State Infrastructure Council

MEETING PACKET

Friday, April 21, 2006
1:15 pm – 3:15 pm
404 House Office Building

Revised

Representative David D. Russell, Chair
Representative Adam Hasner, Vice Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

State Infrastructure Council

Start Date and Time:	Friday, April 21, 2006 01:15 pm
End Date and Time:	Friday, April 21, 2006 03:15 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 959 CS Motor Vehicle Safety Pilot Program by Roberson
HB 1049 CS Driver's Licenses by Traviesa
HB 1115 CS South Florida Regional Transportation Authority by Greenstein
HB 1117 CS Public Records by Greenstein
HB 1315 Department of Transportation by Russell
HB 1321 CS Entertainment Industry Economic Development by Davis, D.
HB 1357 CS Growth Management by Altman
HB 1363 CS Affordable Housing by Davis, M.
HB 7077 CS Transportation by Transportation Committee
HB 7079 Highway Safety and Motor Vehicles by Transportation Committee
HB 7167 CS Growth Management by Growth Management Committee

NOTICE FINALIZED on 04/20/2006 16:06 by DUNAWAY.JOYCE

The Florida House of Representatives

State Infrastructure Council

Allan G. Bense
Speaker

David D. Russell, Jr.
Chair

AGENDA
April 21, 2006
1:15 pm – 3:15 pm
404 House Office Building

I. Opening Remarks, Chair Dave Russell

II. Consideration of the following bills:

- **CS/HB 959 by Rep. Roberson – Motor Vehicle Safety Pilot Program**
- **CS/HB 1049 by Rep. Traviesa – Driver's Licenses**
- **CS/HB 1115 by Rep. Greenstein – South Florida Regional Transportation Authority**
- **CS/HB 1117 by Rep. Greenstein – Public Records**
- **HB 1315 by Rep. Russell – Department of Transportation**
- **CS/HB 1321 by Rep. D. Davis – Entertainment Industry Economic Development**
- **CS/HB 1357 by Rep. Altman – Growth Management**
- **CS/HB 1363 by Rep. M. Davis – Affordable Housing**
- **CS/HB 7077 by Transportation Committee – Transportation**
- **HB 7079 by Transportation Committee – Highway Safety and Motor Vehicles**
- **CS/HB 7167 by Growth Management Committee**

III. Closing Remarks, Chair Russell

IV. Adjourn

303 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 414-9786

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 959 CS Motor Vehicle Safety
SPONSOR(S): Roberson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N, w/CS	Pugh	Miller
2) Local Government Council	7 Y, 0 N	DiVagno	Hamby
3) Transportation & Economic Development Appropriations Committee	15 Y, 0 N	McAuliffe	Gordon
4) State Infrastructure Council		Pugh BJP	Havlicak RH
5)			

SUMMARY ANALYSIS

Public and private research on guardrails, cable barriers, clay berms, and other types of structural highway barriers indicates that, if properly placed and maintained, these systems improve the safety of public roads. The Federal Highway Administration, with assistance from the American Association of State Highway and Transportation Officials (AASHTO), other engineering associations, and state transportation agencies, continues to research and modify existing requirements for barrier systems.

The need for well-engineered guardrail and other highway barrier structures varies from state-to-state, as well as by the road's type, speed limit, and surrounding topographical features. One such feature common to Florida roadways is the location of natural water bodies, canals, or drainage ditches adjacent to highways.

National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, the Florida Department of Transportation (FDOT) was able to collect specific data on traffic fatalities on the State Highway System involving vehicles submerged in water. In 2004, 28 fatal crashes occurred where the vehicles ran off the road and into an adjacent body of water in which 36 people died, including 20 whose deaths may have been caused by being submerged in water.

HB 959 w/CS requires that guardrails, retention cables, or other types of roadway barriers be installed, as part of a pilot project, along "limited-access facilities" in Miami-Dade County that are adjacent to canals or other water bodies. FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. The barrier system must be installed and maintained in compliance with FDOT standards. Barriers for eligible limited-access facilities in existence on July 1, 2006, must be installed on or before December 31, 2009.

HB 959 w/CS takes effect July 1, 2006, and will be repealed on December 31, 2011, unless reenacted by the Legislature.

HB 959 w/CS has an estimated $5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and already is included in the agency's Five-Year Work Program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 959 w/CS does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Highway Administration research reports dating back to 1987 indicate the value of guardrail and other barrier systems in preventing traffic accidents and fatalities. These barrier systems can take many forms including metal guardrails, thick metal cables, concrete barricades, and earthen berms. To be effective barrier systems must be engineered to address a highway's particular features and the type of traffic that comprises the majority of use. The American Association of State Highway and Transportation Officials (AASHTO) has developed a number of nationally accepted standards for barrier systems for federal and state transportation agencies. These standards are continually being tested and updated.

The Florida Department of Transportation (FDOT) has an active highway-barrier installation program, installing more than 2,645.5 miles of guardrails along state highways and the Florida Turnpike and 552 miles of barrier walls. The Turnpike has committed that by 2007, guardrails will run the Turnpike's entire length, from Wildwood to Homestead. Typically the guardrails or cable systems are installed as part of a construction or maintenance project.

Florida has more highway accidents involving out-of-control vehicles veering off a highway into an adjacent canal, drainage ditch, or natural water body than any other state. National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, FDOT was able to compile statistics on 2003 and 2004 traffic accident data involving vehicles running off state roads and into water bodies. FDOT staff verified the data by pulling the written reports and reading the narrative description of the accident. FDOT's review indicated that:

- In 2004, there were 28 fatal crashes on the State Highway System where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 36 fatalities, of which 20 were possibly caused or influenced by the vehicle being submerged.
- In 2003, there were 34 crashes where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 49 fatalities, 28 of which were possibly caused or influenced by the vehicle being submerged.

According to the accident reports, some of these accidents were caused by drunken, medicated, speeding, or careless drivers. The reports also show that in some accidents the vehicle went over, under, or through guardrails or fences before going into the water.

Effect of Proposed Changes

HB 959 w/CS requires, as a pilot project, each limited-access facility in Miami-Dade County that is adjacent to a canal or other water body to have a system of guard rails, barrier cables, or other barrier installed between the highway and the water body. The guardrail or barrier system must be installed and maintained pursuant to FDOT standards, which must be designed to protect against loss of life from out-of-control vehicles running off highways and into water. The standards should take into account such factors as the width, depth, or proximity of the water body to the highway. Limited-access facilities in existence on July 1, 2006, which are adjacent to water bodies, must have a barrier system installed by December 31, 2009, according to the bill.

Section 334.03(13), F.S., defines a "limited access facility" as:

"a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are excluded; or they may be facilities open to use by all customary forms of street and highway traffic."

FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. With this bill affecting only limited-access facilities, no county or municipal roads in Miami-Dade County would be subject to the pilot project's requirements.

FDOT is directed to adopt rules to implement the provisions of HB 959 w/CS, although it appears to have sufficient existing standards on guardrails and barrier systems based in part on national engineering standards.

HB 959 w/CS provides an effective date of July 1, 2006. The pilot project is repealed December 31, 2011, unless the Legislature reenacts it.

According to FDOT staff, the cost of implementing HB 959 w/CS is an estimated $5.3 million, which already is included in the FY 2006-2011 Five-Year Work Program.

C. SECTION DIRECTORY:

Section 1: Creates pilot project to install guardrail and other barriers on certain limited-access facilities in Miami-Dade County. Specifies requirements that must be met. Specifies deadline for completing installation on certain roads. Provides for future repeal.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   HB 959 w/CS has an estimated $5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and is incorporated in the current Five-Year Work Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None, according to FDOT.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 959 w/CS does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

FDOT appears to have existing statutory authority to implement any new rules, or revise existing rules, to implement the provisions of HB 959 w/CS.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Transportation Committee

At its March 27, 2006, meeting, the Transportation Committee adopted without objection a strike-all amendment from the bill's sponsor that limited the barrier-system requirement to limited-access highways (or certain state highways) adjacent to water bodies located only in Miami-Dade County as a pilot project.

This amendment eliminated the local unfunded mandate issues raised by the bill as originally filed, and reduced its fiscal impact on FDOT from $268 million to $5.3 million – which FDOT representatives said is already budgeted in the work program.

After adopting the main amendment, the committee voted 15-0 to report the bill as favorable with a committee substitute.

CHAMBER ACTION

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1 The Transportation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to a motor vehicle safety pilot program;
7 requiring certain limited access facilities that are
8 adjacent to a canal or other water body to have a system
9 of guardrails, retention cables, or other barriers between
10 the highway and the canal or water body; providing for the
11 Department of Transportation to establish certain
12 standards governing the installation and maintenance of
13 the barriers; requiring that barriers be installed for
14 existing highways by a specified date; providing for
15 future review and repeal; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Barrier required between a highway and a canal
20 or a water body.--
21 (1) Each limited access facility in Miami-Dade County that
22 is adjacent to a canal or other water body must have a system of
23 guardrails, retention cables, or other barriers between the

24 highway and the canal or water body which are installed and
25 maintained in conformance with standards established by the
26 Florida Department of Transportation. The standards should
27 consider loss of life by safely preventing out-of-control motor
28 vehicles from entering the canal or water body, as well as the
29 width or depth of the canal or water body or its proximity to
30 the traveled way of the highway.
31 (2) For a limited access facility in existence on July 1,
32 2006, the barriers required under this section must be installed
33 on or before December 31, 2009.
34 (3) This pilot program shall stand repealed December 31,
35 2011, unless reviewed and saved from repeal through enactment by
36 the Legislature.
37 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1049 CS Driver's Licenses
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	13 Y, 2 N, w/CS	Thompson	Miller
2) Judiciary Committee	10 Y, 0 N, w/CS	Hogge	Hogge
3) Transportation & Economic Development Appropriations Committee	14 Y, 0 N	McAuliffe	Gordon
4) State Infrastructure Council		Thompson J.T.	Havlicak RN
5)			

SUMMARY ANALYSIS

The bill requires the court to order the Department of Highway Safety and Motor Vehicles (DHSMV) to withhold the issuance of, or suspend or revoke the driver's license of, any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or to permit a person under 21 to consume alcoholic beverages on the licensed premises. Currently, under the Beverage Law, Chapter 561, F.S., "licensed premises" is defined to mean "not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control...." The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

Under the bill, the period in which the driver's license would be withheld, suspended or revoked would be between 3 and 6 months for the first violation and one year for any subsequent violation. The bill would permit the court to order the DHSMV to issue a driver's license restricted to business or employment purposes, if the person otherwise qualifies for a driver's license.

The bill would take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government— HB 1049 w/CS provides for an additional sanction for any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or permits a person under 21 to consume alcoholic beverages on the licensed premised. The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 322, F.S., relates to the administration of driver's licenses by the DHSMV. Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver's licenses. A driver's license may be suspended or revoked for various traffic safety related reasons, such as for having a certain number of points for speeding violations or for driving under the influence. A license can also be suspended or revoked for numerous reasons that are not directly related to operating a motor vehicle. Examples include: nonpayment of a criminal case financial obligation, s. 322.245, F.S.; noncompliance with paternity proceeding orders, s. 61.13016, F.S.; not meeting school attendance requirements, ss. 322. 091 and 1003.27, F.S.; and passing worthless checks, ss. 322.251 and 832.09, F.S. In addition, a minor's license can be suspended for possession of an alcoholic beverage, ss. 397.251(2)(i) and 562.111(3), F.S.

Section 322.271, F.S., provides that the DHSMV may, in certain circumstances, issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license and whose license has been suspended or revoked.

Section 562.11(1)(a), F.S., makes it unlawful for any person to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. A person convicted of a violation of this provision is guilty of a criminal misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed $500. Under the Beverage Law, Chapter 561, F.S., "licensed premises" is defined to mean "not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control...."[1] Under that same Chapter, "licensee" is defined to mean "a legal or business entity, person, or persons that hold a license issued by the division (i.e., Division of Alcoholic Beverages and Tobacco)."[2]

Proposed Changes

HB 1049 w/CS requires the court to order DHSMV to withhold the issuance of, or suspend or revoke the driver's license of, any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or to permit a person under 21 to consume alcoholic beverages on the licensed premises. The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

Under the bill, the period in which the driver's license would be withheld, suspended or revoked would be between 3 and 6 months for the first violation and one year for any subsequent violation. The bill

[1] Fla. Stat. 561.01(11) (2005).
[2] Fla. Stat. 561.01(14) (2005).

would permit the court to order the DHSMV to issue a driver's license restricted to business or employment purposes, if the person otherwise qualifies for a driver's license.

C. SECTION DIRECTORY:

Section 1. Amends s. 562.11, F.S., relating to selling, giving, or serving alcoholic beverages to persons under age 21.

Section 2. Creates s. 322.057, F.S., relating to mandatory revocation or suspension of driver's license for certain persons who provide alcohol to persons under 21 years of age.

Section 3. Provides that the bill takes effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the DHSMV, this bill may generate additional revenue as a result of reinstating the driving privileges of persons suspended or revoked pursuant to this bill. However, the number of individuals to be suspended and the amount of revenue to be collected is indeterminate. Additionally, the DHSMV will incur an indeterminate amount of administrative expense in managing the withholding, suspension, and revocation of driver's licenses. DHSMV also believes this bill will require programming modifications to driver license software systems that will be absorbed as part of the normal workload.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 14, 2006, the Transportation Committee amended HB 1049 to make minor grammatical corrections. The committee then voted 13-2 to report the bill favorably with committee substitute.

On March 22, 2006, the Judiciary Committee amended the Transportation Committee CS to clarify that the licensee to which the CS refers is a licensee under the beverage law and not a person having a driver's license. The bill was then reported out favorably as a committee substitute.

CHAMBER ACTION

The Judiciary Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to driver's licenses; amending s. 562.11, F.S.; providing an additional penalty for providing alcoholic beverages to a person who has not attained 21 years of age; creating s. 322.057, F.S.; requiring a court to order the Department of Highway Safety and Motor Vehicles to withhold the issuance of, or suspend or revoke, the driver's license of certain persons who provide alcoholic beverages to a person who has not attained 21 years of age; providing for exceptions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or

23 misstating age or age of another to induce licensee to serve
24 alcoholic beverages to person under 21; penalties.--
25 (1)(a)1. It is unlawful for any person to sell, give,
26 serve, or permit to be served alcoholic beverages to a person
27 under 21 years of age or to permit a person under 21 years of
28 age to consume such beverages on the licensed premises. A person
29 who violates this subparagraph commits ~~Anyone convicted of~~
30 ~~violation of the provisions hereof is guilty of~~ a misdemeanor of
31 the second degree, punishable as provided in s. 775.082 or s.
32 775.083.
33 2. In addition to any other penalty imposed for a
34 violation of subparagraph 1., the court shall order the
35 Department of Highway Safety and Motor Vehicles to withhold the
36 issuance of, or suspend or revoke, the driver's license or
37 driving privilege, as provided in s. 322.057, of any person who
38 violates subparagraph 1., other than a licensee under this
39 chapter or an employee or agent of a licensee under this
40 chapter.
41 Section 2. Section 322.057, Florida Statutes, is created
42 to read:
43 322.057 Mandatory revocation or suspension of driver's
44 license for certain persons who provide alcohol to persons under
45 21 years of age.--
46 (1) Notwithstanding s. 322.28, the court shall order the
47 department to withhold the issuance of, or suspend or revoke,
48 the driver's license of a person 21 years of age or older, other
49 than a licensee under chapter 561 or an employee or agent of a
50 licensee under chapter 561, who is found guilty of a violation

51 of s. 562.11(1)(a), for not less than 3 months or more than 6
52 months for a violation and 1 year for any subsequent violation.
53 (2) The court may direct the department to issue a
54 driver's license restricted to business or employment purposes
55 only, as provided in s. 322.271, to a person who is otherwise
56 qualified for a license.
57 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1115 CS South Florida Regional Transportation Authority
SPONSOR(S): Greenstein
TIED BILLS: HB 1117w/CS **IDEN./SIM. BILLS:** SB 2078

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N, w/CS	Pugh	Miller
2) Local Government Council	7 Y, 0 N	Camechis	Hamby
3) Transportation & Economic Development Appropriations Committee	12 Y, 1 N	McAuliffe BJP	Gordon
4) State Infrastructure Council		Pugh	Havlicak RH
5)			

SUMMARY ANALYSIS

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer $2.67 million annually to the Authority for capital funding, as well as $4.2 million annually from each county for operating costs, by specifying that the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing the three counties to collect a $2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.
- Specifies that at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.
- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to "commuter rail" to reflect the authority's broader transit mission.
- Provides the Authority an additional $7.9 million each year, in total, from Broward, Miami-Dade, and Palm Beach counties to pay operating expenses.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill eliminates the $2 fee on initial and renewal registrations of vehicles, which has not been implemented, in Broward, Miami-Dade, and Palm Beach Counties.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

In an attempt to ease the disruptions created for commuters while six-laning I-95 in the mid-1980s, the Florida Department of Transportation (FDOT) purchased an 81-mile rail corridor from CSX Transportation, Inc., (CSXT) for $264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatches all trains using the tracks. In 1989, the Legislature passed the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward, and Palm Beach counties.

In 2003, the Legislature enacted SB 686[1], which amended ch. 343, F.S., to reconfigure the Tri-Rail Commuter Rail Authority as the South Florida Regional Transportation Authority (the Authority). Supporters of the legislation said that a transportation authority, rather than a commuter rail system, would have a better opportunity to draw down federal matching dollars for public transit projects.

The Authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous statutory powers and responsibilities, including the power to acquire, sell, and lease property; to exercise the power of eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The Authority is governed by a nine-member board comprised of:

- A county commissioner from each of the three counties, selected by his or her peers;
- A citizen selected by each county commission who must live within the county he or she is representing, be a registered voter, and, insofar as practicable, represent civic and business interests of the community.
- One of the FDOT district secretaries who is responsible for one or more of the counties within the Authority's boundaries. That could be either the District 4 secretary (whose region includes Broward and Palm Beach counties) or the District 6 secretary (whose region includes Miami-Dade). At this time, the FDOT District 6 secretary serves on the Authority.
- Two citizens appointed by the governor who live in different counties within the Authority's jurisdiction but not the same county as the FDOT district secretary. They also must be registered voters.

The 2003 legislation also required each of the three counties served by the Authority to dedicate funding of $2.67 million annually, no later than August 1, 2003. The potential sources of this dedicated funding include:

- Local-option fuel taxes;
- Each county's share of the local ninth-cent fuel tax;

[1] ch. 2003-159, L.O.F.

- Proceeds of a $2 annual fee for registration or renewal of registration of each vehicle licensed in this state and registered in one of the three counties, if approved by a county referendum; or
- Other non-federal funds.

In addition, each county must provide annual funding of at least $1.565 million for operations. These local funding requirements are repealed if the Authority does not obtain federal matching funds by December 31, 2009. A fiscal analysis of the 2003 legislation indicated the $2 fee for new and renewal registration would generate an estimated $8 million annually for the Authority; however, the fees have not been imposed.

Meanwhile, the Authority is continuing to improve the existing commuter rail system with its 18 stations. Since 1995, the major project has been the $451-million "Double Track Corridor Improvement Program," which makes improvements to the existing 72-mile route and builds a second mainline track parallel to the existing track. About $334 million of the project cost has been funded by the Federal Highway Administration through direct grants; FDOT paid the rest. All but two miles of the double-tracking has been completed, and the Authority recently added additional trains and introduced new schedules that have trains leaving the stations every 20 minutes during morning and evening rush hours.

Last year, the commuter train system was averaging about 8,000 riders a day, but the near-completion of the double-tracking, plus better on-time reliability and more scheduled runs, has boosted daily ridership averages in 2006 to nearly 10,000, according to this bill's supporters.

The Authority continues to seek a significant dedicated funding source to complete the commuter train system and to implement its long-range transit plans. Dedicated funding is necessary for the Authority to issue revenue bonds in order to obtain federal transit grants that typically require a 50-50 match. Under the state's participation in the federal "New Starts" transit program, a local match of 25 percent is required, while the state provides the 25 percent and the federal government 50 percent.

EFFECT OF PROPOSED CHANGES

The bill makes a number of significant changes to the South Florida Regional Transportation Authority Act in ch. 343, F.S. These changes are briefly described as follows:

- Clarifies that the three counties must dedicate and transfer not less than $2.67million annually to the Authority for capital expenditures prior to October 31 of each fiscal year.
- Raises from $1.565 million annually to $4.2 million annually the amount of money each of the three counties must contribute to the Authority to pay its operating expenses, generating an additional $7.9 million annually for the Authority in operating funds.
- Deletes the $2 fee on initial and renewal vehicle registrations within the three-county area. The fee, which must be approved by voter referendum, has not been approved in any of the counties.
- Specifies that at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade, and Palm Beach Counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose it. A potential source of funding is the local-option rental-car surcharge which is the subject of other currently filed bills (HB 301 CS and SB 2632).
- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available, but those local contributions would resume if the new funding ceases.
- Specifies that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged
- Extends by six years, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received. Section 343.58(1) , F.S., which specifies the local capital funding sources, is repealed under that circumstance.

- Deletes obsolete phrases and makes clarifying changes. Key among them is deleting references to "commuter rail," so that the Authority's broader area of responsibility is to plan, develop, operate, and fund a transit system. This reflects the Authority's plans to operate an integrated system of public transportation options.

C. SECTION DIRECTORY:

Section 1: Amends s. 343.54, F.S., to revise obsolete language.

Section 2: Amends s. 343.55, F.S., to provide that that state will not limit or alter this section related to Authority revenue bonds until all the bonds issued under this section are paid off and discharged.

Section 3: Amends s. 343.58, F.S., to modify timing of county contributions to the authority; deletes $2 initial and renewal registration fee for vehicles registered in the three counties; lays groundwork for Authority to receive certain, new local-option funding from the three counties; raises the counties' contributions to the Authority's operating expenses; provides for cessation and resumption of county contributions; extends repeal date to December 31, 2015 for county capital contributions.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   As a state entity, the Authority could receive an additional $7.9 million in operating funds each year because of the proposed increase in the current operating contributions made by the three counties, from $1.565 million annually to $4.2 million. In subsequent years, if HB 301 CS or SB 2632 creating a local-option rental-car surcharge becomes law, and Broward, Miami-Dade, and Palm Beach counties impose it, the Authority could receive at least $45 million a year for all of its expenses. If that occurs, the existing dedicated sources of funding the three counties contribute to the Authority would be repealed.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   This bill increases from $1.565 million annually to $4.2 million annually the amount of money Broward, Miami-Dade, and Palm Beach Counties each must contribute to the Authority to pay its operating expenses. If HB 301 w/CS or SB 2632, which create a state-authorized local-option recurring funding source, becomes law and is implemented by the three counties, the existing dedicated sources of funding the three counties contribute to the Authority is repealed.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the Authority is successful in improving and promoting public transit in the three-county region, motorists and commercial carriers may benefit due to trips being diverted from the highways, and residents who do not drive may have access to more-affordable and dependable transportation.

D. FISCAL COMMENTS:

Section 3 of this bill includes a provision specifying, "At least $45 million of a state authorized, local-option recurring funding source available to Broward, Miami-Dade, and Palm Beach counties shall be directed to the authority to fund its capital, operating, and maintenance expenses. The funding source shall be dedicated to the authority only if Broward, Miami-Dade, and Palm Beach counties each impose the local-option funding source." The bill's supporters say their intent is to tap into revenues from a proposed local-option rental-car surcharge fee that is the subject of different legislation (HB 301 CS and SB 2632). They estimate that the $2-a-day surcharge on most car rentals would generate at least $48 million each year if imposed by the three counties.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill increases the amount of funding Miami-Dade, Broward and Palm Beach Counties must each contribute to the Authority by $2.635 million. The bill needs to include a statement of important state interest and have a two-thirds vote of the membership of each house.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

The Authority is subject to ch. 120, F.S., but none of the provisions in the bill as currently drafted appear to require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its April 4, 2006, meeting, the Transportation Committee adopted without objection one amendment that replaced the original $50 million in annual recurring state funds directed to the Authority with the provision for a minimum $45 million, state-authorized, local-option, recurring funding source for the Authority if imposed by Broward, Miami-Dade, and Palm Beach counties. The committee then voted 15-0 in favor of the bill and reported it as a committee substitute.

CHAMBER ACTION

---

1 The Transportation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to the South Florida Regional
7 Transportation Authority; amending s. 343.54, F.S.;
8 revising language relating to powers and duties of the
9 authority; deleting the term "commuter rail"; amending s.
10 343.55, F.S.; providing pledge to bondholders that the
11 state will not alter certain rights vested in the
12 authority that affect the rights of bondholders while
13 bonds are outstanding; amending s. 343.58, F.S.; revising
14 provisions for funding of the authority; requiring
15 counties served by the authority to annually transfer
16 certain funds before a certain date; removing provisions
17 for sources of that funding; removing authorization for a
18 vehicle registration tax; providing for a certain funding
19 source for capital, operating, and maintenance expenses;
20 revising county funding amounts to fund operations;
21 providing for cessation of specified county funding
22 contributions and providing for certain refunding of the
23 contributions under certain circumstances; revising

24 timeframe for repeal of specified funding provisions under
25 certain circumstances; providing an effective date.
26
27 Be It Enacted by the Legislature of the State of Florida:
28
29 Section 1. Paragraph (b) of subsection (1) of section
30 343.54, Florida Statutes, is amended to read:
31 343.54 Powers and duties.--
32 (1)
33 (b) It is the express intention of this part that the
34 authority be authorized to plan, develop, own, purchase, lease,
35 or otherwise acquire, demolish, construct, improve, relocate,
36 equip, repair, maintain, operate, and manage a transit system
37 and transit facilities; to establish and determine the policies
38 necessary for the best interest of the operation and promotion
39 of a transit system; and to adopt rules necessary to govern the
40 operation of a transit ~~commuter rail~~ system and transit ~~commuter~~
41 ~~rail~~ facilities. It is the intent of the Legislature that the
42 South Florida Regional Transportation Authority shall have
43 overall authority to coordinate, develop, and operate a regional
44 transportation system within the area served.
45 Section 2. Subsection (4) is added to section 343.55,
46 Florida Statutes, to read:
47 343.55 Issuance of revenue bonds.--
48 (4) The state pledges to and agrees with any person, firm,
49 corporation, or federal or state agency subscribing to or
50 acquiring the bonds to be issued by the authority for the
51 purposes of the South Florida Regional Transportation Authority

52 Act that the state will not limit or alter the rights vested in
53 the authority under this section until all bonds at any time
54 issued and secured by revenues remitted to the authority
55 pursuant to s. 343.58, together with the interest thereon, are
56 fully paid and discharged, insofar as the same affects the
57 rights of the holders of bonds issued under this section.
58 Section 3. Section 343.58, Florida Statutes, is amended to
59 read:
60 343.58 County funding for the South Florida Regional
61 Transportation Authority.--
62 (1) Each county served by the South Florida Regional
63 Transportation Authority must dedicate and transfer not less
64 than $2.67 million to the authority annually. The recurring
65 annual $2.67 million must be dedicated by the governing body of
66 each county prior to October 31 of each fiscal year ~~by August 1,~~
67 ~~2003~~. ~~Notwithstanding ss. 206.41 and 206.87, such dedicated~~
68 ~~funding may come from each county's share of the ninth cent fuel~~
69 ~~tax, the local option fuel tax, or any other source of local gas~~
70 ~~taxes or other nonfederal funds available to the counties. In~~
71 ~~addition, the Legislature authorizes the levy of an annual~~
72 ~~license tax in the amount of $2 for the registration or renewal~~
73 ~~of registration of each vehicle taxed under s. 320.08 and~~
74 ~~registered in the area served by the South Florida Regional~~
75 ~~Transportation Authority. The annual license tax shall take~~
76 ~~effect in any county served by the authority upon approval by~~
77 ~~the residents in a county served by the authority. The annual~~
78 ~~license tax shall be levied and the Department of Highway Safety~~

79 ~~and Motor Vehicles shall remit the proceeds each month from the~~
80 ~~tax to the South Florida Regional Transportation Authority.~~
81 (2) At least $45 million of a state-authorized, local-
82 option recurring funding source available to Broward, Miami-
83 Dade, and Palm Beach Counties shall be directed to the authority
84 to fund its capital, operating, and maintenance expenses. The
85 funding source shall be dedicated to the authority only if
86 Broward, Miami-Dade, and Palm Beach Counties each impose the
87 local-option funding source.
88 (3) ~~(2)~~ In addition, each county shall continue to annually
89 fund the operations of the South Florida Regional Transportation
90 Authority in an amount not less than $4.2 ~~$1.565~~ million.
91 Revenue raised ~~Such funds~~ pursuant to this subsection shall also
92 be considered a dedicated funding source.
93 (4) The current funding obligations under subsections (1)
94 and (3) shall cease upon commencement of the collection of
95 funding from the funding source under subsection (2). Should the
96 funding under subsection (2) be discontinued for any reason, the
97 funding obligations under subsections (1) and (3) shall resume
98 when collection from the funding source under subsection (2)
99 ceases. Payment by the counties will be on a pro rata basis the
100 first year following cessation of the funding under subsection
101 (2). The authority shall refund a pro rata share of the payments
102 for the current fiscal year made pursuant to the current funding
103 obligations under subsections (1) and (3) as soon as reasonably
104 practicable after it begins to receive funds under subsection
105 (2).

106 (5) If, by December 31, 2015 ~~2009~~, the South Florida
107 Regional Transportation Authority has not received federal
108 matching funds based upon the dedication of funds under
109 subsection (1), subsection (1) shall be repealed.
110 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1117 CS Public Records
SPONSOR(S): Greenstein
TIED BILLS: HB 1115 **IDEN./SIM. BILLS:** SB 2076

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N	Pugh	Miller
2) Governmental Operations Committee	6 Y, 0 N, w/CS	Williamson	Williamson
3) State Infrastructure Council		Pugh BJP	Havlicak RN
4)			
5)			

SUMMARY ANALYSIS

In 2003, the South Florida Regional Transportation Authority was created to replace the Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning and infrastructure for Miami-Dade, Broward, and Palm Beach counties. It is a public agency supported by federal, state, and local tax dollars. Among its powers is the ability to acquire, purchase, and lease real property.

HB 1117 w/CS creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the South Florida Regional Transportation Authority (the authority) until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill allows the authority to disclose, at its discretion, appraisal reports to property owners or to third parties that are assisting in land acquisition.

The bill provides for future review and repeal of the exemption, provides a statement of public necessity, and provides a contingent effective date.

The bill could have a minimal fiscal impact on the authority.

The bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- HB 1117 w/CS delays public access to appraisal reports, offers, and counteroffers related to land purchases by the South Florida Regional Transportation Authority.

B. EFFECT OF PROPOSED CHANGES:

South Florida Regional Transportation Authority

In an attempt to ease the disruptions created for commuters while it was six-laning I-95 in the mid-1980s, the Department of Transportation purchased an 81-mile rail corridor from CSXT for $264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintained the tracks, buildings, and signaling; and dispatched all trains using the tracks. In 1989, the Legislature made the temporary commuter rail more permanent, passing the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., and creating a commuter railroad to serve Miami-Dade, Broward, and Palm Beach counties.

In 2003, the Legislature passed SB 686, which replaced the "Tri-Rail" authority with the "South Florida Regional Transportation Authority." The new transportation authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous powers and responsibilities, including the power to acquire, sell, and lease property; to use eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance. It has a nine-member board comprised of county commissioners, citizens, and a Florida Department of Transportation district secretary. Currently, it is supported by contributions of local tax revenues from the three member counties, along with federal and state transportation funds to finance its capital projects.

Open Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. Public policy regarding access to government records also is addressed in the Florida Statutes.

Chapter 119, F.S., more completely addresses the issues of public records. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Section 119.15, F.S., the "Open Government Sunset Review Act," sets forth a legislative review process that requires newly created or expanded exemptions to include an automatic repeal of the exemption on October 2nd of the fifth year after enactment or substantial amendment, unless the Legislature reenacts the exemption. It provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or

- Protecting trade or business secrets.

Effect of Proposed Changes
The bill creates a public records exemption for appraisal reports, offers, and counteroffers related to the authority's land acquisitions until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The authority may disclose such confidential and exempt[1] information to private property owners or to third parties assisting in the land acquisition.

In the event that the authority terminates negotiations, the appraisals, offers, and counteroffers become immediately available to the public.

The bill provides for future review and repeal of the exemption on October 2, 2011. It also provides a statement of public necessity and a contingent effective date.

C. SECTION DIRECTORY:

Section 1: Creates s. 343.59, F.S., to create a public records exemption for the South Florida Regional Transportation Authority.

Section 2: Provides a public necessity statement.

Section 3: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

   This bill does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   See "D. FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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[1] There is a difference between information and records that the Legislature has designated exempt from public disclosure and those the Legislature has deemed confidential and exempt. Information and records classified exempt from public disclosure are permitted to be disclosed under certain circumstances. *See City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates certain information and records confidential and exempt from public disclosure, such information and records may not be released by the records custodian to anyone other than the persons or entities specifically designated in the statutory exemption. *See Attorney General Opinion 85-62*, August 1, 1985.

D. FISCAL COMMENTS:

The authority believes withholding immediate disclosure of appraisals, offers, and counteroffers from the public will result in lower acquisition costs for land on which future mass transit projects will be built. These savings could be invested in future land acquisitions to further expand or improve the commuter rail and other public-transit facilities within its service area.

The bill likely could create a fiscal impact on the authority, because staff responsible for complying with public records requests will require training related to the newly created public records exemption. In addition, the authority could incur costs associated with redacting the confidential and exempt information prior to releasing a record.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Vote Requirement
Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement
Article I, s. 24(c) of the Florida Constitution, requires a public necessity statement for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 17, 2006, the Governmental Operations Committee adopted a strike-all amendment and reported the bill favorably with committee substitute. The strike-all amendment:

- Removed a general provision from the bill that raised constitutional concerns.
- Conformed the public necessity statement to the exemption.
- Removed unnecessary language.
- Corrected the name of the Open Government Sunset Review Act.

CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to public records; creating s. 343.59, F.S.; providing an exemption from public records requirements for certain appraisal reports, offers, and counteroffers relating to land acquisition by the South Florida Regional Transportation Authority; providing that the exemption expires upon execution of a certain contract or at a certain time before a purchase contract or agreement is considered for approval; providing exceptions to the exemption; providing for future legislative review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

Section 1. Section 343.59, Florida Statutes, is created to read:

23 343.59 Confidentiality of appraisal reports, offers, and
24 counteroffers.--
25 (1) Appraisal reports, offers, and counteroffers relating
26 to land acquisition by the authority are confidential and exempt
27 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
28 until an option contract is executed or, if no option contract
29 is executed, until 30 days before a contract or agreement for
30 purchase is considered for approval by the authority's governing
31 board.
32 (2) The authority may, at its discretion, disclose
33 appraisal reports to private landowners during negotiations for
34 acquisitions using alternatives to fee simple techniques if the
35 authority determines that disclosure of such reports will bring
36 the proposed acquisition to closure. In the event that
37 negotiations are terminated by the authority, the appraisal
38 reports, offers, and counteroffers shall become available
39 pursuant to s. 119.07(1) and s. 24(a), Art. I of the State
40 Constitution.
41 (3) The authority may share and disclose appraisal
42 reports, appraisal information, offers, and counteroffers when
43 joint acquisition of property is contemplated.
44 (4) The authority may disclose appraisal information,
45 offers, and counteroffers to a third party who has entered into
46 a contractual agreement with the authority to work with or on
47 the behalf of or to assist the authority in connection with land
48 acquisitions.
49 (5) This section is subject to the Open Government Sunset
50 Review Act in accordance with s. 119.15 and shall stand repealed

51 on October 2, 2011, unless reviewed and saved from repeal
52 through reenactment by the Legislature.
53 Section 2. The Legislature finds that it is a public
54 necessity that appraisal reports, offers, and counteroffers be
55 kept confidential and exempt from public records requirements
56 when held by the South Florida Regional Transportation
57 Authority. Disclosure would adversely affect the goal of the
58 purchase of lands for the public good using public funds at
59 competitive prices resulting from negotiations between parties.
60 Further, each party is entitled to independently obtain
61 appraisal reports and property value information regarding said
62 property. Disclosure of the appraisal report or property
63 information by the authority could create an unfair disadvantage
64 for the authority during negotiations. Release of appraisal
65 reports, offers, and counteroffers could impair full and fair
66 competition between the negotiating parties. Thus, the public
67 and private harm in disclosing this information significantly
68 outweighs any public benefit derived from disclosure, and the
69 public's ability to scrutinize and monitor agency action is not
70 diminished by nondisclosure of this information.
71 Section 3. This act shall take effect on the same date
72 that HB 1115 or similar legislation takes effect, if such
73 legislation is adopted in the same legislative session or an
74 extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1315 Department of Transportation
SPONSOR(S): Russell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N	Pugh	Miller
2) Fiscal Council	18 Y, 0 N	McAuliffe	Kelly
3) State Infrastructure Council		Pugh BJP	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

Section 338.227, F.S., authorizes the Florida Department of Transportation (FDOT) to issue bonds to pay all or a part of Florida Turnpike Enterprise ("Turnpike") projects, which are part of the agency's Five-Year Work Program approved each year by the Legislature. Section 338.2275, F.S., limits to $4.5 billion the total amount of turnpike bonds that may be issued.

The transportation work program is required to be developed within the estimated available resources. However, the Turnpike's long-range project plan through fiscal year 2010-2011 indicates that the estimated total costs will exceed the statutory bond cap by nearly $1 billion.

HB 1315 increases the Turnpike's revenue bond cap from $4.5 billion in bonds issued to $6 billion in bonds outstanding. This change not only gives the Turnpike more immediate bond capacity, but creates a "line of credit" to issue more bonds as the Turnpike pays down its balance.

The bill has no immediate fiscal impact on state government, nor does it raise any apparent constitutional or other legal issues.

HB 1315 takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 1315 does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

A part of FDOT, the Florida Turnpike Enterprise ("Turnpike") is a 450-mile system of limited-access toll highways. The Turnpike's 2006-2010 Work Program is funded largely through revenue bonds, backed by toll revenues. According to FDOT, every $1 in recurring toll revenues from the Turnpike can be leveraged to generate $14 to pay for project costs.

Section 338.227, F.S., authorizes FDOT to issue bonds to pay all or a part of the legislatively approved turnpike projects, and s. 338.2275, F.S., limits the total amount of bonds that may be issued to $4.5 billion. According to FDOT, nearly $2.336 billion in Turnpike bonds have been issued over the years, leaving $2.164 billion within the statutory cap to be authorized. However, the Turnpike's long-range project plan through fiscal year 2010-2011 indicates that the estimated costs of the projects exceed the statutory bond cap by about $950 million.

Section 339.135(3), F.S., requires FDOT to base its Five-Year Work Program on a "complete, balanced financial plan." To comply with the law, the Turnpike will have to either eliminate or scale back proposed projects, adopt a "pay-as-you go" approach to financing future projects, or seek a change in law to raise the bond cap.

The Legislature last raised the Turnpike bond cap in 2003, from $3 billion to $4.5 billion.

Current Turnpike projects include completion of the Western Beltway, Part C; adding 150 lane miles through widening of the Turnpike System at a cost of nearly $1 billion; adding four new interchanges and improving three other interchanges at a cost of $200 million to improve access to the Turnpike System; and converting the Sawgrass Expressway to a fully electronic, open-road tolling facility and adding SunPass Express lanes at other locations.

Projects proposed for the Turnpike's 2007-2011 Work Program, if the bond cap is increased, include nearly $370 million for additional lanes on various sections of the Homestead Extension-Florida Turnpike (HEFT) and $467 million for additional lanes along the Turnpike Mainline and the Veterans Expressway.

Potential future projects under review by Turnpike staff include another phase of the Suncoast Parkway; extensions of the Polk Parkway, State Road 417 in Volusia County, and the Sawgrass Expressway in Broward County to link with I-95; express lanes on the HEFT and the interstates; and the Port of Miami tunnel.

Effect of Proposed Changes

This bill would raise the cap on Turnpike bonds from $4.5 billion to $6 billion, and change the limitation to a maximum amount outstanding, in effect providing for a "line of credit" that the Turnpike can utilize for long-term planning.

FDOT staff has said this cap increase will allow the Turnpike to complete currently planned projects and to continue to build tolled facilities to handle future transportation needs.

C. SECTION DIRECTORY:

Section 1: Amends s. 338.2275, F.S., to change the Turnpike's bond cap to $6 billion of bonds outstanding. Deletes obsolete language.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See "D. FISCAL COMMENTS" below.

2. Expenditures:

   See "D. FISCAL COMMENTS" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

HB 1315 raises the Turnpike's bond cap from an absolute $4.5 billion in bonds to a limit of $6 billion in bonds outstanding. That means as the Turnpike retires bond issues, it can issue more, as long as it doesn't exceed $6 billion owed at any time.

To the extent that additional Turnpike bonds are issued, they will have to be repaid. The Turnpike pledges toll revenues as debt service for the bonds it issues.

Any increase in the Turnpike bond cap will not impact the state of Florida's debt affordability index because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 1315 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

FDOT and the Turnpike Enterprise have sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 338.2275, F.S.; deleting obsolete provisions;
4 revising the maximum amount of bonds that are available
5 for turnpike projects; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (1) of section 338.2275, Florida
10 Statutes, is amended to read:
11 338.2275 Approved turnpike projects.--
12 (1) Legislative approval of the department's tentative
13 work program that contains the turnpike project constitutes
14 approval to issue bonds as required by s. 11(f), Art. VII of the
15 State Constitution. No more than $6 billion of bonds may be
16 outstanding to fund approved turnpike projects. ~~Turnpike~~
17 ~~projects approved to be included in future tentative work~~
18 ~~programs include, but are not limited to, projects contained in~~
19 ~~the 2003-2004 tentative work program. A maximum of $4.5 billion~~
20 ~~of bonds may be issued to fund approved turnpike projects.~~
21 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1321 CS Entertainment Industry Economic Development
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:** SB 2110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism Committee	8 Y, 0 N, w/CS	McDonald	McDonald
2) Finance & Tax Committee	7 Y, 0 N, w/CS	Rice	Diez-Arguelles
3) State Infrastructure Council		McDonald	Havlicak
4)			
5)			

SUMMARY ANALYSIS

The bill changes the Entertainment Industry Financial Incentive Program from a reimbursement of expenditures to a credit that can be applied against corporate income tax and sales and use tax liability.

Productions of filmed entertainment qualified by the Office of Film and Entertainment and certified by the Governor's Office of Tourism, Trade, and Economic Development are eligible for a tax credit on qualified expenditures in the state. The credit is in an amount equal to 15 percent of qualified expenditures and may be applied as a refund of the sales and use tax paid on qualified expenditures and it may be applied as a credit against the corporate income tax.

There are three separate queues eligible to receive an allocation of the credits: the film, television, and episodic queue; the television pilot queue; and the commercial and music video queue. Productions in the first queue must have a minimum of $625,000 in qualified expenditures for the entire run of the project, or $625,000 in qualified expenditures per episode for a high-impact television series. Qualified high-impact television series will be allowed first position in this queue for its first five production seasons in Florida. Productions in the second queue must have $625,000 in expenditures for the pilot episode. Productions in the third queue must have a minimum of $500,000 in total qualified expenditures in a state fiscal year, with a minimum of $75,000 for each production. A single production under a queue may receive no more than $3 million in tax credits. The first queue receives 60 percent of the available tax credits each fiscal year. The second and third queues each receive 20 percent.

There is a total tax credit cap of $25 million per fiscal year. If applications for credit exceed that amount, the excess will be treated as having been applied for on the first day of the next fiscal year in which tax credits remain available. No more than $75 million in tax credits will be allocated over the three year program.

Tax credits received by qualified production companies may be carried forward for up to five years. Sales and use tax credits may not be transferred. The corporate income tax credits may be sold or assigned, in whole or in part. Credits cannot be exchanged for less than 85 percent of their value. The taxpayer may make up to three tax credit transfers which consist of at least ten percent of the total credits awarded. The purchaser cannot sell, assign, or otherwise transfer the tax credit. A qualified production company that is not a corporation can sell or assign credits or distribute credits to its partners or members in proportion to the respective distributive share of their income or loss for the state fiscal year in which the credits were approved.

The entertainment industry tax credits authorized under this bill are repealed July 1, 2009.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – The bill creates a tax credit for productions of filmed entertainment that can be applied toward corporate income and sales and use tax liability.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Entertainment Industry Financial Incentive Program

Section 288.1254, F.S., is the Entertainment Industry Financial Incentive Program. The amount of incentives available for the program is based upon an annual legislative appropriation. The program was enacted in 2003 but did not receive funding until FY 2004-05 when $2.45 million was appropriated. The program received another appropriation of $10 million for FY 2005-06.

The purpose of this program is to encourage the use of Florida as a site for film and video production, to advocate the hiring of Florida residents as staff, cast or crew and to support and encourage the use of other Florida services and equipment companies in the production of filmed entertainment. The program is also to encourage the relocation to and/or expansion of digital-media-effects companies and motion picture, television production and postproduction companies in Florida.

Production Incentive:

A qualified production[1] is eligible to receive up to 15 percent in a cash reimbursement of in-state qualifying expenditures up to a maximum of $2 million provided that the production has a minimum in total qualified expenditures of $850,000 for the entire run of the project. In determining the expenditures, the wages, salaries, or other compensation of the two highest paid employees is excluded. The final reimbursement is determined after receipts and other information has been submitted to the Office of Film and Entertainment (OFE) for review.

By statute, 60 percent of the incentive funding is dedicated to theatrical or direct-to-video motion pictures, made-for-TV movies, commercials, music videos, industrial and education films, promotional videos or films, documentary films, TV specials, and digital-media-effects productions by entertainment industry to be sold or displayed in an electronic medium. The remaining 40 percent is dedicated to TV pilots or TV series to be sold or displayed in an electronic medium.[2]

Funding for the two queues remains separate until February 1 of the fiscal year when the funding and queues are combined.

