall vest all right, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or
- (c) The state, if it is a road in the State Highway System or State Park Road System,

whether or not there is a record of a conveyance, dedication, or appropriation to the public use.

(2) In those instances where a road has been constructed by a nongovernmental entity, or where the road was not constructed by the entity currently maintaining or repairing it, or where it cannot be determined who constructed the road, and when such road has been regularly maintained or repaired for the immediate past 7 years by a county, a municipality, or the Department of Transportation, whether jointly or severally, such road shall be deemed to be dedicated to the public to the extent of the width that actually has been maintained or repaired for the prescribed period, whether or not the road has been formally established as a public highway. This subsection shall not apply to an electric utility, as defined in s. 366.02(2) The dedication shall vest all rights, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or
- (c) The state, if it is a road in the State Highway System or State Park Road System,

whether or not there is a record of conveyance, dedication, or appropriation to the public use.

(3) The filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has vested in the state, a county, or a municipality in accordance with subsection (1) or subsection (2) or by any other means of acquisition, duly certified by:

(a) The secretary of the Department of Transportation, or the secretary's designee, if the road is a road in the State Highway System or State Park Road System;

(b) The chair and clerk of the board of county commissioners of the county, if the road is a county road; or

(c) The mayor and clerk of the municipality, if the road is a municipal road or street,

shall be prima facie evidence of ownership of the land by the state, county, or municipality, as the case may be.

(4) Any person, firm, corporation, or entity having or claiming any interest in and to any of the property affected by subsection (2) shall have and is hereby allowed a period of 1 year after the effective date of this subsection, or a period of 7 years after the initial date of regular maintenance or repair of the road, whichever period is greater, to file a claim in equity or with a court of law against the particular governing authority assuming jurisdiction over such property to cause a cessation of the maintenance and occupation of the property. Such timely filed and adjudicated claim shall prevent the dedication of the road to the public pursuant to subsection (2).

(5) This section does not apply to any facility of an electric utility which is located on property otherwise subject to this section.

Section 15. Subsections (2) and (6) of section 341.8203, Florida Statutes, are amended to read:

341.8203 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(2) “Authority” means the Florida High-Speed Rail Authority and its agents. However, for purposes of s. 341.840, the term does not include any agent of the authority except as provided in that section.

(6) “High-speed rail system” means any high-speed fixed guideway system for transporting people or goods, which system is capable of operating at speeds in excess of 120 miles per hour, including, but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic levitation system, pneumatic repulsion system, or other system approved by the authority. The term includes a corridor and structures essential to the operation of the line, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, ~~stations, platforms,~~ switches, yards, parking facilities, power relays, switching houses,

and rail stations, associated development, and also includes any other facilities or equipment used exclusively or useful for the purposes of high-speed rail system design, construction, operation, maintenance, or the financing of the high-speed rail system.

Section 16. Section 341.840, Florida Statutes, is amended to read:

341.840 Tax exemption.—

(1) The exercise of the powers granted by this act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as The design, construction building, operation, maintenance, and financing of a high-speed rail system by the authority, or its agent, or the owner or lessee thereof, as herein authorized, constitutes the performance of an essential public function.

(2)(a) For the purposes of this section, the term “authority” does not include agents of the authority other than contractors who qualify as such pursuant to subsection (7).

(b) For the purposes of this section, any item or property that is within the definition of “associated development” in s. 341.8203(1) shall not be considered to be part of the high-speed rail system as defined in s. 341.8203(6).

(3)(a) Purchases or leases of tangible personal property or real property by the authority, excluding agents of the authority, are exempt from taxes imposed by chapter 212 as provided in s. 212.08(6). Purchases or leases of tangible personal property that is incorporated into the high-speed rail system as a component part thereof, as determined by the authority, by agents of the authority or the owner of the high-speed rail system are exempt from sales or use taxes imposed by chapter 212. Leases, rentals, or licenses to use real property granted to agents of the authority or the owner of the high-speed rail system are exempt from taxes imposed by s. 212.031 if the real property becomes part of such system. The exemptions granted in this subsection do not apply to sales, leases, or licenses by the authority, agents of the authority, or the owner of the high-speed rail system.

(b) The exemption granted in paragraph (a) to purchases or leases of tangible personal property by agents of the authority or by the owner of the high-speed rail system applies only to property that becomes a component part of such system. It does not apply to items, including, but not limited to, cranes, bulldozers, forklifts, other machinery and equipment, tools and supplies, or other items of tangible personal property used in the construction, operation, or maintenance of the high-speed rail system when such items are not incorporated into the high-speed rail system as a component part thereof.