Digital Media Effects Company:

[1] A "qualified production" is filmed entertainment that makes expenditures in this state for the total or partial production of filmed entertainment. Productions cannot contain obscene content as defined by the United States Supreme Court. A production is not qualified if it is determined that the first day of principal photography in this state occurred on or before the date of submitting an application to OFE or prior to certification by OTTED. Also, note that electronic gaming industry and sporting events are specifically excluded.

[2] Included in the 40percent are drama, reality, comedy, soap opera, telenovela, game show, or miniseries productions.

The statute provides that a digital-media-effects company in the state may be eligible for a payment of not more than five percent of its annual gross revenues of qualified expenditures as defined in s. 288.1254(2)(c), F.S. OFE reviews applications for reimbursement eligibility.

Qualified Relocation Project:

A qualified relocation project is a corporation, limited liability company, partnership, corporate headquarters, or other private entity that is domiciled in another state or country and relocates its operations in this state, is organized under the laws of this or any other state or country, and includes as one of its primary purposes digital-media-effects or motion picture and television production or postproduction.

The project may receive a one-time incentive payment in an amount equal to five percent of its annual gross revenues before taxes for the first 12 months of conducting business in its Florida domicile or $200,000, whichever is less.

The Entertainment Industry Financial Incentive Program

Production Impact:

With no multiplier effect included, the return on investment for the $2.45 million appropriated for the entertainment industry incentive in 2004-05 was 7.5:1 with estimated total in-Florida production expenditures of almost $18.5 million with more than $9.1 million being Florida resident wages. The return on the $10 million for FY 05-06 is estimated to be 7.4:1 with an estimated total in-Florida production expenditure of $73.9 million with Florida resident salaries accounting for more than $36.6 million. In the first year, four productions were certified for funding while 15 productions were certified as of December, 2005 for funding in the second year.

Digital Media Effects Company Impact:

According to the OFE, only two digital media applications have been approved in two years.

Qualified Relocation Project Impact:

According to the OFE, there have been no applications received for company relocations over the two years that funding has been available. As stated earlier, company relocations are often encouraged through other, more lucrative economic development incentives available through the Governor's Office of Tourism, Trade, and Economic Development (OTTED) with recommendation by Enterprise Florida and through local government economic development agencies.

Florida Film and Entertainment Advisory Council (FFEAC)

The FFEAC is a statutorily-created advisory body to OTTED and to OFE. The 17 member council is composed of members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives. One of the duties of FFEAC is to advise and consult on laws governing the entertainment industry.

Based upon a series of public meetings, the following changes were approved for recommendation at the December 9, 2005 meeting. These changes addressed concerns relating to commercial production, television pilots and episodes, minimum expenditure requirements, encouraging independent production, application process, and method of funding of the incentive. The following were recommended:

- Eliminate specific incentives in law relating to qualified relocation projects and digital-media-effects companies because of lack of use.
- Change the current law allowing for two queues to four queues to do the following:

1. Recognize the differences between commercial and music video production and film, television movies, and specials by splitting into two queues, with 58percent of funding for the film queue and 20percent for the commercial and video production;
2. Provide emphasis on TV pilots by changing the current TV pilots or TV series queue to include only TV pilots and shift the series (episodics) to the film queue, with 20percent of funding to be used for TV pilots; and,
3. Create a new queue for an independent film and video distribution bonus to encourage independent, indigenous productions, with 2percent of funding set aside for this purpose.

- Reduce the minimum Florida qualified expenditure requirement from $850,000 to $625,000 for the film, TV Movie, TV series, and TV pilots to conform to what is the current Screen Actors Guild minimum threshold for low-budget films.
- Reduce minimum expenditure to $500,000 and reduce the $2 million reimbursement cap to $500,000 for commercials and music videos and allow production companies to add up qualified expenditures from multiple commercials within fiscal year to reach minimum expenditures. Also allow for cumulative spend over a fiscal year to meet minimum expenditure level.
- Modify the application and reimbursement process, provide for rules, and specify marketing requirements for Florida recognition in productions.
- Retain the current maximum reimbursement of 15percent up to the maximum payout of $2 million.

The FFEAC was reviewing and comparing the current funding of the incentive through appropriation to the use of a transferable tax credit similar to what most of Florida's competitor states use as their incentive. The official recommendation was not provided at the meeting.

Subsequent to the meeting, the FFEAC endorsed the use of a transferable tax credit. The FFEAC also agreed to remove the proposed queue on distribution for independent films because of difficulty in implementing the proposal at this time.

Other States[3]

Some states without a strong film entertainment infrastructure, such as Louisiana, are using incentives to lure business while infrastructure is being brought in from outside until a base can be built in the state. The director of the Louisiana Film Office has compared the state to Canada ten years ago before it had developed its infrastructure.

Louisiana and seven other states have enacted transferable tax credits that are assignable, can be sold, or can be carried forward for a number of years. Depending upon the state, these credits are offered to production companies on investments (LA, GA), payroll (LA, GA, IL, MA), and production costs (LA, AZ, GA, MA, MO, PA, RI). Nine states offer income tax refunds, rebates, or credits on payroll, production costs, or investments. New Mexico and New Jersey offer low interest loans or loan guarantees to encourage film production. Three states, Louisiana, Oklahoma, and South Carolina, offer incentives for investment in facilities, productions, and certain entertainment businesses.

Unlike Florida's incentive that does not require the hiring of a percentage of residents, the production incentives offered by many other states are tied to employment of residents, with some requiring the hiring of a percentage of local crew, or the use of soundstages or other facilities. Some states offer additional incentives related to employment and to the training or mentoring of crew by a production. Often these are used to help build the infrastructure base of a state.

Proposed Changes:

[3] Florida's Entertainment Industry Infrastructure: *Are We Growing the Indigenous Industry as well as Support Production?*, Tourism Committee, Florida House of Representatives, 2006, p 16.

The bill changes the entertainment industry incentive program from a reimbursement of expenditures to a credit against corporate income tax, and sales and use tax liability.

The digital media-effects company and qualified relocation project incentives are removed. The tax incentives pertain only to the production of filmed entertainment.

Definitions are amended to make clarifications and to reflect the change to a tax credit program. The definition of "filmed entertainment" is changed to add "television special" to the list and to change the exclusions from the definition to include only news shows and sporting events. Also, a definition of "high-impact television series" is added to distinguish it from other television series. The high-impact television series is created to run multiple seasons with at least seven episodes per season and qualified expenditures of at least $625,000 per episode. "Production costs" now include wages, salaries, or other compensation paid through payroll services companies. "Qualified expenditures" is modified to include changes made in the definition of "production costs" and to clarify that only production costs incurred in this state are qualified expenditures. The definition is also changed by removing "employees" which is not accurate. A definition of "qualified production company" is added.

The application procedure and application approval process for filmed entertainment have been changed to reflect the change of the program from a reimbursement of expenditures to a tax credit. In addition to technical changes and the shift of language to the section on rules, the following changes are made in the bill relating to application:

- the signed affirmation that information on an application form has been verified and is correct is shifted from OFE to the applicant;
- the time frame for OFE to review the application, determine if the applicant is a qualified production, make recommendation to OTTED regarding the maximum amount of the tax credit award, and notify an applicant that the information provided is not complete has been increased from five days to ten business days; and,
- within ten days after receiving notice from OFE, OTTED shall certify the maximum tax credit award, if any. Certification will be transmitted to the applicant and to the executive director of the Department of Revenue (DOR). The applicant is responsible for forwarding a certified application to DOR.

Productions of filmed entertainment that are qualified by OFE and certified by OTTED are eligible for a tax credit on qualified expenditures in the state, excluding wages, salaries, and other compensation paid to the two highest-paid residents of this state working on the production. Qualified production companies are eligible for a credit in an amount equal to 15 percent of qualified expenditures and may be applied as a refund of sales and use tax paid on qualified expenditures and as a credit against the corporate income tax impose by ch. 220, F.S.

The bill provides that certain qualified productions that start in one state fiscal year and finish in the next state fiscal year have all qualified expenditures from both fiscal years certified for the latter state fiscal year. This provision does not apply to commercials and music videos.

There is a total credit cap of $25 million per state fiscal year. If applications for credit exceed that amount for a fiscal year, the excess will be treated as having been applied for on the first day of the next fiscal year in which tax credits remain available for allocation. The bill provides for limits on the aggregate amount of tax credits that can be allocated and provides that when the total amount of tax credits allocated reaches $75 million, no more credits can be allocated.

Tax credits awarded in a state fiscal year will be made based on the production's principal photography start date for the queue in which it is placed, within the first two weeks after the queue's opening. Other qualified productions entering into a queue after the initial two weeks will be considered on a first come, first served basis.

There are three queues: the film, television, and episodic queue; the television pilot queue; and the commercials and music video queue.

The film, television, and episodic queue. Productions in this queue must have a minimum of $625,000 in total qualified expenditures for the entire run of the project, except for high-impact television series which must have a minimum of $625,000 in qualified expenditures for each episode. A single production in this queue may receive a maximum credit of $2 million, with the exception of a high-impact television series which may receive a maximum credit of $3 million. This queue receives 60 percent of the available tax credits in any fiscal year. Television series, including, but not limited to, high-impact television series, are not allowed tax credits after five production seasons in this state. Qualified high-impact television series will be allowed first position in this queue for their first five production seasons in the state, if an application is received by OFE within the first two weeks after the queue opens. Unless otherwise provided in the section, high-impact television series must file an application for each state fiscal year in which it is eligible to receive the tax credit.

The television pilot queue. Productions in this queue must demonstrate $625,000 in expenditures for the pilot episode or presentation. A single production in this queue may receive a maximum credit of $2 million. This queue receives 20 percent of the available tax credit in any fiscal year.

The commercials and music video queue. This queue requires productions to demonstrate a minimum of $500,000 in combined total qualified expenditures in a state fiscal year, with a minimum of $75,000 in qualified expenditure for each production. A single production in this queue may receive no more than $500,000. This queue receives 20 percent of the available tax credits in any fiscal year.

On March 1 of each year, credits remaining in the first two queues will be merged and placed into a general queue for use for other purposes as determined by OFE. On April 1 of each fiscal year, credits remaining in the third queue will be merged into the general queue.

If a qualified production is not continued subject to a reasonable schedule or if OFE has been notified that a qualified production will no longer be produced, OFE shall withdraw its eligibility and reallocate the funds to the next qualified productions already in the queue that have not received their full tax credit.

OFE is required to develop a process for receiving information on qualified expenditures from certified productions at the conclusion of the production. OFE is to verify data to substantiate the qualified expenditures. OFE reports the verified amount available for the tax credit to OTTED. OTTED then notifies DOR that the qualified production has met all requirements and recommends the final amount of the credit.

Upon application and approval by DOR, a taxpayer may sell, in whole or in part, corporate income tax credits granted under this program. Credits cannot be exchanged for consideration of less than 85 percent of the tax credit to be transferred. Taxpayers are authorized to conduct no more than three transfers of the awarded credits. Each transfer must consist of at least ten percent of the total credits awarded. Tax credits may be sold at any point during ownership. Purchasers of the credit may use it subject to the same limitations as the taxpayer to whom the credit was granted. The purchaser cannot sell or otherwise transfer the tax credit.

A qualified production company that is not a corporation, as defined in s. 220.03(1)(e), F.S., can make an application to DOR to transfer credits or to distribute credits to its partners or members in proportion to the respective distributive share of the partners' or members' income or loss for the year in which the credits were approved.

A company may use the tax credit against the tax liability imposed under ch. 220, F.S., in whole or in part, and against the liability imposed under ch. 212, F.S., as long as the credits are used only once. Unused tax credits may be carried forward for up to five years.

The bill requires OFE to ensure that appropriate marketing materials, when appropriate, are included in filmed entertainment.

The bill requires the development of rules by OTTED and authorizes DOR to adopt rules.

The bill provides that an applicant who submits fraudulent information on an application is liable for reimbursement of reasonable costs and fees associated with the review, processing, investigation, and prosecution of the fraudulent application.

The entertainment industry tax credits authorized under chs. 212, 220, and 288, F.S., are repealed July 1, 2009.

The bill amends s. 220.02, F.S., revising the order in which credits against the corporate income or franchise tax may be applied.

C. SECTION DIRECTORY:

Section 1. Creates s. 212.08(5)(r), F.S.; authorizing a sales and use tax credit; providing requirements, procedures, and limitations; authorizing DOR to adopt rules.
Section 2. Amends s. 213.053, F.S.; authorizing information regarding the Entertainment Industry Financial Incentive Program to be shared between OFE, OTTED, and DOR.
Section 3. Amends s. 220.02(8), F.S.; revising the order in which credits against the corporate income or franchise tax may be applied.
Section 4. Creates s. 220.192, F.S.; authorizing a corporate income tax credit, providing requirements, procedures, and limitations; authorizing a credit transfer; authorizing DOR to adopt rules.
Section 5. Amends s. 288.1254, F.S., revising the Entertainment Industry Financial Incentive Program; authorizing a tax credit; revising definitions; revising application procedures; requiring an annual report; providing criteria and limitations for awards of tax credits; providing stipulations; providing marketing requirements; authorizing OTTED and DOR to adopt rules; providing liability for fraudulent applications; and providing for repeal of the program on July 1, 2009.
Section 6. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2006-07	FY 2007-08
General Revenue	($25)m	($25)m
Total	($25)m	($25)m

2. Expenditures:

The Department of Revenue has indicated a need for an additional $286,257 in FY 2006-2007 and $93,571 on a recurring basis thereafter.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The credit is intended to encourage more television series to work in Florida. Since a television series generally runs for a number of years, this bill will bring longer term employment and stability to the state's entertainment industry infrastructure. The bill also provides greater incentive for commercials and music videos which generally are filmed during a time when other segments of filmed entertainment are not as active in the state.

The purpose of the credit is to encourage the state as a site for filming and to develop and sustain the workforce and infrastructure for filmed entertainment. Additional funds from more production as well as a sustained level of production business will help the state to maintain and possibly increase its trained, experienced crew base and other infrastructure. The Florida Agency for Workforce Innovation stated that in 2004 the average salary for crew in Florida was $52,972, excluding health care and retirement benefits.[4]

An increase in filmed entertainment in the state will impact not only the persons directly employed by the production but will impact ancillary businesses such as building supply companies, nurseries, restaurants, and hotels.

D. FISCAL COMMENTS:

The aggregate amount of tax credits allowed under the bill is $25 million in any fiscal year from FY 2006-07 to FY 2008-09. The total aggregate credit allowed over the three years is $75 million. At this time, it is not known how much of the credit will be used in any year.

There could be some impact on OFE if there is an increase in applications for the incentive when it is changed from an appropriation to a tax credit. OFE has not requested any additional resources to implement the legislation.

The FY 2005-06 appropriation of $10 million for the entertainment industry incentive yielded an estimated $73.9 million in in-state production expenditures, hiring 3,775 Florida residents, and having 12,444 hotel room nights. The Florida wages paid were almost $37 million. The return on investment was 7.4:1[5].

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

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[4] Florida Agency for Workforce Innovation, Labor Market Statistics, 2001 – 2004.

[5] "Florida's Entertainment Industry Infrastructure: Are We Growing the Indigenous Industry as well as Supporting Production? 2006" Florida House of Representatives Tourism Committee, Appendix F.

2. Other[6]:

In *Cuno v. DaimlerChrysler*,[7] the Sixth Circuit Court of Appeals invalidated an Ohio state corporate franchise tax credit on grounds that it violated the dormant Commerce Clause of the United States Constitution. The Ohio tax credit applied to the purchase of manufacturing machinery and equipment used in the state and was intended to provide an incentive for the location or expansion of business within the state.

At present the case has no precedent value to courts in the Eleventh Circuit, which includes Florida, because it has been decided in the Sixth Circuit. On September 27, 2005, however, the Supreme Court granted petitions for certiorari by the State of Ohio and DaimlerChrysler, challenging the *Cuno* decision. Arguments were heard by the Court on March 1, 2006. The Court should issue a ruling in the summer of 2006. If the Court affirms the *Cuno* decision, it will become the law of the land, and similar tax incentives in Florida will be at risk of being struck down.

As a general rule, a tax credit or exemption will violate the dormant Commerce Clause if it discriminates on its face or if, on the basis of "a sensitive, case-by-case analysis of purposes and effects," the provision "will in its practical operation work discrimination against interstate commerce" by "providing a direct commercial advantage to local business."[8] The high court has defined "discrimination" in this context to mean the "differential treatment of in-state and out-state economic interests that benefits the former and burdens the latter."[9]

Under *Cuno*, the constitutional challenge that a tax incentive faces will turn on whether the taxpayer is subject to the state's taxing power and whether the tax incentive favors in-state as opposed to out-of-state activities. The *Cuno* test may be explained as follows:

1. Is the business subject to Florida's taxing power?
2. Will the business reduce its Florida tax liability by availing itself of the tax incentive for location or expansion of business in Florida and not by locating or expanding business activity out-of-state? or Will its location or expansion of business activity out-of-state result in a comparative tax increase, as to a similarly-situated business expanding in Florida, because it will not be able to avail itself of the in-state tax incentive?

If the answer is questions 1 and 2 are "yes", the tax incentive likely fails the *Cuno* test.[10]

B. RULE-MAKING AUTHORITY:

The bill requires rulemaking by OTTED and authorizes DOR to adopt rules to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Tourism Committee adopted a strike-all amendment to HB 1321. Other than technical and clarifying changes, the differences between the original bill and the committee substitute are as follows:

- Provides rulemaking authorization for DOR to implement provisions of the bill related to corporate tax credits and the use of tax credits as a refund of sales and use tax liability.

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[6] Information taken from *An Analysis of Cuno v.DaimlerChrysler And Its Possible Effects on Florida Business Location Tax Incentives*, November 3, 2005, prepared by staff of the Economic Development, Trade and Banking Committee, Florida House of Representatives.

[7] Cuno v. DaimlerChrysler, 386 F.3d 738(6th Cir. 2004)

[8] Id. at 743 (quoting West Lynn Creamery v. Healy, 512 U.S. 186, 201 (1994)).

[9] Id. (quoting Oregon Waste Sys., Inc. v. Dep't of Envtl. Quality, 511 U.S. 93, 99 (1994)).

[10] *An Analysis of Cuno v. DaimlerChrysler And Its Possible Effects on Florida Business Location Tax Incentives*, November 3, 2005, prepared by staff of the Economic Development, Trade and Banking Committee, Florida House of Representatives, p. 7.

- Amends s. 212.08(5), F.S., authorizing the use of certain entertainment industry tax credits as a refund against sales and use tax liability under circumstances; providing the procedures, requirements, and limitations on the use of credits.
- Amends s. 220.02, F.S., revising the order of priority list of applicable credits against certain taxes.
- Provides that the tax credit award is 15percent of qualified expenditures.
- Requires that no tax credits awarded under s. 220.192, F.S., could be sold or assigned until all credits the taxpayer is eligible to use is exhausted.
- Authorizes companies to use tax credit against the corporate tax liability and against liability for sales and use taxes. Broadens the base of companies that may purchase credits or to which credits can be assigned.
- Requires that the sale or assignment of a credit shall not be for less than 85percent of the transferred amount of the credit.
- Provides that the non-corporate distribution of credits includes sale or assignment of credits.
- Requires that once the maximum amount of total credits has been allocated, no more credits can be allocated.
- Provides for maximum of credit allocations allowed in specified fiscal years.
- Provides for a process for verification of tax credit award by OFE.
- Provides that a qualified production spanning two years shall have all qualified expenditures from both state fiscal years certified for the latter state fiscal year. Excludes commercials and music videos.
- Requires a qualified high-impact television series file an application for each state fiscal year in which it is eligible to receive the credit, unless otherwise provided in s. 220.192, F.S.
- Provides that no television series shall receive a tax credit after its fifth production season in the state.

The Finance & Tax Committee adopted a strike-all amendment on April 17, 2006. This amendment restructured and clarified the Entertainment Industry Financial Incentive Program. In brief, the amendment does the following:

- Returns the Entertainment Industry Financial Incentive Program to its original location in ch. 288 of the statutes and creates sections in chs. 212 and 220 regarding the administration of the tax credits.
- Reduces the length of the program from eight years to three years.
- Reduces the total amount of credits allotted over the life of the program from $200 million to $75 million.
- Clarifies that only the corporate income tax credits may be transferred.
- Removes the requirement that a qualified production company must exhaust all of its tax liability before selling or transferring any of its tax credits, in whole or in part.
- Allows tax credits applied toward the sales and use tax to be carried forward up to five years.
- Limits the number of sales or transfers per qualified film production to three
- Requires that a transfer of credits must be for at least ten percent of the total credit value of the qualified film production.
- Makes the sales and use tax refund a once per taxable year program (instead of a monthly filing procedure).
- Clarifies that there is no time limit to when a credit can be transferred, although the credit is only valid for five years.
- Allows DOR, OTTED, and OFE to share information regarding the Entertainment Industry Financial Incentive Program.

CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to entertainment industry economic
7 development; amending s. 212.08, F.S.; providing for an
8 entertainment industry credit of sales and use taxes paid
9 on qualified expenditures; providing criteria,
10 requirements, procedures, and limitations on the credit;
11 providing for uses of the credit; providing duties and
12 responsibilities of the Office of Film and Entertainment
13 and the Department of Revenue; authorizing the Office of
14 Tourism, Trade, and Economic Development to adopt rules;
15 providing for liability for fraudulent credit
16 applications; amending s. 213.053, F.S.; authorizing the
17 Department of Revenue to provide certain tax credit and
18 tax refund information to the Office of Film and
19 Entertainment and the Office of Tourism, Trade, and
20 Economic Development; amending s. 220.02, F.S.; revising
21 the order of priority list of applicable credits against
22 certain taxes; creating s. 220.192, F.S.; providing for an
23 entertainment industry corporate income tax credit of a

24 percentage of certain qualified expenditures; providing
25 criteria, requirements, procedures, and limitations on the
26 credit; providing for uses and allocations of the credit;
27 authorizing the Office of Tourism, Trade, and Economic
28 Development to adopt rules; providing for liability for
29 fraudulent credit applications; providing for use and
30 carryforward of the credit; providing for transfers of the
31 credit; providing for noncorporate distributions of tax
32 credits; authorizing the Department of Revenue to adopt
33 rules; amending s. 288.1254, F.S.; revising the
34 entertainment industry financial incentive program to
35 provide corporate income tax and sales and use tax credits
36 to qualified entertainment entities rather than
37 reimbursements from appropriations; revising provisions
38 relating to definitions, creation and scope, application
39 procedures, approval process, eligibility, required
40 documents, qualified productions, and annual reports;
41 providing criteria and limitations for awards of tax
42 credits; providing marketing requirements; requiring the
43 Office of Tourism, Trade, and Economic Development and
44 Department of Revenue to adopt rules; providing liability
45 for reimbursement of certain costs and fees associated
46 with fraudulent applications; providing for future repeal;
47 providing an effective date.
48
49 Be It Enacted by the Legislature of the State of Florida:
50

51 Section 1. Paragraph (r) is added to subsection (5) of
52 section 212.08, Florida Statutes, to read:
53 212.08 Sales, rental, use, consumption, distribution, and
54 storage tax; specified exemptions.--The sale at retail, the
55 rental, the use, the consumption, the distribution, and the
56 storage to be used or consumed in this state of the following
57 are hereby specifically exempt from the tax imposed by this
58 chapter.
59 (5) EXEMPTIONS; ACCOUNT OF USE.--
60 (r) Entertainment industry tax credit; authorization;
61 eligibility for credits.--
62 1. Beginning July 1, 2006, a qualified production company
63 is eligible for tax credits of taxes paid on qualified
64 expenditures as defined in s. 288.1254 as provided in this
65 paragraph:
66 a. The credit shall be granted as a refund of sales and
67 use tax paid by a qualifying production company on qualified
68 expenditures in the fiscal year preceding the date of
69 application.
70 b. To be eligible to receive the credit, an applicant must
71 be a qualified production company as defined in s.
72 288.1258(1)(b).
73 c. A qualified production company may not be awarded more
74 than $2 million in tax credits under this paragraph and s.
75 220.192 per year unless the production is a high-impact
76 television series, in which case the qualified production shall
77 be eligible for a maximum tax credit award of $3 million. The
78 tax credit available under this paragraph shall only be

79 surrendered in satisfaction of the tax owed by a qualified
80 production company under this chapter and only up to the face
81 amount of the credit. If the qualified production company cannot
82 use the entire tax credit in the taxable year in which the
83 credit is approved, any excess may be carried over to a
84 succeeding taxable year. A tax credit granted under this
85 paragraph and applied against taxes imposed under this chapter
86 may be carried forward only for a maximum of 5 taxable years
87 following the taxable year in which the credit was approved.
88 Five years after the date a credit is granted under this
89 paragraph, the credit expires and may not be used.
90 d. The aggregate amount of tax credits allowed under this
91 paragraph and s. 220.192 in any state fiscal year is $25
92 million. If the total amount of allocated tax credits applied
93 for in any state fiscal year exceeds the aggregate amount of tax
94 credits authorized annually under this paragraph, such excess
95 shall be treated as having been applied for on the first day of
96 the next state fiscal year in which tax credits remain available
97 for allocation. However, no more than an aggregate amount of $30
98 million in tax credits shall be allocated between July 1, 2006,
99 and June 30, 2007. The cumulative amount of credits that may be
100 allocated between July 1, 2006, and June 30, 2009, shall not
101 exceed $75 million. At such time as $75 million of tax credits
102 have been allocated, no additional tax credits may be allocated.
103 e. The tax credits awarded under this paragraph may only
104 be used by the qualified production company to whom the credits
105 were awarded. Credits awarded under this paragraph may not be
106 sold, assigned, or otherwise transferred, in whole or in part.

107 2.a. To be eligible to receive the credit provided by this
108 paragraph, a qualified production company shall apply to the
109 Office of Film and Entertainment prior to September 1 of each
110 year for a refund of sales and use taxes paid on qualified
111 expenditures in the preceding fiscal year.
112 b. The Office of Film and Entertainment shall develop,
113 with the cooperation of the department, a standardized
114 application form for use in applying for the credit.
115 c. Upon receipt of an application, the Office of Film and
116 Entertainment shall review the application and information and
117 determine whether or not the application is complete within 10
118 working days. An application shall not be considered complete
119 unless the application includes copies of invoices upon which
120 Florida sales tax is separately stated, other proof that Florida
121 tax was paid on the purchase of the qualified expenditures, and
122 other documentation as required by the department. The Office of
123 Film and Entertainment shall notify the applicant within 15
124 calendar days of any deficiencies in the application. Upon
125 receipt of a completed application, the Office of Film and
126 Entertainment shall evaluate the application for credit under
127 this paragraph and issue an approval or a denial to the
128 applicant within an additional 15 calendar days. The Office of
129 Film and Entertainment shall provide the department with a copy
130 of each completed application that has been approved. Within 30
131 days after receiving a copy of an approval, the department shall
132 issue a refund directly to the qualified production company in
133 the amount shown on the approval issued by the Office of Film

134 and Entertainment, notwithstanding the provisions of s. 215.26.
135 The provisions of s. 212.095 do not apply to this paragraph.
136 d. The Office of Tourism, Trade, and Economic Development
137 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
138 implement this paragraph, including, but not limited to, rules
139 specifying requirements for the application and approval
140 process, records required for substantiation of credit awards,
141 and determination of and qualification for credit awards.
142 3.a. Any applicant who submits an application under this
143 paragraph that includes fraudulent information is liable for
144 reimbursement of the reasonable costs and fees associated with
145 the review, processing, investigation, and prosecution of the
146 application.
147 b. An eligible entity or company that obtains a credit
148 payment under this paragraph through a claim that is fraudulent
149 is liable for reimbursement of the credit amount paid plus a
150 penalty in an amount double the credit payment and reimbursement
151 of reasonable costs, which penalty is in addition to any
152 criminal penalty to which the entity or company is liable for
153 the same acts, plus interest. The entity or company is also
154 liable for costs and fees incurred by the state in investigating
155 and prosecuting the fraudulent claim.
156 Section 2. Paragraph (k) of subsection (7) of section
157 213.053, Florida Statutes, is amended, and paragraph (y) is
158 added to that subsection, to read:
159 213.053 Confidentiality and information sharing.--
160 (7) Notwithstanding any other provision of this section,
161 the department may provide:

162 (k)1. Payment information relative to chapters 199, 201,
163 212, 220, 221, and 624 to the Office of Tourism, Trade, and
164 Economic Development, or its employees or agents that are
165 identified in writing by the office to the department, in the
166 administration of the tax refund program for qualified defense
167 contractors authorized by s. 288.1045 and the tax refund program
168 for qualified target industry businesses authorized by s.
169 288.106.
170 2. Information relative to tax credits taken by a business
171 under s. 220.191 and exemptions or tax refunds received by a
172 business under s. 212.08(5)(j) and (r) to the Office of Tourism,
173 Trade, and Economic Development, or its employees or agents that
174 are identified in writing by the office to the department, in
175 the administration and evaluation of the capital investment tax
176 credit program authorized in s. 220.191 and the semiconductor,
177 defense, and space tax exemption program authorized in s.
178 212.08(5)(j).
179 (y) Information relative to tax credits taken under s.
180 220.192 and tax refunds received by a business under s.
181 212.08(5)(r) to the Office of Film and Entertainment and the
182 Office of Tourism, Trade, and Economic Development.
183
184 Disclosure of information under this subsection shall be
185 pursuant to a written agreement between the executive director
186 and the agency. Such agencies, governmental or nongovernmental,
187 shall be bound by the same requirements of confidentiality as
188 the Department of Revenue. Breach of confidentiality is a

189 misdemeanor of the first degree, punishable as provided by s.
190 775.082 or s. 775.083.
191 Section 3. Subsection (8) of section 220.02, Florida
192 Statutes, is amended to read:
193 220.02 Legislative intent.--
194 (8) It is the intent of the Legislature that credits
195 against either the corporate income tax or the franchise tax be
196 applied in the following order: those enumerated in s. 631.828,
197 those enumerated in s. 220.191, those enumerated in s. 220.181,
198 those enumerated in s. 220.183, those enumerated in s. 220.182,
199 those enumerated in s. 220.1895, those enumerated in s. 221.02,
200 those enumerated in s. 220.184, those enumerated in s. 220.186,
201 those enumerated in s. 220.1845, those enumerated in s. 220.19,
202 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
203 220.187, and those enumerated under s. 220.192.
204 Section 4. Section 220.192, Florida Statutes, is created
205 to read:
206 220.192 Entertainment industry tax credit; authorization;
207 eligibility for credits.--
208 (1) TAX CREDITS; ELIGIBILITY; AWARD;
209 ALLOCATION.--Beginning July 1, 2006, a qualified production
210 company is eligible for tax credits in the amount of 15 percent
211 of qualified expenditures, as defined in s. 288.1254.
212 (a) The credit shall be granted against the tax imposed
213 and owing under this chapter by a qualifying production company
214 for the taxable year in which the application was granted.

215 (b) To be eligible to receive the credit, an applicant
216 must be a qualified production company as defined in s.
217 288.1258(1)(b).
218 (c) A qualified production company may not be awarded more
219 than a total of $2 million in tax credits under this section and
220 s. 212.08 per year unless the production is a high-impact
221 television series, in which case the production shall be
222 eligible for a maximum total tax credit award of $3 million. The
223 tax credit available under this section shall only be
224 surrendered in satisfaction of the tax owed under this chapter
225 by a qualified production company under this chapter and only up
226 to the face amount of the credit. If the qualified production
227 company cannot use the entire tax credit in the taxable year in
228 which the credit is approved, any excess may be carried over to
229 a succeeding taxable year. A tax credit granted under this
230 section and applied against taxes imposed under this chapter may
231 be carried forward only for a maximum of 5 taxable years
232 following the taxable year in which the credit was approved.
233 Five years after the date a credit is granted under this
234 section, the credit expires and may not be used.
235 (d) The aggregate amount of tax credits allowed under this
236 section and s. 212.08(5)(r) in any state fiscal year is $25
237 million. If the total amount of allocated tax credits applied
238 for in any state fiscal year exceeds the aggregate amount of tax
239 credits authorized annually under this section, such excess
240 shall be treated as having been applied for on the first day of
241 the next state fiscal year in which tax credits remain available
242 for allocation. However, no more than an aggregate amount of $30

243 million in tax credits shall be allocated between July 1, 2006,
244 and June 30, 2007. The cumulative amount of credits that may be
245 allocated between July 1, 2006, and June 30, 2009, shall not
246 exceed $75 million. At such time as $75 million of tax credits
247 have been allocated, no additional tax credits may be allocated.
248 (2) RULES.--The Office of Tourism, Trade, and Economic
249 Development may adopt rules pursuant to ss. 120.536(1) and
250 120.54 to implement this section, including, but not limited to,
251 rules specifying requirements for the application and approval
252 process, records required for substantiation of credit awards,
253 and determination of and qualification for credit awards.
254 (3) FRAUDULENT CLAIMS.--
255 (a) Any applicant who submits an application under this
256 section that includes fraudulent information is liable for
257 reimbursement of the reasonable costs and fees associated with
258 the review, processing, investigation, and prosecution of the
259 application.
260 (b) An eligible entity or company that obtains a credit
261 payment under this section through a claim that is fraudulent is
262 liable for reimbursement of the credit amount paid plus a
263 penalty in an amount double the credit payment and reimbursement
264 of reasonable costs, which penalty is in addition to any
265 criminal penalty to which the entity or company is liable for
266 the same acts, plus interest. The entity or company is also
267 liable for costs and fees incurred by the state in investigating
268 and prosecuting the fraudulent claim.
269 (4) USE OF TAX CREDIT; CARRY FORWARD.--The tax credit
270 available under this section shall only be surrendered in

271 satisfaction of the tax owed by a qualified production company
272 under this chapter and only up to the face amount of the credit.
273 If the qualified production company cannot use the entire tax
274 credit in the taxable year in which the credit is approved, any
275 excess may be carried over to a succeeding taxable year. A tax
276 credit granted under this section and applied against taxes
277 imposed under this chapter may be carried forward only for a
278 maximum of 5 taxable years following the taxable year in which
279 the credit was approved. Five years after the date a credit is
280 granted under this section, the credit expires and may not be
281 used.
282 (5) TRANSFER OF TAX CREDITS.--Upon application to and
283 approval by the Department of Revenue, a qualified production
284 company may sell, in whole or in part, a tax credit granted
285 under this section. The sale or assignment of any amount of the
286 tax credit shall not be exchanged for consideration received by
287 the qualified production company of less than 85 percent of the
288 transferred amount of tax credit. The qualified production
289 company must transfer at least 10 percent of the remaining
290 credits to each purchaser and may not conduct more than three
291 transfers. The purchaser of the tax credit granted under s.
292 288.1254 shall use the tax credit in the state fiscal year the
293 tax credit is acquired from the qualified production company and
294 otherwise may carry the tax credit over subject to the same
295 limitations on tax credit usage as the qualified production
296 company awarded the tax credit. The purchaser of the tax credit
297 may not sell or otherwise transfer the tax credit. The

298 Department of Revenue may adopt rules pursuant to ss. 120.536(1)
299 and 120.54 to administer this subsection.
300 (6) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A
301 qualified production company that is not a corporation as
302 defined in s. 220.03 shall elect to make an application to the
303 Department of Revenue to distribute tax credits awarded under
304 this section to its partners or members in proportion to the
305 respective distributive share of such partners' or members'
306 income or loss in the taxable fiscal year in which such tax
307 credits were approved. A tax credit granted under this section
308 and applied against taxes imposed under this chapter may be
309 carried forward only for a maximum of 5 taxable years following
310 the state fiscal year in which the credit was approved.
311 (7) USE OF TAX CREDITS.--A qualified production company
312 may use the tax credit against the tax liability imposed under
313 this chapter, in whole or in part, or against the sales tax paid
314 on qualified expenditures as defined in s. 288.1254.
315 (8) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate amount
316 of tax credits allowed under this section in any state fiscal
317 year is $25 million. If the total amount of allocated tax
318 credits applied for in any state fiscal year exceeds the
319 aggregate amount of tax credits authorized annually under this
320 section, such excess shall be treated as having been applied for
321 on the first day of the next state fiscal year in which tax
322 credits remain available for allocation. However, no more than
323 an aggregate amount of $30 million in tax credits granted under
324 this section or s. 212.08(5)(r) shall be allocated between July
325 1, 2006, and June 30, 2007. The cumulative amount of credits

326 that may be allocated between July 1, 2006, and June 30, 2009,
327 may not exceed $75 million. At such time as $75 million of tax
328 credits granted under this section or s. 212.08(5)(r) have been
329 allocated, no additional tax credits shall be allocated.
330 (9) RULES.--The Department of Revenue may adopt rules
331 pursuant to ss. 120.536(1) and 120.54 to administer the
332 provisions of this section, including rules governing the manner
333 and form of documentation required to claim tax credits granted
334 or transferred under this section, and may establish guidelines
335 as to the requirements for an affirmative showing of
336 qualification for tax credits granted or transferred under this
337 section.
338 Section 5. Section 288.1254, Florida Statutes, is amended
339 to read:
340 288.1254 Entertainment industry financial incentive
341 program; creation; purpose; definitions; application procedure;
342 approval process; ~~reimbursement~~ eligibility; submission of
343 required documentation; recommendations for credit award
344 ~~payment~~; policies and procedures; fraudulent claims.--
345 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to specific~~
346 ~~appropriation,~~ There is created within the Office of Film and
347 Entertainment an entertainment industry financial incentive
348 program. The purpose of this program is to encourage the use of
349 this state as a site for filming and developing and sustaining
350 the workforce and infrastructure ~~providing production services~~
351 for filmed entertainment.
352 (2) DEFINITIONS.--As used in this section, the term:

353 (a) "Filmed entertainment" means a theatrical or direct-
354 to-video motion picture, a made-for-television motion picture
355 teleproduction, a commercial, a music video, an industrial or
356 educational film, a promotional video or film, a documentary
357 film, a television pilot, a television special, a presentation
358 for a television pilot, a television series, including, but not
359 limited to, a drama, a reality, a comedy, a soap opera, a
360 telenovela, a game show, and a miniseries production, or a
361 digital-media-effects production by the entertainment industry
362 to be sold or displayed in an electronic medium, excluding news
363 shows and sporting events. As used in this paragraph, the term
364 "motion picture" means a motion picture made on or by film,
365 tape, or otherwise and produced by means of a motion picture
366 camera, electronic camera or device, tape device, any
367 combination of the foregoing, or any other means, method, or
368 device now used or which may hereafter be adopted. As used in
369 this paragraph, the term "digital-media-effects" means visual
370 elements created through the modification of already existing or
371 newly created visual elements for film, video, or animated media
372 through the use of digital 2D/3D animation or painting, motion
373 capture, or compositing technologies. ~~For purposes of this~~
374 ~~section, the term "filmed entertainment" does not include the~~
375 ~~electronic gaming industry or sporting events.~~
376 (b) "High-impact television series" means a production
377 created to run multiple production seasons with an estimated
378 order of at least seven episodes per season and qualified
379 expenditures of at least $625,000 per episode.

380 (c) ~~(b)~~ "Production costs" means the costs of ~~real,~~
381 tangible~~,~~ and intangible property used and services performed
382 primarily or customarily in the production, including
383 preproduction and postproduction, of qualified filmed
384 entertainment. Production costs generally include, but are not
385 limited to:
386 1. Wages, salaries, or other compensation, including
387 amounts paid through payroll service companies, for technical
388 and production crews, directors, producers, and performers ~~who~~
389 ~~are residents of this state~~.
390 2. Expenditures for sound stages, backlots, production
391 editing, digital effects, sound recordings, sets, and set
392 construction.
393 3. Expenditures for rental equipment, including, but not
394 limited to, cameras and grip or electrical equipment.
395 4. Expenditures for meals, travel, and accommodations~~, and~~
396 ~~goods used in producing filmed entertainment that is located and~~
397 ~~doing business in this state~~.
398 5. Expenditures for goods and services used in producing
399 filmed entertainment.
400 (d) ~~(c)~~ "Qualified expenditures" means production costs
401 incurred in this state within the current state fiscal year for
402 goods purchased or leased from or services provided by
403 ~~purchased, leased, or employed from a resident of this state or~~
404 a vendor or supplier who is located and doing business in this
405 state or payments to residents of this state in the form of
406 salary, wages, or other compensation, ~~but~~ excluding wages,
407 salaries, or other compensation paid to the two highest-paid

408 residents of this state participating in the qualified
409 production ~~employees~~.
410 (e) ~~(d)~~ "Qualified production" means filmed entertainment
411 that meets or exceeds minimum qualified ~~makes~~ expenditures
412 required in this state for the total or partial production of
413 filmed entertainment. Productions that are deemed by the Office
414 of Film and Entertainment to contain obscene content, as defined
415 by the United States Supreme Court, are not qualified
416 productions. ~~Also, a production is not a qualified production if~~
417 ~~it is determined that the first day of principal photography in~~
418 ~~this state occurred on or before the date of submitting its~~
419 ~~application to the Office of Film and Entertainment or prior to~~
420 ~~certification by the Office of Tourism, Trade, and Economic~~
421 ~~Development.~~
422 (f) ~~(e)~~ "Qualified production company ~~relocation project~~"
423 means a corporation, limited liability company, partnership,
424 ~~corporate headquarters,~~ or other legal ~~private~~ entity engaged in
425 the production of filmed entertainment ~~that is domiciled in~~
426 ~~another state or country and relocates its operations to this~~
427 ~~state, is organized under the laws of this or any other state or~~
428 ~~country, and includes as one of its primary purposes digital~~
429 ~~media effects or motion picture and television production, or~~
430 ~~postproduction~~.
431 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--
432 (a) Any company engaged in this state in producing filmed
433 entertainment may submit an application to the Office of Film
434 and Entertainment for the purpose of determining qualification
435 for an award of credits against the taxes by the sales tax paid

436 on qualified expenditures as defined in s. 288.1254 and the
437 corporate income tax imposed by chapter 220 ~~receipt of~~
438 ~~reimbursement provided in this section~~. The office must be
439 provided information required to determine if the production is
440 a qualified production and to determine the qualified
441 expenditures, production costs, and other information necessary
442 for the office to determine ~~both~~ eligibility for the tax credit
443 ~~and level of reimbursement~~.
444 (b) ~~A digital media effects company in the state which~~
445 ~~furnishes digital material to filmed entertainment may submit an~~
446 ~~application to the Office of Film and Entertainment for the~~
447 ~~purpose of determining qualification for receipt of~~
448 ~~reimbursement authorized by this section. The office must be~~
449 ~~provided information required to determine if the company is~~
450 ~~qualified and to determine the amount of reimbursement.~~
451 ~~(c) Any corporation, limited liability company,~~
452 ~~partnership, corporate headquarters, or other private entity~~
453 ~~domiciled in another state which includes as one of its primary~~
454 ~~purposes digital media effects or motion picture and television~~
455 ~~production and which is considering relocation to this state may~~
456 ~~submit an application to the Office of Film and Entertainment~~
457 ~~for the purpose of determining qualification for reimbursement~~
458 ~~under this section.~~
459 ~~(d)1. The Office of Film and Entertainment shall establish~~
460 ~~a process by which an application is accepted and reviewed and~~
461 ~~reimbursement eligibility and reimbursement amount are~~
462 ~~determined. The Office of Film and Entertainment may request~~

463 ~~assistance from a duly appointed local film commission in~~
464 ~~determining qualifications for reimbursement and compliance.~~
465 1.~~2.~~ The Office of Film and Entertainment shall develop a
466 standardized application form for use in qualifying an applicant
467 as ~~approving~~ a qualified production~~, a qualified relocation~~
468 ~~project, or a company qualifying under paragraph (a), paragraph~~
469 ~~(b), or paragraph (c)~~. The application form for qualifying an
470 applicant as a qualified production must include, but need not
471 be limited to, production-related information on employment,
472 proposed total production budgets, planned expenditures in this
473 state ~~which are intended for use exclusively as an integral part~~
474 ~~of preproduction, production, or postproduction activities~~
475 ~~engaged primarily in this state~~, and a signed affirmation from
476 the applicant ~~Office of Film and Entertainment~~ that the
477 information on the application form has been verified and is
478 correct. The application form shall be distributed to applicants
479 by the Office of Film and Entertainment or local film
480 commissions.
481 2.~~3.~~ Within 10 business days after receipt of an
482 application, the Office of Film and Entertainment shall review
483 the application to determine if the application contains all the
484 information required by this subsection and meets the criteria
485 set out in this section. The office shall qualify all
486 applications that contain the information and meet the criteria
487 set out in this section as eligible to receive a tax credit or
488 shall notify the applicant that the requirements for
489 qualification have not been met. If the application is
490 qualified, the office shall recommend to the Office of Tourism,

491 Trade, and Economic Development approval of the maximum amount
492 of the tax credit to be awarded. ~~The Office of Film and~~
493 ~~Entertainment must complete its review of each application~~
494 ~~within 5 days after receipt of the completed application,~~
495 ~~including all required information, and it must notify the~~
496 ~~applicant of its determination within 10 business days after~~
497 ~~receipt of the completed application and required information.~~
498 3.~~4.~~ Within 10 business days after receiving notice from
499 the Office of Film and Entertainment of qualification of an
500 applicant as a qualified production and a recommended approval
501 of the maximum amount of tax credit to be awarded, the Office of
502 Tourism, Trade, and Economic Development shall certify the
503 maximum tax credit award, if any. The certification shall be
504 transmitted to the applicant and to the executive director of
505 the Department of Revenue. The applicant shall be responsible
506 for forwarding a certified application to the Department of
507 Revenue. ~~Upon determination that all criteria are met for~~
508 ~~qualification for reimbursement, the Office of Film and~~
509 ~~Entertainment shall notify the applicant of such approval. The~~
510 ~~office shall also notify the Office of Tourism, Trade, and~~
511 ~~Economic Development of the applicant approval and amount of~~
512 ~~reimbursement required. The Office of Tourism, Trade, and~~
513 ~~Economic Development shall make final determination for actual~~
514 ~~reimbursement.~~
515 4.~~5.~~ The Office of Film and Entertainment shall deny an
516 application if the office ~~it~~ determines that:
517 a. The application is not complete or does not meet the
518 requirements of this section; or

519 b. The tax credit amount ~~reimbursement~~ sought does not
520 meet the requirements of this section ~~for such reimbursement~~.
521 (4) CREDIT ~~REIMBURSEMENT~~ ELIGIBILITY; SUBMISSION OF
522 REQUIRED DOCUMENTATION; APPLICATION ~~RECOMMENDATIONS~~ FOR TRANSFER
523 ~~PAYMENT~~.--
524 (a) Tax credit award.--A production of filmed
525 entertainment that is qualified by the Office of Film and
526 Entertainment and is certified by the Office of Tourism, Trade,
527 and Economic Development is eligible for corporate tax credits
528 granted pursuant to s. 220.192 and credits against sales tax
529 paid on qualified expenditures pursuant to s. 212.08(5)(r) in an
530 amount equal ~~a reimbursement of up~~ to 15 percent of its
531 qualified ~~qualifying~~ expenditures.
532 (b) Production spanning 2 state fiscal years.--A qualified
533 production that starts in one state fiscal year and finishes in
534 the next state fiscal year shall have all qualified expenditures
535 from both state fiscal years certified for the latter state
536 fiscal year. This requirement does not apply to the commercials
537 and music video queue described in subparagraph (d)3.
538 (c) Aggregate tax credit available.--The aggregate amount
539 of tax credits allowed under this section in any state fiscal
540 year is $25 million. If the total amount of allocated tax
541 credits applied for in any state fiscal year exceeds the
542 aggregate amount of tax credits authorized annually under this
543 section, such excess shall be treated as having been applied for
544 on the first day of the next state fiscal year in which tax
545 credits remain available for allocation. However, no more than
546 an aggregate amount of $30 million in tax credits granted

547 pursuant to this section and ss. 212.08(5)(r) and 220.192 shall
548 be allocated between July 1, 2006, and June 30, 2007. The
549 cumulative amount of credits that may be allocated between July
550 1, 2006, and June 30, 2009, may not exceed $75 million. At such
551 time as $75 million of tax credits granted pursuant to this
552 section and ss. 212.08(5)(r) and 220.192 have been allocated, no
553 additional tax credits may be allocated ~~in this state on a~~
554 ~~filmed entertainment program that demonstrates a minimum of~~
555 ~~$850,000 in total qualified expenditures for the entire run of~~
556 ~~the project, versus the budget on a single episode, within the~~
557 ~~fiscal year from July 1 to June 30. However, the maximum~~
558 ~~reimbursement that may be made with respect to any filmed~~
559 ~~entertainment program is $2 million. All reimbursements under~~
560 ~~this section are subject to appropriation~~.
561 (d) Filmed entertainment queues.--Tax credits awarded
562 ~~Payments~~ under this section in a state fiscal year shall be made
563 to qualified productions according to a production's principal
564 photography start date, for those qualified productions having
565 entered into the first queue as cited in subparagraph 1. or the
566 second queue cited in subparagraph 2. within the first 2 weeks
567 after the queue's opening. All other qualified productions
568 entering into either queue after the initial 2-week openings
569 shall be on a first-come, first-served basis ~~until the~~
570 ~~appropriation for that fiscal year is exhausted. On February 1~~
571 ~~of each year, the remaining funds within both queues shall be~~
572 ~~combined into a single queue and distributed based on a~~
573 ~~project's principal photography start date. The eligibility of~~
574 ~~qualified productions may not carry over from year to year, but~~

575 ~~such productions may reapply for eligibility under the~~
576 ~~guidelines established for doing so. The Office of Film and~~
577 ~~Entertainment shall develop a procedure to ensure that qualified~~
578 ~~productions continue on a reasonable schedule until completion.~~
579 ~~If a qualified production is not continued according to a~~
580 ~~reasonable schedule, the office shall withdraw its eligibility~~
581 ~~and reallocate the funds to the next qualified productions~~
582 ~~already in the queue that have yet to receive their full maximum~~
583 ~~or 15 percent financial reimbursement, if they have not started~~
584 ~~principal photography by the time the funds become available~~.
585 1. Film, television, and episodic queue.--Theatrical or
586 direct-to-video motion pictures, made-for-television movies,
587 ~~commercials, music videos,~~ industrial and educational films,
588 promotional videos or films, documentary films, television
589 specials, television series, including, but not limited to,
590 miniseries and telenovelas, and digital-media-effects
591 productions by the entertainment industry to be sold or
592 displayed in an electronic medium that demonstrate a minimum of
593 $625,000 in total qualified expenditures for the entire run of
594 the project, which, for a television series, means a season even
595 if the season is not completed in the same state fiscal year in
596 which principal photography began, shall have their own separate
597 queue established, and such queue shall have dedicated to it 60
598 percent of all available tax credits in any state fiscal year
599 for which this section applies. The maximum tax credit award
600 that may be made from this queue for any single production is $2
601 million unless the production is a high-impact television
602 series, in which case the production shall be eligible for a

603 maximum tax credit award of $3 million, provided such production
604 meets the other criteria of this section. On March 1 of each
605 year, the remaining tax credits within this queue shall be
606 merged into a general queue and may be used for other purposes
607 of this section as determined by the Office of Film and
608 Entertainment. A television series, including, but not limited
609 to, a qualified high-impact television series, is not eligible
610 for a tax credit award under this section after its fifth
611 production season in this state. A qualified high-impact
612 television series shall be allowed first position in this queue
613 for its first five production seasons in this state if the
614 application is received by the Office of Film and Entertainment
615 within the first 2 weeks after the queue's opening. A qualified
616 high-impact television series must file an application for each
617 state fiscal year in which it is eligible to receive the credit,
618 unless otherwise provided in this section ~~of the state incentive~~
619 ~~money~~.
620 2. Television pilot queue.--Television pilots and~~,~~
621 presentations for television pilots for television series
622 intended to be shot in this state and~~, or television series,~~
623 ~~including, but not limited to, drama, reality, comedy, soap~~
624 ~~opera, telenovela, game show, or miniseries productions, by the~~
625 ~~entertainment industry to be~~ sold or displayed in an electronic
626 medium that demonstrate a minimum of $625,000 in total qualified
627 expenditures for the pilot episode or presentation shall have
628 their own separate queue established, and such queue shall have
629 dedicated to it 20 ~~40~~ percent of all available tax credits in
630 any given state fiscal year for which this section applies. The

631 maximum tax credit award that may be made from this queue for
632 any single pilot episode or presentation is $2 million. On March
633 1 of each year, the remaining tax credits within this queue
634 shall be merged into a general queue and may be used for other
635 purposes of this section as determined by the Office of Film and
636 Entertainment.
637 3. Commercials and music video queue.--Commercials and
638 music videos by the entertainment industry to be sold or
639 displayed in an electronic medium that demonstrate a minimum of
640 $500,000 in combined total qualified expenditures from a
641 production company during the state fiscal year with a minimum
642 of $75,000 in qualified expenditures for each production shall
643 have their own separate queue established. Such queue shall have
644 dedicated to it 20 percent of available tax credits in any given
645 state fiscal year for which this section applies. The maximum
646 tax credit award that may be made from this queue for any single
647 production company is $500,000 for a state fiscal year. On April
648 1 of each year, the remaining tax credits within this queue
649 shall be merged into a general queue and may be used for other
650 purposes of this section as determined by the Office of Film and
651 Entertainment.
652 (e) Loss of eligibility; reallocation of tax credits.--If
653 a qualified production is not continued according to a
654 reasonable schedule or the Office of Film and Entertainment is
655 notified that a qualified production will no longer be produced,
656 the office shall withdraw the production's eligibility for tax
657 credits and reallocate the tax credits to the next qualified
658 productions already in the queue that have yet to receive a full

659 tax credit if such next qualified productions have not started
660 principal photography by the time the tax credits become
661 available.
662 (f) Verification of tax credit award.--The Office of Film
663 and Entertainment shall develop a process by which a qualified
664 production that has been certified by the Office of Tourism,
665 Trade, and Economic Development shall submit to the Office of
666 Film and Entertainment, in a timely manner after production ends
667 and after making all of its qualified expenditures, verifying
668 data to substantiate each qualified expenditure. The Office of
669 Film and Entertainment shall report to the Office of Tourism,
670 Trade, and Economic Development the final verified amount of
671 actual qualified expenditures made by the qualified production.
672 The Office of Tourism, Trade, and Economic Development shall
673 then notify the executive director of the Department of Revenue
674 that the qualified production has met all requirements of the
675 incentive program and shall recommend the final amount of the
676 tax credit ~~of the state incentive money~~.
677 ~~(b) A digital media effects company in the state which~~
678 ~~furnishes digital material to filmed entertainment may be~~
679 ~~eligible for a payment in an amount not to exceed 5 percent of~~
680 ~~its annual gross revenues on qualified expenditures as defined~~
681 ~~in paragraph (2)(c) before taxes or $100,000, whichever is less.~~
682 ~~A company applying for payment must submit documentation~~
683 ~~annually as required by the Office of Film and Entertainment for~~
684 ~~determination of eligibility of claimed billing and~~
685 ~~determination of the amount of payment for which the company is~~
686 ~~eligible.~~

687 (g) ~~(e)~~ Transfer of tax credits.--Upon application and
688 approval by the Department of Revenue, a qualified production
689 company may sell, in whole or in part, a tax credit granted
690 pursuant to this section and s. 220.192. The sale of any amount
691 of the tax credit shall not be exchanged for consideration
692 received by the qualified production company of less than 85
693 percent of the transferred amount of tax credit. The qualified
694 production company must transfer at least 10 percent of the
695 remaining credits to each purchaser and may not conduct more
696 than three transfers. The purchaser shall surrender the tax
697 credit in the state fiscal year acquired from the qualified
698 production company and otherwise may carry the tax credit over
699 subject to the same limitations on tax credit usage as the
700 qualified production company awarded the tax credit. The
701 purchaser may not sell or otherwise transfer the tax credit. The
702 Department of Revenue may adopt rules pursuant to ss. 120.536(1)
703 and 120.54 to administer this paragraph, as provided in
704 paragraph (6)(b). ~~A qualified relocation project that is~~
705 ~~certified by the Office of Film and Entertainment is eligible~~
706 ~~for a one-time incentive payment in an amount equal to 5 percent~~
707 ~~of its annual gross revenues before taxes for the first 12~~
708 ~~months of conducting business in its Florida domicile or~~
709 ~~$200,000, whichever is less. A company applying for payment must~~
710 ~~submit documentation as required by the Office of Film and~~
711 ~~Entertainment for determination of eligibility of claimed~~
712 ~~billing and determination of the amount of payment for which the~~
713 ~~company is eligible.~~

714 (h) ~~(d)~~ Noncorporate distribution of tax credits.--A
715 qualified production company that is not a corporation as
716 defined in s. 220.03 shall elect to make an application to the
717 Department of Revenue as provided in paragraph (g) or distribute
718 tax credits awarded under this section to its partners or
719 members in proportion to the respective distributive share of
720 such partners' or members' income or loss in the state fiscal
721 year in which such tax credits were approved. A tax credit
722 granted under this section and applied against taxes imposed
723 under this chapter shall be carried forward only for a maximum
724 of 5 taxable years following the state fiscal year in which the
725 credit was approved. The Department of Revenue may adopt rules
726 pursuant to ss. 120.536(1) and 120.54 to administer this
727 paragraph, as provided in paragraph (6)(b) ~~, a digital media~~
728 ~~effects company, or a qualified relocation project applying for~~
729 ~~a payment under this section must submit documentation for~~
730 ~~claimed qualified expenditures to the Office of Film and~~
731 ~~Entertainment~~.
732 (i) ~~(e)~~ Use of tax credits.--A qualified production company
733 may use the tax credit against the tax liability imposed under
734 s. 220.192, in whole or in part, or against the sales tax paid
735 under chapter 212 in whole or in part ~~The Office of Film and~~
736 ~~Entertainment shall notify the Office of Tourism, Trade, and~~
737 ~~Economic Development whether an applicant meets the criteria for~~
738 ~~reimbursement and shall recommend the reimbursement amount. The~~
739 ~~Office of Tourism, Trade, and Economic Development shall make~~
740 ~~the final determination for actual reimbursement~~.

741 (5) MARKETING REQUIREMENTS.--The Office of Film and
742 Entertainment shall ensure appropriate marketing materials,
743 including, but not limited to, promotions of this state as a
744 tourist or filming destination, are required when appropriate
745 to be included on any filmed entertainment as a condition of
746 receiving a tax credit under this section. The Office of Film
747 and Entertainment shall consult with appropriate entities for
748 the development and implementation of marketing materials.
749 (6) ~~(5)~~ RULES ~~POLICIES AND PROCEDURES~~.--
750 (a) The Office of Tourism, Trade, and Economic Development
751 shall adopt rules pursuant to ss. 120.536(1) and 120.54 ~~policies~~
752 ~~and procedures~~ to implement this section, including, but not
753 limited to, rules specifying requirements for the application
754 and approval process, records required for ~~submission for~~
755 substantiation of credit awards ~~for reimbursement~~, ~~and~~
756 determination of and qualification for credit awards, and
757 marketing requirements for credit recipients ~~reimbursement~~.
758 (b) The Department of Revenue may adopt rules pursuant to
759 ss. 120.536(1) and 120.54 to administer the provisions of this
760 section, including rules governing the manner and form of
761 documentation required to claim tax credits granted or
762 transferred under this section, and may establish guidelines as
763 to the requisites for an affirmative showing of qualification
764 for tax credits granted or transferred under this section.
765 (7) ~~(6)~~ FRAUDULENT CLAIMS.--
766 (a) Any applicant who submits an application under this
767 section that includes fraudulent information is liable for

768 reimbursement of the reasonable costs and fees associated with
769 the review, processing, investigation, and prosecution.
770 (b) An eligible entity or company that obtains a credit
771 ~~payment~~ under this section through a claim that it knows is
772 fraudulent is liable for reimbursement of the credit ~~amount paid~~
773 plus a penalty in an amount double the credit ~~payment~~ and
774 reimbursement of reasonable costs, which penalty is in addition
775 to any criminal penalty to which the entity or company is liable
776 for the same acts, plus interest. The entity or company is also
777 liable for costs and fees incurred by the state in investigating
778 and prosecuting the fraudulent claim.
779 (8) ~~(7)~~ ANNUAL REPORT.--The Office of Film and
780 Entertainment shall provide an annual report for the previous
781 state fiscal year, due October 1, to the Governor, the President
782 of the Senate, and the Speaker of the House of Representatives
783 outlining the return on investment to the state on tax credits
784 awarded ~~funds expended~~ pursuant to this section.
785 (9) REPEAL.--This section is repealed July 1, 2009.
786 Section 6. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1357 CS Growth Management
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	Nelson	Hamby
2) Growth Management Committee	9 Y, 0 N, w/CS	Grayson	Grayson
3) Transportation & Economic Development Appropriations Committee	W/D		
4) State Infrastructure Council		Grayson	Havlicak
5)			

SUMMARY ANALYSIS

HB 1357 w/CS creates the "Interlocal Service Boundary Agreement Act" to provide an alternative process for annexation that allows counties and municipalities to negotiate in good faith to identify municipal service areas and unincorporated service areas, resolve which local government is responsible for providing services and facilities within the municipal service areas, and reduce the number of enclaves.

The bill defines a "municipal service area" as an unincorporated area that has been identified by a municipality that is a party to an interlocal service boundary agreement as an area to be annexed or to receive municipal services from the municipality or its designee. Land within a municipal service area may be annexed by a municipality if consent is obtained using a process for annexation consistent with current statutes or a process, as determined by the agreement, that includes one or more of the following:

- a petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation;
- a petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation; or
- approval by a majority of the registered voters in the area proposed for annexation.

The bill allows an enclave consisting of 20 acres or more within a designated municipal service area to be annexed if statutory consent requirements are met, one or more of the provisions for annexing land within a municipal service area are met, or the municipality receives a petition from one or more property owners who own real property in excess of 50 percent of the total real property in the area proposed for annexation. Enclaves consisting of less than 20 acres and with fewer than 100 registered voters, within a designated municipal service area, may be annexed using a process for securing the consent of the voters, as provided in the interlocal service boundary agreement.

The bill does not appear to have a fiscal impact upon the state. However, it may have an unknown fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The "Municipal Annexation or Contraction Act," ch. 171, F.S., codifies the state's annexation procedures[1] and was enacted in 1974 to ensure sound urban development, establish uniform methods for the adjustment of municipal boundaries, provide for efficient service delivery in areas that become urban, and limit annexation to areas where municipal services can be provided.[2] At the time ch. 171, F.S., was created, the prevailing policy focused on the strength of county governments and regional planning agencies. Consequently, Florida's annexation statutes concentrate on the expansion and contraction of municipal boundaries.[3]

Current annexation policy in Florida has given rise to a number of issues: difficulty in planning to meet future service needs, confusion over logical service areas and maintenance of infrastructure, duplication of essential services, and zoning efforts thwarted by landowners shopping for the best development climate. While existing annexation procedures may adequately address the concerns of landowners within a proposed annexation area, the residents of remaining unincorporated areas or residents of the municipality proposing the annexation also may be significantly affected by the potential loss of revenue or inefficiencies in service delivery.

An area proposed for annexation must be unincorporated, contiguous and reasonably compact.[4] For a proposed annexation area to be contiguous under ch. 171, F.S., a substantial portion of the annexed area's boundary must be coterminous with the municipality's boundary.[5] "Compactness," for purposes of annexation, is defined as the concentration of property in a single area and does not allow for any action that results in an enclave, pocket or "finger areas in serpentine patterns."[6]

A newly annexed area comes under the city's jurisdiction on the effective date of the annexation. Following annexation, a municipality must apply the county's land use plan and zoning regulations until a comprehensive plan amendment is adopted that includes the annexed area in the municipality's future land use map. It is possible for the city to adopt the comprehensive plan amendment simultaneously with the approval of the annexation. However, there is no requirement that a city amend its comprehensive plan prior to annexation.[7] In the interim, a city must apply county regulations or wait to apply its own rules.

The effective date of the annexation determines who receives certain funds. The county share of revenue sharing and the half-cent sales tax is reduced effective July 1 if a parcel is annexed prior to April 1. Should the annexation occur before a city levies millage, the annexed property is subject to the

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[1] Section (2)(c), Art. VIII of the State Constitution provides authority for the Legislature to establish annexation procedures for all counties except Miami-Dade. Annexation can occur using several methods: special act, charter, interlocal service boundary agreement, voluntary annexation or involuntary annexation. Annexation through a special act must meet the notice and referendum requirements of s. 10, Art. III, of the State Constitution.
[2] Section 171.021, F.S.
[3] See, Lance deHaven-Smith, Ph.D., *FCCMA Policy Statement on Annexation*, October 12, 2002, at 16-17, http://www.fccma.org/pdf/FCCMA_Paper_Final_Draft.pdf.
[4] Sections 171.0413-.043, F.S.
[5] Section 171.031(11), F.S.
[6] Section 171.031(12), F.S.
[7] See, 1000 Friends of Fla., Inc. v. Florida Dept. of Community Affairs, 824 So. 2d 989 (Fla.4th DCA 2002).

city millage, but excluded from the municipal service taxing unit. If a county has not levied its non-ad valorem assessments before annexation, the county loses those assessments.

Cities may annex enclaves of 10 acres or less by interlocal agreement with the county under the provisions of s. 171.046, F.S. An enclave is defined in s. 171.031(13), F.S., as any unincorporated improved or developed area lying within a single municipality or surrounded by a single municipality and a manmade or natural obstacle that permits traffic to enter the unincorporated area only through the municipality. Enclaves of 10 acres or less also can be annexed by municipal ordinance when there are fewer than 25 registered voters living in the enclave and at least 60 percent of those voters approve the annexation in a referendum.

Section 171.044, F.S., provides the procedure for a voluntary annexation which occurs when 100 percent of the landowners in an area petition a municipality. In addition to the annexing municipality enacting an ordinance allowing for the annexation to occur, there are certain notice requirements that must be met. This section does not apply where a municipal or county charter provides the exclusive method for voluntary annexation.[8] Also, the voluntary annexation procedures in this section are considered supplemental to any other procedure contained in general or special law.[9]

Sections 171.0413 and 171.042, F.S., establish an electoral procedure for involuntary annexation that allows for separate approval of a proposed annexation in an existing city, at the city's option, and in the area to be annexed. The owners of more than 50 percent of the land in an area proposed for annexation must consent if more than 70 percent of the property in that area is owned by persons that are not registered electors. Also, the governing body of the annexing municipality must prepare a report on the provision of urban services to the area being annexed as well as adopt an ordinance allowing for the annexation and meet certain notice requirements.

A municipality may annex within an independent special district pursuant to s. 171.093, F.S. The municipality, after electing to assume the district's responsibilities and adopting a resolution, may enter into an interlocal agreement to address responsibility for service provision, real estate assets, equipment and personnel. Absent an interlocal agreement, the district continues as the service provider in the annexed area for a period of four years and receives an amount from the city equal to the ad valorem taxes or assessments that would have been collected on the property. Following the four years and any mutually agreed upon extension, the municipality and district must reach agreement on the equitable distribution of property and indebtedness or the matter will proceed in circuit court.

Municipal annexation provides for conflict and tension between many county and municipal governments. The process of annexation often raises issues regarding delivery of services and the costs associated with the delivery of those services, boundaries and land use. During the past two legislative sessions, the Florida League of Cities and the Florida Association of Counties have recommended a statutory resolution to these issues. This compromise proposed a process by which a municipality and a county could work to negotiate the matters of conflict surrounding a particular annexation proposal. The present bill, HB 1357 w/CS, and its companion, SB 1194, also reflect this compromise.

Proposed Changes

HB 1357 w/CS creates the "Interlocal Service Boundary Agreement Act" as part II of ch. 171, F.S., to provide an alternative process for annexation that allows counties and municipalities to jointly determine how services are provided to residents and property. The bill is intended to establish a more flexible process for adjusting municipal boundaries and to address a wider range of the effects of annexation. This bill also is intended to encourage intergovernmental coordination in planning, service

[8] Section 171.044(4), F.S.
[9] *Id.*

delivery, and boundary adjustments and to reduce intergovernmental conflicts and litigation between local governments.

Interlocal Service Boundary Agreement Act: ss. 171.20—171.212, F.S.

Definitions
Section.171.202, F.S., contains definitions for the following terms as used part II of ch. 171, F.S.: chief administrative officer, enclave, independent special district, initiating county, initiating local government, initiating municipality, initiating resolution, interlocal service boundary agreement, invited local government, invited municipality, municipal service area, notified local government, participating resolution, requesting resolution, responding resolution, and unincorporated service area.

Specifically, the bill defines an "interlocal service boundary agreement" as an agreement adopted under part II of chapter 171, F.S., between a county and one or more municipalities, which may include one or more independent special districts.

A "municipal service area" is defined as an unincorporated area that has been identified for annexation in an interlocal agreement by a municipality that is a party to the interlocal agreement. This term also includes an unincorporated area that has been identified in the agreement to receive municipal services from a municipality that is a party to the agreement or the municipality's designee.

The term "unincorporated service area" refers to an unincorporated area that has been identified in an interlocal service boundary agreement and which may not be annexed without the consent of the county. It also may refer to an unincorporated area or incorporated area, or both, that has been identified in an interlocal service boundary agreement to receive municipal services from the county, its designee, or an independent special district.

Process of Initiating an Interlocal Service Boundary Agreement
Section 171.203, F.S., authorizes the governing body of a county and one or more municipalities or independent special districts to enter into an interlocal service boundary agreement. The county, municipality or independent special district may develop a process for reaching an interlocal service boundary agreement that meets certain requirements, or use the process provided in this section.

Initiating Resolution
The process outlined in s. 171.203, F.S., provides that the negotiations for an interlocal service boundary agreement are initiated when a county or municipality adopts an initiating resolution. The initiating resolution must identify an unincorporated area or incorporated area, or both, and the issues to be negotiated. The initiating resolution must include a map or legal description of the unincorporated or incorporated area to be discussed. An independent special district may initiate an interlocal agreement for the sole purpose of dissolving the district, or removing more than 10 percent of the taxable or assessable value of the district. A county's initiating resolution must designate one more invited municipality, while a municipality's initiating resolution may designate an invited municipality. An initiating resolution from a special district must designate one or more municipalities and invite the county.

Responding Resolution
Copies of a county's or municipality's initiating resolution must be provided to every invited municipality, all other municipalities in the county, and each independent special district in the unincorporated area identified in the resolution. Within 60 days of receipt of an initiating resolution, the county or invited municipality must adopt a responding resolution. This responding resolution may identify an additional unincorporated area, incorporated area, or issues for negotiation, and also may invite an additional municipality or independent special district to negotiate. A municipality within the county that is not invited may request participation in the negotiations within a prescribed time frame and the county and invited municipality must consider this request.

After the parties to the negotiations have been determined through the adoption of various resolutions, the county, invited municipalities, participating municipalities, if any, and any independent special districts that elect to participate, are required to begin negotiations within 60 days after receipt of a responding or participating resolution, whichever occurs first. An invited municipality that does not adopt a responding resolution is deemed to have waived its right to participate and is bound by an interlocal service boundary agreement that results from the negotiations. Local governments are authorized to simultaneously negotiate more than one interlocal service boundary agreement. Counties and municipalities that successfully negotiate an interlocal service boundary agreement must adopt the agreement by ordinance; an independent special district must adopt the agreement using a method consistent with its charter.

Issues That May be Addressed in an Interlocal Service Boundary Agreement
The issues that may be addressed by an interlocal service boundary agreement may include, but are not limited to: the identification of a municipal service area and unincorporated service area; the identification of the local government responsible for the delivery or funding of public safety, fire, emergency rescue and medical, water and wastewater, road ownership, construction and maintenance, conservation, parks and recreation, and stormwater management and drainage services within the area; and other services and infrastructure not currently provided by an electric utility or a natural gas transmission company, as long as it does not affect any territorial agreement between electric utilities or pubic utilities, or affect the determination of a territorial dispute by the Florida Public Service Commission. The interlocal service boundary agreement may establish a process and schedule for annexing an area within a designated municipal service area. The agreement also may provide for a procedure by which the local government responsible for water and wastewater services applies for necessary permit modifications to reflect changes in surface water management operating entity responsibilities. The agreement may also include a requirement that all fire and emergency medical services shall be provided by the existing provider of such services to the annexed area, and remain part of the existing municipal service taxing unit or special district, unless and until one the following occurs:

- The county and annexing municipality agree, by interlocal agreement or other legally sufficient means, as to who shall provide these emergency services; or
- A Fire-Rescue Services Element exists for the respective county's comprehensive plan.

Additionally, the interlocal service boundary agreement may establish a process for land-use decisions consistent with part II of ch. 163, F.S., including joint land-use decisions of the county and municipality, and allowing a municipality to adopt land-use changes for areas that are scheduled to be annexed within the term of the interlocal service boundary agreement. If the agreement addresses land use planning, it must provide procedures for the preparation and adoption of plan amendments, the administration of land development regulations, and the issuance of development orders.

The agreement may address other issues related to service delivery and include the transfer of services and infrastructure, fiscal compensation to one county, municipality or independent special district from another local government or special district, and provide for the joint use of facilities and collocation of services. Finally, the agreement may require the municipality to send the county a report on its planned service delivery.

Standing to Challenge Certain Plan Amendments
Each local government that is a party to the interlocal service boundary agreement is required to amend the intergovernmental coordination element of its comprehensive plan no later than six months following entry of the agreement consistent with s.163.3177(6)(h)1., F.S. For purposes of challenging such plan amendment, an affected person includes persons owning real property, residing, or owning or operating a business within the boundaries of the municipal service area and owners of real property abutting real property within the municipal service area that is the subject of the plan amendment, in addition to those affected persons who would have standing under s.163.3184, F.S.

Review by the State Land Planning Agency

A municipality that is party to an interlocal agreement and identifies an unincorporated area for annexation is required to adopt a plan amendment to address future possible annexation. The identified municipal service area must contain: a boundary map of the municipal service area, population projections for the area, and data supporting the provision of public services for the area. The amendment is subject to review by the DCA for compliance with part II of ch. 163, F.S. However, the DCA may not review or approve or disapprove a municipal ordinance relating to municipal annexation or contraction.

Conclusion of Negotiations on an Interlocal Service Boundary Agreement
An interlocal service boundary agreement may be for a term of 20 years or less and must include a provision requiring periodic review with renegotiations to begin at least 18 months prior to its termination date. Once an agreement has been reached, the county and municipality must adopt the agreement by ordinance. A special district that consents to the agreement is required to adopt the agreement using a method consistent with its charter. Nothing in part II of ch. 171, F.S. (which is created by this bill) prohibits a local government from adopting an interlocal service boundary agreement without the consent of an independent special district.

If an interlocal service boundary agreement has not been reached six months after negotiations have commenced, the initiating or invited local governments may declare an impasse in the negotiations and seek to resolve the issues through the conflict resolution procedures in ch. 164, F.S. If the local governments cannot agree at the conclusion of the dispute resolution process, the bill requires the local governments to hold a joint public hearing on the issues raised in the negotiations.

For a period of six months following the failure of the local governments to reach an agreement, the initiating local government may not initiate negotiations to require the responding local government to negotiate the same issues with respect to the same unincorporated areas. Although a local government is not required under this bill to enter into an agreement, local governments are required to negotiate in good faith to the conclusion of the process once it has been initiated. Local governments may negotiate more than one interlocal agreement simultaneously. Local government officials are encouraged to participate actively and directly in the negotiation process for developing an agreement.

The bill states that part II of ch. 171, F.S., does not impair any existing franchise agreement without the consent of the franchisee. Local governments retain their authority under this bill to negotiate franchise agreements for the use of public rights-of-way and providing service.

Annexation Procedures under an Interlocal Service Boundary Agreement
Sections 171.204 and 171.205, F.S., provide procedures under which land identified in an interlocal service boundary agreement for annexation may be annexed by a municipality. These land areas may include areas that may not be annexed by a municipality under existing ch. 171, F.S. Specifically, the bill authorizes a municipality to annex any character of land, including an area that is not contiguous to the municipality's boundaries or creates an enclave if the area is urban in character as defined in s. 171.031(8), F.S. However, the agreement may not allow for the annexation of land within a municipality that is not a party to the agreement or of land that is within another county.

Land within a municipal service area, as identified in the interlocal service boundary agreement, may be annexed by the municipality using a process for annexation consistent with part I of ch. 171, F.S., or using a "flexible" process established in the interlocal agreement. The flexible process may be used to secure the consent of property owners or registered voters residing in the area proposed for annexation with notice to these individuals.

Annexation within the municipal service area must meet the consent requirements in part I of ch. 171, F.S., or the annexation may be achieved by one or more of the following: the filing of a petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation, the filing of a petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation, or upon the approval by a majority of the registered voters

in the area proposed for annexation voting in a referendum on the annexation. If the area to be annexed includes a privately owned solid waste disposal facility, the annexing municipality must set forth in its plan the impacts the annexation of the facility will have on other local governments.

The bill allows the annexation of enclaves consisting of 20 acres or more within a designated municipal service area using a flexible process for securing voter consent, as provided in the interlocal service boundary agreement, with notice to those property owners and residents within the area proposed for annexation. However, the interlocal service boundary agreement may not allow annexation unless the consent requirements of part I of ch. 171, F.S., are met, the provisions described above are met, or the municipality receives a petition from one or more property owners who own real property in excess of 50 percent of the total real property in the area proposed for annexation. Enclaves consisting of less than 20 acres and with fewer than 100 registered voters within a designated municipal service area, may be annexed using a flexible process for securing the consent of the voters, as provided in the interlocal service boundary agreement, with notice to the registered voters and property owners in the area to be annexed. The flexible process may include one or more of described procedures or a referendum of the registered voters who reside in the area proposed to be annexed.

Effect of Interlocal Service Boundary Agreement

Section 171.206, F.S., provides that an interlocal service boundary agreement is binding on the parties. Section 171.207, F.S., provides that part II of ch. 171, F.S., is an alternative provision allowing for the transfer of power resulting from the interlocal service boundary agreement as authorized by s. 4, Art. VIII of the State Constitution. Section 171.208, F.S., authorizes a municipality to exercise extraterritorial powers, including the authority to provide services and facilities within the unincorporated area as provided for in the interlocal service boundary agreement. Similarly, s. 171.209, F.S., authorizes a county to provide services and facilities within a municipality according to the terms of the interlocal service boundary agreement. Section 171.21, F.S., provides for the effect of an interlocal service boundary agreement on a county charter. Section 171.211, F.S., provides that an interlocal service boundary agreement is presumed valid and binding and places the burden of proving the agreement's invalidity on the challenger. Section 171.212, F.S., requires local governments to use ch. 164, F.S., to resolve disputes regarding the construction and effect of an interlocal service boundary agreement under this part. If the procedures in ch. 164, F.S., do not result in resolution of the conflict, a local government may file an action in circuit court not later than 30 days following the conclusion of those procedures.

The bill also amends current provisions in ch. 171, F.S., to:

- require that an ordinance notice for annexation be provided to the county where the municipality is located not fewer than 15 days prior to commencing annexation procedures under s. 171.0413, F.S.;
- provide that failure to provide such notice may be the basis for a cause of action invalidating the annexation;
- require a municipality to send a copy of the ordinance notice for a voluntary annexation to the county where the municipality is located not fewer than 10 days prior to publishing or posting the notice;
- provide that an interlocal service boundary agreement entered into pursuant to part II of ch. 171, F.S., is binding on the parties;
- provide a time limit for initiating an appeal on annexation or contraction; and
- provide that a primary disputing governmental entity that fails to participate in good faith in the conflict assessment meeting, mediation, or other remedies provided for in the Florida Governmental Conflict Resolution Act, shall be required to pay the attorney's fees and costs for that proceeding.

The bill provides an effective date of upon becoming a law.

Chapter 171, F.S.	Proposed Alternative to Chapter 171, F.S.
Character of the Land	
An area proposed for annexation must be incorporated, contiguous and reasonably compact.	As determined by the interlocal service boundary agreement, a municipality may annex any character of land within a municipal service area if it is urban in character, regardless of whether it is not contiguous or would create an enclave.
Involuntary Annexation	
Involuntary annexation requires approval by the registered electors in the area proposed for annexation. If more than 70 percent of the property in a proposed area to be annexed is owned by persons who are not registered electors, the owners of more than 50 percent of the land must consent to the annexation. The governing body of the annexing municipality also may submit the ordinance to a vote of the registered electors in the annexing municipality.	Land within a municipal service area may be annexed by a municipality if consent is attained using a process for annexation consistent with part I of ch. 171, F.S., or a flexible process, as determined by the interlocal service boundary agreement between the county and municipality, that includes one or more of the following: • petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation; or • petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation; or • approval by a majority of the registered voters in the area proposed for annexation voting in a referendum on the annexation.
Voluntary Annexation	
A voluntary annexation occurs when 100 percent of the landowners in an area petition a municipality to be annexed.	Same procedures as ch. 171, F.S.
Enclaves	
Same procedures as involuntary annexation.	Enclaves consisting of 20 acres or more within a designated municipal service area may be annexed using a flexible process for securing voter consent, as provided in the interlocal service boundary agreement with notice to the registered voters and property owners in the area to be annexed. The agreement may not allow annexation unless the consent requirements of part 1 of ch. 171, F.S., are met, one or more of the provisions for annexing land within a municipal service area are met, or the municipality receives a petition from one or more property owners who own real property in excess of 50 percent of the total real property in the area proposed for annexation.
Small Enclaves	
Cities may annex enclaves of 10 acres or less by interlocal agreement with the county or by municipal ordinance if there are fewer than 25 registered voters living in the enclave and at least 60 percent of those voters approve the annexation in a referendum.	Enclaves consisting of less than 20 acres and with fewer than 100 registered voters within a designated municipal service area may be annexed using a flexible process for securing the consent of the voters, as provided in the interlocal service boundary agreement. No voter approval is required.

C. SECTION DIRECTORY:

Section 1: Creates part II of ch. 171, F.S., the "Interlocal Service Boundary Agreement Act."

Section 2: Provides for the designation of ss. 171.011-171.093, F.S., and s. 171.094, F.S., as part I of chp. 171, F.S.

Section 3: Amends s. 171.011, F.S. relating to the chapter title.

Section 4: Amends s. 171.031, F.S., relating to chapter definitions.

Section 5: Amends ss. 171.042(2) and adds (3), F.S., relating to the prerequisites to annexation.

Section 6: Amends s. 171.044(6), F.S., relating to voluntary annexation.

Section 7: Amends s. 171.045, F.S., relating to annexation limited to a single county.

Section 8: Amends s. 171.081, F.S., relating to appeal on annexation or contraction.

Section 9: Creates s. 171.094, F.S., relating to the effect of interlocal service boundary agreements on annexations.

Section 10: Amends s. 163.01(11), F.S., relating to the Florida Interlocal Cooperation Act of 1969.

Section 11: Amends s. 164.1058, F.S., relating to penalties for certain governmental entities for failure to participate in good faith in a conflict assessment meeting.

Section 12: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Unknown. See, FISCAL COMMENTS, below.

2. Expenditures:

   Unknown. See, FISCAL COMMENTS, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Any fiscal impacts to local governments as a result of the bill will depend on the types of actions taken and agreements reached.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Section 4, Art. VIII of the State Constitution provides:

> By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

Section 171.207, F.S., declares that the provisions created in the bill are an alternative provision otherwise provided by law as authorized by s. 4, Art. VIII of the State Constitution.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Comments

Both the Florida League of Cities[10] and the Florida Association of Counties[11] support this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006 the Growth Management Committee adopted an amendment to HB 1357. The amendment addresses the issue of what may be included in an interlocal service boundary agreement. Specifically, the amendment provides that all fire and emergency medical services shall be provided by the existing provider of such services to the annexed area, and remain part of the existing municipal service taxing unit or special district, unless and until one the following occurs:

- The county and annexing municipality agree, by interlocal agreement or other legally sufficient means, as to who shall provide these emergency services; or
- A Fire-Rescue Services Element exists for the respective county's comprehensive plan.

[10] John Wayne Smith, Assistant Director, Legislative and Public Affairs, Florida League of Cities.
[11] Sarah M. Bleakley, Nabors, Giblin & Nickerson, P.A., Special Counsel to Florida Association of Counties.

CHAMBER ACTION

1 The Growth Management Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to growth management; creating part II of
7 ch. 171, F.S., the "Interlocal Service Boundary Agreement
8 Act"; providing legislative intent with respect to
9 annexation and the coordination of services by local
10 governments; providing definitions; providing for the
11 creation of interlocal service boundary agreements by a
12 county and one or more municipalities or independent
13 special districts; specifying the procedures for
14 initiating an agreement and responding to a proposal for
15 agreements; identifying issues the agreement may or must
16 address; requiring local governments that are a party to
17 the agreement to amend their comprehensive plans;
18 providing for review of the amendment by the state land
19 planning agency; providing an exception to the limitation
20 on plan amendments; specifying those persons who may
21 challenge a plan amendment required by the agreement;
22 providing for negotiation and adoption of the agreement;
23 providing for preservation of certain agreements and

24 powers regarding utility services; providing for
25 preservation of existing contracts; providing
26 prerequisites to annexation; providing a process for
27 annexation; providing for the effect of an interlocal
28 service boundary area agreement on the parties to the
29 agreement; providing for a transfer of powers; authorizing
30 a municipality to provide services within an
31 unincorporated area or territory of another municipality;
32 authorizing a county to exercise certain powers within a
33 municipality; providing for effect on interlocal
34 agreements and county charters; providing a presumption of
35 validity; providing a procedure to settle a dispute
36 regarding an interlocal service boundary agreement;
37 designating ss. 171.011-171.094 as part I of chapter 171,
38 F.S.; amending ss. 171.011, 171.031, and 171.045, F.S., to
39 conform; amending s. 171.042, F.S.; revising the time
40 period for filing a report; providing for a cause of
41 action to invalidate an annexation; requiring
42 municipalities to provide notice of proposed annexation to
43 certain persons; amending s. 171.044, F.S.; revising the
44 time period for providing a copy of a notice; providing
45 for a cause of action to invalidate an annexation;
46 amending s. 171.081, F.S.; requiring a governmental entity
47 affected by annexation or contraction to initiate conflict
48 resolution procedures under certain circumstances;
49 providing for initiation of judicial review and
50 reimbursement of attorney's fees and costs regarding
51 certain annexations or contractions; creating s. 171.094,

52 F.S.; providing for the effect of interlocal service
53 boundary agreements adopted under the act; amending s.
54 163.01, F.S.; providing for the place of filing an
55 interlocal agreement in certain circumstances; amending s.
56 164.1058, F.S.; providing that a governmental entity that
57 fails to participate in conflict resolution procedures
58 shall be required to pay attorney's fees and costs under
59 certain conditions; providing an effective date.
60
61 Be It Enacted by the Legislature of the State of Florida:
62
63 Section 1. Part II of chapter 171, Florida Statutes,
64 consisting of sections 171.20, 171.201, 171.202, 171.203,
65 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21,
66 171.211, and 171.212, is created to read:
67 171.20 Short title.--This part may be cited as the
68 "Interlocal Service Boundary Agreement Act."
69 171.201 Legislative intent.--The Legislature intends to
70 provide an alternative to part I for local governments regarding
71 the annexation of territory into a municipality and the
72 subtraction of territory from the unincorporated area of the
73 county. The principal goal of this part is to encourage local
74 governments to jointly determine how to provide services to
75 residents and property in the most efficient and effective
76 manner while balancing the needs and desires of the community.
77 This part is intended to establish a more flexible process for
78 adjusting municipal boundaries and to address a wider range of
79 the effects of annexation. This part is intended to encourage

80 intergovernmental coordination in planning, service delivery,
81 and boundary adjustments and to reduce intergovernmental
82 conflicts and litigation between local governments. It is the
83 intent of this part to promote sensible boundaries that reduce
84 the costs of local governments, avoid duplicating local
85 services, and increase political transparency and
86 accountability. This part is intended to prevent inefficient
87 service delivery and an insufficient tax base to support the
88 delivery of those services.
89 171.202 Definitions.--As used in this part, the term:
90 (1) "Chief administrative officer" means the municipal
91 administrator, municipal manager, county manager, county
92 administrator, or other officer of the municipality, county, or
93 independent special district who reports directly to the
94 governing body of the local government.
95 (2) "Enclave" has the same meaning as provided in s.
96 171.031.
97 (3) "Independent special district" means an independent
98 special district, as defined in s. 189.403, which provides fire,
99 emergency medical, water, wastewater, or stormwater services.
100 (4) "Initiating county" means a county that commences the
101 process for negotiating an interlocal service boundary agreement
102 through the adoption of an initiating resolution.
103 (5) "Initiating local government" means a county,
104 municipality, or independent special district that commences the
105 process for negotiating an interlocal service boundary agreement
106 through the adoption of an initiating resolution.

107 (6) "Initiating municipality" means a municipality that
108 commences the process for negotiating an interlocal service
109 boundary agreement through the adoption of an initiating
110 resolution.
111 (7) "Initiating resolution" means a resolution adopted by
112 a county, municipality, or independent special district which
113 commences the process for negotiating an interlocal service
114 boundary agreement and which identifies the unincorporated area
115 and other issues for discussion.
116 (8) "Interlocal service boundary agreement" means an
117 agreement adopted under this part, between a county and one or
118 more municipalities, which may include one or more independent
119 special districts as parties to the agreement.
120 (9) "Invited local government" means an invited county,
121 municipality, or special district and any other local government
122 designated as such in an initiating resolution or a responding
123 resolution that invites the local government to participate in
124 negotiating an interlocal service boundary agreement.
125 (10) "Invited municipality" means an initiating
126 municipality and any other municipality designated as such in an
127 initiating resolution or a responding resolution that invites
128 the municipality to participate in negotiating an interlocal
129 service boundary agreement.
130 (11) "Municipal service area" means one or more of the
131 following as designated in an interlocal service boundary
132 agreement:

133 (a) An unincorporated area that has been identified in an
134 interlocal service boundary agreement for municipal annexation
135 by a municipality that is a party to the agreement.
136 (b) An unincorporated area that has been identified in an
137 interlocal service boundary agreement to receive municipal
138 services from a municipality that is a party to the agreement or
139 from the municipality's designee.
140 (12) "Notified local government" means the county or a
141 municipality, other than an invited municipality, that receives
142 an initiating resolution.
143 (13) "Participating resolution" means the resolution
144 adopted by the initiating local government and the invited local
145 government.
146 (14) "Requesting resolution" means the resolution adopted
147 by a municipality seeking to participate in the negotiation of
148 an interlocal service boundary agreement.
149 (15) "Responding resolution" means the resolution adopted
150 by the county or an invited municipality which responds to the
151 initiating resolution and which may identify an additional
152 unincorporated area or another issue for discussion, or both,
153 and may designate an additional invited municipality or
154 independent special district.
155 (16) "Unincorporated service area" means one or more of
156 the following as designated in an interlocal service boundary
157 agreement:
158 (a) An unincorporated area that has been identified in an
159 interlocal service boundary agreement and that may not be
160 annexed without the consent of the county.