(4) Any bonds or other, neither the authority, its agent, nor the owner of such system shall be required to pay any taxes or assessments upon or in respect to the system or any property acquired or used by the authority, its agent, or such owner under the provisions of this act or upon the income

therefrom, any security, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise out of or are given to secure the repayment of bonds or other security, issued by the authority, or on behalf of the authority therefor, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state, the counties, and the municipalities and other political subdivisions in the state. This subsection, however, does not exempt from taxation or assessment the leasehold interest of a lessee in any project or any other property or interest owned by the lessee. The exemption granted by this subsection is not applicable to any tax imposed by chapter 220 on interest income or profits on the sale of debt obligations owned by corporations.

(5) When property of the authority is leased to another person or entity, the property shall be exempt from ad valorem taxation only if the use by the lessee qualifies the property for exemption under s. 196.199.

(6) A leasehold interest held by the authority is not subject to intangible tax. However, if a leasehold interest held by the authority is subleased to a nongovernmental lessee, such subleasehold interest shall be deemed to be an interest described in s. 199.023(1)(d), and is subject to the intangible tax.

(7)(a) In order to be considered an agent of the authority for purposes of the exemption from sales and use tax granted by subsection (3) for tangible personal property incorporated into the high-speed rail system, a contractor of the authority that purchases or fabricates such tangible personal property must be certified by the authority as provided in this subsection.

(b)1. A contractor must apply for a renewal of the exemption not later than December 1 of each calendar year.

2. A contractor must apply to the authority on the application form adopted by the authority, which shall develop the form in consultation with the Department of Revenue.

3. The authority shall review each submitted application and determine whether it is complete. The authority shall notify the applicant of any deficiencies in the application within 30 days. Upon receipt of a completed application, the authority shall evaluate the application for exemption under this subsection and issue a certification that the contractor is qualified to act as an agent of the authority for purposes of this section or a denial of such certification within 30 days. The authority shall provide the Department of Revenue with a copy of each certification issued upon approval of an application. Upon receipt of a certification from the authority, the Department of Revenue shall issue an exemption permit to the contractor.

(c)1. The contractor may extend a copy of its exemption permit to its vendors in lieu of paying sales tax on purchases of tangible personal property qualifying for exemption under this section. Possession of a copy of the exemption permit relieves the seller of the responsibility of collecting tax on the sale, and the Department of Revenue shall look solely to the contractor for recovery of tax upon a determination that the contractor was not entitled to the exemption.

2. The contractor may extend a copy of its exemption permit to real property subcontractors supplying and installing tangible personal property that is exempt under subsection (3). Any such subcontractor is authorized to extend a copy of the permit to the subcontractor's vendors in order to purchase qualifying tangible personal property tax-exempt. If the subcontractor uses the exemption permit to purchase tangible personal property that is determined not to qualify for exemption under subsection (3), the Department of Revenue may assess and collect any tax, penalties, and interest that are due from either the contractor holding the exemption permit or the subcontractor that extended the exemption permit to the seller.

(d) Any contractor authorized to act as an agent of the authority under this section shall maintain the necessary books and records to document the exempt status of purchases and fabrication costs made or incurred under the permit. In addition, an authorized contractor extending its exemption permit to its subcontractors shall maintain a copy of the subcontractor's books, records, and invoices indicating all purchases made by the subcontractor under the authorized contractor's permit. If, in an audit conducted by the Department of Revenue, it is determined that tangible personal property purchased or fabricated claiming exemption under this section does not meet the criteria for exemption, the amount of taxes not paid at the time of purchase or fabrication shall be immediately due and payable to the Department of Revenue, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by chapter 212.

(e) If a contractor fails to apply for a high-speed rail system exemption permit, or if a contractor initially determined by the authority to not qualify for exemption is subsequently determined to be eligible, the contractor shall receive the benefit of the exemption in this subsection through a refund of previously paid taxes for transactions that otherwise would have been exempt. A refund may not be made for such taxes without the issuance of a certification by the authority that the contractor was authorized to make purchases tax-exempt and a determination by the Department of Revenue that the purchases qualified for the exemption.

(f) The authority may adopt rules governing the application process for exemption of a contractor as an authorized agent of the authority.

(g) The Department of Revenue may adopt rules governing the issuance and form of high-speed rail system exemption permits, the audit of contractors and subcontractors using such permits, the recapture of taxes on non-qualified purchases, and the manner and form of refund applications.

Section 17. Section 343.71, Florida Statutes, is amended to read:

343.71 Short title.—This part may be cited as the “Tampa Bay Commuter Transit Rail Authority Act.”

Section 18. Subsection (1) of section 343.72, Florida Statutes, is amended to read:

343.72 Definitions.—As used in this part, unless the context clearly indicates otherwise, the term:

(1) “Authority” means the Tampa Bay Commuter Transit Rail Authority.

Section 19. Section 343.73, Florida Statutes, is amended to read:

343.73 Tampa Bay Commuter Transit Rail Authority.—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the Tampa Bay Commuter Transit Rail Authority, hereinafter referred to as the authority.

(2) The board shall consist of the following members:

(a) The metropolitan planning organizations of Hernando, Hillsborough, Pasco, Pinellas, Manatee, Sarasota, and Polk Counties shall each elect a member as its representative on the board. The member must be an elected official and a member of the respective metropolitan planning organization when elected and for the full extent of his or her term on the board.

(b) The county commissions of those counties shall each appoint a citizen member to the board who is not a county commissioner but who is a resident and a qualified elector of that county. Insofar as is practicable, the citizen member shall represent the business and civic interests of the community.

(c) The Secretary of Transportation shall appoint as a member of the board the district secretary, or his or her designee, for each district within the seven ~~five~~ counties served by the authority.

(d) The local transit authority in each of the seven ~~five~~ counties shall elect one member who shall serve as an ex officio nonvoting member of the board.

(e) The Governor shall appoint one member to the board who is a resident and a qualified elector in the area served by the authority.

(3) The terms of the county commissioners on the governing board of the authority shall be 2 years. All other members on the governing board of the authority shall serve staggered 4-year terms. Each member shall hold office until his or her successor has been appointed.

(4) A vacancy during a term shall be filled by the respective appointing authority within 90 days in the same manner as the original appointment and only for the balance of the unexpired term.

(5) The members of the authority shall not be entitled to compensation, but shall be reimbursed for travel expenses actually incurred in their duties as provided by law.

(6) Members of the authority shall be required to comply with the applicable financial disclosure requirements of ss. 112.3145, 112.3148, and 112.3149.

Section 20. Subsection (1) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(1)(a) The authority created by s. 343.73 has the right to own, operate, maintain, and manage a commuter rail system and commuter ferry system in Hernando, Hillsborough, Pasco, Pinellas, Manatee, Sarasota, and Polk Counties.

(b) It is the express intention of this part that the authority be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage a commuter rail system, commuter rail facilities, or commuter ferry system; to establish and determine such policies as may be necessary for the best interest of the operation and promotion of a commuter rail system and commuter ferry system; and to adopt such rules as may be necessary to govern the operation of a commuter rail system, commuter rail facilities, and commuter ferry system.

Section 21. Subsection (1) of section 3 of chapter 57-1658, Laws of Florida, as created by chapter 88-474, Laws of Florida, is amended to read:

Section 3. Greater Orlando Aviation Authority.

(1) There is hereby created a board or commission to be known as the "Greater Orlando Aviation Authority," and by that name the authority may sue and be sued, plead and be impleaded, contract and be contracted with, and have an official seal. The authority is hereby constituted an agency of the city, and exercise by the authority of the powers conferred by this act shall be deemed and held to be an essential municipal function of the city. The authority shall consist of seven members who shall be elected or appointed as follows: ~~one member shall be the mayor of the City of an incumbent member of the Orlando City Council, who may be the mayor-commissioner or any other commissioner elected by a majority vote of such council;~~ one member shall be the chairman ~~an incumbent member of the Board of County Commissioners of Orange County, Florida, who may be the chairman or any other commissioner elected by a majority vote of such commission;~~ and five members shall be appointed by the Governor, subject to confirmation by the Senate. Three members appointed by the Governor shall be residents and electors of Orange County, Florida; one member appointed by the Governor shall be a resident and elector of Osceola County, Florida, ~~effective April 1992;~~ and, one member appointed by the Governor shall be a resident and elector of Orange County, Florida, or Seminole County, Florida. All seven members shall be entitled to an equal voice and vote on all matters relating to the authority and its business. Two of the five appointed members initially appointed by the Governor shall be appointed for a term of 2 years and three members shall be appointed for a term of four years, the term of each member so appointed to be designated by the Governor at the time of the appointment. All subsequent appointments shall be for a term of 4 years. The member of the city council and the member of the county commission shall be elected for a term of two years each; provided, however, that any such commissioner's term shall end at such time as he may cease to be a city or county commissioner, at which time a successor or successors shall be elected for any unexpired term. The terms of all members shall end at the expiration of their terms or as otherwise herein specified.

Section 22. Section 337.408, Florida Statutes, is amended to read:

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

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway,[;] provided that such benches or transit shelters are for the comfort or convenience of the general public,[;] or are at designated stops on official bus routes; and,[;] provided ~~further,~~ that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed, or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, without public bid, of benches and transit shelters together with advertising displayed thereon,[;] within the right-of-way limits of such roads. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding, is ratified and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches of clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(2) Waste disposal receptacles of less than 110 gallons in capacity, including advertising displayed on such waste disposal receptacles, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway,[;] provided that written authorization has been given to a qualified private supplier of such service by the appropriate municipal or county government. A municipality or county may authorize the installation, without public bid, of waste disposal receptacles together with advertising displayed thereon within the right-of-way limits of such roads. Such waste disposal receptacles may not interfere with right-of-way preservation and maintenance.