161 (b) An unincorporated area or incorporated area, or both,
162 which have been identified in an interlocal service boundary
163 agreement to receive municipal services from a county or its
164 designee or an independent special district.
165 171.203 Interlocal service boundary agreement.--The
166 governing body of a county and one or more municipalities or
167 independent special districts within the county may enter into
168 an interlocal service boundary agreement under this part. The
169 governing bodies of a county, a municipality, or an independent
170 special district may develop a process for reaching an
171 interlocal service boundary agreement which provides for public
172 participation in a manner that meets or exceeds the requirements
173 of subsection (12), or the governing bodies may use the process
174 established in this section.
175 (1) A county, a municipality, or an independent special
176 district desiring to enter into an interlocal service boundary
177 agreement shall commence the negotiation process by adopting an
178 initiating resolution. The initiating resolution must identify
179 an unincorporated area or incorporated area, or both, to be
180 discussed and the issues to be negotiated. The identified area
181 must be specified in the initiating resolution by a descriptive
182 exhibit that includes, but need not be limited to, a map or
183 legal description of the designated area. The issues for
184 negotiation must be listed in the initiating resolution and may
185 include, but need not be limited to, the issues listed in
186 subsection (6). An independent special district may initiate the
187 interlocal service boundary agreement for the purposes of
188 dissolving an independent special district or removing more than

189 10 percent of the taxable or assessable value of an independent
190 special district.
191 (a) The initiating resolution of an initiating county must
192 designate one or more invited municipalities. The initiating
193 resolution of an initiating municipality may designate an
194 invited municipality. The initiating resolution of an
195 independent special district must designate one or more invited
196 municipalities and invite the county.
197 (b) An initiating county shall send the initiating
198 resolution by certified mail to the chief administrative officer
199 of every invited municipality and each other municipality within
200 the county. An initiating municipality shall send the initiating
201 resolution by certified mail to the chief administrative officer
202 of the county, the invited municipality, if any, and each other
203 municipality within the county.
204 (c) The initiating local government shall also send the
205 initiating resolution to the chief administrative officer of
206 each independent special district in the unincorporated area
207 designated in the initiating resolution.
208 (2) Within 60 days after the receipt of an initiating
209 resolution, the county or the invited municipality, as
210 appropriate, shall adopt a responding resolution. The responding
211 resolution may identify an additional unincorporated area or
212 incorporated area, or both, for discussion and may designate
213 additional issues for negotiation. The additional identified
214 area, if any, must be specified in the responding resolution by
215 a descriptive exhibit that includes, but need not be limited to,
216 a map or legal description of the designated area. The

217 additional issues designated for negotiation, if any, must be
218 listed in the responding resolution and may include, but need
219 not be limited to, the issues listed in subsection (6). The
220 responding resolution may also invite an additional municipality
221 or independent special district to negotiate the interlocal
222 service boundary agreement.
223 (a) Within 7 days after the adoption of a responding
224 resolution, the responding county shall send the responding
225 resolution by certified mail to the chief administrative officer
226 of the initiating municipality, each invited municipality, if
227 any, and the independent special district that received an
228 initiating resolution.
229 (b) Within 7 days after the adoption of a responding
230 resolution, an invited municipality shall send the responding
231 resolution by certified mail to the chief administrative officer
232 of the initiating county, each invited municipality, if any, and
233 each independent special district that received an initiating
234 resolution.
235 (c) An invited municipality that was invited by a
236 responding resolution shall adopt a responding resolution in
237 accordance with paragraph (b).
238 (d) Within 60 days after receipt of the initiating
239 resolution, any independent special district that received an
240 initiating resolution and that desires to participate in the
241 negotiations shall adopt a resolution indicating that the
242 district intends to participate in the negotiation process for
243 the interlocal service boundary agreement. Within 7 days after
244 the adoption of the resolution, the independent special district

245 shall send the resolution by certified mail to the chief
246 administrative officer of the county, the initiating
247 municipality, each invited municipality, if any, and each
248 notified local government.
249 (3) A municipality within the county which is not an
250 invited municipality may request participation in the
251 negotiations for the interlocal service boundary agreement. Such
252 a request must be accomplished by adopting a requesting
253 resolution within 60 days after receipt of the initiating
254 resolution or within 10 days after receipt of the responding
255 resolution. Within 7 days after adoption of the requesting
256 resolution, the requesting municipality shall send the
257 resolution by certified mail to the chief administrative officer
258 of the initiating local government and each invited
259 municipality. The county and the invited municipality shall
260 consider whether to allow a requesting municipality to
261 participate in the negotiations, and, if the county and invited
262 municipality agree, the county and invited municipality shall
263 adopt a participating resolution allowing the requesting
264 municipality to participate in the negotiations.
265 (4) The county, the invited municipalities, the
266 participating municipalities, if any, and the independent
267 special districts, if any have adopted a resolution to
268 participate, shall begin negotiations within 60 days after
269 receipt of the responding resolution or a participating
270 resolution, whichever occurs later.
271 (5) An invited municipality that fails to adopt a
272 responding resolution shall be deemed to waive its right to

273 participate in the negotiation process and shall be bound by an
274 interlocal agreement resulting from such negotiation process, if
275 any is reached.
276 (6) An interlocal service boundary agreement may address
277 any issue concerning service delivery, fiscal responsibilities,
278 or boundary adjustment. The agreement may include, but need not
279 be limited to, provisions that:
280 (a) Identify a municipal service area.
281 (b) Identify an unincorporated service area.
282 (c) Identify the local government responsible for the
283 delivery or funding of the following services within the
284 municipal service area or the unincorporated service area:
285 1. Public safety.
286 2. Fire, emergency rescue, and medical.
287 3. Water and wastewater.
288 4. Road ownership, construction, and maintenance.
289 5. Conservation, parks, and recreation.
290 6. Stormwater management and drainage.
291 (d) Ensure that the health and welfare of the citizens
292 affected by annexation will be protected by requiring that all
293 fire and emergency medical services be provided by the existing
294 provider of fire and emergency medical services to the annexed
295 area and remain part of the existing municipal service taxing
296 unit or special district, unless and until:
297 1. The county and annexing municipality reach through
298 interlocal agreement or other legally sufficient means, an
299 agreement as to which governmental entity shall provide such
300 emergency services; or

301 2. A fire-rescue services element exists for the
302 respective county's comprehensive plan, filed with the state,
303 and the annexing municipality meets the criteria provided in
304 this section.
305 (e) Address other services and infrastructure not
306 currently provided by an electric utility as defined in s.
307 366.02 or a natural gas transmission company as defined in s.
308 368.103. However, this paragraph does not affect any territorial
309 agreement between electrical utilities or public utilities under
310 chapter 366 or affect the determination of a territorial dispute
311 by the Public Service Commission under s. 366.04.
312 (f) Establish a process and schedule for annexation of an
313 area within the designated municipal service area consistent
314 with s. 171.205.
315 (g) Establish a process for land-use decisions consistent
316 with part II of chapter 163, including those made jointly by the
317 governing bodies of the county and the municipality, or allow a
318 municipality to adopt land-use changes consistent with part II
319 of chapter 163 for areas that are scheduled to be annexed within
320 the term of the interlocal agreement; however, the county
321 comprehensive plan and land-development regulations shall
322 control until the municipality annexes the property and amends
323 its comprehensive plan accordingly. Comprehensive plan
324 amendments to incorporate the process established by this
325 paragraph are exempt from the twice-per-year limitation under s.
326 163.3187.
327 (h) Address other issues concerning service delivery,
328 including the transfer of services and infrastructure and the

329 fiscal compensation to one county, municipality, or independent
330 special district from another county, municipality, or
331 independent special district.
332 (i) Provide for the joint use of facilities and the
333 colocation of services.
334 (j) Include a requirement for a report to the county of
335 the municipality's planned service delivery, as provided in s.
336 171.042, or as otherwise determined by agreement.
337 (k) Establish a procedure by which the local government
338 that is responsible for water and wastewater services shall
339 apply, within 30 days after the annexation or subtraction of
340 territory, for any modifications to permits of the water
341 management district or the Department of Environmental
342 Protection which are necessary to reflect changes in the entity
343 that is responsible for managing surface water under such
344 permits.
345 (7) If the interlocal service boundary agreement addresses
346 responsibilities for land-use planning under chapter 163, the
347 agreement must also establish the procedures for preparing and
348 adopting comprehensive plan amendments, administering land-
349 development regulations, and issuing development orders.
350 (8) Each local government that is a party to the
351 interlocal service boundary agreement shall amend the
352 intergovernmental coordination element of its comprehensive
353 plan, as described in s. 163.3177(6)(h)1., no later than 6
354 months following entry of the interlocal service boundary
355 agreement consistent with s. 163.3177(6)(h)1. Plan amendments

356 required by this subsection are exempt from the twice-per-year
357 limitation under s. 163.3187.
358 (9) An affected person for the purpose of challenging a
359 comprehensive plan amendment required by paragraph (6)(g)
360 includes a person who owns real property, resides, or owns or
361 operates a business within the boundaries of the municipal
362 service area, and a person who owns real property abutting real
363 property within the municipal service area that is the subject
364 of the comprehensive plan amendment, in addition to other
365 affected persons who would have standing under s. 163.3184.
366 (10)(a) A municipality that is a party to an interlocal
367 service boundary agreement that identifies an unincorporated
368 area for municipal annexation under s. 171.202(11)(a) shall
369 adopt a municipal service area as an amendment to its
370 comprehensive plan to address future possible municipal
371 annexation. The state land planning agency shall review the
372 amendment for compliance with part II of chapter 163. A
373 municipal service area must contain:
374 1. A boundary map of the municipal service area.
375 2. Population projections for the area.
376 3. Data and analysis supporting the provision of public
377 facilities for the area.
378 (b) This part does not authorize the state land planning
379 agency to review, evaluate, determine, approve, or disapprove a
380 municipal ordinance relating to municipal annexation or
381 contraction.
382 (c) Any amendment required by paragraph (a) is exempt from
383 the twice-per-year limitation under s. 163.3187.

384 (11) An interlocal service boundary agreement may be for a
385 term of 20 years or less. The interlocal service boundary
386 agreement must include a provision requiring periodic review.
387 The interlocal service boundary agreement must require
388 renegotiations to begin at least 18 months before its
389 termination date.
390 (12) No earlier than 6 months after the commencement of
391 negotiations, either of the initiating local governments or
392 both, the county, or the invited municipality may declare an
393 impasse in the negotiations and seek a resolution of the issues
394 under ss. 164.1053-164.1057. If the local governments fail to
395 agree at the conclusion of the process under chapter 164, the
396 local governments shall hold a joint public hearing on the
397 issues raised in the negotiations.
398 (13) When the local governments have reached an interlocal
399 service boundary agreement, the county and the municipality
400 shall adopt the agreement by ordinance under s. 166.041 or s.
401 125.66, respectively. An independent special district, if it
402 consents to the agreement, shall adopt the agreement by final
403 order, resolution, or other method consistent with its charter.
404 The interlocal service boundary agreement shall take effect on
405 the day specified in the agreement or, if there is no date, upon
406 adoption by the county or the invited municipality, whichever
407 occurs later. This part does not prohibit a county or
408 municipality from adopting an interlocal service boundary
409 agreement without the consent of an independent special
410 district, unless the agreement provides for the dissolution of
411 an independent special district or the removal of more than 10

412 percent of the taxable or assessable value of an independent
413 special district.
414 (14) For a period of 6 months following the failure of the
415 local governments to consent to an interlocal service boundary
416 agreement, the initiating local government may not initiate the
417 negotiation process established in this section to require the
418 responding local government to negotiate an agreement concerning
419 the same identified unincorporated area and the same issues that
420 were specified in the failed initiating resolution.
421 (15) This part does not authorize one local government to
422 require another local government to enter into an interlocal
423 service boundary agreement. However, when the process for
424 negotiating an interlocal service boundary agreement is
425 initiated, the local governments shall negotiate in good faith
426 to the conclusion of the process established in this section.
427 (16) This section authorizes local governments to
428 simultaneously engage in negotiating more than one interlocal
429 service boundary agreement, notwithstanding that separate
430 negotiations concern similar or identical unincorporated areas
431 and issues.
432 (17) Elected local government officials are encouraged to
433 participate actively and directly in the negotiation process for
434 developing an interlocal service boundary agreement.
435 (18) This part does not impair any existing franchise
436 agreement without the consent of the franchisee, any existing
437 territorial agreement between electric utilities or public
438 utilities under chapter 366, or the jurisdiction of the Public
439 Service Commission to resolve a territorial dispute involving

440 electric utilities or public utilities in accordance with s.
441 366.04. In addition, an interlocal agreement entered into under
442 this section has no effect in a proceeding before the Public
443 Service Commission involving a territorial dispute. A
444 municipality or county shall retain all existing authority, if
445 any, to negotiate a franchise agreement with any private service
446 provider for use of public rights-of-way or the privilege of
447 providing a service.
448 (19) This part does not impair any existing contract
449 without the consent of the parties.
450 171.204 Prerequisites to annexation under this part.--The
451 interlocal service boundary agreement may describe the character
452 of land that may be annexed under this part and may provide that
453 the restrictions on the character of land that may be annexed
454 pursuant to part I are not restrictions on land that may be
455 annexed pursuant to this part. As determined in the interlocal
456 service boundary agreement, any character of land may be
457 annexed, including, but not limited to, an annexation of land
458 not contiguous to the boundaries of the annexing municipality,
459 an annexation that creates an enclave, or an annexation where
460 the annexed area is not reasonably compact; however, such area
461 must be urban in character as defined in s. 171.031. The
462 interlocal service boundary agreement may not allow for
463 annexation of land within a municipality that is not a party to
464 the agreement or of land that is within another county. Before
465 annexation of land that is not contiguous to the boundaries of
466 the annexing municipality, an annexation that creates an
467 enclave, or an annexation of land that is not currently served

468 by water or sewer utilities, one of the following options must
469 be followed:
470 (1) The municipality shall transmit a comprehensive plan
471 amendment that proposes specific amendments relating to the
472 property anticipated for annexation to the Department of
473 Community Affairs for review under chapter 163. After
474 considering the department's review, the municipality may
475 approve the annexation and comprehensive plan amendment
476 concurrently. The local government must adopt the annexation and
477 the comprehensive plan amendment as separate and distinct
478 actions, but may take such actions at a single public hearing;
479 or
480 (2) A municipality and county shall enter into a joint
481 planning agreement under s. 163.3171, which is adopted into the
482 municipal comprehensive plan. The joint planning agreement must
483 identify the geographic areas anticipated for annexation, the
484 future land uses that the municipality would seek to establish,
485 necessary public facilities and services, including
486 transportation and school facilities and how such facilities
487 will be provided, and natural resources, including surface water
488 and groundwater resources, and how such resources will be
489 protected. An amendment to the future land-use map of a
490 comprehensive plan which is consistent with the joint planning
491 agreement must be considered a small-scale amendment.
492 171.205 Consent requirements for annexation of land under
493 this part.--Notwithstanding part I, an interlocal service
494 boundary agreement may provide a process for annexation
495 consistent with this section or with part I.

496 (1) For all or a portion of the area within a designated
497 municipal service area, the interlocal service boundary
498 agreement may provide a flexible process for securing the
499 consent of persons who are registered voters or own property in
500 the area proposed for annexation, or of both such voters and
501 owners, for the annexation of property within a municipal
502 service area, with notice to such voters or owners as required
503 in the interlocal service boundary agreement. The interlocal
504 service boundary agreement may not authorize annexation unless
505 the consent requirements of part I are met or the annexation is
506 consented to by one or more of the following:
507 (a) The municipality has received a petition for
508 annexation from more than 50 percent of the registered voters
509 who reside in the area proposed to be annexed.
510 (b) The annexation is approved by a majority of the
511 registered voters who reside in the area proposed to be annexed
512 voting in a referendum on the annexation.
513 (c) The municipality has received a petition for
514 annexation from more than 50 percent of the persons who own
515 property within the area proposed to be annexed.
516 (2) If the area to be annexed includes a privately owned
517 solid waste disposal facility as defined in s. 403.703 which
518 receives municipal solid waste collected within the jurisdiction
519 of multiple local governments, the annexing municipality must
520 set forth in its plan the effects that the annexation of the
521 solid waste disposal facility will have on the other local
522 governments. The plan must also indicate that the owner of the
523 affected solid waste disposal facility has been contacted in

524 writing concerning the annexation, that an agreement between the
525 annexing municipality and the solid waste disposal facility to
526 govern the operations of the solid waste disposal facility if
527 the annexation occurs has been approved, and that the owner of
528 the solid waste disposal facility does not object to the
529 proposed annexation.
530 (3) For all or a portion of an enclave consisting of more
531 than 20 acres within a designated municipal service area, the
532 interlocal service boundary agreement may provide a flexible
533 process for securing the consent of persons who are registered
534 voters or own property in the area proposed for annexation, or
535 of both such voters and owners, for the annexation of property
536 within such an enclave, with notice to such voters or owners as
537 required in the interlocal service boundary agreement. The
538 interlocal service boundary agreement may not authorize
539 annexation of enclaves under this subsection unless the consent
540 requirements of part I are met, the annexation process includes
541 one or more of the procedures in subsection (1), or the
542 municipality has received a petition for annexation from one or
543 more persons who own real property in excess of 50 percent of
544 the total real property within the area to be annexed.
545 (4) For all or a portion of an enclave consisting of 20
546 acres or fewer within a designated municipal service area,
547 within which enclave not more than 100 registered voters reside,
548 the interlocal service boundary agreement may provide a flexible
549 process for securing the consent of persons who are registered
550 voters or own property in the area proposed for annexation, or
551 of both such voters and owners, for the annexation of property

552 within such an enclave, with notice to such voters or owners as
553 required in the interlocal service boundary agreement. Such an
554 annexation process may include one or more of the procedures in
555 subsection (1) and may allow annexation according to the terms
556 and conditions provided in the interlocal service boundary
557 agreement, which may include a referendum of the registered
558 voters who reside in the area proposed to be annexed.
559 171.206 Effect of interlocal service boundary area
560 agreement on annexations.--
561 (1) An interlocal service boundary agreement is binding on
562 the parties to the agreement, and a party may not take any
563 action that violates the interlocal service boundary agreement.
564 (2) Notwithstanding part I, without consent of the county
565 and the affected municipality by resolution, a county or an
566 invited municipality may not take any action that violates the
567 interlocal service boundary agreement.
568 (3) If the independent special district that participated
569 in the negotiation process pursuant to s. 171.203(2)(d) does not
570 consent to the interlocal service boundary agreement and a
571 municipality annexes an area within the independent special
572 district, the independent special district may seek compensation
573 using the process in s. 171.093.
574 171.207 Transfer of powers.--This part is an alternative
575 provision otherwise provided by law, as authorized in s. 4, Art.
576 VIII of the State Constitution, for any transfer of power
577 resulting from an interlocal service boundary agreement for the
578 provision of services or the acquisition of public facilities

579 entered into by a county, municipality, independent special
580 district, or other entity created pursuant to law.
581 171.208 Municipal extraterritorial power.--This part
582 authorizes a municipality to exercise extraterritorial powers
583 that include, but are not limited to, the authority to provide
584 services and facilities within the unincorporated area or within
585 the territory of another municipality as provided within an
586 interlocal service boundary agreement. These powers are in
587 addition to other municipal powers that otherwise exist.
588 However, this power is subject to the jurisdiction of the Public
589 Service Commission to resolve territorial disputes under s.
590 366.04. An interlocal agreement has no effect on the resolution
591 of a territorial dispute to be determined by the Public Service
592 Commission.
593 171.209 County powers in an incorporated area.--As
594 provided in an interlocal service boundary agreement, this part
595 authorizes a county to exercise powers within a municipality
596 that include, but are not limited to, the authority to provide
597 services and facilities within the territory of a municipality.
598 These powers are in addition to other county powers that
599 otherwise exist.
600 171.21 Effect of part on interlocal agreement and county
601 charter.--A joint planning agreement, a charter provision
602 adopted under s. 171.044(4), or any other interlocal agreement
603 between local governments, including a county, municipality, or
604 independent special district, is not affected by this part;
605 however, a county, municipality or independent special district
606 may avail itself of this part, which may result in the repeal or

607 modification of a joint planning agreement or other interlocal
608 agreement. A local government within a county that has adopted a
609 charter provision pursuant to s. 171.044(4) may avail itself of
610 the provisions of this part which authorize an interlocal
611 service boundary agreement if such interlocal agreement is
612 consistent with the charter of that county, as the charter was
613 approved, revised, or amended pursuant to s. 125.64.
614 171.211 Interlocal service boundary agreement presumed
615 valid and binding.--
616 (1) If there is litigation over the terms, conditions,
617 construction, or enforcement of an interlocal service boundary
618 agreement, the agreement shall be presumed valid, and the
619 challenger has the burden of proving its invalidity.
620 (2) Notwithstanding part I, it is the intent of this part
621 to authorize a municipality to enter into an interlocal service
622 boundary agreement that enhances, restricts, or precludes
623 annexations during the term of the agreement.
624 171.212 Disputes regarding construction and effect of an
625 interlocal service boundary agreement.--If there is a question
626 or dispute about the construction or effect of an interlocal
627 service boundary agreement, a local government shall initiate
628 and proceed through the conflict resolution procedures
629 established in chapter 164. If there is a failure to resolve the
630 conflict, no later than 30 days following the conclusion of the
631 procedures established in chapter 164, the local government may
632 file an action in circuit court. For purposes of this section,
633 the term "local government" means a party to the interlocal
634 service boundary agreement.

635 Section 2. Sections 171.011-171.093, Florida Statutes, and
636 section 171.094, Florida Statutes, as created by this act, are
637 designated as part I of chapter 171, Florida Statutes.
638 Section 3. Section 171.011, Florida Statutes, is amended
639 to read:
640 171.011 Short title.--This part ~~chapter shall be known and~~
641 may be cited as the "Municipal Annexation or Contraction Act."
642 Section 4. Section 171.031, Florida Statutes, is amended
643 to read:
644 171.031 Definitions.--As used in this part ~~chapter~~, the
645 following words and terms have the following meanings unless
646 some other meaning is plainly indicated:
647 (1) "Annexation" means the adding of real property to the
648 boundaries of an incorporated municipality, such addition making
649 such real property in every way a part of the municipality.
650 (2) "Contraction" means the reversion of real property
651 within municipal boundaries to an unincorporated status.
652 (3) "Municipality" means a municipality created pursuant
653 to general or special law authorized or recognized pursuant to
654 s. 2 or s. 6, Art. VIII of the State Constitution.
655 (4) "Newspaper of general circulation" means a newspaper
656 printed in the language most commonly spoken in the area within
657 which it circulates, which is readily available for purchase by
658 all inhabitants in its area of circulation, but does not include
659 a newspaper intended primarily for members of a particular
660 professional or occupational group, a newspaper whose primary
661 function is to carry legal notices, or a newspaper that is given
662 away primarily to distribute advertising.

663 (5) "Parties affected" means any persons or firms owning
664 property in, or residing in, either a municipality proposing
665 annexation or contraction or owning property that is proposed
666 for annexation to a municipality or any governmental unit with
667 jurisdiction over such area.
668 (6) "Qualified voter" means any person registered to vote
669 in accordance with law.
670 (7) "Sufficiency of petition" means the verification of
671 the signatures and addresses of all signers of a petition with
672 the voting list maintained by the county supervisor of elections
673 and certification that the number of valid signatures represents
674 the required percentage of the total number of qualified voters
675 in the area affected by a proposed annexation.
676 (8) "Urban in character" means an area used intensively
677 for residential, urban recreational or conservation parklands,
678 commercial, industrial, institutional, or governmental purposes
679 or an area undergoing development for any of these purposes.
680 (9) "Urban services" means any services offered by a
681 municipality, either directly or by contract, to any of its
682 present residents.
683 (10) "Urban purposes" means that land is used intensively
684 for residential, commercial, industrial, institutional, and
685 governmental purposes, including any parcels of land retained in
686 their natural state or kept free of development as dedicated
687 greenbelt areas.
688 (11) "Contiguous" means that a substantial part of a
689 boundary of the territory sought to be annexed by a municipality
690 is coterminous with a part of the boundary of the municipality.

691 The separation of the territory sought to be annexed from the
692 annexing municipality by a publicly owned county park; a right-
693 of-way for a highway, road, railroad, canal, or utility; or a
694 body of water, watercourse, or other minor geographical division
695 of a similar nature, running parallel with and between the
696 territory sought to be annexed and the annexing municipality,
697 shall not prevent annexation under this act, provided the
698 presence of such a division does not, as a practical matter,
699 prevent the territory sought to be annexed and the annexing
700 municipality from becoming a unified whole with respect to
701 municipal services or prevent their inhabitants from fully
702 associating and trading with each other, socially and
703 economically. However, nothing herein shall be construed to
704 allow local rights-of-way, utility easements, railroad rights-
705 of-way, or like entities to be annexed in a corridor fashion to
706 gain contiguity; and when any provision or provisions of special
707 law or laws prohibit the annexation of territory that is
708 separated from the annexing municipality by a body of water or
709 watercourse, then that law shall prevent annexation under this
710 act.
711 (12) "Compactness" means concentration of a piece of
712 property in a single area and precludes any action which would
713 create enclaves, pockets, or finger areas in serpentine
714 patterns. Any annexation proceeding in any county in the state
715 shall be designed in such a manner as to ensure that the area
716 will be reasonably compact.
717 (13) "Enclave" means:

718 (a) Any unincorporated improved or developed area that is
719 enclosed within and bounded on all sides by a single
720 municipality; or
721 (b) Any unincorporated improved or developed area that is
722 enclosed within and bounded by a single municipality and a
723 natural or manmade obstacle that allows the passage of vehicular
724 traffic to that unincorporated area only through the
725 municipality.
726 Section 5. Subsection (2) of section 171.042, Florida
727 Statutes, is amended, and subsection (3) is added to that
728 section, to read:
729 171.042 Prerequisites to annexation.--
730 (2) Not less than 15 days prior to commencing the
731 annexation procedures under s. 171.0413, the governing body of
732 the municipality shall file a copy of the report required by
733 this section with the board of county commissioners of the
734 county wherein the municipality is located. Failure to timely
735 file the report as required in this subsection may be the basis
736 for a cause of action invalidating the annexation.
737 (3) The governing body of the municipality shall mail by
738 certified mail, not less than 10 days prior to the date set for
739 the first public hearing required by s. 171.0413(1), a written
740 notice to each person who resides or owns property within the
741 area proposed to be annexed. The notice must describe the
742 annexation proposal, the time and place for each public hearing
743 to be held regarding the annexation, and the place or places
744 within the municipality where the proposed ordinance may be
745 inspected by the public. A copy of the notice must be kept

746 available for public inspection during the regular business
747 hours of the office of the clerk of the governing body.
748 Section 6. Subsection (6) of section 171.044, Florida
749 Statutes, is amended to read:
750 171.044 Voluntary annexation.--
751 (6) Not less than 10 days prior to ~~Upon~~ publishing or
752 posting the ordinance notice required under subsection (2), the
753 governing body of the municipality must provide a copy of the
754 notice, via certified mail, to the board of the county
755 commissioners of the county wherein the municipality is located.
756 The notice provision provided in this subsection may ~~shall not~~
757 be the basis for a ~~of any~~ cause of action invalidating
758 ~~challenging~~ the annexation.
759 Section 7. Section 171.045, Florida Statutes, is amended
760 to read:
761 171.045 Annexation limited to a single county.--In order
762 for an annexation proceeding to be valid for the purposes of
763 this part ~~chapter~~, the annexation must take place within the
764 boundaries of a single county.
765 Section 8. Section 171.081, Florida Statutes, is amended
766 to read:
767 171.081 Appeal on annexation or contraction.--
768 (1) ~~No later than 30 days following the passage of an~~
769 ~~annexation or contraction ordinance,~~ Any party affected who
770 believes that he or she will suffer material injury by reason of
771 the failure of the municipal governing body to comply with the
772 procedures set forth in this part ~~chapter~~ for annexation or
773 contraction or to meet the requirements established for

774 annexation or contraction as they apply to his or her property
775 may file a petition in the circuit court for the county in which
776 the municipality or municipalities are located seeking review by
777 certiorari. The action may be initiated at the party's option
778 within 30 days following the passage of the annexation or
779 contraction ordinance or within 30 days following the completion
780 of the dispute resolution process in subsection (2). In any
781 action instituted pursuant to this subsection ~~section~~, the
782 complainant, should he or she prevail, shall be entitled to
783 reasonable costs and attorney's fees.
784 (2) If the affected party is a governmental entity, no
785 later than 30 days following the passage of an annexation or
786 contraction ordinance the governmental entity must initiate and
787 proceed through the conflict resolution procedures established
788 in chapter 164. If there is a failure to resolve the conflict,
789 no later than 30 days following the conclusion of the procedures
790 established in chapter 164 the governmental entity that
791 initiated the conflict resolution procedures may file a petition
792 in the circuit court for the county in which the municipality or
793 municipalities are located seeking review by certiorari. In any
794 legal action instituted pursuant to this subsection, the
795 prevailing party is entitled to reasonable costs and attorney's
796 fees.
797 Section 9. Section 171.094, Florida Statutes, is created
798 to read:
799 171.094 Effect of interlocal service boundary agreements
800 adopted under part II on annexations under this part.--

801 (1) An interlocal service boundary agreement entered into
802 pursuant to part II is binding on the parties to the agreement,
803 and a party may not take any action that violates the interlocal
804 service boundary agreement.
805 (2) Notwithstanding any other provision of this part,
806 without the consent of the county the affected municipality, or
807 affected independent special district by resolution, a county,
808 an invited municipality, or independent special district may not
809 take any action that violates an interlocal service boundary
810 agreement.
811 Section 10. Subsection (11) of section 163.01, Florida
812 Statutes, is amended to read:
813 163.01 Florida Interlocal Cooperation Act of 1969.--
814 (11) Prior to its effectiveness, an interlocal agreement
815 and subsequent amendments thereto shall be filed with the clerk
816 of the circuit court of each county where a party to the
817 agreement is located; however, if the parties to the agreement
818 are located in multiple counties and the agreement, pursuant to
819 subsection (7), provides for a separate legal entity or
820 administrative entity to administer the agreement, the
821 interlocal agreement and any amendments to the interlocal
822 agreement may be filed with the clerk of the circuit court in
823 the county where the legal or administrative entity maintains
824 its principal place of business.
825 Section 11. Section 164.1058, Florida Statutes, is amended
826 to read:
827 164.1058 Penalty.--If a primary conflicting governmental
828 entity ~~which has received notice of intent to initiate the~~

829 ~~conflict resolution procedure pursuant to this act~~ fails to
830 participate in good faith in the conflict assessment meeting,
831 mediation, or other remedies provided for in this act, ~~and the~~
832 ~~initiating governmental entity files suit and is the prevailing~~
833 ~~party in such suit,~~ the primary disputing governmental entity
834 that ~~which~~ failed to participate in good faith shall be required
835 to pay the attorney's fees and costs in that proceeding of the
836 prevailing primary conflicting governmental entity ~~which~~
837 ~~initiated the conflict resolution procedure~~.
838 Section 12. This act shall take effect upon becoming a
839 law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 CS Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee	9 Y, 0 N, w/CS	Grayson	Grayson
2) Local Government Council	7 Y, 0 N, w/CS	Grayson	Hamby
3) Fiscal Council	18 Y, 0 N, w/CS	Dairty	Kelly
4) State Infrastructure Council		Grayson	Havlicak
5)			

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program (CWHIP), and by providing financial and regulatory incentives for the provision of affordable housing. The CWHIP will provide grants and incentives to affordable rental and home ownership projects that target: high-cost counties, including certain areas of critical state concern, certain areas formerly so designated, and counties designated as rural areas of critical economic concern; high growth counties; certain public-private partnerships; workforce housing; essential service personnel; and innovative projects. These terms are defined in the bill. The bill provides standards and guidelines for the CWHIP and for the involvement of the Florida Housing Finance Corporation (Corporation). Approved projects are eligible for certain incentives including: expedited permitting and approvals of development orders; impact fee reductions or alternative fee payment methods; increased density levels of 16 units per acre or higher; reduction of open space and setback requirements; and modification of street requirements and concurrency requirements. Certain manufactured housing projects are eligible for grant funding.

The bill further provides a new definition of "extremely-low-income" persons as those with incomes below 30 percent of area median income and a series of changes to existing state and local housing programs to incentivize the development of very low income housing. The bill expands the Community Contribution Tax Credit Program. The bill provides for local governments and the state to inventory and make available surplus lands for affordable housing. The bill authorizes school boards to provide housing and housing assistance to its teachers and other instructional personnel. Specified independent special districts are authorized to provide housing and housing assistance for eligible persons as are special fire control districts. The bill creates "The Manny Diaz Property Tax Relief Initiative" which directs property appraisers to appraise affordable housing properties based upon rental income. The bill provides relief for disabled veterans from paying certain license and permit fees on housing. The bill provides threshold density bonuses for the provision of workforce housing for both the guidelines that determine when an activity constitutes a development of regional impact and when changes constitute a substantial deviation requiring additional review.

The bill appropriates: $50 for the Home Retrofit Hardening Program; $2 million in fixed capital outlay for the Disaster Recovery Assistance Program; $15 million to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes; $25 million for the Farmworker Housing Recovery and Special Assistance and Development Programs; $400,000 for technical and training assistance; $176 million for the Rental Recovery Loan Program; $82,904,000 for affordable housing hurricane recovery; $50 million to implement the Community Workforce Housing Innovation Program; $33 million for housing for extremely low income persons.

The bill may raise concerns relating to an unconstitutional delegation of legislative authority in conflict with s. 1, Art. III, State Constitution. [See: CONSTITUTIONAL ISSUES].

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates new programs, provides additional rulemaking authority for the Florida Housing Finance Corporation, and increases the workload of other governmental organizations.

Ensure lower taxes - The bill will provide increased tax incentives for persons who donate to eligible sponsors for projects that provide homeownership opportunities for low-income and very-low-income and extremely-low-income households and for donations made to eligible sponsors for all other projects that qualify under the Community Contribution Tax Credit Program. The bill provides 100 percent service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement to their residences.

Promote Personal Responsibility and Empower Families - The bill creates a new program to provide subsidized financing and down payment assistance for affordable housing for essential services personnel. The bill also provides assistance for persons with extremely-low-incomes. The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The state has committed significant resources over the last decade to addressing the severe housing problems facing very-low and low-income residents of this state. The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60 percent or less of area median income (AMI) in the rental programs, and those making 80 percent or less of AMI in the home ownership programs.

Multifamily rental projects are funded by the Corporation through the State Apartment Incentives Loan Program (SAIL); the Multifamily Mortgage Revenue Bond (MMRB) program, which provide funding by issuing revenue bonds; and through allocation of federal Low Income Housing Tax Credits (LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60 percent or less of the AMI. Home ownership programs consist of down payment assistance, funded by documentary stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, the Corporation allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership Program (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120 percent AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low-income and moderate-income Florida families can no longer afford safe, decent and affordable rental and single family housing. In addition to the needs of the very-low and low-income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80 percent to 150 percent AMI, typically make them ineligible for existing housing programs, has recently become increasingly evident.

According to the bill sponsor, the bill is designed to stimulate the construction of home ownership and rental housing in high cost and high growth counties to meet the needs of extremely-low, very-low, low and moderate-income families along this continuum and in particular, essential services personnel who are facing tremendous difficulties living in the communities in which they work.

FLORIDA HOUSING FINANCE CORPORATION (CORPORATION) PROGRAMS

The Corporation administers a number of multifamily, single family and special programs that help low-income Floridians obtain safe, decent affordable housing that might otherwise be unavailable to them. The rental housing programs include the Multifamily Mortgage Revenue Bond, Low Income Housing Tax Credits, State Apartment Incentive Loan, Elderly Housing Community Loan, Florida Affordable Housing Guarantee and Home Investment Partnerships programs.

Homeownership programs include the First Time Homebuyer Program, the Homeownership Loan Program and down payment assistance programs such as the Homeownership Assistance Program, HOME Down Payment Assistance, Homeownership Assistance for Moderate Income, and Three Percent Cash Assistance. In addition, the Corporation offers the Mortgage Credit Certificate program; and several Special Programs including the Predevelopment Loan Program, State Housing Initiatives Partnership, Demonstration Loans and the Affordable Housing Catalyst Program. The programs further addressed below are implicated in HB 1363.

STATE ASSISTANCE INITIATIVE LOAN PROGRAM: The State Apartment Incentive Loan Program (SAIL)[1], created in 1992, provides mortgage loans or loan guarantees to sponsors providing affordable housing to very-low income individuals. SAIL is funded by the State Housing Trust Fund and administered by the Corporation.

The Florida Housing Finance Corporation has the authority to underwrite and make state apartment incentive loans or loan guarantees, at an interest rate of three percent to nine percent, to sponsors that:

- Use tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937;
- Use taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size;
- Use the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986; or
- Locate a project in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for

[1] s. 420.5087, F.S.

person or families who have income below 120 percent of the state or local median income, whichever is higher.

Very-Low Income Fund Reservation: Section 420.5087(3), F.S., requires that during the first 6 months a percentage of SAIL funds be reserved for each of the following groups: commercial fishing workers and farmworkers, families, persons who are homeless, and elderly persons. The percentage of SAIL funds reserved for each group is determined by using the most recent statewide very-low-income rental housing market study available at the time of publication of each notice of fund availability, but the reservation of funds to commercial fishing workers and farmworkers, families, and the elderly may not be less than 10 percent of the funds available at that time. Currently, 24 percent of the total SAIL funds are reserved for the elderly.

Elderly Housing Community Loan Program (EHCL): Section 420.5087(3)(d), F.S., requires that 10 percent of the amount reserved for the elderly be reserved to provide loans to sponsors of housing for the elderly to provide for building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or lifesafety or security-related repairs or improvements to such housing. This part of the program is referred to as the Elderly Housing Community Loan Program (EHCL). Under the EHCL Program, sponsors are required to match the loan amount received at a rate of 15 percent. Funds received from matching are used to supplement the loan amount received to pay the cost of repair or improvement for which these funds are available.

According to the Florida Housing Finance Corporation, the match requirement is used to leverage state funds and make more fiscally prudent investments. Prior to the increase in the available loan amount, sponsors were awarded additional points during the loan application process for exceeding the minimum match requirement by a certain percentage. With the current increased loan amount and match rate, this process is no longer being used. However, under general operating policy, sponsors are still encouraged to match at the highest percentage possible, which can exceed the minimum percentage amount set in statute.

Prior to 2005, loans under the EHCL Program were capped at $200,000 with the requirement of a minimum match of 15 percent from the sponsor. During the 2005 legislative session, the Legislature increased the maximum loan amount from $200,000 to $750,000. The increase in the maximum loan amount had the practical effect of increasing the potential match requirement from $30,000 to $112,500.

FLORIDA HOUSING OWNERSHIP ASSISTANCE PROGRAM (HAP): The HAP Construction Loan provides a five-year, zero percent interest construction loan to eligible developers for the lesser of 33 percent of the total development cost or $1,000,000. Eligible developers include nonprofit developers and nonprofit sponsors, established pursuant to ch. 617, F.S., and local governments and public housing authorities, with preference given to Corporation certified community based organizations, and to developments that have received funding from Florida Housing's Predevelopment Loan Program.

A minimum of 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 50 percent of the AMI, and a minimum of another 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 80 percent AMI. Any remaining homes must be sold to persons or households that have an adjusted income that does not exceed 150 percent AMI.

The HAP Permanent Loan Program provides a zero percent interest nonamortized second mortgage loan to eligible homebuyers purchasing a home built by a participating developer. In order to be eligible, a person's or household's adjusted income cannot exceed 80 percent AMI. This loan is available in an aggregate amount not to exceed the lesser of $30,000, 25 percent of the purchase price of the home, or the amount necessary to meet credit underwriting criteria, based on the monthly mortgage payment to income underwriting ratio. The term of the loan is the lesser of 30 years or the term of the first mortgage, and is due upon maturity, sale, refinancing or rental of the property.

STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM: The Corporation administers the State Housing Initiatives Partnership program (SHIP), which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very-low, low and moderate income families.

SHIP funds are distributed on an entitlement basis to all 67 counties and 48 Community Development Block Grant entitlement cities in Florida. The minimum allocation is $350,000 and the maximum allocation is over $9 million. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30 percent of the AMI limits, unless authorized by the mortgage lender.

A minimum of 65 percent of the funds must be spent on eligible homeownership activities; a minimum of 75 percent of funds must be spent on eligible construction activities; at least 30 percent of the funds must be reserved for very-low income households (up to 50 percent of the AMI); an additional 30 percent may be reserved for low income households (up to 80 percent of AMI); and the remaining funds may be reserved for moderate-income households (up to 120 percent of AMI). It is important to note that no more than five percent of SHIP funds may be used for administrative expenses. However, if a local government makes a finding of need by resolution, a local government may use up to 10 percent for administrative expenses. Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Total actual disbursements are dependent upon the appropriation of these documentary stamp collections.

COMMUNITY CONTRIBUTION TAX CREDITS

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program to encourage private sector participation in revitalization and housing projects. The program offers a tax incentive (a corporate income tax credit, insurance premium tax credit or a sales tax refund) equal to 50 percent of the amount donated up to $200,000 annually to sponsors who have been approved to participate in the program. Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible projects include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons.

The Office of Tourism, Trade and Economic Development (OTTED) is responsible for administering the program by reviewing sponsor project proposals and tax credit applications. To date, 167 sponsors/projects have been approved to participate in the program. After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years. Unused credits against sales taxes may be carried forward for three years.

The Florida Legislature has amended the dollar cap and the expiration date of the program on numerous occasions. The program began with a $3 million per year cap that currently is designated at $12 million. The expiration of the program has been extended from 2005 to June 30, 2015. According to the OTTED, Habitat for Humanity is the primary recipient of donations for housing projects under the Community Contribution Tax Credit Program.

EFFECT OF PROPOSED CHANGES

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program, and by creating law and amending existing law to provide financial and regulatory incentives for the provision of affordable housing. The bill addresses various aspects of the income spectrum from extremely-low-income persons, defined as a person or family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state, to those persons earning less than 150 percent of AMI. The effects of this bill are described in greater detail below under the headings Community Workforce Housing Innovation Program; and Other Financial and Regulatory Incentives; and Miscellaneous.

FLORIDA HOUSING FINANCE CORPORATION PROGRAMS

The bill creates the Community Workforce Housing Innovation Program (s. 420.5095, F.S.) and amends: the State Apartment Incentive Loan Program (SAIL); the Florida Homeownership Assistance Program (HAP); and the State Housing Initiatives Partnership (SHIP).

COMMUNITY WORKFORCE HOUSING INNOVATION PROGRAM (CWHIP) - The bill creates the CWHIP for the purpose of providing affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. The program is designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources.

Florida Housing Finance Corporation (Corporation) - The bill provides the Corporation with authority to provide CWHIP loans, subject to the availability of appropriated funds. The loans may be forgivable and are available to applicants for construction or rehabilitation of rental or home ownership workforce housing in eligible counties. The bill directs the Corporation to establish a funding process and selection criteria to distribute the annually appropriated funds which may be used with other Corporation and private-sector resources. The bill also directs the Corporation to provide incentives for local governments to use local affordable housing funds to assist in meeting the affordable housing needs of this program's eligible persons.

Definitions and funding targets: The bill requires CWHIP to target specified areas, and directly or indirectly defines several terms, including those targets, as outlined below. The bill limits funding to one project per county per year and requires that the Corporation must seek to achieve a 70 percent high-cost, 30 percent high-growth ratio in its annual project funding. However, the bill provides that when one project has been funded in each applying high-growth and high-cost county, then the Corporation may fund other eligible projects.

- "High-cost counties" is defined as those counties in which the median sales price of a single-family home using the most recent county level statistics is above the state median sales price of a single-family home; areas of critical state concern for which the Legislature has declared its intent to provide affordable housing, and areas designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation, and counties designated as rural areas of critical economic concern. The bill requires the Corporation to annually develop the list of high-cost counties.
- "Areas of critical state concern" is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.[2] One of the

[2] Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.

five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).

- "High-growth counties" is defined as those counties that demonstrate significantly high rates of growth in K-12 public school students and a substantial number of open teaching positions currently and projected for the next school year. To qualify, a county's school district must have been in the top 10 school districts in the state for fastest student population growth as a percentage rate of increase for the previous 5 years, as defined by the Department of Education. Prioritized are those school districts that have the greatest number of teaching position vacancies.
- "Public-private partnerships" is defined to include substantial involvement of at least one county, municipality, or public sector entity (examples given are: school districts, special districts, and other units of local government) and at least one not-for-profit of for-profit project partner. Partnerships are encouraged to include one or more private sector business or charitable entities and may be any form of business entity, including a joint venture or contractual agreement.
- "Workforce housing" is defined as housing affordable to natural persons or families whose total annual household income does not exceed 150 percent of the AMI, adjusted for household size or a higher area median income in areas of critical state concern or in areas designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation.
- "Essential services personnel" is defined as persons in need of affordable housing who are employed in areas in which they are considered essential service personnel as defined in that area's local housing assistance plan as provided for in the SAIL program.
- "Innovative projects" is indirectly defined to include new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements.

Targets: The bill mandates that the Corporation target the following, as defined in the bill:

- High-cost and high-growth counties; areas of critical state concern meeting specified criteria; and areas designated as an area of critical state concern for at least 20 consecutive years prior to designation.
- Public-private partnerships.
- Workforce housing.
- Essential services personnel in need of affordable housing.
- Innovative projects.

Priority Funding Consideration: The bill provides priority funding consideration to projects where the local jurisdiction has allowed workforce housing incentives to promote financial viability, successful development, and ongoing maintenance of such housing developments. Such incentives include the following as related to the provision of affordable housing:

- Expediting of the approval of development orders and development permits, as defined respectively in s. 163.3164(7) and (8), F.S.
- Reducing or wavier of, or providing an alternative method of fee payment, or impact fees.
- Increasing density levels, providing density bonuses of up to 16 units or higher per acre, except in coastal high-hazard areas.
- Reserving infrastructure capacity for affordable housing in the local comprehensive plan.
- Allowing additional affordable housing units in residential zoning districts.
- Allowing mixed land uses.
- Reducing open space, building setback requirements, road widths, parking, and other requirements not essential to protect the public health, safety and welfare, or the environment.
- Allowing zero-lot-line or other flexible lot configurations.
- Modifying or reducing traffic concurrency requirements by up to 25 percent.