(3) Modular news racks, including advertising thereon, may be located within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided the municipal government within whose incorporated limits such racks are installed or the county government within whose unincorporated limits such racks are installed has passed an ordinance regulating the placement of modular news racks within the right-of-way and has authorized a qualified private supplier of modular news racks to provide such service. The modular news rack or advertising thereon shall not exceed a height of 56 inches or a total advertising space of 56 square feet. No later than 45 days prior to installation of modular news racks, the private supplier shall provide a map of proposed locations and typical installation plans to the department for approval. If the department does not respond within 45 days after receipt of the submitted plans, installation may proceed.

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

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

(6)(5) Street light poles, including attached public service messages and advertisements, may be located within the right-of-way limits of municipal and county roads in the same manner as benches, transit shelters, ~~and~~ waste disposal receptacles, and modular news racks as provided in this section and in accordance with municipal and county ordinances. Public service messages and advertisements may be installed on street light poles on roads on the State Highway System in accordance with height, size, setback, spacing distance, duration of display, safety, traffic control, and permitting requirements established by administrative rule of the Department of Transportation. Public service messages and advertisements shall be subject to bilateral agreements, where applicable, to be negotiated with the owner of the street light poles, which shall consider, among other things, power source rates, design, safety, operational and maintenance concerns, and other matters of public importance. For the purposes of this section, the term "street light poles" does not include electric transmission or distribution poles. The department shall have authority to adopt ~~establish administrative rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section subsection.~~ No advertising on light poles shall be permitted on the Interstate Highway System. No permanent structures carrying advertisements attached to light poles shall be permitted on the National Highway System.

(7)(6) Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

Section 23. Paragraph (m) of subsection (2) of section 348.0004, Florida Statutes, is repealed.

Section 24. Subsection (9) is added to section 348.0004, Florida Statutes, to read:

348.0004 Purposes and powers.—

(9) The Legislature declares that there is a public need for rapid construction of safe and efficient transportation facilities for travel within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(a) Notwithstanding any other provision of the Florida Expressway Authority Act, any expressway authority may receive or solicit proposals and enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of expressway authority transportation facilities or new transportation facilities within the jurisdiction of the expressway authority. An expressway authority is authorized to adopt rules to implement this subsection and shall, by rule, establish an application fee for the submission of unsolicited proposals under this subsection. The fee must be sufficient to pay the costs of evaluating the proposals. An expressway authority may engage private consultants to assist in the evaluation. Before approval, an expressway authority must determine that a proposed project:

1. Is in the public's best interest.
2. Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.
3. Would have adequate safeguards to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or the cancellation of the agreement by the expressway authority.

(b) An expressway authority shall ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. An expressway authority shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(c) The expressway authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must

publish a notice in the Florida Administrative Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the expressway authority shall rank the proposals in order of preference. In ranking the proposals, the expressway authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the expressway authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the expressway authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the expressway authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this paragraph, the expressway authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(d) The department may lend funds from the Toll Facilities Revolving Trust Fund, as outlined in s. 338.251, to public-private partnerships. To be eligible a private entity must comply with s. 338.251 and must provide an indication from a nationally recognized rating agency that the senior bonds for the project will be investment grade or must provide credit support, such as a letter of credit or other means acceptable to the department, to ensure that the loans will be fully repaid.

(e) Agreements entered into pursuant to this subsection may authorize the public-private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues shall be regulated by the expressway authority to avoid unreasonable costs to users of the facility.

(f) Each public-private transportation facility constructed pursuant to this subsection shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the expressway authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the expressway authority determines to be in the public's best interest.

(g) An expressway authority may exercise any power possessed by it, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this subsection. An expressway authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity for which it receives full or partial reimbursement for services rendered.

(h) Except as herein provided, this subsection is not intended to amend existing laws by granting additional powers to or further restricting the governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

Section 25. Subsection (2) of section 2 of chapter 88-418, Laws of Florida, as amended by section 99 of chapter 2002-20, Laws of Florida, is amended to read:

Section 2. Crandon Boulevard is hereby designated as a state historic highway. No public funds shall be expended for:

(2) The alteration of the physical dimensions or location of Crandon Boulevard, the median strip thereof, or the land adjacent thereto, except for:

(a) The routine or emergency utilities maintenance activities necessitated to maintain the road as a utility corridor serving the village of Key Biscayne; ~~or~~

(b) The modification or improvements made to provide for vehicular ingress and egress of governmental public safety vehicles; ~~or~~

(c) Alterations, modifications, or improvements made for the purpose of enhancing life safety vehicular use or pedestrian use of Crandon Boulevard, or both, so long as such alterations, modifications, or improvements are heard in a public hearing and subsequently approved by the Village Council of the Village of Key Biscayne.

Section 26. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.