Additionally, the bill requires that local transportation infrastructure funding will be considered for prioritization by metropolitan planning organizations.

The bill also requires that CWHIP regulatory incentives will be considered acceptable by local governments if either of the following is satisfied:

- The applicant receives a letter of support from the local government; or
- A vote of no objection is taken by the local governing body within 60 days of the Corporations' receipt of the application.

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80 percent of the units for workforce housing and sets aside at least 50 percent of the units as prioritized for essential services personnel.
- For rental projects:
  - Up to 120 percent AMI - rents for all workforce housing units serving those with incomes up to 120 percent of AMI shall be restricted at the appropriate income level using the restricted rents for the federal low-income housing tax credit program.
  - Up to 150 percent of AMI - rents for workforce housing units serving those with incomes up to 150 percent of AMI shall be restricted to those established by the Corporation, not to exceed 40 percent of the maximum household income adjusted to unit size.
- For home ownership:
  - Limits the sales price of a detached, townhome or condominium unit to not more than the median sales price for that type of unit in that county and requires that all eligible purchasers of home ownership units occupy the home as their primary residence.
- Demonstrate that the program applicant is a public-private partnership of at least one local government or special district public entity and one private not-for-profit or for-profit partner.
- Demonstrate how the applicant will use the regulatory incentives and includes any local government letters of support for the incentives outlined in newly created s. 420.9075(8)(b)1., F.S.
- Demonstrate that the applicant possesses title to or site control of land and evidences availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15 percent, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a development cost pro forma for the project.
- Demonstrate the applicant's affordable housing development and management experience.
- Demonstrate the long-term affordability of the rental or homeownership units.

The bill provides that projects eligible for grants may include certain manufactured housing that includes local contributions or financial strategies.

Review Committee: The bill requires the Corporation to establish a review committee and scoring system for evaluation and competitive ranking of submitted applications. The ranking is required to ensure an opportunity for a greater number of high-cost, high-growth counties to receive project funding.

Interest Rate: The bill provides that the Corporation may award loans with a one to three percent interest rate which may be forgiven if the project continues to meet rental or ownership criteria outlined in the newly created s. 420.9075(4), F.S. The Corporation is required to develop rules and guidelines to set the terms under which the accrued loan interest may be forgiven.

Maximum Administrative Overhead: The bill authorizes the Corporation to use no more than two percent of the annual appropriation for administration and compliance monitoring.

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a CWHIP down payment assistance program. There are no standards or guidelines provided to the Corporation regarding this program. Such authorization appears to be an unauthorized delegation of legislative authority in conflict with s. 1, Art. III, State Constitution. [See: CONSTITUTIONAL ISSUES].

Annual Review and Report: The bill requires the Corporation to conduct an annual review of the success of the CWHIP; and to ascertain whether the program is meeting the housing needs of high-cost and high-growth counties. Additionally, the bill requires the Corporation to review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate within 2 months of the end of the Corporation's fiscal year. The bill authorizes the Corporation to request assistance in these matters from the Department of Community Affairs (DCA) or the Affordable Housing Study Commission[3].

State Apartment Incentive Loan Program (SAIL) – The bill amends the SAIL program as follows:

- Authorizes the Corporation to:
  - Set a SAIL loan interest rate at between one to nine percent and to set an interest rate based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the total units.
  - Make loans exceeding 25 percent of project costs when the project serves extremely-low-income persons.
  - Forgive indebtedness for a share of the loan attributable to the units in a project reserved for extremely-low-income persons.
- Changes the categories of counties within which 10 percent of program funds must be allocated during successive 3-year periods to:
  - Counties with a population of 825,000 or more (from more than 500,000).
  - Counties with a population of more than 100,000 but less than 825,000 (from between 100,000 and 500,000).
  - Counties with a population of 100,000 or less.
- Lowers the matching commitment of a sponsor of an elderly housing community to at least 5 percent (from at least 15 percent).
- Authorizes the Corporation to make the term of its encumbrance coterminous with the longest term of superior loans.
- Authorizes the Corporation to waive a requirement related to the maximum of a loan under certain conditions for projects which reserve units for extremely-low-income person.
- Amends the project ranking criteria as follows:
  - Provides an exclusion from the program ranking criteria that favors the lowest project loan/cost ratio for that share of the loan attributable to units serving extremely-low-income persons.
  - Gives ranking credit to projects that reserve units for extremely-low-income persons.
- Limits the sale, transfer, or refinancing of Corporation loans to those that are consistent with fiscal program goals and the preservation or advancement of affordable housing for the state.
- Authorizes rent controls when the sponsor has committed to set aside units for extremely-low-income persons, which rents shall be restricted at the level applicable for federal low-income tax credits.

Florida Homeownership Assistance Program (HAP) – The bill amends the HAP program as follows:

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[3] The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.

- Authorizes the Corporation to forgive the repayment of loans on the sale, transfer, refinancing, or rental of secured property.
- Authorizes the Corporation to establish subsidiary business entities, and to provide such subsidiary entities with rulemaking authority necessary to carry out the purposes of taking title to and managing and disposing of property acquired by the Corporation.
- Expands the scope of the HAP program to moderate-income persons in purchasing a primary residence.
- Authorizes the Corporation to not require the balance of loan be due at the time the property is sold, refinanced, rented, or transferred.
- Raises the income level for eligible person to 120 percent from 80 percent of the state or local median income.
- Provides that loans may not exceed the lesser of 35 percent of the purchase price of the amount necessary to enable the purchaser to meet credit underwriting criteria.
- Deletes a loan preference for community development corporations as defined in s. 290.033, F.S.
- Removes the temporal reservation of funds.

State Housing Initiatives Partnership (SHIP) - The bill amends the SHIP program as follows:

- Provides that each local housing assistance plan shall include a definition of essential service personnel for county or eligible municipality including, but not limited to, teachers and educators; other school district, community college and university employees; police and fire personnel, health care personnel, skilled building trades personnel, and other job categories.
- Encourages eligible local governments to develop a strategy within its local housing assistance plan that emphasizes recruitment and retention of essential service personnel.
- Requires local government to verify compliance with the eligibility criteria.
- Encourages eligible local governments to develop a strategy within in its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to closure of a mobile home park or conversion of affordable rental units to condominiums.
- Provides that 65 percent of the funds of each eligible local government's local housing distribution be reserved for rehabilitation and construction of home ownership units for eligible extremely-low-income, low-income or very-low-income persons.
- Authorizes the alternative use of U.S. Department of the Treasury established standards for determining the time period for calculating the average area purchase price relative to fund awards under the program.

Additional Rulemaking Authority: The bill provides additional rulemaking authority to the Corporation to adopt rules:

- For the intervention, negotiation of terms or other actions necessary to further the goals or avoid default of a program loan.
- For the periodic reporting of data, including demographic data on all housing financed through Corporation programs and for participation in a housing locator system.
- Changes the criteria to determine the maximum funding level for the Corporation's compliance monitoring activities to one-quarter of one percent of the annual appropriation (from $200,000).

Extremely-Low-Income

The bill defines "extremely-low-income" to mean one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households with the state.

The bill authorizes the Corporation to adjust this amount annually by rule to provide that in lower income counties the definition may exceed 30 percent of the AMI and that in higher income counties, extremely-low-income may be less than 30 percent of AMI.

Ad Valorem Tax Incentives

Assessment of Affordable Housing Properties

Capitalization Rate: The bill requires that, if a capitalization rate is used to assess just valuation for affordable housing property, then the property appraiser must use a capitalization rate that is comparable to a rate used for non-affordable market-based properties.

"The Manny Diaz Affordable Housing Property Tax Relief initiative": The bill creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative" for the purpose of assessing just valuation of certain affordable housing properties serving persons with incomes defined as low, moderate, and very low. The bill requires property appraisers, for assessment purposes, to recognize the actual rent income from rent-restricted units in such properties and to utilize an income approach for the assessment of the rents from such units. The bill specifies three types of properties to which this approach applies.

Exemptions

Affordable Housing Property Exemption for Nonprofit Entity Ownership: Current law provides a property exemption for affordable housing property owned entirely by a nonprofit entity. The bill defines the phrase "ownership by a nonprofit entity" as either:

- A corporation not for profit; or
- A Florida limited partnership the sole general partner of which is either a corporation not for profit or a Florida limited liability company the sole member of which is a corporation not for sale.

Additionally, the bill provides that in order to qualify for this exemption, the non-profit entity must affirmatively demonstrate to the property appraiser that no benefit will inure to the benefit of for profit persons or entities or for a nonexempt purpose.

Community Contribution Tax Credits

The bill increases the total amount of community contribution tax credits which may be granted all programs approved under ss. 212.08, 220.183 and 624.5105, F.S., by $1 million. It amends ss. 212.08, 220.183 and 624.5105, F.S., respectively, in a substantially identical fashion, to provide new allocations of the available $13 million in tax credits: (1) an annual allocation of $10 million of tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for extremely-low-income, low-income or very-low-income households as defined in s. 420.9071(19)[4] and (28),[5] F.S., and (2) a $3 million annual allocation for all other projects.

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[4] Section 420.9071(19), F.S., defines "low-income person" or "low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest. With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. While occupying the rental unit, a low-income household's annual income may increase to an amount not to exceed 140 percent of 80 percent of the area's median income adjusted for family size.

[5] Section 420.9071(28), F.S., defines "Very-low-income person" or "very-low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the very-low-income household's annual income at the time of initial occupancy may not exceed 50 percent of the area's median income adjusted for family size. While occupying the rental unit, a very-low-income household's annual income may increase to an amount not to exceed 140 percent of 50 percent of the area's median income adjusted for family size.

The bill also eliminates the requirement that the Office of Tourism, Trade, and Economic Development reserve specific percentages of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households and for other projects. These sections of the bill also eliminate provisions that allow tax credits that are unused for home ownership or all other projects to be used for any approved project after the first six months of the state fiscal year.

Authorizing Housing Assistance

School Boards

The bill authorizes district school boards to make certain school board lands, acquired prior to January 1, 2006, available to a private developer or nonprofit housing organization for the purpose of providing housing assistance to teachers and other instructional personnel. In order to provide this assistance, the personnel must be eligible under the provisions of ch. 420, F.S., and the school board must declare the land as surplus and not need for any facility identified in the district's facilities work program required pursuant to s. 1013.35, F.S.

Additionally, the bill authorizes school boards to provide affordable housing for teachers and other instructional personnel independently or in conjunction with other agencies as described in s. 1001.43(5), F.S.

Special Districts

The bill authorizes certain independent special districts to provide specific types of housing assistance as follows:

- Community Development Districts (CDD): The bill authorizes any CDD created pursuant to ch 190, F.S., to provide housing and housing assistance for persons whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.
- Independent Special Districts and Drainage and Water Control Districts: The bill authorizes any independent special district created pursuant to ch. 189, F.S., and drainage and water control districts created pursuant to ch. 298, F.S., to provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.
- Independent Special fire Control Districts: The bill amends the general powers of independent special fire control districts to authorize them to provide housing and housing assistance for their employed personnel whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.

Comprehensive Planning

Small Scale Amendments

Accessory Dwelling Units: The bill adds extremely-low-income persons to the categories of uses for which existing law authorizes a local government to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

Small Scale Comprehensive Plan Amendment: Existing law provides that certain small scale development activities requiring a comprehensive plan amendment may be approved through a summary process known as a small scale amendment. The bill removes an exception from the limitation on density for property subject to:

- An extended use agreement recorded in conjunction with the issuance of tax exempt bond financing; or
- An allocation of federal tax credits issued through the Corporation, or a local housing finance authority authorized by the Division of Finance of the State Board of Administration.

Developments of Regional Impact (DRI)

Substantial Deviation Density Bonus: Existing law provides that any proposed change to an approved DRI that exceeds statutory thresholds, known as a substantial deviation, must undergo additional DRI review. The bill provides a residential density bonus to increase the density threshold by the greater of 15 percent or 100 units when 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing. The bill defines "workforce housing" for purposes of this provision as housing that will be made permanently affordable to a person who earns less than 140 percent of the AMI, as provided in a recorded land use restriction agreement.

Statewide Guidelines and Standards Density Bonus: Existing law provides statewide guidelines and standards for development required to undergo DRI review. The bill provides a residential density bonus where a developer demonstrates that at least 15 percent of the residential units will be dedicated to workforce housing. Specifically, the bonus provides an increase of 20 percent in the number of units. "Workforce housing" is defined as noted above.

Density Incentives for Land Donation

The bill creates new law to provide density bonus incentives for land donations for affordable housing purposes for extremely-low-income, very-low-income, low-income or moderate-income persons. A local government may provide density bonus incentives to any landowner who voluntarily donates fee simple interest in real property to the local government for affordable housing purposes. The authorized bonus may provide one to four dwelling units per gross acre of donated land. The density bonus would be applied to any land within the local government's jurisdiction as long as residential is an allowable use on the receiving land and that the overall density of the receiving land does not exceed six units per gross acre. The award of density bonus, identification of the receiving land and any other conditions are subject to local government approval. The bill also provides specific requirements in order for the density bonus to be authorized.

Surplus State and Local Government Real Property

County Property: The bill requires each county to prepare an inventory list of all real property held in fee simple by the county within its jurisdiction. The list is to be prepared by January 1, 2007, and each three years thereafter. Criteria for the list are provided. The bill requires county planning staff to review the list and to identify each property that is appropriate for use as affordable housing. A six-month period is provided for this review. Properties identified as appropriate for affordable housing shall be offered for sale with the proceeds used to purchase land for the development of affordable housing. Alternatively:

- The proceeds may be donated to the Local Government Housing Trust Fund;
- The proceeds may be donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- The land may be sold with a restriction requiring development on the property to include a specified percentage of permanent affordable housing.

The bill prescribes a public hearing process and provides restrictions on the potential pool of purchasers. Further, the bill provides for certain deed restrictions to prevent the sale of the unit at a price that exceeds the affordable housing threshold for low or moderate-income persons. The bill provides for definitions consistent with those found at s. 420.0004, F.S.

Municipal Property: The bill provides similar requirements for municipalities to prepare the real property inventory; and to offer for sale properties appropriate for use as affordable housing.

State Property: The bill amends existing law related to the surplus state lands. The bill provides that a local government may request that state lands be specifically declared surplus lands for the purpose of

providing affordable housing. Additionally, the bill authorizes affordable housing as a permitted use for surplus state lands; and provides that when such lands are conveyed to local governments, they shall be disposed of consistent with the provisions outlined above.

Disabled Veterans License and Permit Fee Exemption

Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own.

This bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible. This bill does not place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the dwelling.

Farmworkers

The bill repeals s. 420.37, F.S., relating to additional powers of the Corporation, at the suggestion of the Corporation. The bill also repeals s. 420.530, F.S., the State Farmworker Housing Pilot Loan Program established as a pilot project by the 2000 Legislature.

Home Retrofit Hardening

The bill requires the DCA to establish the Home Retrofit Hardening Program as a competitive grant program to fund improvements to homes constructed before the implementation of the current Florida Building Code when the improvements will directly affect the ability of the home to withstand hurricane force winds and improve the home's rating for home insurance. While site-built homes and mobile homes are eligible for these funds, priority will be given to low-income homeowners who live in wind-borne debris regions as defined by the Florida Building Code.

The bill provides for this program to be implemented by local governments, regional planning councils, or private nonprofit agencies under the direction the DCA.

The bill provides program funds award guidance to the DCA and criteria for the use of the funds and directs the DCA to keep administrative costs to a minimum not to exceed five percent of the appropriation.

The bill does not require a match to receive a grant, but provides DCA may consider matching funds during the competitive review process. Each project grant for an individual home retrofit may not exceed $10,000.

Appropriations

The bill provides the following appropriations:

Rental Recovery Loan Program: The bill appropriates $176.6 million to the Corporation from the State Housing Trust Fund for the Rental Recovery Loan Program.

Communities Impacted by Hurricanes Wilma and Katrina: The bill appropriates $82.904 million from the Small Cities Community Development Block Grant Trust Fund to the DCA to be used consistent with the Federal Register 71 FR 7666, February 13, 2006, and the Action Plan for Disaster Recovery approved by the U. S. Department of Housing and Urban Development to meet the needs of

communities impacted by Hurricanes Wilma and Katrina, with a prioritization toward affordable housing in the most impacted areas of the state.

CWHIP: The bill appropriates $50 million from the Local Government Housing Trust Fund to the Corporation to fund the CWHIP program.

Home Retrofit Hardening Program: The bill appropriates $50 million from the U. S. Contributions Trust Fund to DCA in fixed capital outlay funds to fund the Home Retrofit Hardening Program.

Extremely-Low-Income Persons Housing Assistance: The bill appropriates $33 million from the Local Government Housing Trust Fund to the Corporation in nonrecurring funds for fiscal year 2006-2007 to assist in the production of housing units for extremely-low-income persons.

Farmworker Housing Recovery and the Special Housing Assistance and Development Programs: The bill appropriates $25 million from the State Housing Trust Fund to the Corporation for the Farmworker Housing Recovery and the Special Housing Assistance and Development Programs; and $400,000 for technical and training assistance.

Hurricane Housing Recovery Program: The bill appropriates $15 million from the Local Government Housing Trust Fund to the Corporation to fund the Hurricane Housing Recovery Program.

Disaster Recovery Assistance Program: The bill directs the DCA to establish the Disaster Recovery Assistance Program as a grant program to fund repair and rehabilitation to homes in communities severely impacted by the 2004 and 2005 hurricanes. The funds are to be leveraged and targeted to the most vulnerable citizens. The bill appropriates $2 million in fixed capital outlay from the State Housing Trust Fund in DCA.

C. SECTION DIRECTORY:

Section 1 – Creates s. 125.379, F.S., relating to the disposition of county property for affordable housing.

Section 2 – Amends s. 163.31771, F.S., adding a reference to definition of "extremely-low-income;" adding extremely-low-income to legislative findings and to the definition of an "affordable rental;" and conforming cross-references.

Section 3 – Amends s. 163.3187(1) (c), F.S., removing an exception from the comprehensive plan small scale amendment provisions.

Section 4 – Creates s. 166.0451, F.S., relating to the disposition of municipal property for affordable housing.

Section 5 – Creates s. 189.4155 (6), F.S., authorizing specified independent special districts to provide housing and housing assistance.

Section 6 – Creates s. 191.006 (19), F.S., amending independent special fire control district general powers to allow provision of housing and housing assistance for employed personnel.

Section 7 – Creates s. 193.017 (5). F.S., relating to capitalization rates used to assess property value.

Section 8 – Creates s. 193.018, F.S., creating "The Manny Diaz Affordable Housing Property Tax Relief Initiative"; requiring the use of an actual rental income basis for the purpose of assessing certain affordable housing properties.

Section 9 – Amends s. 196.1978, F.S., providing an affordable housing property exemption for certain affordable housing nonprofit entity owners; providing priority consideration for use of rental income

approach to assessment for certain affordable housing; requiring an affirmative demonstration to the property appraiser that no benefit will inure to the benefit of any for profit person or entity for a nonexempt purpose.

Section 10 – Amends s. 212.08(5), F.S., increasing the amount of available tax credits, providing separate annual limitations for sales tax credits, eliminating the reservation of available tax credits, including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S.

Section 11 – Amends ss. 220.183(1) (c) and 220.183 (2) (b), F.S., increasing the amount of available tax credits, providing separate annual limitations for corporate tax credits, and eliminating the reservation of available tax credits including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S .

Section 12 – Amends s. 253.034 (6) (f), F.S., relating to the uses of state-owned lands as surplus lands for affordable housing.

Section 13 – Amends s. 253.0341, F.S., authorizing local governments to request, under certain conditions, that state lands be specifically declared surplus lands for affordable housing purposes.

Section 14 – Amends s. 295.16, F.S., relating to license or permit fee exemptions for disabled veterans; changing language from "mobile home" to "dwelling."

Section 15 – Amends s. 380.06 (19), F.S., relating to development of regional impact substantial deviations and dwelling units used for "workforce housing;" providing a definition of "workforce housing."

Section 16 – Amends s. 380.0651 (3) (k), F.S., relating to development of regional impact statewide guidelines and standard, increasing the applicable guidelines for residential development, providing workforce housing; providing a definition of "workforce housing."

Section 17 – Amends s. 420.0004, F.S., providing a definition of "extremely low-income person" and authorizing the Florida Housing Finance Corporation to adjust low income guidelines.

Section 18 – Repeals ss. 420.37 and 420.530, F.S., relating to additional powers of the Florida Housing Finance Corporation and to the State Farmworker Housing Pilot Loan Program, respectively.

Section 19 – Amends s. 420.503 (18), F.S., amending the definition of "farmworker."

Section 20 – Amends s. 420.5061, F.S., conforming a cross-reference.

Section 21 – Amends s. 420.507 (22) (23) (40), F.S.; relating to: interest rates; the availability of subordinated loans to nonprofit sponsors or the availability for financing of housing to eligible borrowers; the adoption of rules for the intervention, negotiation or terms or other actions to support program goals or avoid default of program loan.

Section 22 – Amends ss. 420.5087 (1) (3) (5) (6), F.S., relating to state apartment incentive loans; changing county population category parameters used for the allocation of funds; providing that where the Corporation's lien is subordinate to another mortgagee, then the term of the loan may be made coterminous with longest term of the superior lien; and authorizing the Corporation to waive certain requirements for projects which reserve units for very-low-income families.

Section 23 – Amends s. 420.5088 (1) – (4), F.S., relating to Florida Homeownership Assistance Program.

Section 24 – Creates s. 420.5095, F.S., creating the Community Workforce Housing Innovation Program.

Section 25 – Amends s. 420.9071(25), F.S., conforming a cross-reference.

Section 26 – Amends s. 420.9072(2), F.S., correcting a cross-reference.

Section 27 – Amends ss. 420.9075, F.S., relating to the distribution of State Housing Initiatives Partnership funds in local housing assistance plans; creating content requirements for the local housing assistance plans; adding extremely-low-income persons and rehabilitation and construction of home ownership units to the eligibility parameters.

Section 28 – Amends s. 420.9076 (6), F.S., changing the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.

Section 29 – Amends 420.9079 (2), F.S., relating to the Local Government Housing Trust Fund; revising the amount of money a corporation may request in order to implement the provisions of s. 420.9075 (8), F.S.

Section 30 – Amends s. 624.5105 (1) (c) and (2) (e), F.S., increasing availability of community contribution tax credits, providing separate annual limitations for insurance premium tax credits, and eliminating the reservation of available tax credits including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S .

Section 31 – Amends s. 1001.42 (9) (b), F.S., authorizing school boards to make certain school board lands, acquired prior to January 1, 2006, available for the purpose of providing housing assistance to teachers and other instructional personnel.

Section 32– Amends s. 1001.43 authorizing district school boards to provide affordable housing teachers and other instructional personnel.

Section 33 – Creating provisions for affordable housing land donation density incentives.

Section 34 – Providing DCA must establish the Home Retrofit Hardening Program; providing an appropriation.

Section 35 – Appropriating $2 million in fixed capital outlay from the State Housing Trust Fund and directing the DCA to establish the Disaster Recovery Assistance Program as a grant program utilizing that appropriation to fund home repairs and rehabilitation in communities severely impacted by the 2004 and 2005 hurricanes.

Section 36 – Providing appropriations for: the Rental Recovery Loan Program; the Farmworker Housing Recovery Program; the Special Housing Assistance and Development Program; the Hurricane Housing Recovery Program, and for technical and training assistance; providing authority to the Corporation to provide funds for affordable housing recovery in those areas which sustained housing damage resulting from the 2004 and 2005 hurricanes; providing for emergency rulemaking.

Section 37 – Providing an appropriation from the Small Cities Community Block Grant Trust Fund to be used in the state consistent with the Federal Register 71 FR 7666, February 13, 2006, and the HUD Action Plan for Disaster Recovery related to impacts of Hurricanes Wilma and Katrina.

Section 38 – Providing an appropriation to the Corporation from the Local Government Housing Trust Fund to implement the CWHIP.

Section 39 – Providing an appropriation from the Local Government Housing Trust Fund to assist in the production of housing units for extremely-low-income persons.

Section 40 – Providing an effective date of July 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $.9 million in state revenues during fiscal year 2006-2007 and fiscal year 2007-2006.

	FY 2006-07	FY 2007-2008
General Revenue		
Corporate	(.1)	(.1)
Sales	(.8)	(.8)
State Trust	(Indeterminate)	(Indeterminate)
Total State Impact	(.9)	(.9)

2. Expenditures:

The bill appropriates:

- $50 million to the DCA from the U.S. Contributions Trust Fund for the Home Retrofit Hardening Program;
- $2 million in fixed capital outlay from the State Housing Trust Fund for the Disaster Recovery Assistance Program;
- $15 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes;
- $25 million from the State Housing Trust Fund to the Corporation for the Farmworker Housing Recovery and Special Assistance and Development Programs;
- $400,000 from the State Housing Trust Fund for technical and training assistance;
- $176 million from the State Housing Trust Fund for the Rental Recovery Loan Program;
- $82,904,000 from the Florida Small Cities Community Development Block Grant Program Fund for affordable housing hurricane recovery;
- $50 million from the Local Government Housing Trust Fund to implement the Community Workforce Housing Innovation Program; and
- $33 million from the Local Government Housing Trust Fund for housing for extremely low income persons.

Community Contribution Tax Credits: It is anticipated that administration of the increase in tax credits by OTTED will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $ .1 million in local revenues during fiscal year 2006-2007 and fiscal year 2007-2006.

Disabled Veterans License and Permit Fee Exemption: The fiscal impact on local government revenues is expected to be insignificant. The Revenue Estimating Conference has not met on this issue.

2. Expenditures:

   Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community Contribution Tax Credits: The bill increases the amount of tax credits available to persons for homeownership projects from $9.4 million to $10 million, and for non-housing projects from $2.6 million to $3 million. This may have a positive but indeterminate impact on the number of low-income homes that are built each year and the projects sponsored in enterprise zones and Front Porch Florida Communities as they are likely to receive more contributions.

Elderly Housing Community Loan Program: This bill may have an economic impact on a private sector apartment owner that qualifies under the EHCL Program by reducing the match amount required to qualify for a loan under the program, allowing them to take advantage of higher loan amounts.

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

Community Contribution Tax Credits: The table below shows the tax credits granted for housing projects and for other community development projects during the past 10 years. There were significant tax credits unused for the first two years after the cap was increased to $10 million. Subsequently, the entire allocation has been used.

COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM
TAX CREDIT SUMMARY FY 1995/96 – FY 2005/06

FISCAL YEAR	APPROVED apps.	HOUSING TAX CREDITS	COMMUNITY DEVELOPMENT TAX CREDITS	TOTAL CREDITS APPROVED	CREDITS REMAINING	ANNUAL ALLOCATION
1995/96	75	$465,542	$1,472,255	$1,937,797	$62,203	$2,000,000
1996/97	69	$1,043,256	$1,018,947	$2,062,203	$-62,203	$2,000,000
1997/98	81	$1,348,500	$651,500	$2,000,000	$0	$2,000,000
1998/99	75	$2,720,441	$2,279,559	$5,000,000	$0	$5,000,000
1999/00	198	$3,764,283	$1,302,178	$5,066,461	$4,933,539	$10,000,000
2000/01	223	$5,320,890	$744,365	$6,065,255	$3,934,745	$10,000,000
2001/02	322	$9,484,489	$515,464	$9,999,953	$47	$10,000,000

2002/03	359	$8,914,456	$1,085,544	$10,000,000	$0	$10,000,000
2003/04	285	$8,622,769	$1,377,231	$10,000,000	$0	$10,000,000
2004/05	251	$8,051,618	$1,948,382	$10,000,000	$0	$10,000,000
2005/06	285	$9,558,883	$2,441,117	$12,000,000	$0	$12,000,000
10 YEAR TOTALS	**2,223**	**$59,295,127**	**$14,836,542**	**$74,131,669**	**$8,868,331**	**$83,000,000**

Source: Created from data provided by OTTED.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Community Contribution Tax Credits: This bill may reduce the authority of municipalities and counties to raise revenues: the estimated reduction in Local Option Sales tax is $.1 million in fiscal year 2006–2007 and fiscal year 2007-2008. However, this impact is considered to be insignificant, and the bill is therefore exempt from the provisions of s. 18(b) of Art. VII, State Constitution.

Disabled Veterans License and Permit Fee Exemption: The mandates provision appears to apply because this bill reduces revenue raising authority; however, an exemption applies. The number of applicable veterans likely to utilize the license and permit fee exemptions is expected to be minimal. Therefore, the fiscal impact is expected to be insignificant and the bill is exempt from the mandates provision.

Surplus Property Inventory: The mandates provision appears to apply because this bill requires counties and municipalities to conduct a surplus real property inventory and to determine what of that real property is appropriate for affordable housing purposes. Conducting such surveys and determining what real property is appropriate for affordable housing purposes will require the expenditure of funds. However, the bill may be exempt from the mandate requirements if the fiscal impact of the bill, on an aggregate basis for all cities and counties in the state, is less than $1.8 million over the long term. At this time, the fiscal impact of the bill is unknown.

If the bill is not exempt from the mandates requirements imposed by Art. VII, section 18 of the Florida Constitution, the Legislature must determine that the law fulfills an important state interest and the bill must be approved by two–thirds of the House and Senate membership.

2. Other:

Unauthorized Delegation of Legislative Authority: Section 24 of the bill creates s. 420.5095(10), F.S., requiring the Corporation to develop and implement a down payment assistance program without any standards or guidance regarding that program.

The legislative power of the state is vested in the Legislature (s. 1, Art. III, State Constitution). It is fundamental that the Legislature may not, except when authorized by constitution, delegate its legislative power, that is, the power to enact laws, or to declare what the law shall be, or to exercise an unrestricted discretion in applying the law. Under the doctrine of nondelegation of legislative power, fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the

program.[6] The authorization to develop and implement a program with no further standards or guidance may be considered by a court to be an unauthorized delegation of legislative authority.

B. RULE-MAKING AUTHORITY:

The bill contains specific rulemaking authority as follows:

- Whereby the Corporation may intervene, negotiate terms, or undertake other actions to further program goals or avoid default of a program loan [s. 420.507(44), F.S.].
- To establish requirements for periodic reporting of data [s. 420.507(45), F.S.].
- To establish a funding process and selection criteria relating to the CWHIP [s. 420.5095(2), F.S.].
- To set the terms under which the CWHIP loan accrued interest may be forgiven [s. 420.9075(10)(b), F.S.].
- For Corporation subsidiaries as is necessary to conduct business and carry out the purposes of s. 420.507(40), F.S.
- Emergency rulemaking related to hurricane emergencies addressed in s. 37 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The bill requires the Corporation to develop and implement a CWHIP down payment assistance program, but provides no direction or guidance to the Corporation regarding the program. Such a grant of authority may be an unauthorized delegation of legislative authority. [See: CONSTITUTIONAL ISSUES].

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted a strike all amendment with two amendments. The strike all amendment substantially amended the originally filed bill to include the following:

- Authorizes the disposition of county property for affordable housing.
- Provides a density bonus in both the development of regional impact substantial deviation and statewide guidelines and standards provisions.
- Authorizes the disposition of municipal property for affordable housing.
- Authorizes independent special districts to provide housing and housing assistance for its employed personnel.
- Includes authority to provide housing and housing assistance for employed personnel to the general powers of independent special districts.
- Requires the use of a particular cap rates when a cap rate is used to assess the just valuation of affordable housing property.
- Defines classifications for the ownership of nonprofit entities.
- Creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative."
- Removes the cap on the distribution of certain revenues into the State Housing Trust Fund.
- Increases the availability of community contribution tax credits; provides separate annual limitations for insurance premium tax credits, and eliminates the reservation of available tax credits.
- Authorizes the use of state-owned surplus lands for affordable housing.
- Creates a disabled veterans exemption from certain license and permits fees
- Creates an incentive to provide workforce housing within developments of regional impact.
- Increases the applicable statewide development of regional impact guidelines for residential development that include workforce housing.
- Authorizes the Florida Housing Finance Corporation to adjust low income guidelines; provides definitions.
- Repeals s. 420.37, F.S.
- Expands the definition of "farmworker" in s. 420.503 (18), F.S., to comply with an applicable Federal definition.
- Amends the powers of the Florida Housing Finance Corporation.

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[6] 10A Fla. Jur. 2d Constitutional Law s. 202.

- Increases the applicable population criteria for funding eligibility; lowers the sponsor match related to funding for certain repairs or improvements; and allows for coterminous loan terms under certain circumstances; all related to the State Apartment Incentive Loan Program.
- Amends provisions relating to the Florida Homeownership Assistance Program.
- Creates the Community Workforce Housing Innovation Program.
- Amends provisions of the State Housing Initiatives Partnership Program including creating rulemaking authority.
- Changes the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.
- Amends provisions relating to the community contribution tax credit.
- Authorizes school boards to provide affordable housing for teachers and other instructional personnel.
- Creates and appropriation of $20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation to provide funding to teachers eligible for affordable housing.
- Authorizes the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

The Growth Management Committee took up and acted upon the following amendments:
- Amendment 1 – Withdrawn.
- Amendment 2 – Created s. 196.1980, F.S., "The Manny Diaz Affordable Housing Property Relief Initiative."
- Amendment 3 – Created paragraph (i) of subsection (11) of s. 420.5095, F.S., the Community Workforce Housing Innovation Program.

On March 29, 2006, the Local Government Council adopted a strike all amendment to HB 1363 CS. The strike all amendment changed the bill in the following respects:

- Changes the reference to the recipient trust fund for donations resulting from county and municipal sales of surplus lands as provided for in amended ss. 125.379 and 163.3187, F.S.
- Added "extremely-low-income persons" to the allowable classes of persons to whom a unit may be rented pursuant to newly created s. 125.379(4), F.S.
- Section 193.017, F.S., is substantially rewritten.
- Changes the placement of the creation of "The Manny Diaz Affordable Housing Property Tax Relief Act" to s. 193.081, F.S. , from s. 196.1980, F.S. Changes the name of the act to "The Manny Diaz Affordable Housing Property Tax *Assessment* Initiative." Changes the language to provide for a *rental* income approach; specifies that the rental income approach shall be determined pursuant to s. 193.077(7), F.S.; and provides that such approach relates to certain *affordable housing* properties. Adds s. 193.018(4), F.S., to the newly created section to provide that specified affordable housing shall be assessed with priority consideration given to the rental income approach, and applying certain assumptions.
- Amends s. 196.1978(3), F.S., to provide that property *owned by a non-profit entity* shall comply with referenced criteria for the determination of an affordable housing property exemption status.
- Deleted the phrase "subject to a recorded land use restriction agreement" at the end of the first sentence of newly added s. 380.06(19)(b)10., F.S. Also, changes the definition of "workforce housing" as it applies to the subparagraph relating to DRI substantial deviations by increasing the percentage to 150 percent from 120 percent.
- Changed the percentage to 150 percent from 120 percent relating to the newly created workforce housing bonus in the DRI threshold of s. 380.0651(3)(k), F.S.
- Hyphenated the term "extremely-low-income" in the new definition of s. 420.0004(8), F.S.
- Added the phrase "and for participation in a housing locator system" to the end of the newly created s. 420.507(45), F.S
- Replaced the term "extremely-low-income" for "families" in s. 420.5087(5), F.S.
- Removed the deletion of and substantially rewrote s. 420.5087(6)(c)6., F.S., relating to SAIL loans; also removed renumbering of subsequent subparagraphs.
- Replaces the term "extremely-low-income persons" for "units" in the new language of s. 420.5087(6)(c)7., F.S.
- Amends s. 420.5087(6)(k), F.S., to add an additional condition to the allowance of rent controls on certain projects.

- Adds "rented" to the list of events giving rise to the balance due of any HAP loan, unless otherwise approved by the Corporation in s. 420.5088, F.S.
- Substantially rewrites the newly created s. 420.5095, F.S., relating to the newly created CWHIP, to remove redundancies and to provide clarifications.
- Creates s. 420.9075(3), F.S., providing for local housing assistance plans to include a definition of essential service personnel to identify those personnel that will be eligible for certain essential service personnel housing assistance.
- Clarifies that the reservation of funds for home ownership for very low income persons is a goal and not a requirement in s. 420.9075(4)(a), F.S.; and deletes the newly created subsection (5) relating to the recruitment and retention of essential service personnel.
- Adds the amendment of s. 1013.01(6), F.S., to expand the definition of "educational facilities" to include affordable and workforce housing for teacher and school personnel, if approved by the board.
- Removes the additional rulemaking authority which appeared to duplicate the Corporation's existing rulemaking authority.
- Creates s. 1013.15(5), F.S., authorizing school boards to rent or lease existing buildings, land, or space within buildings, originally constructed for purposes other than education, for conversion to use as affordable and workforce housing for school and instructional personnel.

On April 17, 2006, the Fiscal Council adopted a strike-all amendment to HB 1363 w/CS from the Local Government Council. The amendment:

- Defines "extremely-low-income" in s. 420.0004(8), F.S., and inserts the term throughout many of the programs and provisions in the bill to extend existing and created programs and authorities to reflect consideration of the housing needs for individuals in that income category.
- Substantially rewrites the newly created provisions authorizing independent special districts to provide varying degrees of housing assistance in ss. 5 and 6 of the bill.
- Adds a Federal Register citation to "the Manny Diaz Affordable Housing Property Tax Relief Initiative, s. 8 of the bill [See s. 193.018(1)(b), F.S.]; and a deed restriction requirement [See s. 193.018(1)(c), F.S.].
- Adds a qualifying requirement for an affordable housing property exemption [See s. 9 of the bill, s. 196.1978(3), F.S.].
- Moves language relating to local governments requests to surplus state lands for affordable housing purposes [See ss. 12 and 13 of the bill, ss. 253.034(6)(f)1. and 253.0341(3), F.S.
- Adds a qualification to the substantial deviation density bonus for the provision of workforce housing [See s. 15 of the bill, s. 380.06(19)(b)10., F.S.].
- Adds the same qualification to the statewide guidelines and standards for DRIs [See s. 16 of the bill, s. 380.0651, F.S.].
- Repeals s. 420.530, F.S., the State Farmworker Housing Pilot Loan Program [See s. 18 of the bill].
- Returns the maximum interest rate to nine percent authorized to be charged for SAIL loans [See. s. 21, s. 420.507, F.S.].
- Deletes emergency rulemaking authority for disaster recovery and reconstruction [See s. 21 of the bill, s. 420.507(46), F.S.].
- Adds language authorizing extended lien terms where the Corporation's lien is subordinate to liens of longer duration [See s. 22 of the bill, s. 4205087(6)(g), F.S.].
- In the CWHIP: adds counties designated as rural areas of critical economic concern to the definition of "high-cost counties"; expands the definition of "public-private partnerships;" rewrites the definition of "essential services personnel" with the same basic meaning; reformats several provisions into s. 420.5095(5), F.S.; changes the impact fee reduction incentive to remove the 50 percent reduction criteria; adds mixed land uses to the incentives; adds manufactured housing project under certain conditions as eligible CWHIP project; and extends the authorized loan interest rate to one to three percent [See bill s. 24, s. 420.5095, F.S.].
- Adds "other school district, community college and university employees" to the list of possible categories for the definition of essential service personnel in local housing assistance plans [s. 420.9075(3)(a), F.S.]; adds language encouraging eligible local governments to develop a local housing assistance plan strategy to address the needs of person deprived of affordable housing due to closure of a mobile home park or conversion of affordable rental units to condominiums [s. 420.9075, (c), F.S.]; adds rehabilitation and

construction of home ownership units to the funds reservation for certain income categories [See s. 27 of the bill, s. 420.9075(5)(a), F.S.].

- Provides authority to make certain school board lands available to certain developers or organizations for the purpose of providing affordable housing to teachers and other instruction personnel [See s. 31 of the bill, s. 1001.42(9)(b)9., F.S.].
- Adds affordable housing land donation density bonus incentives [See s. 33 of the bill].
- Adds the Home Retrofit Hardening Program [See s. 34 of the bill].
- Appropriates the following: $50 for the Home Retrofit Hardening Program; $2 million in fixed capital outlay for the Disaster Recovery Assistance Program; $15 million to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes; $25 million for the Farmworker Housing Recovery and Special Assistance and Development Programs; $400,000 for technical and training assistance; $176 million for the Rental Recovery Loan Program; $82,904,000 for affordable housing hurricane recovery; $50 million to implement the Community Workforce Housing Innovation Program; $33 million for housing for extremely low income persons.

CHAMBER ACTION

1 The Fiscal Council recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to affordable housing; creating s.
7 125.379, F.S.; providing for disposition of county
8 property for affordable housing; amending s. 163.31771,
9 F.S., relating to accessory dwelling units; revising
10 legislative findings and definitions; conforming cross-
11 references; amending s. 163.3187, F.S.; revising a
12 limitation relating to small scale comprehensive plan
13 amendments involving the construction of affordable
14 housing units; creating s. 166.0451, F.S.; providing for
15 disposition of municipal property for affordable housing;
16 amending s. 189.4155, F.S.; authorizing independent
17 special districts to provide for housing and housing
18 assistance; amending s. 191.006, F.S.; authorizing
19 independent special fire control districts to provide
20 employee housing and housing assistance; amending s.
21 193.017, F.S.; authorizing the Florida Housing Finance
22 Corporation and the Department of Revenue to annually set
23 the capitalization rate used for assessing just valuation

24 of affordable housing properties; creating s. 193.018,
25 F.S.; creating the Manny Diaz Affordable Housing Property
26 Tax Relief Initiative; providing criteria for assessing
27 just valuation of affordable housing properties serving
28 persons of low, moderate, very low, and extremely low
29 incomes; amending s. 196.1978, F.S.; specifying what
30 constitutes a nonprofit entity for purposes of affordable
31 housing property tax exemption; conforming cross-
32 references; amending ss. 212.08, 220.183, and 624.5105,
33 F.S.; increasing the amount of available tax credits
34 against the sales tax, corporate income tax, and insurance
35 premium tax, respectively, for projects under the
36 community contribution tax credit program and providing
37 separate annual limitations for certain projects; revising
38 requirements and procedures for the Office of Tourism,
39 Trade, and Economic Development in granting tax credits
40 under the program; including extremely-low-income persons
41 as eligible recipients of assistance; conforming cross-
42 references; amending s. 253.034, F.S.; providing for the
43 disposition of state lands for affordable housing;
44 amending s. 253.0341, F.S.; authorizing local governments
45 to request state lands be declared surplus for the purpose
46 of affordable housing; providing for use of lands that are
47 declared surplus; amending s. 295.16, F.S.; expanding the
48 disabled veteran exemption from certain license and permit
49 fees relating to dwelling improvements; amending s.
50 380.06, F.S.; providing a greater substantial deviation
51 threshold for the provision of affordable housing in a

52 development of regional impact; conforming cross-
53 references; amending s. 380.0651, F.S.; providing a
54 statewide guidelines and standards bonus for the provision
55 of workforce housing; amending s. 420.0004, F.S.; defining
56 the term "extremely-low-income persons"; conforming cross-
57 references; repealing s. 420.37, F.S., relating to
58 additional powers of the Florida Housing Finance
59 Corporation; repealing s. 420.530, F.S., relating to the
60 State Farm Worker Housing Pilot Loan Program; amending s.
61 420.503, F.S.; revising the definition of the term
62 "farmworker" under the Florida Housing Finance Corporation
63 Act; providing rulemaking authority; amending s. 420.5061,
64 F.S.; conforming a cross-reference; amending s. 420.507,
65 F.S.; revising and expanding the powers of the Florida
66 Housing Finance Corporation relating to mortgage loan
67 interest rates, loans, loan relief, uses of loan funds,
68 subsidiary business entities, and data reporting;
69 providing rulemaking authority; amending s. 420.5087,
70 F.S.; increasing the population criteria for the State
71 Apartment Incentive Loan Program; revising criteria for
72 loans; conforming cross-references; amending s. 420.5088,
73 F.S.; expanding the scope of the Florida Homeownership
74 Assistance Program; revising loan requirements; deleting a
75 provision reserving program funds for certain borrowers;
76 creating s. 420.5095, F.S.; creating the Community
77 Workforce Housing Innovation Program; providing the
78 Florida Housing Finance Corporation with certain powers
79 and responsibilities relating to the program; requiring

80 the program to target certain entities; providing
81 application requirements; providing incentives for program
82 applicants; amending s. 420.9071, F.S.; conforming a
83 cross-reference; amending s. 420.9072, F.S.; conforming
84 cross-references; amending s. 420.9075, F.S.; requiring
85 local housing assistance plans to define essential service
86 personnel for the county or eligible municipality and to
87 contain a strategy for the recruitment and retention of
88 such personnel; providing for provision of funds for
89 homeownership for extremely-low-income, very-low-income,
90 or low-income persons; amending s. 420.9076, F.S.;
91 conforming a cross-reference; amending s. 420.9079, F.S.;
92 revising the maximum appropriation the Florida Housing
93 Finance Corporation may request each state fiscal year;
94 conforming a cross-reference; amending s. 1001.42, F.S.;
95 authorizing school districts to make specified lands
96 available for affordable housing for teachers and other
97 instructional personnel; amending s. 1001.43, F.S.;
98 authorizing district school boards to provide affordable
99 housing for teachers and other instructional personnel;
100 authorizing local governments to provide density bonus
101 incentives to landowners who donate fee simple interest in
102 real property to the local government for the purpose of
103 assisting the local government in providing affordable
104 housing; providing definitions and requirements governing
105 such donations and density bonuses; requiring the
106 Department of Community Affairs to establish a Home
107 Retrofit Hardening Program and establishing requirements

108 for the program; requiring the Department of Community
109 Affairs to establish a Disaster Recovery Assistance
110 Program and establishing requirements for the program;
111 authorizing the Florida Housing Finance Corporation to
112 provide funds to eligible entities for affordable housing
113 recovery in areas of the state sustaining hurricane damage
114 due to hurricanes during 2004 and 2005; providing
115 legislative findings and emergency rulemaking authority;
116 providing appropriations; providing effective dates.
117
118 Be It Enacted by the Legislature of the State of Florida:
119
120 Section 1. Section 125.379, Florida Statutes, is created
121 to read:
122 125.379 Disposition of county property for affordable
123 housing.--
124 (1) By January 1, 2007, and every 3 years thereafter, each
125 county shall prepare an inventory list of all real property
126 within its jurisdiction to which the county holds fee simple
127 title. The inventory list must include the address and legal
128 description of each real property and specify whether the
129 property is vacant or improved. County planning staff shall
130 review the inventory list and identify each property that is
131 appropriate for use as affordable housing. The time for
132 preparing the inventory list and its review by county planning
133 staff may not exceed 6 months. The properties identified as
134 appropriate for use as affordable housing may be offered for
135 sale and the proceeds used to purchase land for the development

136 of affordable housing or donated to the local housing assistance
137 trust fund, sold with a restriction that requires any
138 development on the property to include a specified percentage of
139 permanent affordable housing, or donated to a nonprofit housing
140 organization for the construction of permanent affordable
141 housing.
142 (2) After completing an inventory list, the board of
143 county commissioners shall hold at least two public hearings to
144 discuss the inventory list and staff's recommendation concerning
145 which properties are appropriate for use as affordable housing.
146 The board shall comply with the provisions of s. 125.66(4)(b)1.
147 regarding the advertisement of the public hearings and shall
148 hold the first hearing no later than 30 days after completing
149 the inventory list. The board shall approve the inventory list
150 through the adoption of a resolution at the second hearing no
151 later than 6 months after completing the inventory list.
152 (3) After the inventory list has been approved by
153 resolution, the board of county commissioners shall immediately
154 make available any real property that has been identified in the
155 inventory list as appropriate for use as affordable housing. The
156 county shall make the surplus real property available to:
157 (a) A private developer if the purchase price paid by the
158 developer is not less than the appraised value of the property
159 based on its highest and best use and the real property is sold
160 with deed restrictions that require a specified percentage of
161 any project developed on the real property to provide affordable
162 housing for low-income and moderate-income persons, with a
163 minimum of 10 percent of the units in the project available for

164 low-income persons and another 10 percent of the units available
165 for moderate-income persons for a total minimum of 20 percent,
166 or, if providing rental housing or a combination of rental
167 housing and homeownership, an additional 5 percent of the units
168 available for very-low-income persons for a total minimum of 25
169 percent;
170 (b) A private developer without any requirement that a
171 percentage of the units built on the real property be affordable
172 if the purchase price paid by the developer is not less than the
173 appraised value of the property based on its highest and best
174 use, in which case the county must use the funds received from
175 the developer to acquire real property on which affordable
176 housing will be built or donate the funds to the local housing
177 assistance trust fund for the purpose of implementing the
178 programs described in ss. 420.907-420.9079; or
179 (c) A nonprofit housing organization, such as a community
180 land trust, housing authority, or community redevelopment agency
181 to be used for the production and preservation of permanent
182 affordable housing.
183 (4) The deed restrictions required under paragraph (3)(a)
184 for an affordable housing unit must also prohibit the sale of
185 the unit at a price that exceeds the threshold for housing that
186 is affordable for low-income or moderate-income persons or to a
187 buyer who is not eligible due to his or her income under chapter
188 420. The deed restrictions may allow the affordable housing
189 units created under paragraph (3)(a) to be rented to extremely
190 low-income, very-low-income, low-income, or moderate-income
191 persons.

192 (5) For purposes of this section, the terms "affordable,"
193 "low-income persons," "moderate-income persons," "very-low-
194 income persons", and "extremely low-income persons" have the
195 same meaning as in s. 420.0004.
196 Section 2. Subsection (1) and paragraphs (b), (d), (e),
197 and (f) of subsection (2) of section 163.31771, Florida
198 Statutes, are amended, and paragraph (g) is added to subsection
199 (2) of that section, to read:
200 163.31771 Accessory dwelling units.--
201 (1) The Legislature finds that the median price of homes
202 in this state has increased steadily over the last decade and at
203 a greater rate of increase than the median income in many urban
204 areas. The Legislature finds that the cost of rental housing has
205 also increased steadily and the cost often exceeds an amount
206 that is affordable to extremely-low-income, very-low-income,
207 low-income, or moderate-income persons and has resulted in a
208 critical shortage of affordable rentals in many urban areas in
209 the state. This shortage of affordable rentals constitutes a
210 threat to the health, safety, and welfare of the residents of
211 the state. Therefore, the Legislature finds that it serves an
212 important public purpose to encourage the permitting of
213 accessory dwelling units in single-family residential areas in
214 order to increase the availability of affordable rentals for
215 extremely-low-income, very-low-income, low-income, or moderate-
216 income persons.
217 (2) As used in this section, the term:
218 (b) "Affordable rental" means that monthly rent and
219 utilities do not exceed 30 percent of that amount which

220 represents the percentage of the median adjusted gross annual
221 income for extremely-low-income, very-low-income, low-income, or
222 moderate-income persons.
223 (d) "Low-income persons" has the same meaning as in s.
224 420.0004(10) ~~(9)~~.
225 (e) "Moderate-income persons" has the same meaning as in
226 s. 420.0004(11) ~~(10)~~.
227 (f) "Very-low-income persons" has the same meaning as in
228 s. 420.0004(15) ~~(14)~~.
229 (g) "Extremely-low-income persons" has the same meaning as
230 in s. 420.0004(8).
231 Section 3. Paragraph (c) of subsection (1) of section
232 163.3187, Florida Statutes, is amended to read:
233 163.3187 Amendment of adopted comprehensive plan.--
234 (1) Amendments to comprehensive plans adopted pursuant to
235 this part may be made not more than two times during any
236 calendar year, except:
237 (c) Any local government comprehensive plan amendments
238 directly related to proposed small scale development activities
239 may be approved without regard to statutory limits on the
240 frequency of consideration of amendments to the local
241 comprehensive plan. A small scale development amendment may be
242 adopted only under the following conditions:
243 1. The proposed amendment involves a use of 10 acres or
244 fewer and:
245 a. The cumulative annual effect of the acreage for all
246 small scale development amendments adopted by the local
247 government shall not exceed:

248 (I) A maximum of 120 acres in a local government that
249 contains areas specifically designated in the local
250 comprehensive plan for urban infill, urban redevelopment, or
251 downtown revitalization as defined in s. 163.3164, urban infill
252 and redevelopment areas designated under s. 163.2517,
253 transportation concurrency exception areas approved pursuant to
254 s. 163.3180(5), or regional activity centers and urban central
255 business districts approved pursuant to s. 380.06(2)(e);
256 however, amendments under this paragraph may be applied to no
257 more than 60 acres annually of property outside the designated
258 areas listed in this sub-sub-subparagraph. Amendments adopted
259 pursuant to paragraph (k) shall not be counted toward the
260 acreage limitations for small scale amendments under this
261 paragraph.
262 (II) A maximum of 80 acres in a local government that does
263 not contain any of the designated areas set forth in sub-sub-
264 subparagraph (I).
265 (III) A maximum of 120 acres in a county established
266 pursuant to s. 9, Art. VIII of the State Constitution.
267 b. The proposed amendment does not involve the same
268 property granted a change within the prior 12 months.
269 c. The proposed amendment does not involve the same
270 owner's property within 200 feet of property granted a change
271 within the prior 12 months.
272 d. The proposed amendment does not involve a text change
273 to the goals, policies, and objectives of the local government's
274 comprehensive plan, but only proposes a land use change to the

275 future land use map for a site-specific small scale development
276 activity.
277 e. The property that is the subject of the proposed
278 amendment is not located within an area of critical state
279 concern, unless the project subject to the proposed amendment
280 involves the construction of affordable housing units meeting
281 the criteria of s. 420.0004(3), and is located within an area of
282 critical state concern designated by s. 380.0552 or by the
283 Administration Commission pursuant to s. 380.05(1). Such
284 amendment is not subject to the density limitations of sub-
285 subparagraph f., and shall be reviewed by the state land
286 planning agency for consistency with the principles for guiding
287 development applicable to the area of critical state concern
288 where the amendment is located and shall not become effective
289 until a final order is issued under s. 380.05(6).
290 f. If the proposed amendment involves a residential land
291 use, the residential land use has a density of 10 units or less
292 per acre or the proposed future land use category allows a
293 maximum residential density of the same or less than the maximum
294 residential density allowable under the existing future land use
295 category, except that this limitation does not apply to small
296 scale amendments involving the construction of affordable
297 housing units meeting the criteria of s. 420.0004(3) on property
298 which will be the subject of a land use restriction agreement ~~or~~
299 ~~extended use agreement recorded in conjunction with the issuance~~
300 ~~of tax exempt bond financing or an allocation of federal tax~~
301 ~~credits issued through the Florida Housing Finance Corporation~~
302 ~~or a local housing finance authority authorized by the Division~~

303 ~~of Bond Finance of the State Board of Administration~~, or small
304 scale amendments described in sub-sub-subparagraph a.(I) that
305 are designated in the local comprehensive plan for urban infill,
306 urban redevelopment, or downtown revitalization as defined in s.
307 163.3164, urban infill and redevelopment areas designated under
308 s. 163.2517, transportation concurrency exception areas approved
309 pursuant to s. 163.3180(5), or regional activity centers and
310 urban central business districts approved pursuant to s.
311 380.06(2)(e).
312 2.a. A local government that proposes to consider a plan
313 amendment pursuant to this paragraph is not required to comply
314 with the procedures and public notice requirements of s.
315 163.3184(15)(c) for such plan amendments if the local government
316 complies with the provisions in s. 125.66(4)(a) for a county or
317 in s. 166.041(3)(c) for a municipality. If a request for a plan
318 amendment under this paragraph is initiated by other than the
319 local government, public notice is required.
320 b. The local government shall send copies of the notice
321 and amendment to the state land planning agency, the regional
322 planning council, and any other person or entity requesting a
323 copy. This information shall also include a statement
324 identifying any property subject to the amendment that is
325 located within a coastal high-hazard area as identified in the
326 local comprehensive plan.
327 3. Small scale development amendments adopted pursuant to
328 this paragraph require only one public hearing before the
329 governing board, which shall be an adoption hearing as described
330 in s. 163.3184(7), and are not subject to the requirements of s.

331 163.3184(3)-(6) unless the local government elects to have them
332 subject to those requirements.
333 4. If the small scale development amendment involves a
334 site within an area that is designated by the Governor as a
335 rural area of critical economic concern under s. 288.0656(7) for
336 the duration of such designation, the 10-acre limit listed in
337 subparagraph 1. shall be increased by 100 percent to 20 acres.
338 The local government approving the small scale plan amendment
339 shall certify to the Office of Tourism, Trade, and Economic
340 Development that the plan amendment furthers the economic
341 objectives set forth in the executive order issued under s.
342 288.0656(7), and the property subject to the plan amendment
343 shall undergo public review to ensure that all concurrency
344 requirements and federal, state, and local environmental permit
345 requirements are met.
346 Section 4. Section 166.0451, Florida Statutes, is created
347 to read:
348 166.0451 Disposition of municipal property for affordable
349 housing.--
350 (1) By January 1, 2007, and every 3 years thereafter, each
351 municipality shall prepare an inventory list of all real
352 property within its jurisdiction to which the municipality holds
353 fee simple title. The inventory list must include the address
354 and legal description of each property and specify whether the
355 property is vacant or improved. Municipal planning staff shall
356 review the inventory list and identify each real property that
357 is appropriate for use as affordable housing. The time for
358 preparing the inventory list and its review by municipal

359 planning staff may not exceed 6 months. The properties
360 identified as appropriate for use as affordable housing may be
361 offered for sale and the proceeds used to purchase land for the
362 development of affordable housing or donated to the local
363 housing assistance trust fund, sold with a restriction that
364 requires any development on the property to include a specified
365 percentage of permanent affordable housing, or donated to a
366 nonprofit housing organization for the construction of permanent
367 affordable housing.
368 (2) Upon completing an inventory list in compliance with
369 this section, the governing body of the municipality shall hold
370 at least two public hearings to discuss the inventory list and
371 the recommendation of the staff concerning which properties are
372 appropriate for use as affordable housing. The governing body
373 shall comply with s. 166.041(3)(c)2.a. regarding the
374 advertisement of the public hearings and shall hold the first
375 hearing no later than 30 days after completing the inventory
376 list. The governing body shall approve the inventory list
377 through the adoption of a resolution at the second hearing no
378 later than 6 months after completing the inventory list.
379 (3) After the inventory list has been approved by
380 resolution, the governing body of the municipality shall
381 immediately make available any real property that has been
382 identified in the inventory list as appropriate for use as
383 affordable housing. The municipality shall make the surplus real
384 property available to:
385 (a) A private developer if the purchase price paid by the
386 developer is not less than the appraised value of the property

387 based on its highest and best use and the real property is sold
388 with deed restrictions that require a specified percentage of
389 any project developed on the real property to provide affordable
390 housing for low-income and moderate-income persons, with a
391 minimum of 10 percent of the units in the project available for
392 low-income persons and another 10 percent of the units available
393 for moderate-income persons for a total minimum of 20 percent,
394 or, if providing rental housing or a combination of rental
395 housing and homeownership, an additional 5 percent of the units
396 available for very-low-income persons for a total minimum of 25
397 percent;
398 (b) A private developer without any requirement that a
399 percentage of the units built on the real property be affordable
400 if the purchase price paid by the developer is not less than the
401 appraised value of the property based on its highest and best
402 use, in which case the municipality must use the funds received
403 from the developer to acquire real property on which affordable
404 housing will be built or donate the funds to the local housing
405 trust fund for the purpose of implementing the programs
406 described in ss. 420.907-420.9079; or
407 (c) A nonprofit housing organization, such as a community
408 land trust, housing authority, or community land trust, housing
409 authority, or community redevelopment agency to be used for the
410 production and preservation of permanently affordable housing.
411 (4) The deed restrictions required under paragraph (3)(a)
412 for an affordable housing unit must also prohibit the sale of
413 the unit at a price that exceeds the threshold for housing that
414 is affordable for low-income or moderate-income persons or to a

415 buyer who is not eligible due to his or her income under chapter
416 420. The deed restrictions may allow the affordable housing
417 units created under paragraph (3)(a) to be rented to extremely-
418 low-income, very-low-income, low-income, or moderate-income
419 persons.
420 (5) For purposes of this section, the terms "affordable,"
421 "extremely-low-income persons," "low-income persons," "moderate-
422 income persons," and "very-low-income persons" have the same
423 meaning as in s. 420.0004.
424 Section 5. Subsections (6) and (7) are added to section
425 189.4155, Florida Statutes, to read:
426 189.4155 Activities of special districts; local government
427 comprehensive planning.--
428 (6) Any independent special district created pursuant to
429 chapter 190 is authorized to provide housing and housing
430 assistance for persons whose total annual household income does
431 not exceed 140 percent of the area median income, adjusted for
432 family size.
433 (7) Any independent special district created pursuant to
434 special act or general law, including, but not limited to, this
435 chapter and chapter 298, for the purpose of providing urban
436 infrastructure or services is authorized to provide housing and
437 housing assistance for its employed personnel whose total annual
438 household income does not exceed 140 percent of the area median
439 income, adjusted for family size.
440 Section 6. Subsection (19) is added to section 191.006,
441 Florida Statutes, to read:

442 191.006 General powers.--The district shall have, and the
443 board may exercise by majority vote, the following powers:
444 (19) To provide housing and housing assistance for its
445 employed personnel whose total annual household income does not
446 exceed 140 percent of the area median income, adjusted for
447 family size.
448 Section 7. Subsection (5) is added to section 193.017,
449 Florida Statutes, to read:
450 193.017 Low-income housing tax credit.--Property used for
451 affordable housing which has received a low-income housing tax
452 credit from the Florida Housing Finance Corporation, as
453 authorized by s. 420.5099, shall be assessed under s. 193.011
454 and, consistent with s. 420.5099(5) and (6), pursuant to this
455 section.
456 (5) If a capitalization rate is used to assess just
457 valuation for the affordable housing property, the appraiser
458 shall use a capitalization rate that is comparable to a rate
459 used for nonaffordable market-based properties.
460 Section 8. Section 193.018, Florida Statutes, is created
461 to read:
462 193.018 The Manny Diaz Affordable Housing Property Tax
463 Relief Initiative.--
464 (1) For the purpose of assessing just valuation of
465 affordable housing properties serving persons with income limits
466 defined as extremely low, low, moderate, and very low, as
467 specified in s. 420.0004(8), (10), (11), and (15), the actual
468 rental income from rent-restricted units in such a property
469 shall be recognized by the property appraiser for assessment

470 purposes, and a rental income approach pursuant to s. 193.011(7)
471 shall be used for assessment of the rents for the following
472 affordable housing properties:
473 (a) Property that is funded by the United States
474 Department of Housing and Urban Development under s. 8 of the
475 United States Housing Act of 1937 that is used to provide
476 affordable housing serving eligible persons as defined by s.
477 159.603(7) and elderly persons, extremely-low-income persons,
478 and very-low-income persons as defined by s. 420.0004(7), (8),
479 and (15) and that has undergone financial restructuring as
480 provided in s. 501, Title V, Subtitle A of the Multifamily
481 Assisted Housing Reform and Affordability Act of 1997;
482 (b) Multifamily, farmworker, or elderly rental properties
483 that are funded by the Florida Housing Finance Corporation under
484 ss. 420.5087 and 420.5089 and the State Housing Initiatives
485 Partnership Program under ss. 420.9072 and 420.9075, s. 42 of
486 the Internal Revenue Code, 26 U.S.C. s. 42; the HOME Investment
487 Partnership Program under the Cranston-Gonzalez National
488 Affordable Housing Act, 42 U.S.C. s. 12741 et seq.; or the
489 Federal Home Loan Banks' Affordable Housing Program established
490 pursuant to the Financial Institutions Reform, Recovery and
491 Enforcement Act of 1989, Pub. L. No. 101-73; or
492 (c) Multifamily residential rental properties of 10 or
493 more units that are deed restricted as affordable housing and
494 certified by the local housing agency as having at least 95
495 percent of its units providing affordable housing to extremely-
496 low-income persons, very-low-income persons, low-income persons,

497 and moderate-income persons as defined by s. 420.0004(8), (15),
498 (10), and (11).
499 (2) Properties used for affordable housing which have
500 received a low-income housing tax credit from the Florida
501 Housing Finance Corporation, as authorized by s. 420.5099, shall
502 be assessed with priority consideration given to the rental
503 income approach under s. 193.011(7) and, consistent with s.
504 420.5099(5) and (6), pursuant to this section, the following
505 assumptions shall apply:
506 (a) The tax credits granted and the financing generated by
507 the tax credits may not be considered as income to the property.
508 (b) The actual rental income from rent-restricted units in
509 such a property shall be recognized by the property appraiser as
510 the real rents for assessing just value.
511 (c) Any costs paid for by tax credits and costs paid for
512 by additional financing proceeds received under chapter 420 may
513 not be included in the valuation of the property.
514 (d) If an extended low-income housing agreement is filed
515 in the official public records of the county in which the
516 property is located, the agreement, and any recorded amendment
517 or supplement thereto, shall be considered a land-use regulation
518 and a limitation on the highest and best use of the property
519 during the term of the agreement, amendment, or supplement.
520 Section 9. Section 196.1978, Florida Statutes, is amended
521 to read:
522 196.1978 Affordable housing property exemption.--
523 (1) Property used to provide affordable housing serving
524 eligible persons as defined by s. 159.603(7) and persons meeting

525 income limits specified in s. 420.0004(10)~~(9)~~, (11)~~(10)~~, and
526 (15)~~(14)~~, which property is owned entirely by a nonprofit entity
527 which is qualified as charitable under s. 501(c)(3) of the
528 Internal Revenue Code and which complies with Rev. Proc. 96-32,
529 1996-1 C.B. 717, shall be considered property owned by an exempt
530 entity and used for a charitable purpose, and those portions of
531 the affordable housing property which provide housing to
532 individuals with incomes as defined in s. 420.0004(10)~~(9)~~ and
533 (15)~~(14)~~ shall be exempt from ad valorem taxation to the extent
534 authorized in s. 196.196.
535 (2) For the purposes of this section, ownership entirely
536 by a nonprofit entity is classified as ownership by either:
537 (a) A corporation not for profit; or
538 (b) A Florida limited partnership the sole general partner
539 of which is either a corporation not for profit or a Florida
540 limited liability company or corporation the sole member or
541 shareholder, respectively, of which is a corporation not for
542 profit.
543 (3) All property owned by a nonprofit entity identified in
544 this section shall comply with the criteria for determination of
545 exempt status to be applied by property appraisers on an annual
546 basis as defined in s. 196.195. In order to qualify for exempt
547 status, the nonprofit entity must affirmatively demonstrate to
548 the property appraiser that no part of the subject property, or
549 the sale, lease, or other disposition of the assets of the
550 property, will inure to the benefit of its member, officers,
551 limited liability partners, or any person or firm operating for
552 profit of for a nonexempt purpose. The Legislature intends that

553 any property owned by a limited liability company which is
554 disregarded as an entity for federal income tax purposes
555 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
556 treated as owned by its sole member.
557 Section 10. Paragraphs (o) and (q) of subsection (5) of
558 section 212.08, Florida Statutes, are amended to read:
559 212.08 Sales, rental, use, consumption, distribution, and
560 storage tax; specified exemptions.--The sale at retail, the
561 rental, the use, the consumption, the distribution, and the
562 storage to be used or consumed in this state of the following
563 are hereby specifically exempt from the tax imposed by this
564 chapter.
565 (5) EXEMPTIONS; ACCOUNT OF USE.--
566 (o) Building materials in redevelopment projects.--
567 1. As used in this paragraph, the term:
568 a. "Building materials" means tangible personal property
569 that becomes a component part of a housing project or a mixed-
570 use project.
571 b. "Housing project" means the conversion of an existing
572 manufacturing or industrial building to housing units in an
573 urban high-crime area, enterprise zone, empowerment zone, Front
574 Porch Community, designated brownfield area, or urban infill
575 area and in which the developer agrees to set aside at least 20
576 percent of the housing units in the project for extremely-low-
577 income, low-income, and moderate-income persons or the
578 construction in a designated brownfield area of affordable
579 housing for persons described in s. 420.0004(8) ~~(9)~~, (11) ~~(10)~~, or
580 (15) ~~(14)~~, or in s. 159.603(7).

581 c. "Mixed-use project" means the conversion of an existing
582 manufacturing or industrial building to mixed-use units that
583 include artists' studios, art and entertainment services, or
584 other compatible uses. A mixed-use project must be located in an
585 urban high-crime area, enterprise zone, empowerment zone, Front
586 Porch Community, designated brownfield area, or urban infill
587 area, and the developer must agree to set aside at least 20
588 percent of the square footage of the project for low-income and
589 moderate-income housing.
590 d. "Substantially completed" has the same meaning as
591 provided in s. 192.042(1).
592 2. Building materials used in the construction of a
593 housing project or mixed-use project are exempt from the tax
594 imposed by this chapter upon an affirmative showing to the
595 satisfaction of the department that the requirements of this
596 paragraph have been met. This exemption inures to the owner
597 through a refund of previously paid taxes. To receive this
598 refund, the owner must file an application under oath with the
599 department which includes:
600 a. The name and address of the owner.
601 b. The address and assessment roll parcel number of the
602 project for which a refund is sought.
603 c. A copy of the building permit issued for the project.
604 d. A certification by the local building code inspector
605 that the project is substantially completed.
606 e. A sworn statement, under penalty of perjury, from the
607 general contractor licensed in this state with whom the owner
608 contracted to construct the project, which statement lists the

609 building materials used in the construction of the project and
610 the actual cost thereof, and the amount of sales tax paid on
611 these materials. If a general contractor was not used, the owner
612 shall provide this information in a sworn statement, under
613 penalty of perjury. Copies of invoices evidencing payment of
614 sales tax must be attached to the sworn statement.
615 3. An application for a refund under this paragraph must
616 be submitted to the department within 6 months after the date
617 the project is deemed to be substantially completed by the local
618 building code inspector. Within 30 working days after receipt of
619 the application, the department shall determine if it meets the
620 requirements of this paragraph. A refund approved pursuant to
621 this paragraph shall be made within 30 days after formal
622 approval of the application by the department. The provisions of
623 s. 212.095 do not apply to any refund application made under
624 this paragraph.
625 4. The department shall establish by rule an application
626 form and criteria for establishing eligibility for exemption
627 under this paragraph.
628 5. The exemption shall apply to purchases of materials on
629 or after July 1, 2000.
630 (q) Community contribution tax credit for donations.--
631 1. Authorization.--~~Beginning July 1, 2001,~~ Persons who are
632 registered with the department under s. 212.18 to collect or
633 remit sales or use tax and who make donations to eligible
634 sponsors are eligible for tax credits against their state sales
635 and use tax liabilities as provided in this paragraph:

636 a. The credit shall be computed as 50 percent of the
637 person's approved annual community contribution.~~;~~
638 b. The credit shall be granted as a refund against state
639 sales and use taxes reported on returns and remitted in the 12
640 months preceding the date of application to the department for
641 the credit as required in sub-subparagraph 3.c. If the annual
642 credit is not fully used through such refund because of
643 insufficient tax payments during the applicable 12-month period,
644 the unused amount may be included in an application for a refund
645 made pursuant to sub-subparagraph 3.c. in subsequent years
646 against the total tax payments made for such year. Carryover
647 credits may be applied for a 3-year period without regard to any
648 time limitation that would otherwise apply under s. 215.26.~~;~~
649 c. A person may not receive more than $200,000 in annual
650 tax credits for all approved community contributions made in any
651 one year.~~;~~
652 d. All proposals for the granting of the tax credit
653 require the prior approval of the Office of Tourism, Trade, and
654 Economic Development.~~;~~
655 e. The total amount of tax credits which may be granted
656 for all programs approved under this paragraph, s. 220.183, and
657 s. 624.5105 is $10 ~~$12~~ million annually for projects that
658 provide homeownership opportunities for extremely-low-income
659 persons, as defined in s. 420.004(8), or low-income or very-low-
660 income persons, as defined in s. 420.9071(19) and (28), and $3
661 million annually for all other projects.~~; and~~

662 f. A person who is eligible to receive the credit provided
663 for in this paragraph, s. 220.183, or s. 624.5105 may receive
664 the credit only under the one section of the person's choice.
665 2. Eligibility requirements.--
666 a. A community contribution by a person must be in the
667 following form:
668 (I) Cash or other liquid assets;
669 (II) Real property;
670 (III) Goods or inventory; or
671 (IV) Other physical resources as identified by the Office
672 of Tourism, Trade, and Economic Development.
673 b. All community contributions must be reserved
674 exclusively for use in a project. As used in this sub-
675 subparagraph, the term "project" means any activity undertaken
676 by an eligible sponsor which is designed to construct, improve,
677 or substantially rehabilitate housing that is affordable to
678 extremely-low-income persons, as defined in s. 420.0004(8), or
679 low-income or very-low-income households, as defined in s.
680 420.9071(19) and (28); designed to provide commercial,
681 industrial, or public resources and facilities; or designed to
682 improve entrepreneurial and job-development opportunities for
683 low-income persons. A project may be the investment necessary to
684 increase access to high-speed broadband capability in rural
685 communities with enterprise zones, including projects that
686 result in improvements to communications assets that are owned
687 by a business. A project may include the provision of museum
688 educational programs and materials that are directly related to
689 any project approved between January 1, 1996, and December 31,

690 1999, and located in an enterprise zone designated pursuant to
691 s. 290.0065. This paragraph does not preclude projects that
692 propose to construct or rehabilitate housing for low-income or
693 very-low-income households on scattered sites. With respect to
694 housing, contributions may be used to pay the following eligible
695 low-income and very-low-income housing-related activities:
696 (I) Project development impact and management fees for
697 extremely-low-income, low-income, or very-low-income housing
698 projects;
699 (II) Down payment and closing costs for eligible persons,
700 as defined in s. 420.9071(19) and (28);
701 (III) Administrative costs, including housing counseling
702 and marketing fees, not to exceed 10 percent of the community
703 contribution, directly related to extremely-low-income, low-
704 income, or very-low-income projects; and
705 (IV) Removal of liens recorded against residential
706 property by municipal, county, or special district local
707 governments when satisfaction of the lien is a necessary
708 precedent to the transfer of the property to an eligible person,
709 as defined in s. 420.9071(19) and (28), for the purpose of
710 promoting home ownership. Contributions for lien removal must be
711 received from a nonrelated third party.
712 c. The project must be undertaken by an "eligible
713 sponsor," which includes:
714 (I) A community action program;
715 (II) A nonprofit community-based development organization
716 whose mission is the provision of housing for extremely-low-
717 income, low-income, or very-low-income households or increasing

718 entrepreneurial and job-development opportunities for low-income
719 persons;
720 (III) A neighborhood housing services corporation;
721 (IV) A local housing authority created under chapter 421;
722 (V) A community redevelopment agency created under s.
723 163.356;
724 (VI) The Florida Industrial Development Corporation;
725 (VII) A historic preservation district agency or
726 organization;
727 (VIII) A regional workforce board;
728 (IX) A direct-support organization as provided in s.
729 1009.983;
730 (X) An enterprise zone development agency created under s.
731 290.0056;
732 (XI) A community-based organization incorporated under
733 chapter 617 which is recognized as educational, charitable, or
734 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
735 and whose bylaws and articles of incorporation include
736 affordable housing, economic development~~,~~ or community
737 development as the primary mission of the corporation;
738 (XII) Units of local government;
739 (XIII) Units of state government; or
740 (XIV) Any other agency that the Office of Tourism, Trade,
741 and Economic Development designates by rule.
742
743 In no event may a contributing person have a financial interest
744 in the eligible sponsor.

745 d. The project must be located in an area designated an
746 enterprise zone or a Front Porch Florida Community pursuant to
747 s. 20.18(6), unless the project increases access to high-speed
748 broadband capability for rural communities with enterprise zones
749 but is physically located outside the designated rural zone
750 boundaries. Any project designed to construct or rehabilitate
751 housing for low-income or very-low-income households as defined
752 in s. 420.0971(19) and (28) is exempt from the area requirement
753 of this sub-subparagraph.
754 e.(I) ~~For the first 6 months of the fiscal year, the~~
755 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
756 ~~80 percent of the first $10 million in available annual tax~~
757 ~~credits and 70 percent of any available annual tax credits in~~
758 ~~excess of $10 million for donations made to eligible sponsors~~
759 ~~for projects that provide homeownership opportunities for low-~~
760 ~~income or very-low-income households as defined in s.~~
761 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
762 ~~remain after the first 6 months of the fiscal year, the office~~
763 ~~may approve the balance of these available credits for donations~~
764 ~~made to eligible sponsors for projects other than those that~~
765 ~~provide homeownership opportunities for low-income or very-low-~~
766 ~~income households.~~
767 ~~(II) For the first 6 months of the fiscal year, the office~~
768 ~~shall reserve 20 percent of the first $10 million in available~~
769 ~~annual tax credits and 30 percent of any available annual tax~~
770 ~~credits in excess of $10 million for donations made to eligible~~
771 ~~sponsors for projects other than those that provide~~
772 ~~homeownership opportunities for low-income or very-low-income~~

773 ~~households as defined in s. 420.9071(19) and (28). If any~~
774 ~~reserved annual tax credits remain after the first 6 months of~~
775 ~~the fiscal year, the office may approve the balance of these~~
776 ~~available credits for donations made to eligible sponsors for~~
777 ~~projects that provide homeownership opportunities for low-income~~
778 ~~or very-low-income households.~~
779 ~~(III)~~ If, during the first 10 business days of the state
780 fiscal year, eligible tax credit applications for projects that
781 provide homeownership opportunities for extremely-low-income
782 persons, as defined in s. 420.004(8), or low-income or very-low-
783 income persons, as defined in s. 420.9071(19) and (28), are
784 received for less than the ~~available~~ annual tax credits
785 available for those projects ~~reserved under sub-sub-subparagraph~~
786 ~~(I)~~, the office shall grant tax credits for those applications
787 and shall grant remaining tax credits on a first-come, first-
788 served basis for any subsequent eligible applications received
789 before the end of the ~~first 6 months of the~~ state fiscal year.
790 If, during the first 10 business days of the state fiscal year,
791 eligible tax credit applications for projects that provide
792 homeownership opportunities for extremely-low-income persons, as
793 defined in s. 420.004(8), or low-income or very-low-income
794 persons, as defined in s. 420.9071(19) and (28), are received
795 for more than the ~~available~~ annual tax credits available for
796 those projects ~~reserved under sub-sub-subparagraph (I)~~, the
797 office shall grant the tax credits for those ~~the~~ applications as
798 follows:
799 (A) If tax credit applications submitted for approved
800 projects of an eligible sponsor do not exceed $200,000 in total,

801 the credits shall be granted in full if the tax credit
802 applications are approved~~, subject to sub-sub-subparagraph (I)~~.
803 (B) If tax credit applications submitted for approved
804 projects of an eligible sponsor exceed $200,000 in total, the
805 amount of tax credits granted pursuant to sub-sub-sub-
806 subparagraph (A) shall be subtracted from the amount of
807 available tax credits ~~under sub-sub-subparagraph (I)~~, and the
808 remaining credits shall be granted to each approved tax credit
809 application on a pro rata basis.
810 ~~(C) If, after the first 6 months of the fiscal year,~~
811 ~~additional credits become available under sub-sub-subparagraph~~
812 ~~(II), the office shall grant the tax credits by first granting~~
813 ~~to those who received a pro rata reduction up to the full amount~~
814 ~~of their request and, if there are remaining credits, granting~~
815 ~~credits to those who applied on or after the 11th business day~~
816 ~~of the state fiscal year on a first-come, first-served basis.~~
817 (II) ~~(IV)~~ If, during the first 10 business days of the
818 state fiscal year, eligible tax credit applications for projects
819 other than those that provide homeownership opportunities for
820 extremely-low-income persons, as defined in s. 420.004(8), or
821 low-income or very-low-income persons, as defined in s.
822 420.9071(19) and (28), are received for less than the ~~available~~
823 annual tax credits available for those projects ~~reserved under~~
824 ~~sub-sub-subparagraph (II)~~, the office shall grant tax credits
825 for those applications and shall grant remaining tax credits on
826 a first-come, first-served basis for any subsequent eligible
827 applications received before the end of ~~the first 6 months of~~
828 the state fiscal year. If, during the first 10 business days of

829 the state fiscal year, eligible tax credit applications for
830 projects other than those that provide homeownership
831 opportunities for extremely-low-income persons, as defined in s.
832 420.004(8), or low-income or very-low-income persons, as defined
833 in s. 420.9071(19) and (28), are received for more than the
834 ~~available~~ annual tax credits available for those projects
835 ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant
836 the tax credits for those ~~the~~ applications on a pro rata basis.
837 ~~If, after the first 6 months of the fiscal year, additional~~
838 ~~credits become available under sub-sub-subparagraph (I), the~~
839 ~~office shall grant the tax credits by first granting to those~~
840 ~~who received a pro rata reduction up to the full amount of their~~
841 ~~request and, if there are remaining credits, granting credits to~~
842 ~~those who applied on or after the 11th business day of the state~~
843 ~~fiscal year on a first-come, first-served basis.~~
844 3. Application requirements.--
845 a. Any eligible sponsor seeking to participate in this
846 program must submit a proposal to the Office of Tourism, Trade,
847 and Economic Development which sets forth the name of the
848 sponsor, a description of the project, and the area in which the
849 project is located, together with such supporting information as
850 is prescribed by rule. The proposal must also contain a
851 resolution from the local governmental unit in which the project
852 is located certifying that the project is consistent with local
853 plans and regulations.
854 b. Any person seeking to participate in this program must
855 submit an application for tax credit to the office ~~of Tourism,~~
856 ~~Trade, and Economic Development~~ which sets forth the name of the

857 sponsor, a description of the project, and the type, value, and
858 purpose of the contribution. The sponsor shall verify the terms
859 of the application and indicate its receipt of the contribution,
860 which verification must be in writing and accompany the
861 application for tax credit. The person must submit a separate
862 tax credit application to the office for each individual
863 contribution that it makes to each individual project.
864 c. Any person who has received notification from the
865 office ~~of Tourism, Trade, and Economic Development~~ that a tax
866 credit has been approved must apply to the department to receive
867 the refund. Application must be made on the form prescribed for
868 claiming refunds of sales and use taxes and be accompanied by a
869 copy of the notification. A person may submit only one
870 application for refund to the department within any 12-month
871 period.
872 4. Administration.--
873 a. The Office of Tourism, Trade, and Economic Development
874 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary
875 to administer this paragraph, including rules for the approval
876 or disapproval of proposals by a person.
877 b. The decision of the office ~~of Tourism, Trade, and~~
878 ~~Economic Development~~ must be in writing, and, if approved, the
879 notification shall state the maximum credit allowable to the
880 person. Upon approval, the office shall transmit a copy of the
881 decision to the Department of Revenue.
882 c. The office ~~of Tourism, Trade, and Economic Development~~
883 shall periodically monitor all projects in a manner consistent
884 with available resources to ensure that resources are used in

885 accordance with this paragraph; however, each project must be
886 reviewed at least once every 2 years.
887 d. The office ~~of Tourism, Trade, and Economic Development~~
888 shall, in consultation with the Department of Community Affairs~~,~~
889 ~~the Florida Housing Finance Corporation,~~ and the statewide and
890 regional housing and financial intermediaries, market the
891 availability of the community contribution tax credit program to
892 community-based organizations.
893 5. Expiration.--This paragraph expires June 30, 2015;
894 however, any accrued credit carryover that is unused on that
895 date may be used until the expiration of the 3-year carryover
896 period for such credit.
897 Section 11. Paragraph (c) of subsection (1) and paragraph
898 (b) of subsection (2) of section 220.183, Florida Statutes, are
899 amended to read:
900 220.183 Community contribution tax credit.--
901 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
902 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
903 SPENDING.--
904 (c) The total amount of tax credit which may be granted
905 for all programs approved under this section, s. 212.08(5)(q),
906 and s. 624.5105 is <u>$10</u> ~~$12~~ million annually <u>for projects that</u>
907 <u>provide homeownership opportunities for extremely-low-income</u>
908 <u>persons, as defined in s. 420.004(8), or low-income or very-low-</u>
909 <u>income persons, as defined in s. 420.9071(19) and (28), and $3</u>
910 <u>million annually for all other projects</u>.
911 (2) ELIGIBILITY REQUIREMENTS.--

912 (b)1. All community contributions must be reserved
913 exclusively for use in projects as defined in s. 220.03(1)(t).
914 ~~2. For the first 6 months of the fiscal year, the Office~~
915 ~~of Tourism, Trade, and Economic Development shall reserve 80~~
916 ~~percent of the first $10 million in available annual tax~~
917 ~~credits, and 70 percent of any available annual tax credits in~~
918 ~~excess of $10 million, for donations made to eligible sponsors~~
919 ~~for projects that provide homeownership opportunities for low-~~
920 ~~income or very-low-income households as defined in s.~~
921 ~~420.9071(19) and (28). If any reserved annual tax credits remain~~
922 ~~after the first 6 months of the fiscal year, the office may~~
923 ~~approve the balance of these available credits for donations~~
924 ~~made to eligible sponsors for projects other than those that~~
925 ~~provide homeownership opportunities for low-income or very-low-~~
926 ~~income households.~~
927 ~~3. For the first 6 months of the fiscal year, the office~~
928 ~~shall reserve 20 percent of the first $10 million in available~~
929 ~~annual tax credits, and 30 percent of any available annual tax~~
930 ~~credits in excess of $10 million, for donations made to eligible~~
931 ~~sponsors for projects other than those that provide~~
932 ~~homeownership opportunities for low-income or very-low-income~~
933 ~~households as defined in s. 420.9071(19) and (28). If any~~
934 ~~reserved annual tax credits remain after the first 6 months of~~
935 ~~the fiscal year, the office may approve the balance of these~~
936 ~~available credits for donations made to eligible sponsors for~~
937 ~~projects that provide homeownership opportunities for low-income~~
938 ~~or very-low-income households.~~

939 2.~~4.~~ If, during the first 10 business days of the state
940 fiscal year, eligible tax credit applications for projects that
941 provide homeownership opportunities for extremely-low-income
942 persons, as defined in s. 420.004(8), or low-income or very-low-
943 income persons, as defined in s. 420.9071(19) and (28), are
944 received for less than the ~~available~~ annual tax credits
945 available for those projects ~~reserved under subparagraph 2.~~, the
946 office shall grant tax credits for those applications and shall
947 grant remaining tax credits on a first-come, first-served basis
948 for any subsequent eligible applications received before the end
949 of the ~~first 6 months of the~~ state fiscal year. If, during the
950 first 10 business days of the state fiscal year, eligible tax
951 credit applications for projects that provide homeownership
952 opportunities for extremely-low-income persons, as defined in s.
953 420.004(8), or low-income or very-low-income persons, as defined
954 in s. 420.9071(19) and (28), are received for more than the
955 ~~available~~ annual tax credits available for those projects
956 ~~reserved under subparagraph 2.~~, the office shall grant the tax
957 credits for those ~~such~~ applications as follows:
958 a. If tax credit applications submitted for approved
959 projects of an eligible sponsor do not exceed $200,000 in total,
960 the credit shall be granted in full if the tax credit
961 applications are approved~~, subject to the provisions of~~
962 ~~subparagraph 2~~.
963 b. If tax credit applications submitted for approved
964 projects of an eligible sponsor exceed $200,000 in total, the
965 amount of tax credits granted under sub-subparagraph a. shall be
966 subtracted from the amount of available tax credits ~~under~~

967 ~~subparagraph 2.~~, and the remaining credits shall be granted to
968 each approved tax credit application on a pro rata basis.
969 ~~c. If, after the first 6 months of the fiscal year,~~
970 ~~additional credits become available pursuant to subparagraph 3.,~~
971 ~~the office shall grant the tax credits by first granting to~~
972 ~~those who received a pro rata reduction up to the full amount of~~
973 ~~their request and, if there are remaining credits, granting~~
974 ~~credits to those who applied on or after the 11th business day~~
975 ~~of the state fiscal year on a first-come, first-served basis.~~
976 3.~~5.~~ If, during the first 10 business days of the state
977 fiscal year, eligible tax credit applications for projects other
978 than those that provide homeownership opportunities for
979 extremely-low-income persons, as defined in s. 420.004(8), or
980 low-income or very-low-income persons, as defined in s.
981 420.9071(19) and (28), are received for less than the ~~available~~
982 annual tax credits available for those projects ~~reserved under~~
983 ~~subparagraph 3.~~, the office shall grant tax credits for those
984 applications and shall grant remaining tax credits on a first-
985 come, first-served basis for any subsequent eligible
986 applications received before the end of the ~~first 6 months of~~
987 ~~the~~ state fiscal year. If, during the first 10 business days of
988 the state fiscal year, eligible tax credit applications for
989 projects other than those that provide homeownership
990 opportunities for extremely-low-income persons, as defined in s.
991 420.004(8), or low-income or very-low-income persons, as defined
992 in s. 420.9071(19) and (28), are received for more than the
993 ~~available~~ annual tax credits available for those projects
994 ~~reserved under subparagraph 3.~~, the office shall grant the tax

995 credits for those ~~such~~ applications on a pro rata basis. ~~If,~~
996 ~~after the first 6 months of the fiscal year, additional credits~~
997 ~~become available under subparagraph 2., the office shall grant~~
998 ~~the tax credits by first granting to those who received a pro~~
999 ~~rata reduction up to the full amount of their request and, if~~
1000 ~~there are remaining credits, granting credits to those who~~
1001 ~~applied on or after the 11th business day of the state fiscal~~
1002 ~~year on a first-come, first-served basis.~~
1003 Section 12. Paragraph (f) of subsection (6) of section
1004 253.034, Florida Statutes, is amended to read:
1005 253.034 State-owned lands; uses.--
1006 (6) The Board of Trustees of the Internal Improvement
1007 Trust Fund shall determine which lands, the title to which is
1008 vested in the board, may be surplused. For conservation lands,
1009 the board shall make a determination that the lands are no
1010 longer needed for conservation purposes and may dispose of them
1011 by an affirmative vote of at least three members. In the case of
1012 a land exchange involving the disposition of conservation lands,
1013 the board must determine by an affirmative vote of at least
1014 three members that the exchange will result in a net positive
1015 conservation benefit. For all other lands, the board shall make
1016 a determination that the lands are no longer needed and may
1017 dispose of them by an affirmative vote of at least three
1018 members.
1019 (f)1. In reviewing lands owned by the board, the council
1020 shall consider whether such lands would be more appropriately
1021 owned or managed by the county or other unit of local government
1022 in which the land is located. The council shall recommend to the

1023 board whether a sale, lease, or other conveyance to a local
1024 government would be in the best interests of the state and local
1025 government. The provisions of this paragraph in no way limit the
1026 provisions of ss. 253.111 and 253.115. Such lands shall be
1027 offered to the state, county, or local government for a period
1028 of 30 days. Permittable uses for such surplus lands may include
1029 public schools; public libraries; fire or law enforcement
1030 substations; ~~and~~ governmental, judicial, or recreational
1031 centers; and affordable housing. County or local government
1032 requests for surplus lands shall be expedited throughout the
1033 surplusing process. If the county or local government does not
1034 elect to purchase such lands in accordance with s. 253.111, then
1035 any surplusing determination involving other governmental
1036 agencies shall be made upon the board deciding the best public
1037 use of the lands. Surplus properties in which governmental
1038 agencies have expressed no interest shall then be available for
1039 sale on the private market.
1040 2. Notwithstanding subparagraph 1., any surplus lands that
1041 were acquired by the state prior to 1958 by a gift or other
1042 conveyance for no consideration from a municipality, and which
1043 the department has filed by July 1, 2006, a notice of its intent
1044 to surplus, shall be first offered for reconveyance to such
1045 municipality at no cost, but for the fair market value of any
1046 building or other improvements to the land, unless otherwise
1047 provided in a deed restriction of record. This subparagraph
1048 expires July 1, 2006.
1049 Section 13. Section 253.0341, Florida Statutes, is amended
1050 to read:

1051 253.0341 Surplus of state-owned lands to counties or local
1052 governments.--Counties and local governments may submit
1053 surplusing requests for state-owned lands directly to the board
1054 of trustees. County or local government requests for the state
1055 to surplus conservation or nonconservation lands, whether for
1056 purchase or exchange, shall be expedited throughout the
1057 surplusing process. Property jointly acquired by the state and
1058 other entities shall not be surplused without the consent of all
1059 joint owners.
1060 (1) The decision to surplus state-owned nonconservation
1061 lands may be made by the board without a review of, or a
1062 recommendation on, the request from the Acquisition and
1063 Restoration Council or the Division of State Lands. Such
1064 requests for nonconservation lands shall be considered by the
1065 board within 60 days of the board's receipt of the request.
1066 (2) County or local government requests for the surplusing
1067 of state-owned conservation lands are subject to review of, and
1068 recommendation on, the request to the board by the Acquisition
1069 and Restoration Council. Requests to surplus conservation lands
1070 shall be considered by the board within 120 days of the board's
1071 receipt of the request.
1072 (3) A local government may request that state lands be
1073 specifically declared surplus lands for the purpose of providing
1074 affordable housing. The request shall comply with the
1075 requirements of subsection (1) if the lands are nonconservation
1076 lands or subsection (2) if the lands are conservation lands.
1077 Surplus lands that are conveyed to a local government for

1078 affordable housing shall be disposed of by the local government
1079 under the provisions of s. 125.379 or s. 166.0451.
1080 Section 14. Section 295.16, Florida Statutes, is amended
1081 to read:
1082 295.16 Disabled veterans exempt from certain license or
1083 permit fee.--No totally and permanently disabled veteran who is
1084 a resident of Florida and honorably discharged from the Armed
1085 Forces, who has been issued a valid identification card by the
1086 Department of Veterans' Affairs in accordance with s. 295.17 or
1087 has been determined by the United States Department of Veterans
1088 Affairs or its predecessor to have a service-connected 100-
1089 percent disability rating for compensation, or who has been
1090 determined to have a service-connected disability rating of 100
1091 percent and is in receipt of disability retirement pay from any
1092 branch of the uniformed armed services, shall be required to pay
1093 any license or permit fee, by whatever name known, to any county
1094 or municipality in order to make improvements upon a dwelling
1095 ~~mobile home~~ owned by the veteran which is used as the veteran's
1096 residence, provided such improvements are limited to ramps,
1097 widening of doors, and similar improvements for the purpose of
1098 making the dwelling ~~mobile home~~ habitable for veterans confined
1099 to wheelchairs.
1100 Section 15. Paragraphs (b) and (e) of subsection (19) of
1101 section 380.06, Florida Statutes, are amended to read:
1102 380.06 Developments of regional impact.--
1103 (19) SUBSTANTIAL DEVIATIONS.--
1104 (b) Any proposed change to a previously approved
1105 development of regional impact or development order condition

1106 which, either individually or cumulatively with other changes,
1107 exceeds any of the following criteria shall constitute a
1108 substantial deviation and shall cause the development to be
1109 subject to further development-of-regional-impact review without
1110 the necessity for a finding of same by the local government:
1111 1. An increase in the number of parking spaces at an
1112 attraction or recreational facility by 5 percent or 300 spaces,
1113 whichever is greater, or an increase in the number of spectators
1114 that may be accommodated at such a facility by 5 percent or
1115 1,000 spectators, whichever is greater.
1116 2. A new runway, a new terminal facility, a 25-percent
1117 lengthening of an existing runway, or a 25-percent increase in
1118 the number of gates of an existing terminal, but only if the
1119 increase adds at least three additional gates.
1120 3. An increase in the number of hospital beds by 5 percent
1121 or 60 beds, whichever is greater.
1122 4. An increase in industrial development area by 5 percent
1123 or 32 acres, whichever is greater.
1124 5. An increase in the average annual acreage mined by 5
1125 percent or 10 acres, whichever is greater, or an increase in the
1126 average daily water consumption by a mining operation by 5
1127 percent or 300,000 gallons, whichever is greater. An increase in
1128 the size of the mine by 5 percent or 750 acres, whichever is
1129 less. An increase in the size of a heavy mineral mine as defined
1130 in s. 378.403(7) will only constitute a substantial deviation if
1131 the average annual acreage mined is more than 500 acres and
1132 consumes more than 3 million gallons of water per day.

1133 6. An increase in land area for office development by 5
1134 percent or an increase of gross floor area of office development
1135 by 5 percent or 60,000 gross square feet, whichever is greater.
1136 7. An increase in the storage capacity for chemical or
1137 petroleum storage facilities by 5 percent, 20,000 barrels, or 7
1138 million pounds, whichever is greater.
1139 8. An increase of development at a waterport of wet
1140 storage for 20 watercraft, dry storage for 30 watercraft, or
1141 wet/dry storage for 60 watercraft in an area identified in the
1142 state marina siting plan as an appropriate site for additional
1143 waterport development or a 5-percent increase in watercraft
1144 storage capacity, whichever is greater.
1145 9. An increase in the number of dwelling units by 5
1146 percent or 50 dwelling units, whichever is greater.
1147 10. An increase in the number of dwelling units by 15
1148 percent or 100 units, whichever is greater, provided that 20
1149 percent of the increase in the number of dwelling units is
1150 dedicated to the construction of workforce housing. For purposes
1151 of this subparagraph, the term "workforce housing" means housing
1152 that will be made permanently affordable to a person who earns
1153 less than 140 percent of the area median income, as provided in
1154 a recorded land use restriction agreement.
1155 11.~~10.~~ An increase in commercial development by 50,000
1156 square feet of gross floor area or of parking spaces provided
1157 for customers for 300 cars or a 5-percent increase of either of
1158 these, whichever is greater.
1159 12.~~11.~~ An increase in hotel or motel facility units by 5
1160 percent or 75 units, whichever is greater.

1161 13.~~12.~~ An increase in a recreational vehicle park area by
1162 5 percent or 100 vehicle spaces, whichever is less.
1163 14.~~13.~~ A decrease in the area set aside for open space of
1164 5 percent or 20 acres, whichever is less.
1165 15.~~14.~~ A proposed increase to an approved multiuse
1166 development of regional impact where the sum of the increases of
1167 each land use as a percentage of the applicable substantial
1168 deviation criteria is equal to or exceeds 100 percent. The
1169 percentage of any decrease in the amount of open space shall be
1170 treated as an increase for purposes of determining when 100
1171 percent has been reached or exceeded.
1172 16.~~15.~~ A 15-percent increase in the number of external
1173 vehicle trips generated by the development above that which was
1174 projected during the original development-of-regional-impact
1175 review.
1176 17.~~16.~~ Any change which would result in development of any
1177 area which was specifically set aside in the application for
1178 development approval or in the development order for
1179 preservation or special protection of endangered or threatened
1180 plants or animals designated as endangered, threatened, or
1181 species of special concern and their habitat, primary dunes, or
1182 archaeological and historical sites designated as significant by
1183 the Division of Historical Resources of the Department of State.
1184 The further refinement of such areas by survey shall be
1185 considered under sub-subparagraph (e)5.b.
1186
1187 The substantial deviation numerical standards in subparagraphs
1188 4., 6., 10., 11., and 15. ~~14.~~, excluding residential uses, and

1189 16. ~~15.~~, are increased by 100 percent for a project certified
1190 under s. 403.973 which creates jobs and meets criteria
1191 established by the Office of Tourism, Trade, and Economic
1192 Development as to its impact on an area's economy, employment,
1193 and prevailing wage and skill levels. The substantial deviation
1194 numerical standards in subparagraphs 4., 6., 9., 10., 11., 12.,
1195 and 15. ~~14.~~ are increased by 50 percent for a project located
1196 wholly within an urban infill and redevelopment area designated
1197 on the applicable adopted local comprehensive plan future land
1198 use map and not located within the coastal high hazard area.
1199 (e)1. Except for a development order rendered pursuant to
1200 subsection (22) or subsection (25), a proposed change to a
1201 development order that individually or cumulatively with any
1202 previous change is less than any numerical criterion contained
1203 in subparagraphs (b)1.-16. ~~(b)1.-15.~~ and does not exceed any
1204 other criterion, or that involves an extension of the buildout
1205 date of a development, or any phase thereof, of less than 5
1206 years is not subject to the public hearing requirements of
1207 subparagraph (f)3., and is not subject to a determination
1208 pursuant to subparagraph (f)5. Notice of the proposed change
1209 shall be made to the regional planning council and the state
1210 land planning agency. Such notice shall include a description of
1211 previous individual changes made to the development, including
1212 changes previously approved by the local government, and shall
1213 include appropriate amendments to the development order.
1214 2. The following changes, individually or cumulatively
1215 with any previous changes, are not substantial deviations:

1216 a. Changes in the name of the project, developer, owner,
1217 or monitoring official.
1218 b. Changes to a setback that do not affect noise buffers,
1219 environmental protection or mitigation areas, or archaeological
1220 or historical resources.
1221 c. Changes to minimum lot sizes.
1222 d. Changes in the configuration of internal roads that do
1223 not affect external access points.
1224 e. Changes to the building design or orientation that stay
1225 approximately within the approved area designated for such
1226 building and parking lot, and which do not affect historical
1227 buildings designated as significant by the Division of
1228 Historical Resources of the Department of State.
1229 f. Changes to increase the acreage in the development,
1230 provided that no development is proposed on the acreage to be
1231 added.
1232 g. Changes to eliminate an approved land use, provided
1233 that there are no additional regional impacts.
1234 h. Changes required to conform to permits approved by any
1235 federal, state, or regional permitting agency, provided that
1236 these changes do not create additional regional impacts.
1237 i. Any renovation or redevelopment of development within a
1238 previously approved development of regional impact which does
1239 not change land use or increase density or intensity of use.
1240 j. Any other change which the state land planning agency
1241 agrees in writing is similar in nature, impact, or character to
1242 the changes enumerated in sub-subparagraphs a.-i. and which does
1243 not create the likelihood of any additional regional impact.

1244
1245 This subsection does not require a development order amendment
1246 for any change listed in sub-subparagraphs a.-j. unless such
1247 issue is addressed either in the existing development order or
1248 in the application for development approval, but, in the case of
1249 the application, only if, and in the manner in which, the
1250 application is incorporated in the development order.
1251 3. Except for the change authorized by sub-subparagraph
1252 2.f., any addition of land not previously reviewed or any change
1253 not specified in paragraph (b) or paragraph (c) shall be
1254 presumed to create a substantial deviation. This presumption may
1255 be rebutted by clear and convincing evidence.
1256 4. Any submittal of a proposed change to a previously
1257 approved development shall include a description of individual
1258 changes previously made to the development, including changes
1259 previously approved by the local government. The local
1260 government shall consider the previous and current proposed
1261 changes in deciding whether such changes cumulatively constitute
1262 a substantial deviation requiring further development-of-
1263 regional-impact review.
1264 5. The following changes to an approved development of
1265 regional impact shall be presumed to create a substantial
1266 deviation. Such presumption may be rebutted by clear and
1267 convincing evidence.
1268 a. A change proposed for 15 percent or more of the acreage
1269 to a land use not previously approved in the development order.
1270 Changes of less than 15 percent shall be presumed not to create
1271 a substantial deviation.

1272 b. Except for the types of uses listed in subparagraph
1273 (b)17. ~~(b)16.~~, any change which would result in the development
1274 of any area which was specifically set aside in the application
1275 for development approval or in the development order for
1276 preservation, buffers, or special protection, including habitat
1277 for plant and animal species, archaeological and historical
1278 sites, dunes, and other special areas.
1279 c. Notwithstanding any provision of paragraph (b) to the
1280 contrary, a proposed change consisting of simultaneous increases
1281 and decreases of at least two of the uses within an authorized
1282 multiuse development of regional impact which was originally
1283 approved with three or more uses specified in s. 380.0651(3)(c),
1284 (d), (f), and (g) and residential use.
1285 Section 16. Paragraph (k) of subsection (3) of section
1286 380.0651, Florida Statutes, is redesignated as paragraph (l),
1287 and a new paragraph (k) is added to that subsection to read:
1288 380.0651 Statewide guidelines and standards.--
1289 (3) The following statewide guidelines and standards shall
1290 be applied in the manner described in s. 380.06(2) to determine
1291 whether the following developments shall be required to undergo
1292 development-of-regional-impact review:
1293 (k) Workforce housing.--The applicable guidelines for
1294 residential development and the residential component for
1295 multiuse development shall be increased by 20 percent where the
1296 developer demonstrates that at least 15 percent of the
1297 residential dwelling units will be dedicated to workforce
1298 housing. For purposes of this subparagraph, the term "workforce
1299 housing" means housing that will be made permanently affordable

1300 to a person who earns less than 140 percent of the area median
1301 income, as provided in a recorded land use restriction
1302 agreement.
1303 Section 17. Section 420.0004, Florida Statutes, is amended
1304 to read:
1305 420.0004 Definitions.--As used in this part, unless the
1306 context otherwise indicates:
1307 (1) "Adjusted for family size" means adjusted in a manner
1308 which results in an income eligibility level which is lower for
1309 households with fewer than four people, or higher for households
1310 with more than four people, than the base income eligibility
1311 determined as provided in subsection (10) ~~(9)~~, subsection (11)
1312 ~~(10)~~, or subsection (15) ~~(14)~~, based upon a formula as
1313 established by the United States Department of Housing and Urban
1314 Development.
1315 (2) "Adjusted gross income" means all wages, assets,
1316 regular cash or noncash contributions or gifts from persons
1317 outside the household, and such other resources and benefits as
1318 may be determined to be income by the United States Department
1319 of Housing and Urban Development, adjusted for family size, less
1320 deductions allowable under s. 62 of the Internal Revenue Code.
1321 (3) "Affordable" means that monthly rents or monthly
1322 mortgage payments including taxes, insurance, and utilities do
1323 not exceed 30 percent of that amount which represents the
1324 percentage of the median adjusted gross annual income for the
1325 households as indicated in subsection (8), subsection (10) ~~(9)~~,
1326 subsection (11) ~~(10)~~, or subsection (15) ~~(14)~~.

1327 (4) "Corporation" means the Florida Housing Finance
1328 Corporation.
1329 (5) "Community-based organization" or "nonprofit
1330 organization" means a private corporation organized under
1331 chapter 617 to assist in the provision of housing and related
1332 services on a not-for-profit basis and which is acceptable to
1333 federal and state agencies and financial institutions as a
1334 sponsor of low-income housing.
1335 (6) "Department" means the Department of Community
1336 Affairs.
1337 (7) "Elderly" describes persons 62 years of age or older.
1338 (8) "Extremely-low-income persons" means one or more
1339 natural persons or a family whose total annual household income
1340 does not exceed 30 percent of the median annual adjusted gross
1341 income for households within the state. The Florida Housing
1342 Finance Corporation may adjust this amount annually by rule to
1343 provide that in lower income counties, extremely-low-income may
1344 exceed 30 percent of area median income and that in higher
1345 income counties, extremely-low-income may be less than 30
1346 percent of area median income.
1347 (9) ~~(8)~~ "Local public body" means any county, municipality,
1348 or other political subdivision, or any housing authority as
1349 provided by chapter 421, which is eligible to sponsor or develop
1350 housing for farmworkers and very-low-income and low-income
1351 persons within its jurisdiction.
1352 (10) ~~(9)~~ "Low-income persons" means one or more natural
1353 persons or a family, the total annual adjusted gross household
1354 income of which does not exceed 80 percent of the median annual

1355 adjusted gross income for households within the state, or 80
1356 percent of the median annual adjusted gross income for
1357 households within the metropolitan statistical area (MSA) or, if
1358 not within an MSA, within the county in which the person or
1359 family resides, whichever is greater.
1360 (11) ~~(10)~~ "Moderate-income persons" means one or more
1361 natural persons or a family, the total annual adjusted gross
1362 household income of which is less than 120 percent of the median
1363 annual adjusted gross income for households within the state, or
1364 120 percent of the median annual adjusted gross income for
1365 households within the metropolitan statistical area (MSA) or, if
1366 not within an MSA, within the county in which the person or
1367 family resides, whichever is greater.
1368 (12) ~~(11)~~ "Student" means any person not living with his or
1369 her parent or guardian who is eligible to be claimed by his or
1370 her parent or guardian as a dependent under the federal income
1371 tax code and who is enrolled on at least a half-time basis in a
1372 secondary school, career center, community college, college, or
1373 university.
1374 (13) ~~(12)~~ "Substandard" means:
1375 (a) Any unit lacking complete plumbing or sanitary
1376 facilities for the exclusive use of the occupants;
1377 (b) A unit which is in violation of one or more major
1378 sections of an applicable housing code and where such violation
1379 poses a serious threat to the health of the occupant; or
1380 (c) A unit that has been declared unfit for human
1381 habitation but that could be rehabilitated for less than 50
1382 percent of the property value.

1383 (14) ~~(13)~~ "Substantial rehabilitation" means repair or
1384 restoration of a dwelling unit where the value of such repair or
1385 restoration exceeds 40 percent of the value of the dwelling.
1386 (15) ~~(14)~~ "Very-low-income persons" means one or more
1387 natural persons or a family, not including students, the total
1388 annual adjusted gross household income of which does not exceed
1389 50 percent of the median annual adjusted gross income for
1390 households within the state, or 50 percent of the median annual
1391 adjusted gross income for households within the metropolitan
1392 statistical area (MSA) or, if not within an MSA, within the
1393 county in which the person or family resides, whichever is
1394 greater.
1395 Section 18. Sections 420.37 and 420.530, Florida Statutes,
1396 are repealed.
1397 Section 19. Subsection (18) of section 420.503, Florida
1398 Statutes, is amended to read:
1399 420.503 Definitions.--As used in this part, the term:
1400 (18) (a) "Farmworker" means a laborer who is employed on a
1401 seasonal, temporary, or permanent basis in the planting,
1402 cultivating, harvesting, or processing of agricultural or
1403 aquacultural products and who derived at least 50 percent of her
1404 or his income in the immediately preceding 12 months from such
1405 employment.
1406 (b) "Farmworker" ~~also~~ includes a person who has retired as
1407 a laborer due to age, disability, or illness. In order to be
1408 considered retired as a farmworker due to age under this part, a
1409 person must be 50 years of age or older and must have been
1410 employed for a minimum of 5 years as a farmworker before

1411 retirement. In order to be considered retired as a farmworker
1412 due to disability or illness, a person must:
1413 1.~~(a)~~ Establish medically that she or he is unable to be
1414 employed as a farmworker due to that disability or illness.
1415 2.~~(b)~~ Establish that she or he was previously employed as
1416 a farmworker.
1417 (c) Notwithstanding paragraphs (a) and (b), when
1418 corporation-administered funds are used in conjunction with
1419 United States Department of Agriculture Rural Development funds,
1420 the term "farmworker" may mean a laborer who meets, at a
1421 minimum, the definition of "domestic farm laborer" as found in 7
1422 C.F.R. s. 3560.11, as amended. The corporation may establish
1423 additional criteria by rule.
1424 Section 20. Section 420.5061, Florida Statutes, is amended
1425 to read:
1426 420.5061 Transfer of agency assets and
1427 liabilities.--Effective January 1, 1998, all assets and
1428 liabilities and rights and obligations, including any
1429 outstanding contractual obligations, of the agency shall be
1430 transferred to the corporation as legal successor in all
1431 respects to the agency. The corporation shall thereupon become
1432 obligated to the same extent as the agency under any existing
1433 agreements and be entitled to any rights and remedies previously
1434 afforded the agency by law or contract, including specifically
1435 the rights of the agency under chapter 201 and part VI of
1436 chapter 159. The corporation is a state agency for purposes of
1437 s. 159.807(4)(a). Effective January 1, 1998, all references
1438 under Florida law to the agency are deemed to mean the

1439 corporation. The corporation shall transfer to the General
1440 Revenue Fund an amount which otherwise would have been deducted
1441 as a service charge pursuant to s. 215.20(1) if the Florida
1442 Housing Finance Corporation Fund established by s. 420.508(5),
1443 the State Apartment Incentive Loan Fund established by s.
1444 420.5087(7), the Florida Homeownership Assistance Fund
1445 established by s. 420.5088(4) ~~(5)~~, the HOME Investment
1446 Partnership Fund established by s. 420.5089(1), and the Housing
1447 Predevelopment Loan Fund established by s. 420.525(1) were each
1448 trust funds. For purposes of s. 112.313, the corporation is
1449 deemed to be a continuation of the agency, and the provisions
1450 thereof are deemed to apply as if the same entity remained in
1451 place. Any employees of the agency and agency board members
1452 covered by s. 112.313(9)(a)6. shall continue to be entitled to
1453 the exemption in that subparagraph, notwithstanding being hired
1454 by the corporation or appointed as board members of the
1455 corporation. Effective January 1, 1998, all state property in
1456 use by the agency shall be transferred to and become the
1457 property of the corporation.
1458 Section 21. Subsections (22), (23), and (40) of section
1459 420.507, Florida Statutes, are amended, and subsections (44) and
1460 (45) are added to that section, to read:
1461 420.507 Powers of the corporation.--The corporation shall
1462 have all the powers necessary or convenient to carry out and
1463 effectuate the purposes and provisions of this part, including
1464 the following powers which are in addition to all other powers
1465 granted by other provisions of this part:

1466 (22) To develop and administer the State Apartment
1467 Incentive Loan Program. In developing and administering that
1468 program, the corporation may:
1469 (a) Make first, second, and other subordinated mortgage
1470 loans including variable or fixed rate loans subject to
1471 contingent interest for all State Apartment Incentive Loans
1472 provided for in this chapter based upon available cash flow of
1473 the projects. The corporation shall make loans exceeding 25
1474 percent of project cost available only to nonprofit
1475 organizations and public bodies which are able to secure grants,
1476 donations of land, or contributions from other sources and to
1477 projects meeting the criteria of subparagraph 1. Mortgage loans
1478 shall be made available at the following rates of interest:
1479 1. Zero to 3 percent interest for sponsors of projects
1480 that set aside at least ~~maintain an~~ 80 percent ~~occupancy~~ of
1481 their total units for residents qualifying as farmworkers as
1482 defined in this part ~~s. 420.503(18)~~, or commercial fishing
1483 workers as defined in this part ~~s. 420.503(5)~~, or the homeless
1484 as defined in s. 420.621(4) over the life of the loan.
1485 2. The board may set the interest rate based on the pro
1486 rata share of units set aside for homeless residents if the
1487 total of such units is less than 80 percent of the units in the
1488 borrower's project.
1489 3. One ~~Three~~ to 9 percent interest for sponsors of
1490 projects targeted at populations other than farmworkers,
1491 commercial fishing workers, and the homeless.
1492 (b) Make loans exceeding 25 percent of project cost when
1493 the project serves extremely-low-income persons.

1494 (c) Forgive indebtedness for a share of the loan
1495 attributable to the units in a project reserved for extremely-
1496 low-income persons.
1497 (d) ~~(b)~~ Geographically and demographically target the
1498 utilization of loans.
1499 (e) ~~(c)~~ Underwrite credit, and reject projects which do not
1500 meet the established standards of the corporation.
1501 (f) ~~(d)~~ Negotiate with governing bodies within the state
1502 after a loan has been awarded to obtain local government
1503 contributions.
1504 (g) ~~(e)~~ Inspect any records of a sponsor at any time during
1505 the life of the loan or the agreed period for maintaining the
1506 provisions of s. 420.5087.
1507 (h) ~~(f)~~ Establish, by rule, the procedure for evaluating,
1508 scoring, and competitively ranking all applications based on the
1509 criteria set forth in s. 420.5087(6)(c); determining actual loan
1510 amounts; making and servicing loans; and exercising the powers
1511 authorized in this subsection.
1512 (i) ~~(g)~~ Establish a loan loss insurance reserve to be used
1513 to protect the outstanding program investment in case of a
1514 default, deed in lieu of foreclosure, or foreclosure of a
1515 program loan.
1516 (23) To develop and administer the Florida Homeownership
1517 Assistance Program. In developing and administering the program,
1518 the corporation may:
1519 (a)1. Make subordinated loans to eligible borrowers for
1520 down payments or closing costs related to the purchase of the
1521 borrower's primary residence.

1522 2. Make permanent loans to eligible borrowers related to
1523 the purchase of the borrower's primary residence.
1524 3. Make subordinated loans to nonprofit sponsors or
1525 developers of housing for purchase of property, for
1526 construction, or for financing of housing to be offered for sale
1527 to eligible borrowers as a primary residence at an affordable
1528 price.
1529 (b) Establish a loan loss insurance reserve to supplement
1530 existing sources of mortgage insurance with appropriated funds.
1531 (c) Geographically and demographically target the
1532 utilization of loans.
1533 (d) Defer repayment of loans for the term of the first
1534 mortgage.
1535 (e) Establish flexible terms for loans with an interest
1536 rate not to exceed 3 percent per annum and which are
1537 nonamortizing for the term of the first mortgage.
1538 (f) Require repayment of loans upon sale, transfer,
1539 refinancing, or rental of secured property, unless otherwise
1540 approved by the corporation.
1541 (g) Accelerate a loan for monetary default, for failure to
1542 provide the benefits of the loans to eligible borrowers, or for
1543 violation of any other restriction placed upon the loan.
1544 (h) Adopt rules for the program and exercise the powers
1545 authorized in this subsection.
1546 (40) To establish subsidiary business entities
1547 ~~corporations~~ for the purpose of taking title to and managing and
1548 disposing of property acquired by the corporation. Such
1549 subsidiary business entities ~~corporations~~ shall be public

1550 business entities ~~corporations~~ wholly owned by the corporation;
1551 shall be entitled to own, mortgage, and sell property on the
1552 same basis as the corporation; and shall be deemed business
1553 entities ~~corporations~~ primarily acting as an agent ~~agents~~ of the
1554 state, within the meaning of s. 768.28, on the same basis as the
1555 corporation. Any subsidiary business entity created by the
1556 corporation shall be subject to chapters 119, 120, and 286 to
1557 the same extent as the corporation. The subsidiary business
1558 entities shall have authority to make rules necessary to conduct
1559 business and to carry out the purposes of this subsection.
1560 (44) To adopt rules for the intervention and negotiation
1561 of terms or other actions necessary to further program goals or
1562 avoid default of a program loan. Such rules must consider fiscal
1563 program goals and the preservation or advancement of affordable
1564 housing for the state.
1565 (45) To establish by rule requirements for periodic
1566 reporting of data, including, but not limited to, financial
1567 data, housing market data, detailed economic and physical
1568 occupancy on multifamily projects, and demographic data on all
1569 housing financed through corporation programs and for
1570 participation in a housing locator system.
1571 Section 22. Subsections (1), (3), (5), and (6) of section
1572 420.5087, Florida Statutes, are amended to read:
1573 420.5087 State Apartment Incentive Loan Program.--There is
1574 hereby created the State Apartment Incentive Loan Program for
1575 the purpose of providing first, second, or other subordinated
1576 mortgage loans or loan guarantees to sponsors, including for-

1577 profit, nonprofit, and public entities, to provide housing
1578 affordable to very-low-income persons.
1579 (1) Program funds shall be distributed over successive 3-
1580 year periods in a manner that meets the need and demand for
1581 very-low-income housing throughout the state. That need and
1582 demand must be determined by using the most recent statewide
1583 low-income rental housing market studies available at the
1584 beginning of each 3-year period. However, at least 10 percent of
1585 the program funds distributed during a 3-year period must be
1586 allocated to each of the following categories of counties, as
1587 determined by using the population statistics published in the
1588 most recent edition of the Florida Statistical Abstract:
1589 (a) Counties that have a population of 825,000 or more.
1590 ~~more than 500,000 people;~~
1591 (b) Counties that have a population of more than ~~between~~
1592 100,000 but less than 825,000. ~~and 500,000 people; and~~
1593 (c) Counties that have a population of 100,000 or less.
1594
1595 Any increase in funding required to reach the 10-percent minimum
1596 shall be taken from the county category that has the largest
1597 allocation. The corporation shall adopt rules which establish an
1598 equitable process for distributing any portion of the 10 percent
1599 of program funds allocated to the county categories specified in
1600 this subsection which remains unallocated at the end of a 3-year
1601 period. Counties that have a population of 100,000 or less shall
1602 be given preference under these rules.
1603 (3) During the first 6 months of loan or loan guarantee
1604 availability, program funds shall be reserved for use by

1605 sponsors who provide the housing set-aside required in
1606 subsection (2) for the tenant groups designated in this
1607 subsection. The reservation of funds to each of these groups
1608 shall be determined using the most recent statewide very-low-
1609 income rental housing market study available at the time of
1610 publication of each notice of fund availability required by
1611 paragraph (6)(b). The reservation of funds within each notice of
1612 fund availability to the tenant groups in paragraphs (a), (b),
1613 and (d) may not be less than 10 percent of the funds available
1614 at that time. Any increase in funding required to reach the 10-
1615 percent minimum shall be taken from the tenant group that has
1616 the largest reservation. The reservation of funds within each
1617 notice of fund availability to the tenant group in paragraph (c)
1618 may not be less than 5 percent of the funds available at that
1619 time. The tenant groups are:
1620 (a) Commercial fishing workers and farmworkers;
1621 (b) Families;
1622 (c) Persons who are homeless; and
1623 (d) Elderly persons. Ten percent of the amount reserved
1624 for the elderly shall be reserved to provide loans to sponsors
1625 of housing for the elderly for the purpose of making building
1626 preservation, health, or sanitation repairs or improvements
1627 which are required by federal, state, or local regulation or
1628 code, or lifesafety or security-related repairs or improvements
1629 to such housing. Such a loan may not exceed $750,000 per housing
1630 community for the elderly. In order to receive the loan, the
1631 sponsor of the housing community must make a commitment to match
1632 at least 5 ~~15~~ percent of the loan amount to pay the cost of such

1633 repair or improvement. The corporation shall establish the rate
1634 of interest on the loan, which may not exceed 3 percent, and the
1635 term of the loan, which may not exceed 15 years; however, if the
1636 lien of the corporation's encumbrance is subordinate to the lien
1637 of another mortgagee, then the term may be made coterminous with
1638 the longest term of the superior lien. The term of the loan
1639 shall be established on the basis of a credit analysis of the
1640 applicant. The corporation shall establish, by rule, the
1641 procedure and criteria for receiving, evaluating, and
1642 competitively ranking all applications for loans under this
1643 paragraph. A loan application must include evidence of the first
1644 mortgagee's having reviewed and approved the sponsor's intent to
1645 apply for a loan. A nonprofit organization or sponsor may not
1646 use the proceeds of the loan to pay for administrative costs,
1647 routine maintenance, or new construction.
1648 (5) The amount of the mortgage provided under this program
1649 combined with any other mortgage in a superior position shall be
1650 less than the value of the project without the housing set-aside
1651 required by subsection (2). However, the corporation may waive
1652 this requirement for projects in rural areas or urban infill
1653 areas which have market rate rents that are less than the
1654 allowable rents pursuant to applicable state and federal
1655 guidelines, and for projects which reserve units for extremely-
1656 low-income persons. In no event shall the mortgage provided
1657 under this program combined with any other mortgage in a
1658 superior position exceed total project cost.
1659 (6) On all state apartment incentive loans, except loans
1660 made to housing communities for the elderly to provide for

1661 lifesafety, building preservation, health, sanitation, or
1662 security-related repairs or improvements, the following
1663 provisions shall apply:
1664 (a) The corporation shall establish two interest rates in
1665 accordance with s. 420.507(22)(a)1. and 3. ~~2.~~
1666 (b) The corporation shall publish a notice of fund
1667 availability in a publication of general circulation throughout
1668 the state. Such notice shall be published at least 60 days prior
1669 to the application deadline and shall provide notice of the
1670 temporary reservations of funds established in subsection (3).
1671 (c) The corporation shall provide by rule for the
1672 establishment of a review committee composed of the department
1673 and corporation staff and shall establish by rule a scoring
1674 system for evaluation and competitive ranking of applications
1675 submitted in this program, including, but not limited to, the
1676 following criteria:
1677 1. Tenant income and demographic targeting objectives of
1678 the corporation.
1679 2. Targeting objectives of the corporation which will
1680 ensure an equitable distribution of loans between rural and
1681 urban areas.
1682 3. Sponsor's agreement to reserve the units for persons or
1683 families who have incomes below 50 percent of the state or local
1684 median income, whichever is higher, for a time period to exceed
1685 the minimum required by federal law or the provisions of this
1686 part.
1687 4. Sponsor's agreement to reserve more than:

1688 a. Twenty percent of the units in the project for persons
1689 or families who have incomes that do not exceed 50 percent of
1690 the state or local median income, whichever is higher; or
1691 b. Forty percent of the units in the project for persons
1692 or families who have incomes that do not exceed 60 percent of
1693 the state or local median income, whichever is higher, without
1694 requiring a greater amount of the loans as provided in this
1695 section.
1696 5. Provision for tenant counseling.
1697 6. Sponsor's agreement to accept rental assistance
1698 certificates or vouchers as payment for rent~~; however, when~~
1699 ~~certificates or vouchers are accepted as payment for rent on~~
1700 ~~units set aside pursuant to subsection (2), the benefit must be~~
1701 ~~divided between the corporation and the sponsor, as provided by~~
1702 ~~corporation rule~~.
1703 7. Projects requiring the least amount of a state
1704 apartment incentive loan compared to overall project cost except
1705 that the share of the loan attributable to units serving
1706 extremely-low-income persons shall be excluded from this
1707 requirement.
1708 8. Local government contributions and local government
1709 comprehensive planning and activities that promote affordable
1710 housing.
1711 9. Project feasibility.
1712 10. Economic viability of the project.
1713 11. Commitment of first mortgage financing.
1714 12. Sponsor's prior experience.
1715 13. Sponsor's ability to proceed with construction.

1716 14. Projects that directly implement or assist welfare-to-
1717 work transitioning.
1718 15. Projects that reserve units for extremely-low-income
1719 persons.
1720 (d) The corporation may reject any and all applications.
1721 (e) The corporation may approve and reject applications
1722 for the purpose of achieving geographic targeting.
1723 (f) The review committee established by corporation rule
1724 pursuant to this subsection shall make recommendations to the
1725 board of directors of the corporation regarding program
1726 participation under the State Apartment Incentive Loan Program.
1727 The corporation board shall make the final ranking and the
1728 decisions regarding which applicants shall become program
1729 participants based on the scores received in the competitive
1730 ranking, further review of applications, and the recommendations
1731 of the review committee. The corporation board shall approve or
1732 reject applications for loans and shall determine the tentative
1733 loan amount available to each applicant selected for
1734 participation in the program. The actual loan amount shall be
1735 determined pursuant to rule adopted pursuant to s.
1736 420.507(22) (h) ~~(f)~~.
1737 (g) The loan term shall be for a period of not more than
1738 15 years; however, if both a program loan and federal low-income
1739 housing tax credits are to be used to assist a project, the
1740 corporation may set the loan term for a period commensurate with
1741 the investment requirements associated with the tax credit
1742 syndication. The term of the loan may also exceed 15 years if
1743 the lien of the corporation's encumbrance is subordinate to the

1744 lien of another mortgagee; then the term may be made coterminous
1745 with the longest term of the superior lien ~~necessary to conform~~
1746 ~~to requirements of the Federal National Mortgage Association~~.
1747 The corporation may renegotiate and extend the loan in order to
1748 extend the availability of housing for the targeted population.
1749 The term of a loan may not extend beyond the period for which
1750 the sponsor agrees to provide the housing set-aside required by
1751 subsection (2).
1752 (h) The loan shall be subject to sale, transfer, or
1753 refinancing. The sale, transfer, or refinancing of the loan
1754 shall be consistent with fiscal program goals and the
1755 preservation or advancement of affordable housing for the state.
1756 ~~However, all requirements and conditions of the loan shall~~
1757 ~~remain following sale, transfer, or refinancing.~~
1758 (i) The discrimination provisions of s. 420.516 shall
1759 apply to all loans.
1760 (j) The corporation may require units dedicated for the
1761 elderly.
1762 (k) Rent controls shall not be allowed on any project
1763 except as required in conjunction with the issuance of tax-
1764 exempt bonds or federal low-income housing tax credits, and
1765 except when the sponsor has committed to set aside units for
1766 extremely-low-income persons, in which case rents shall be
1767 restricted at the level applicable for federal low-income tax
1768 credits.
1769 (l) The proceeds of all loans shall be used for new
1770 construction or substantial rehabilitation which creates
1771 affordable, safe, and sanitary housing units.

1772 (m) Sponsors shall annually certify the adjusted gross
1773 income of all persons or families qualified under subsection (2)
1774 at the time of initial occupancy, who are residing in a project
1775 funded by this program. All persons or families qualified under
1776 subsection (2) may continue to qualify under subsection (2) in a
1777 project funded by this program if the adjusted gross income of
1778 those persons or families at the time of annual recertification
1779 meets the requirements established in s. 142(d)(3)(B) of the
1780 Internal Revenue Code of 1986, as amended. If the annual
1781 recertification of persons or families qualifying under
1782 subsection (2) results in noncompliance with income occupancy
1783 requirements, the next available unit must be rented to a person
1784 or family qualifying under subsection (2) in order to ensure
1785 continuing compliance of the project. The corporation may waive
1786 the annual recertification if 100 percent of the units are set
1787 aside as affordable.
1788 (n) Upon submission and approval of a marketing plan which
1789 demonstrates a good faith effort of a sponsor to rent a unit or
1790 units to persons or families reserved under subsection (3) and
1791 qualified under subsection (2), the sponsor may rent such unit
1792 or units to any person or family qualified under subsection (2)
1793 notwithstanding the reservation.
1794 (o) Sponsors may participate in federal mortgage insurance
1795 programs and must abide by the requirements of those programs.
1796 If a conflict occurs between the requirements of federal
1797 mortgage insurance programs and the requirements of this
1798 section, the requirements of federal mortgage insurance programs
1799 shall take precedence.

1800 Section 23. Section 420.5088, Florida Statutes, is amended
1801 to read:
1802 420.5088 Florida Homeownership Assistance Program.--There
1803 is created the Florida Homeownership Assistance Program for the
1804 purpose of assisting low-income and moderate-income persons in
1805 purchasing a home as their primary residence by reducing the
1806 cost of the home with below-market construction financing, by
1807 reducing the amount of down payment and closing costs paid by
1808 the borrower to a maximum of 5 percent of the purchase price, or
1809 by reducing the monthly payment to an affordable amount for the
1810 purchaser. Loans shall be made available at an interest rate
1811 that does not exceed 3 percent. The balance of any loan is due
1812 at closing if the property is sold, refinanced, rented, or
1813 transferred, unless otherwise approved by the corporation.
1814 (1) For loans made available pursuant to s.
1815 420.507(23)(a)1. or 2.:
1816 (a) The corporation may underwrite and make those mortgage
1817 loans through the program to persons or families who have
1818 incomes that do not exceed 120 ~~80~~ percent of the state or local
1819 median income, whichever is greater, adjusted for family size.
1820 (b) Loans shall be made available for the term of the
1821 first mortgage.
1822 (c) Loans may not exceed ~~are limited to~~ the lesser of 35
1823 ~~25~~ percent of the purchase price of the home or the amount
1824 necessary to enable the purchaser to meet credit underwriting
1825 criteria.
1826 (2) For loans made pursuant to s. 420.507(23)(a)3.:

1827 (a) Availability is limited to nonprofit sponsors or
1828 developers who are selected for program participation pursuant
1829 to this subsection.
1830 (b) Preference must be given ~~to community development~~
1831 ~~corporations as defined in s. 290.033 and~~ to community-based
1832 organizations as defined in s. 420.503.
1833 (c) Priority must be given to projects that have received
1834 state assistance in funding project predevelopment costs.
1835 (d) The benefits of making such loans shall be
1836 contractually provided to the persons or families purchasing
1837 homes financed under this subsection.
1838 (e) At least 30 percent of the units in a project financed
1839 pursuant to this subsection must be sold to persons or families
1840 who have incomes that do not exceed 80 percent of the state or
1841 local median income, whichever amount is greater, adjusted for
1842 family size; and at least another 30 percent of the units in a
1843 project financed pursuant to this subsection must be sold to
1844 persons or families who have incomes that do not exceed 65 ~~50~~
1845 percent of the state or local median income, whichever amount is
1846 greater, adjusted for family size.
1847 (f) The maximum loan amount may not exceed 33 percent of
1848 the total project cost.
1849 (g) A person who purchases a home in a project financed
1850 under this subsection is eligible for a loan authorized by s.
1851 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the
1852 construction loan made pursuant to this subsection. The home
1853 purchaser must meet all the requirements for loan recipients
1854 established pursuant to the applicable loan program.

1855 (h) The corporation shall provide, by rule, for the
1856 establishment of a review committee composed of corporation
1857 staff and shall establish, by rule, a scoring system for
1858 evaluating and ranking applications submitted for construction
1859 loans under this subsection, including, but not limited to, the
1860 following criteria:
1861 1. The affordability of the housing proposed to be built.
1862 2. The direct benefits of the assistance to the persons
1863 who will reside in the proposed housing.
1864 3. The demonstrated capacity of the applicant to carry out
1865 the proposal, including the experience of the development team.
1866 4. The economic feasibility of the proposal.
1867 5. The extent to which the applicant demonstrates
1868 potential cost savings by combining the benefits of different
1869 governmental programs and private initiatives, including the
1870 local government contributions and local government
1871 comprehensive planning and activities that promote affordable
1872 housing.
1873 6. The use of the least amount of program loan funds
1874 compared to overall project cost.
1875 7. The provision of homeownership counseling.
1876 8. The applicant's agreement to exceed the requirements of
1877 paragraph (e).
1878 9. The commitment of first mortgage financing for the
1879 balance of the construction loan and for the permanent loans to
1880 the purchasers of the housing.
1881 10. The applicant's ability to proceed with construction.

1882 11. The targeting objectives of the corporation which will
1883 ensure an equitable distribution of loans between rural and
1884 urban areas.
1885 12. The extent to which the proposal will further the
1886 purposes of this program.
1887 (i) The corporation may reject any and all applications.
1888 (j) The review committee established by corporation rule
1889 pursuant to this subsection shall make recommendations to the
1890 corporation board regarding program participation under this
1891 subsection. The corporation board shall make the final ranking
1892 for participation based on the scores received in the ranking,
1893 further review of the applications, and the recommendations of
1894 the review committee. The corporation board shall approve or
1895 reject applicants for loans and shall determine the tentative
1896 loan amount available to each program participant. The final
1897 loan amount shall be determined pursuant to rule adopted under
1898 s. 420.507(23)(h).
1899 (3) The corporation shall publish a notice of fund
1900 availability in a publication of general circulation throughout
1901 the state at least 60 days prior to the anticipated availability
1902 of funds.
1903 ~~(4) During the first 9 months of fund availability:~~
1904 ~~(a) Sixty percent of the program funds shall be reserved~~
1905 ~~for use by borrowers pursuant to s. 420.507(23)(a)1.;~~
1906 ~~(b) Twenty percent of the program funds shall be reserved~~
1907 ~~for use by borrowers pursuant to s. 420.507(23)(a)2.; and~~
1908 ~~(c) Twenty percent of the program funds shall be reserved~~
1909 ~~for use by borrowers pursuant to s. 420.507(23)(a)3.~~

1910
1911 ~~If the application of these percentages would cause the~~
1912 ~~reservation of program funds under paragraph (a) to be less than~~
1913 ~~$1 million, the reservation for paragraph (a) shall be increased~~
1914 ~~to $1 million or all available funds, whichever amount is less,~~
1915 ~~with the increase to be accomplished by reducing the reservation~~
1916 ~~for paragraph (b) and, if necessary, paragraph (c).~~
1917 (4) ~~(5)~~ There is authorized to be established by the
1918 corporation with a qualified public depository meeting the
1919 requirements of chapter 280 the Florida Homeownership Assistance
1920 Fund to be administered by the corporation according to the
1921 provisions of this program. Any amounts held in the Florida
1922 Homeownership Assistance Trust Fund for such purposes as of
1923 January 1, 1998, must be transferred to the corporation for
1924 deposit in the Florida Homeownership Assistance Fund, whereupon
1925 the Florida Homeownership Assistance Trust Fund must be closed.
1926 There shall be deposited in the fund moneys from the State
1927 Housing Trust Fund created by s. 420.0005, or moneys received
1928 from any other source, for the purpose of this program and all
1929 proceeds derived from the use of such moneys. In addition, all
1930 unencumbered funds, loan repayments, proceeds from the sale of
1931 any property, and any other proceeds that would otherwise accrue
1932 pursuant to the activities of the programs described in this
1933 section shall be transferred to this fund. In addition, all loan
1934 repayments, proceeds from the sale of any property, and any
1935 other proceeds that would otherwise accrue pursuant to the
1936 activities conducted under the provisions of the Florida
1937 Homeownership Assistance Program shall be deposited in the fund

1938 and shall not revert to the General Revenue Fund. Expenditures
1939 from the Florida Homeownership Assistance Fund shall not be
1940 required to be included in the corporation's budget request or
1941 be subject to appropriation by the Legislature.
1942 (5) ~~(6)~~ No more than one-fifth of the funds available in
1943 the Florida Homeownership Assistance Fund may be made available
1944 to provide loan loss insurance reserve funds to facilitate
1945 homeownership for eligible persons.
1946 Section 24. Section 420.5095, Florida Statutes, is created
1947 to read:
1948 420.5095 Community Workforce Housing Innovation Program.--
1949 (1) The Community Workforce Housing Innovation Program is
1950 created for the purpose of providing affordable rental and home
1951 ownership community workforce housing for essential services
1952 personnel with medium incomes in high-cost and high-growth
1953 counties in this state using regulatory incentives and state and
1954 local funds to promote local public-private partnerships and
1955 leverage government and private resources.
1956 (2) Subject to the availability of an annual appropriation
1957 by the Legislature to fund the Community Workforce Housing
1958 Innovation Program, the corporation shall have the authority to
1959 provide Community Workforce Housing Innovation Program loans,
1960 which may be forgivable, to an applicant for construction or
1961 rehabilitation of rental or home ownership workforce housing in
1962 eligible counties. The corporation shall establish a funding
1963 process and selection criteria by rule or request for proposals
1964 to distribute annually appropriated funds under this section.

1965 Funding may be used with other corporation and private sector
1966 resources.
1967 (3) The corporation shall provide incentives for local
1968 governments in these counties to use local affordable housing
1969 funds, such as those from the State Housing Initiatives
1970 Partnership Program to assist in meeting the affordable housing
1971 needs of persons eligible under this program.
1972 (4) The Community Workforce Housing Innovation Program
1973 projects shall target:
1974 (a) "High-cost counties," defined as those counties in
1975 which the median sales price of a single-family home using the
1976 most recent county level statistics is above the state median
1977 sales price of a single-family home, areas of critical state
1978 concern designated under s. 380.05 for which the Legislature has
1979 declared its intent to provide affordable housing, areas that
1980 were designated as areas of critical state concern for at least
1981 20 consecutive years prior to removal of the designation, and
1982 counties designated as rural areas of critical economic concern.
1983 The corporation shall develop the list of high-cost counties on
1984 an annual basis.
1985 (b) "High-growth counties," defined as those counties that
1986 demonstrate significantly high rates of growth in K-12 public
1987 school students and a substantial number of open teaching
1988 positions currently and projected for the next school year. To
1989 qualify under these criteria of high growth and need to fill
1990 public school teaching positions, a county's school district
1991 must have been in the top 10 school districts in the state for
1992 the fastest student population growth as a percentage rate of

1993 increase for the previous 5 years, as defined by the Department
1994 of Education. Counties with school districts having the greatest
1995 number of teaching position vacancies shall be prioritized.
1996 (c) "Public-private partnerships," defined to include
1997 substantial involvement of at least one county, one
1998 municipality, or one public sector entity, such as a school
1999 district or other unit of local government in which the project
2000 is to be located, and at least one private not-for-profit or
2001 for-profit project partner. Partnerships are encouraged to
2002 include one or more private sector business or charitable
2003 entities and may be any form of business entity, including a
2004 joint venture or contractual agreement.
2005 (d) "Workforce housing," defined as housing affordable to
2006 natural persons or families whose total annual household income
2007 does not exceed 140 percent of the area median income, adjusted
2008 for household size, in prioritized areas included in this
2009 subsection, or 150 percent of the area median income, adjusted
2010 for household size, in areas of critical state concern or in
2011 areas that were designated as areas of critical state concern
2012 for at least 20 consecutive years prior to removal of the
2013 designation.
2014 (e) "Essential services personnel," defined as persons in
2015 need of affordable housing who are employed in areas in which
2016 they are considered essential services personnel, as defined by
2017 each county and eligible municipality within its local housing
2018 assistance plan pursuant to s. 420.9075(3)(a).

2019 (f) Innovative projects that include new construction or
2020 rehabilitation of existing housing, mixed-income housing, or
2021 commercial and housing mixed-use elements.
2022 (5) No more than one project shall be funded per county
2023 per year. The corporation shall seek to achieve a 70-percent
2024 high-cost, 30-percent high-growth ratio in its annual funding of
2025 projects. However, when one project in each of the high-cost and
2026 high-growth counties which have made application have been
2027 funded, the corporation may fund other projects as provided in
2028 this section.
2029 (6)(a) Projects shall receive priority consideration for
2030 funding where the local jurisdiction has allowed appropriate
2031 workforce housing incentives to promote the financial viability,
2032 successful development, and ongoing maintenance of these housing
2033 developments, such as:
2034 1. The processing of approvals of development orders or
2035 development permits, as defined in s. 163.3164(7) and (8), for
2036 affordable housing projects shall be expedited to a greater
2037 degree than other projects.
2038 2. Mitigation of impact fees by reduction, waiver, or an
2039 alternative method of fee payment by the local government in
2040 which the proposed project is to be located.
2041 3. Increased density levels, density bonuses for
2042 affordable housing of up to 16 units or higher density per acre
2043 shall be allowed, except in coastal high-hazard areas, if
2044 approved by the local government, for community workforce
2045 housing.

2046 4. Reserving infrastructure capacity in the local
2047 comprehensive plan for affordable housing shall be reserved for
2048 these communities.
2049 5. Allowing additional affordable residential units,
2050 including accessory units in residential zoning districts.
2051 6. Allow mixed land uses, such as compatible neighborhood
2052 commercial centers and mixed-use planned unit developments.
2053 7. Reduction of open space, building setback requirements,
2054 road widths, parking, and other requirements which are not
2055 essential to protect the public health, safety, and welfare or
2056 critical to protect the environment.
2057 8. Allowing zero-lot-line and other flexible lot
2058 configurations.
2059 9. Traffic concurrency requirements shall be modified or
2060 reduced by up to 25 percent.
2061 10. Local transportation infrastructure funding shall be
2062 considered eligible for prioritization from metropolitan
2063 planning organizations.
2064 (b) The regulatory incentives for approved Community
2065 Workforce Housing Innovation Program projects shall be
2066 considered acceptable by the respective local government
2067 maintaining jurisdiction over the site of the project, if:
2068 1. The applicant receives a letter of support from the
2069 local government for the project application submitted to the
2070 corporation; or
2071 2. Within 60 days after receipt of the applicant's plan by
2072 the local government, a vote of "no objection" regarding the
2073 project is taken by that body. During the 60-day period, the

2074 local government and project applicant may agree to modify the
2075 project incentives and size of the development with approval
2076 from the corporation and still be eligible for project funding.
2077 (7) All eligible applications shall:
2078 (a) Set aside at least 80 percent of the units for
2079 workforce housing.
2080 (b) Set aside at least 50 percent of the units as
2081 prioritized for eligible persons who are employed as essential
2082 services personnel.
2083 (c) For rental projects, restrict rents for all workforce
2084 housing serving those with incomes up to 120 percent of area
2085 median income at the appropriate income level using the
2086 restricted rents for the federal low-income housing tax credit
2087 program and, for workforce housing units serving those with
2088 incomes up to 140 percent of area median income, restrict rents
2089 to those established by the corporation, not to exceed 40
2090 percent of the maximum household income adjusted to unit size.
2091 (d) For home ownership, limit the sales price of a
2092 detached unit, townhome, or condominium unit to not more than
2093 the median sales price for that type of unit in that county and
2094 require that all eligible purchasers of home ownership units
2095 occupy the homes as their primary residence.
2096 (e) Demonstrate that the program applicant consists of a
2097 public-private partnership of at least one local government or
2098 special district public sector entity and one private not-for-
2099 profit or for-profit partner.
2100 (f) Demonstrate how the applicant will use the regulatory
2101 incentives outlined in subsection (6) and include, if available,

2102 any letters of support for the incentives referenced in
2103 subparagraph (6)(b)1. from the local jurisdiction in which the
2104 proposed project is to be located.
2105 (g) Demonstrate that the applicant possesses title to or
2106 site control of land and evidences availability of required
2107 infrastructure.
2108 (h) Provide any research or facts available supporting the
2109 demand and need for rental or home ownership workforce housing
2110 for qualified workforce residents in the county in which the
2111 project is proposed.
2112 (i) Have grants, donations of land, or contributions from
2113 the public-private partnership or other sources collectively
2114 totaling at least 15 percent of the total development cost. Such
2115 grants, donations of land, or contributions must only be
2116 evidenced by a letter of commitment at the time of application.
2117 (j) Demonstrate accessibility to commercial businesses,
2118 services, and employment opportunities needed to serve the needs
2119 of the residents or include a viable plan to provide
2120 transportation access to those commercial businesses, services,
2121 and jobs.
2122 (k) Demonstrate a marketing and sales plan to ensure that
2123 residents fit the income requirements and workforce employment
2124 demand for essential services, as well as alternative strategies
2125 to sell or lease units to other qualified individuals if
2126 essential services personnel are not immediately available or
2127 qualified for the units.
2128 (l) Provide a development cost pro forma financial
2129 statement for the project.

2130 (m) Demonstrate the applicant's affordable housing
2131 development and management experience.
2132 (n) Demonstrate the long-term affordability of the rental
2133 or homeownership units.
2134 (o) May include manufactured housing constructed after
2135 June 1994 and installed in accordance with mobile home
2136 installation standards of the Department of Highway and Motor
2137 Vehicles. As part of its application, the public-private
2138 partnership shall include local contributions or financial
2139 strategies, such as:
2140 1. Promotion and support of employer-assisted housing
2141 programs;
2142 2. Tax increment financing;
2143 3. Funding from local option taxes;
2144 4. Land for the development; or
2145 5. Financial assistance packages to homebuyers.
2146 (8)(a) The corporation shall establish a review committee
2147 and shall establish a scoring system for evaluation and
2148 competitive ranking of applications submitted to the program.
2149 The ranking shall ensure an opportunity for a greater number of
2150 high-cost, high-growth counties to receive project funding.
2151 (b) The corporation shall award loans with interest rates
2152 set at 1 to 3 percent, which may be forgivable if the project
2153 continues to meet the rental or ownership criteria outlined in
2154 subsection (4). The corporation shall develop rules and
2155 guidelines to set the terms of forgivability.

2156 (9) The corporation may use a maximum of 2 percent of the
2157 annual appropriation per state fiscal year for administration
2158 and compliance monitoring.
2159 (10) The corporation shall develop and implement within
2160 the Community Workforce Housing Innovation Program a down-
2161 payment assistance program.
2162 (11) On an annual basis, the corporation shall review the
2163 success of the Community Workforce Housing Innovation Program to
2164 ascertain whether the projects produced by the program are
2165 useful in meeting the housing needs of high-cost and high-growth
2166 counties. The corporation shall submit any recommendations
2167 regarding the program to the Governor, the Speaker of the House
2168 of Representatives, and the President of the Senate not later
2169 than 2 months after the end of the corporation's fiscal year.
2170 Section 25. Subsection (25) of section 420.9071, Florida
2171 Statutes, is amended to read:
2172 420.9071 Definitions.--As used in ss. 420.907-420.9079,
2173 the term:
2174 (25) "Recaptured funds" means funds that are recouped by a
2175 county or eligible municipality in accordance with the recapture
2176 provisions of its local housing assistance plan pursuant to s.
2177 420.9075(5) ~~(4)~~(g) from eligible persons or eligible sponsors who
2178 default on the terms of a grant award or loan award.
2179 Section 26. Subsection (2) of section 420.9072, Florida
2180 Statutes, is amended to read:
2181 420.9072 State Housing Initiatives Partnership
2182 Program.--The State Housing Initiatives Partnership Program is
2183 created for the purpose of providing funds to counties and

2184 eligible municipalities as an incentive for the creation of
2185 local housing partnerships, to expand production of and preserve
2186 affordable housing, to further the housing element of the local
2187 government comprehensive plan specific to affordable housing,
2188 and to increase housing-related employment.
2189 (2)(a) To be eligible to receive funds under the program,
2190 a county or eligible municipality must:
2191 1. Submit to the corporation its local housing assistance
2192 plan describing the local housing assistance strategies
2193 established pursuant to s. 420.9075;
2194 2. Within 12 months after adopting the local housing
2195 assistance plan, amend the plan to incorporate the local housing
2196 incentive strategies defined in s. 420.9071(16) and described in
2197 s. 420.9076; and
2198 3. Within 24 months after adopting the amended local
2199 housing assistance plan to incorporate the local housing
2200 incentive strategies, amend its land development regulations or
2201 establish local policies and procedures, as necessary, to
2202 implement the local housing incentive strategies adopted by the
2203 local governing body. A county or an eligible municipality that
2204 has adopted a housing incentive strategy pursuant to s. 420.9076
2205 before the effective date of this act shall review the status of
2206 implementation of the plan according to its adopted schedule for
2207 implementation and report its findings in the annual report
2208 required by s. 420.9075(10) ~~(9)~~. If as a result of the review, a
2209 county or an eligible municipality determines that the
2210 implementation is complete and in accordance with its schedule,
2211 no further action is necessary. If a county or an eligible

2212 municipality determines that implementation according to its
2213 schedule is not complete, it must amend its land development
2214 regulations or establish local policies and procedures, as
2215 necessary, to implement the housing incentive plan within 12
2216 months after the effective date of this act, or if extenuating
2217 circumstances prevent implementation within 12 months, pursuant
2218 to s. 420.9075(13) ~~(12)~~, enter into an extension agreement with
2219 the corporation.
2220 (b) A county or an eligible municipality seeking approval
2221 to receive its share of the local housing distribution must
2222 adopt an ordinance containing the following provisions:
2223 1. Creation of a local housing assistance trust fund as
2224 described in s. 420.9075(6) ~~(5)~~.
2225 2. Adoption by resolution of a local housing assistance
2226 plan as defined in s. 420.9071(14) to be implemented through a
2227 local housing partnership as defined in s. 420.9071(18).
2228 3. Designation of the responsibility for the
2229 administration of the local housing assistance plan. Such
2230 ordinance may also provide for the contracting of all or part of
2231 the administrative or other functions of the program to a third
2232 person or entity.
2233 4. Creation of the affordable housing advisory committee
2234 as provided in s. 420.9076.
2235
2236 The ordinance must not take effect until at least 30 days after
2237 the date of formal adoption. Ordinances in effect prior to the
2238 effective date of amendments to this section shall be amended as
2239 needed to conform to new provisions.

2240 Section 27. Paragraphs (a) and (c) of present subsection
2241 (4) of section 420.9075, Florida Statutes, are amended,
2242 subsections (3) through (12) are renumbered as subsections (4)
2243 through (13), respectively, and a new subsection (3) is added to
2244 that section, to read:
2245 420.9075 Local housing assistance plans; partnerships.--
2246 (3)(a) Each local housing assistance plan shall include a
2247 definition of essential service personnel for the county or
2248 eligible municipality, including, but not limited to, teachers
2249 and educators, other school district, community college, and
2250 university employees, police and fire personnel, health care
2251 personnel, skilled building trades personnel, and other job
2252 categories.
2253 (b) Each county and each eligible municipality is
2254 encouraged to develop a strategy within its local housing
2255 assistance plan that emphasizes the recruitment and retention of
2256 essential service personnel and persons skilled in the building
2257 trades. The local government is encouraged to involve public and
2258 private sector employers. Compliance with the eligibility
2259 criteria established under this strategy shall be verified by
2260 the county or eligible municipality.
2261 (c) Each county and each eligible municipality is
2262 encouraged to develop a strategy within its local housing
2263 assistance plan that addresses the needs of persons who are
2264 deprived of affordable housing due to the closure of a mobile
2265 home park or the conversion of affordable rental units to
2266 condominiums.

2267 (5) ~~(4)~~ The following criteria apply to awards made to
2268 eligible sponsors or eligible persons for the purpose of
2269 providing eligible housing:
2270 (a) At least 65 percent of the funds made available in
2271 each county and eligible municipality from the local housing
2272 distribution must be reserved for rehabilitation and
2273 construction of home ownership units for eligible extremely-low-
2274 income, low-income, or very-low-income persons.
2275 (c) The sales price or value of new or existing eligible
2276 housing may not exceed 90 percent of the average area purchase
2277 price in the statistical area in which the eligible housing is
2278 located. Such average area purchase price may be that calculated
2279 for any 12-month period beginning not earlier than the fourth
2280 calendar year prior to the year in which the award occurs or as
2281 otherwise established by the United States Department of the
2282 Treasury.
2283
2284 If both an award under the local housing assistance plan and
2285 federal low-income housing tax credits are used to assist a
2286 project and there is a conflict between the criteria prescribed
2287 in this subsection and the requirements of s. 42 of the Internal
2288 Revenue Code of 1986, as amended, the county or eligible
2289 municipality may resolve the conflict by giving precedence to
2290 the requirements of s. 42 of the Internal Revenue Code of 1986,
2291 as amended, in lieu of following the criteria prescribed in this
2292 subsection with the exception of paragraphs (a) and (d) of this
2293 subsection.

2294 Section 28. Subsection (6) of section 420.9076, Florida
2295 Statutes, is amended to read:
2296 420.9076 Adoption of affordable housing incentive
2297 strategies; committees.--
2298 (6) Within 90 days after the date of receipt of the local
2299 housing incentive strategies recommendations from the advisory
2300 committee, the governing body of the appointing local government
2301 shall adopt an amendment to its local housing assistance plan to
2302 incorporate the local housing incentive strategies it will
2303 implement within its jurisdiction. The amendment must include,
2304 at a minimum, the local housing incentive strategies specified
2305 ~~as defined~~ in paragraphs (4)(a)-(j) ~~s. 420.9071(16)~~.
2306 Section 29. Subsection (2) of section 420.9079, Florida
2307 Statutes, is amended to read:
2308 420.9079 Local Government Housing Trust Fund.--
2309 (2) The corporation shall administer the fund exclusively
2310 for the purpose of implementing the programs described in ss.
2311 420.907-420.9078 and this section. With the exception of
2312 monitoring the activities of counties and eligible
2313 municipalities to determine local compliance with program
2314 requirements, the corporation shall not receive appropriations
2315 from the fund for administrative or personnel costs. For the
2316 purpose of implementing the compliance monitoring provisions of
2317 s. 420.9075(9) ~~(8)~~, the corporation may request a maximum of one-
2318 quarter of 1 percent of the annual appropriation ~~$200,000~~ per
2319 state fiscal year. When such funding is appropriated, the
2320 corporation shall deduct the amount appropriated prior to

2321 calculating the local housing distribution pursuant to ss.
2322 420.9072 and 420.9073.
2323 Section 30. Paragraph (c) of subsection (1) and paragraph
2324 (e) of subsection (2) of section 624.5105, Florida Statutes, are
2325 amended to read:
2326 624.5105 Community contribution tax credit; authorization;
2327 limitations; eligibility and application requirements;
2328 administration; definitions; expiration.--
2329 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--
2330 (c) The total amount of tax credit which may be granted
2331 for all programs approved under this section and ss.
2332 212.08(5)(q) and 220.183 is $10 ~~$12~~ million annually for
2333 projects that provide homeownership opportunities for extremely-
2334 low-income persons, as defined in s. 420.0004(8), or low-income
2335 or very-low-income persons, as defined in s. 420.9071(19) and
2336 (28), and $3 million annually for all other projects.
2337 (2) ELIGIBILITY REQUIREMENTS.--
2338 (e)1. ~~For the first 6 months of the fiscal year, the~~
2339 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
2340 ~~80 percent of the first $10 million in available annual tax~~
2341 ~~credits, and 70 percent of any available annual tax credits in~~
2342 ~~excess of $10 million, for donations made to eligible sponsors~~
2343 ~~for projects that provide homeownership opportunities for low-~~
2344 ~~income or very-low-income households as defined in s.~~
2345 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
2346 ~~remain after the first 6 months of the fiscal year, the office~~
2347 ~~may approve the balance of these available credits for donations~~
2348 ~~made to eligible sponsors for projects other than those that~~

2349 ~~provide homeownership opportunities for low-income or very-low-~~
2350 ~~income households.~~
2351 ~~2. For the first 6 months of the fiscal year, the office~~
2352 ~~shall reserve 20 percent of the first $10 million in available~~
2353 ~~annual tax credits, and 30 percent of any available annual tax~~
2354 ~~credits in excess of $10 million, for donations made to eligible~~
2355 ~~sponsors for projects other than those that provide~~
2356 ~~homeownership opportunities for low-income or very-low-income~~
2357 ~~households as defined in s. 420.9071(19) and (28). If any~~
2358 ~~reserved annual tax credits remain after the first 6 months of~~
2359 ~~the fiscal year, the office may approve the balance of these~~
2360 ~~available credits for donations made to eligible sponsors for~~
2361 ~~projects that provide homeownership opportunities for low-income~~
2362 ~~or very-low-income households.~~
2363 ~~3.~~ If, during the first 10 business days of the state
2364 fiscal year, eligible tax credit applications for projects that
2365 provide homeownership opportunities for extremely-low-income
2366 persons, as defined in s. 420.0004(8), or low-income or very-
2367 low-income persons, as defined in s. 420.9071(19) and (28), are
2368 received for less than the ~~available~~ annual tax credits
2369 available for those projects ~~reserved under subparagraph 1.~~, the
2370 office shall grant tax credits for those applications and shall
2371 grant remaining tax credits on a first-come, first-served basis
2372 for any subsequent eligible applications received before the end
2373 of the ~~first 6 months of the~~ state fiscal year. If, during the
2374 first 10 business days of the state fiscal year, eligible tax
2375 credit applications for projects that provide homeownership
2376 opportunities for extremely-low-income persons, as defined in s.

2377 420.0004(8), or low-income or very-low-income persons, as
2378 defined in s. 420.9071(19) and (28), are received for more than
2379 the ~~available~~ annual tax credits available for those projects
2380 ~~reserved under subparagraph 1.~~, the office shall grant the tax
2381 credits for those ~~the~~ applications as follows:
2382 a. If tax credit applications submitted for approved
2383 projects of an eligible sponsor do not exceed $200,000 in total,
2384 the credits shall be granted in full if the tax credit
2385 applications are approved~~, subject to subparagraph 1~~.
2386 b. If tax credit applications submitted for approved
2387 projects of an eligible sponsor exceed $200,000 in total, the
2388 amount of tax credits granted under sub-subparagraph a. shall be
2389 subtracted from the amount of available tax credits ~~under~~
2390 ~~subparagraph 1.~~, and the remaining credits shall be granted to
2391 each approved tax credit application on a pro rata basis.
2392 ~~c. If, after the first 6 months of the fiscal year,~~
2393 ~~additional credits become available under subparagraph 2., the~~
2394 ~~office shall grant the tax credits by first granting to those~~
2395 ~~who received a pro rata reduction up to the full amount of their~~
2396 ~~request and, if there are remaining credits, granting credits to~~
2397 ~~those who applied on or after the 11th business day of the state~~
2398 ~~fiscal year on a first-come, first-served basis.~~
2399 2.~~4.~~ If, during the first 10 business days of the state
2400 fiscal year, eligible tax credit applications for projects other
2401 than those that provide homeownership opportunities for
2402 extremely-low-income persons, as defined in s. 420.0004(8), or
2403 low-income or very-low-income persons, as defined in s.
2404 420.9071(19) and (28,) are received for less than the ~~available~~

2405 annual tax credits available for those projects ~~reserved under~~
2406 ~~subparagraph 2.~~, the office shall grant tax credits for those
2407 applications and shall grant remaining tax credits on a first-
2408 come, first-served basis for any subsequent eligible
2409 applications received before the end of the ~~first 6 months of~~
2410 ~~the~~ state fiscal year. If, during the first 10 business days of
2411 the state fiscal year, eligible tax credit applications for
2412 projects other than those that provide homeownership
2413 opportunities for extremely-low-income persons, as defined in s.
2414 420.0004(8), or low-income or very-low-income persons, as
2415 defined in s. 420.9071(19) and (28), are received for more than
2416 the ~~available~~ annual tax credits available for those projects
2417 ~~reserved under subparagraph 2.~~, the office shall grant the tax
2418 credits for those ~~the~~ applications on a pro rata basis. ~~If,~~
2419 ~~after the first 6 months of the fiscal year, additional credits~~
2420 ~~become available under subparagraph 1., the office shall grant~~
2421 ~~the tax credits by first granting to those who received a pro~~
2422 ~~rata reduction up to the full amount of their request and, if~~
2423 ~~there are remaining credits, granting credits to those who~~
2424 ~~applied on or after the 11th business day of the state fiscal~~
2425 ~~year on a first-come, first-served basis.~~
2426 Section 31. Paragraph (b) of subsection (9) of section
2427 1001.42, Florida Statutes, is amended to read:
2428 1001.42 Powers and duties of district school board.--The
2429 district school board, acting as a board, shall exercise all
2430 powers and perform all duties listed below:
2431 (9) SCHOOL PLANT.--Approve plans for locating, planning,
2432 constructing, sanitating, insuring, maintaining, protecting, and

2433 condemning school property as prescribed in chapter 1013 and as
2434 follows:
2435 (b) Sites, buildings, and equipment.--
2436 1. Select and purchase school sites, playgrounds, and
2437 recreational areas located at centers at which schools are to be
2438 constructed, of adequate size to meet the needs of projected
2439 students to be accommodated.
2440 2. Approve the proposed purchase of any site, playground,
2441 or recreational area for which district funds are to be used.
2442 3. Expand existing sites.
2443 4. Rent buildings when necessary.
2444 5. Enter into leases or lease-purchase arrangements, in
2445 accordance with the requirements and conditions provided in s.
2446 1013.15(2), with private individuals or corporations for the
2447 rental of necessary grounds and educational facilities for
2448 school purposes or of educational facilities to be erected for
2449 school purposes. Current or other funds authorized by law may be
2450 used to make payments under a lease-purchase agreement.
2451 Notwithstanding any other statutes, if the rental is to be paid
2452 from funds received from ad valorem taxation and the agreement
2453 is for a period greater than 12 months, an approving referendum
2454 must be held. The provisions of such contracts, including
2455 building plans, shall be subject to approval by the Department
2456 of Education, and no such contract shall be entered into without
2457 such approval. As used in this section, "educational facilities"
2458 means the buildings and equipment that are built, installed, or
2459 established to serve educational purposes and that may lawfully

2460 be used. The State Board of Education may adopt such rules as
2461 are necessary to implement these provisions.
2462 6. Provide for the proper supervision of construction.
2463 7. Make or contract for additions, alterations, and
2464 repairs on buildings and other school properties.
2465 8. Ensure that all plans and specifications for buildings
2466 provide adequately for the safety and well-being of students, as
2467 well as for economy of construction.
2468 9. Make certain school board lands, acquired prior to
2469 January 1, 2006, available to a private developer or nonprofit
2470 housing organization for the purpose of providing teachers and
2471 other instructional personnel housing assistance. Teachers and
2472 other instructional personnel must be eligible for assistance
2473 under chapter 420, and the school board must declare the land
2474 surplus and not needed for any facility identified in the
2475 district facilities work program required under s. 1013.35.
2476 Section 32. Subsection (12) of section 1001.43, Florida
2477 Statutes, is renumbered as subsection (13), and a new subsection
2478 (12) is added to that section to read:
2479 1001.43 Supplemental powers and duties of district school
2480 board.--The district school board may exercise the following
2481 supplemental powers and duties as authorized by this code or
2482 State Board of Education rule.
2483 (12) AFFORDABLE HOUSING.--The district school board may
2484 provide affordable housing for teachers and other instructional
2485 personnel independently or in conjunction with other agencies as
2486 described in subsection (5).

2487 Section 33. Affordable housing land donation density bonus
2488 incentives.--
2489 (1) A local government may provide density bonus
2490 incentives pursuant to the provisions of this section to any
2491 landowner who voluntarily donates fee simple interest in real
2492 property to the local government for the purpose of assisting
2493 the local government in providing affordable housing. Donated
2494 real property must be determined by the local government to be
2495 appropriate for use as affordable housing and must be subject to
2496 deed restrictions to ensure that the property will be used for
2497 the stated purpose of affordable housing.
2498 (2) For purposes of this section, the terms "affordable,"
2499 "extremely-low-income persons," "low-income persons," "moderate-
2500 income persons," and "very-low-income persons," have the same
2501 meaning as in section 420.0004, Florida Statutes.
2502 (3) The density bonus may be provided by the local
2503 government at the rate of one to four dwelling units per gross
2504 acre of donated land, as determined by the local government. The
2505 density bonus may be applied to any land within the local
2506 government's jurisdiction provided that residential is an
2507 allowable use on the receiving land and that the overall density
2508 of the receiving land does not exceed six dwelling units per
2509 gross acre.
2510 (4) The density bonus, identification of receiving land
2511 for the bonus, and any other conditions associated with the
2512 donation of the land for affordable housing are the subject of
2513 review and approval by the local government. The award of
2514 density bonus pursuant to this section, the legal description of

2515 the land receiving the bonus, and any other conditions
2516 associated with the bonus shall be memorialized in a development
2517 agreement or other binding agreement and recorded with the clerk
2518 of court in the county where the donated land and receiving land
2519 are located.
2520 (5) The local government, as part of the approval process,
2521 shall adopt a comprehensive plan amendment, pursuant to part II
2522 of chapter 163, Florida Statutes, for the receiving land that
2523 incorporates the density bonus. Such amendment shall be adopted
2524 in the manner as required for small scale amendments pursuant to
2525 section 163.3187, Florida Statutes, is not subject to the
2526 requirements of s. 163.3184(3)-(6), Florida Statutes, and is
2527 exempt from the limitation on the frequency of plan amendments
2528 as provided in s. 163.3187, Florida Statutes.
2529 (6) The deed restrictions required pursuant to subsection
2530 (1) for an affordable housing unit must also prohibit the unit
2531 from being sold at a price that exceeds the threshold for
2532 housing that is affordable for low-income or moderate-income
2533 persons or to a buyer who is not eligible due to his or her
2534 income under chapter 420, Florida Statutes. The deed restriction
2535 may allow affordable housing units created under subsection (1)
2536 to be rented to extremely-low-income, very-low-income, low-
2537 income, or moderate-income persons.
2538 (7) The local government may transfer all or a portion of
2539 the donated land to a nonprofit housing organization, such as a
2540 community land trust, housing authority, or community
2541 redevelopment agency, to be used for the production and
2542 preservation of permanently affordable housing.

2543 Section 34. The Department of Community Affairs shall
2544 establish the Home Retrofit Hardening Program. The program is a
2545 competitive grant program to fund improvements to homes
2546 constructed before the implementation of the current Florida
2547 Building Code when the improvements will directly affect the
2548 ability of the home to withstand hurricane force winds and
2549 improve the home's rating for home insurance. Site-built and
2550 mobile homes are eligible for funding under this program.
2551 However, priority shall be given to low-income homeowners, as
2552 defined in s. 420.004(10), Florida Statutes, who live in wind-
2553 borne debris regions as defined in the Florida Building Code.
2554 (1) The program shall be administered by local
2555 governments, regional planning councils, or private nonprofit
2556 agencies under the overall direction of the department. When
2557 awarding program funds, the department shall be guided by:
2558 (a) The number of homes in need of improvement.
2559 (b) The number of homes located within the wind-borne
2560 debris region.
2561 (c) The number of persons who will benefit from the
2562 improvements.
2563 (d) The number of extremely-low-income and low-income
2564 households that will benefit from the improvements.
2565 (e) The costs per home to provide improvements.
2566 (2) Funds may be used for the following improvements
2567 installed in compliance with Blueprint for Safety standards:
2568 (a) Roof deck attachments.
2569 (b) Secondary water barriers.
2570 (c) Roof coverings.

2571 (d) Brace gable ends.
2572 (e) Reinforcement of roof-to-wall connections.
2573 (f) Opening protection.
2574 (g) Exterior doors.
2575 (3) Each project grant for an individual home retrofit may
2576 not exceed $10,000.
2577 (4) Administrative costs shall be kept to a minimum.
2578 (5) Grantees are encouraged to leverage grant funds
2579 available under this program with other available funds.
2580 Matching funds for a project is not a requirement. However,
2581 matching funds from other available sources may be considered by
2582 the department in the competitive-review process.
2583 (6) The sum of $50 million is appropriated from the U.S.
2584 Contributions Trust Fund to the Department of Community Affairs
2585 in fixed capital outlay for the Home Retrofit Hardening Program.
2586 No more than 5 percent of the funds provided under this section
2587 may be used by the department for administration of this
2588 funding.
2589 Section 35. The Department of Community Affairs shall
2590 establish the Disaster Recovery Assistance Program which shall
2591 be a grant program to fund repairs and rehabilitation to homes
2592 in communities severely impacted by the 2004 and 2005
2593 hurricanes. These funds shall be leveraged with other program
2594 funds targeted to the most vulnerable citizens of the state. The
2595 sum of $2 million is appropriated in fixed capital outlay from
2596 the State Housing Trust Fund in the Department of Community
2597 Affairs for the Disaster Recovery Assistance Program. For the
2598 purposes of implementing this section, the Florida Housing

2599 Finance Corporation is provided nonoperating budget authority to
2600 transfer $2 million from the State Housing Trust Fund to the
2601 Department of Community Affairs.
2602 Section 36. The Florida Housing Finance Corporation is
2603 authorized to provide funds to eligible entities for affordable
2604 housing recovery in those areas of the state which sustained
2605 housing damage due to hurricanes during 2004 and 2005. The
2606 Florida Housing Finance Corporation shall utilize data provided
2607 by the Federal Emergency Management Agency to assist in its
2608 allocation of funds to local jurisdictions. To administer these
2609 programs, the Florida Housing Finance Corporation should be
2610 guided by the "Hurricane Housing Work Group Recommendations to
2611 Assist in Florida's Long Term Housing Recovery Efforts," report
2612 dated February 16, 2005, and may adopt emergency rules pursuant
2613 to s. 120.54, Florida Statutes. The Legislature finds that
2614 emergency rules adopted pursuant to this section meet the
2615 health, safety, and welfare requirement of s. 120.54(4), Florida
2616 Statutes. The Legislature finds that such emergency rulemaking
2617 power is necessary for the preservation of the rights and
2618 welfare of the people in order to provide additional funds to
2619 assist those areas of the state which sustained housing damage
2620 due to hurricanes during 2004 and 2005. Therefore, in adopting
2621 such emergency rules, the corporation need not make the findings
2622 required by s. 120.54(4)(a), Florida Statutes. Emergency rules
2623 adopted under this section are exempt from s. 120.54(4)(c),
2624 Florida Statutes. The sum of $15 million is appropriated from
2625 the Local Government Housing Trust Fund to the Florida Housing
2626 Finance Corporation for the Hurricane Housing Recovery Program.

2627 There is appropriated from the State Housing Trust Fund to the
2628 Florida Housing Finance Corporation the sum of $25 million for
2629 the Farmworker Housing Recovery Program and the Special Housing
2630 Assistance and Development Program, the sum of $400,000 for
2631 technical and training assistance, and the sum of $176.6 million
2632 for the Rental Recovery Loan Program.
2633 Section 37. The sum of $82,904,000 is appropriated from
2634 the Florida Small Cities Community Development Block Grant
2635 Program Fund to the Department of Community Affairs. These funds
2636 shall be used consistent with the Federal Register, Vol. 71, No.
2637 29, February 13, 2006, Docket No. FR-5051-N-01 and the Action
2638 Plan for Disaster Recovery approved by the United States
2639 Department of Housing and Urban Development to meet the needs of
2640 communities impacted by Hurricanes Wilma and Katrina, with a
2641 prioritization toward affordable housing in the most impacted
2642 areas of the state.
2643 Section 38. The sum of $50 million is appropriated from
2644 the Local Government Housing Trust Fund to the Florida Housing
2645 Finance Corporation for fiscal year 2006-2007 to implement the
2646 Community Workforce Housing Innovation Program created in s.
2647 420.5095, Florida Statutes.
2648 Section 39. The sum of $33 million is appropriated from
2649 the Local Government Housing Trust Fund to the Florida Housing
2650 Finance Corporation for fiscal year 2006-2007 to assist in the
2651 production of housing units for extremely-low-income persons as
2652 defined in s. 420.0004(8), Florida Statutes.
2653 Section 40. Except as otherwise expressly provided in this
2654 act, this act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7077 CS PCB TR 06-04 Transportation
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee	14 Y, 1 N	Pugh	Miller
1) Transportation & Economic Development Appropriations Committee	15 Y, 1 N, w/CS	McAuliffe	Gordon
2) State Infrastructure Council		Pugh BJP	Havlicak RH
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7077 w/CS is an omnibus bill that addresses a variety of transportation financing, planning, and administrative issues. Among its key provisions, the proposed legislation:

- Raises the Turnpike Enterprise's revenue bond cap from $4.5 billion in bonds issued to $6 billion in bonds outstanding. This change not only gives the Turnpike Enterprise more immediate bond capacity, but creates a line of credit, so to speak, to issue more bonds as the Turnpike pays down its balance.
- Makes numerous administrative, organizational and technical changes to the metropolitan planning organizations.
- Stiffens penalties for motorists who speed through toll plazas without paying tolls and those who purposely obscure their vehicles' license plates.
- Creates the Osceola County Expressway Authority.
- Creates environmental permitting exemptions for certain small-scale transportation projects with minimal adverse impacts.
- Modifies the membership of the Miami-Dade County Expressway Authority and imposes new noticing requirements before the authority can set new toll rates.
- Directs the Florida Department of Transportation to study the impacts that slot-machine gambling at pari-mutuel facilities and Indian reservations may have on nearby access roads and other transportation facilities, with the report due to the Governor and the Legislature by January 15, 2007.
- Modifies the Charter County Transit System Surtax to include all counties; broadens the surtax's uses; and provides a formula for counties to share the surtax proceeds with municipalities.
- Allows the Orlando-Orange County Expressway Authority to set a performance bond waiver cap of $500,000 for public projects, up from the $200,000 contract cap currently in law, to promote its small-business contractor program.

HB 7077 w/CS does not raise any apparent constitutional or legal issues. The bill does not have a negative fiscal impact on the state. The legislation takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: Several provisions in HB 7077 w/CS implicate this principle, in varying ways. Section 19 creates the Osceola County Expressway Authority, which has the power to issue revenue bonds and to impose tolls. Sections 21 and 24-26 reduce environmental regulatory hurdles for certain transportation projects. Sections 27 and 28, respectively, reduce the membership of the Miami-Dade County Expressway Authority (MDX) and impose new noticing requirements prior to the MDX raising tolls.

B. EFFECT OF PROPOSED CHANGES:

Florida Turnpike Bond Cap

Current Situation

A part of the Florida Department of Transportation (FDOT), the Florida Turnpike Enterprise is a 450-mile system of limited-access toll highways. The turnpike's 2006-2010 Work Program is funded largely through revenue bonds, backed by toll revenues. According to FDOT staff, every $1 in recurring toll revenues from the Turnpike can be leveraged to generate $14 to pay for project costs.

Section 338.227, F.S., authorizes FDOT to issue bonds to pay all or a part of legislatively approved turnpike projects, and section 338.2275, F.S., limits the total amount of bonds that may be issued to $4.5 billion. According to FDOT, nearly $2.336 billion in Turnpike bonds have been issued over the years, leaving $2.164 billion within the statutory cap to be authorized. However, the Turnpike's long-range project plan through FY 2010-2011 indicates that the estimated costs of the projects exceed the statutory bond cap by approximately $950 million.

Section 339.135(3), F.S., requires FDOT to base its Five-Year Work Program on a "complete, balanced financial plan." To comply with the law, the Turnpike will have to either eliminate or scale back proposed projects, adopt a "pay-as-you go" approach to financing future projects, or seek a change in law to raise the bond cap.

Current Turnpike projects include completion of the Western Beltway, Part C; adding 150 lane miles through widening of the Turnpike System at a cost of nearly $1 billion; adding four new interchanges and improving three other interchanges at a cost of $200 million to improve access to the Turnpike System; and converting the Sawgrass Expressway to a fully electronic, open-road tolling facility and adding SunPass Express lanes at other locations.

Projects proposed for the Turnpike's 2007-2011 Work Program – if the bond cap is increased – include nearly $370 million for additional lanes on various sections of the Homestead Extension-Florida Turnpike (HEFT) and $467 million for additional lanes along the Turnpike Mainline and the Veterans Expressway.

Potential future projects under review by Turnpike staff include another phase of the Suncoast Parkway; extensions of the Polk Parkway, State Road 417 in Volusia County, and the Sawgrass Expressway in Broward County to link with I-95; express lanes on the HEFT and the interstates; and the Port of Miami tunnel.

Effect of Program Changes

FDOT proposes raising the cap on Turnpike bonds from $4.5 billion to $6 billion, and changing the limitation to a maximum amount outstanding, thereby providing for a "line of credit" that the Turnpike can utilize for long-term planning.

According to FDOT staff, this cap increase will allow the Turnpike to complete currently planned projects and to continue an aggressive approach to building tolled facilities to handle future transportation needs.

Any increase in the bond cap will not impact the state of Florida's debt affordability index, because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

Florida Turnpike/Expressway Authority Traffic Enforcement Issues

Current Situation

Section 316.1001, F.S., specifies that persons who use a toll facility without paying a toll (unless otherwise exempted) are guilty of a noncriminal traffic infraction, punishable as a moving violation. Pursuant to chapter 318, F.S., if the citation is not paid in a timely fashion, then the matter is forwarded to the courts. Violators are subject to points being assessed on their driver's licenses.

Florida's uniform traffic code and motor vehicle registration laws also include requirements for proper placement and appearance of vehicle license plates, to make it easier for law enforcement officers to quickly identify tag numbers of vehicles involved in criminal activity.

The Florida Turnpike and the expressway authorities are reporting an upswing in the numbers of motorists – particularly repeat offenders -- speeding through toll plazas without paying tolls or without transponders. The Turnpike and the Tampa-Hillsborough County Expressway Authority reported at least $16 million in lost toll revenues in FY 2004-2005, while the Orlando-Orange County Expressway Authority (OOCEA) reported a $6 million loss.

These agencies also reported spending more money last fiscal year to contact and litigate toll-plaza violators than they collected. The Turnpike reported spending more than $2.5 million to collect $721,362 in unpaid toll collections, while the OOCEA spent $1.41 million to collect about $412,000.

While most of the toll plazas are equipped with cameras that photograph the license plates of motorists who speed through without paying tolls, more often these photographs are of little use to enforcement personnel because the plates are purposely obscured or mutilated, or are displayed upside down or out of the cameras' view range. The expressway authorities have learned of websites and retailers selling sprays and other materials that when applied to license tags obscure them just enough to prevent clear photographs by the toll cameras.

In December 2005, the Florida Transportation Commission passed a resolution supporting tougher penalties and fines for motorists who fail to pay tolls or obscure their license plates.

Effect of Proposed Changes

HB 7077 w/CS makes a number of changes to the traffic violation statutes to stiffen penalties and fines for toll-plaza violators and to address loopholes in the current law. For example:

- The bill amends ss. 316.650(3) and 318.14(12), F.S., to clarify that violators must pay the amount of the unpaid toll and a fine imposed by the expressway authority to the governmental entity that issued the citation within 30 days in order to avoid a court hearing and points assessed against their licenses. A motorist who fails to do this has an additional 45 days to request a court hearing or pay the civil penalty and other charges.
- The bill also amends s. 318.18(7), F.S., to specify that a violator found guilty by a judge must pay a $150 fine plus the amount of the unpaid toll to the court, which will forward $50 and the amount of the unpaid toll to the appropriate expressway authority. The remaining $100 would be distributed to the General Revenue Fund, local governments, and various trust funds, as provided in s. 318.21, F.S.
- Where adjudication is withheld or the violator pleads out before the case goes to court, the fine is $100, plus the amount of the unpaid toll. The court will forward $50 and the

amount of the unpaid toll to the appropriate expressway authority, with the remaining $50 distributed as provided in s. 318.21, F.S.

- The driver's license of any person who receives 10 convictions of s. 316.1001, F.S., within a 36-month period must be suspended for 60 days.

The bill also amends s. 320.061, F.S., to make it illegal to obscure license plates with any substance or coating that restricts their visibility or prevents a legible electronic image recording from being made. Under the legislation, the registration of plates so obscured would be revoked. Also, the Florida Attorney General may file suit against any individual or entity selling or marketing products advertised as being able to obscure license plates. These lawsuits may seek injunctive and monetary relief, punitive damages, and attorney's fees. Any lawsuit also must seek records of all sales of the product to Floridians or other entities within Florida.

Finally, the bill clarifies placement of license plates. Section 316.605(1), F.S., would be amended to specify that:

- License plates must be secured to the main body of a vehicle no higher than 60 inches and no lower than 12 inches from the ground, and
- License plates must be affixed to a vehicle so that its letters and numerals shall be read from left to right, parallel to the ground. This means that license plates can't be attached upside down, vertically, or in reverse position.

Osceola Expressway Authority

Current Situation

Nine expressway authorities have been created in chapter 348, F.S., by the Florida Legislature. A tenth, the Miami-Dade County Expressway Authority, was created by the Miami-Dade County Commission pursuant to the process in Part I of Chapter 348, F.S. Their purpose is to construct, maintain, and operate tolled transportation facilities that complement the State Highway System and the Florida Turnpike Enterprise. Bonds issued for expressway projects must comply with state constitutional requirements. The expressway authorities have boards of directors that typically include a combination of local-government officials or residents and Governor appointees who decide on projects and expenditure of funds.

There also are four regional transportation authorities created in chapter 343, F.S., and one local transportation authority, the Jacksonville Transportation Authority, created in chapter 349, F.S.

Osceola County is in one of the fastest-growing regions of the state, and local officials and developers have expressed interest the last two years in partnering to improve transportation infrastructure there. Supporters of creating the expressway authority have mentioned a 6.5-mile-long toll road in the western part of the county as one project. This toll road would link Marigold Avenue in the Poinciana community in Osceola with U.S. 17 and County Road 54 in Polk County.

Effect of Proposed Changes

HB 7077 w/CS proposes creating the "Osceola County Expressway Authority," modeled in many respects to existing authorities with standard "boiler-plate" language about the process to issue bonds, protection of bondholders, and relationships with FDOT.

Pursuant to the legislation:

- The expressway authority would have a six-member governing board, of which five would be voting members. The board's voting members would be comprised of three residents of Osceola County appointed by the Osceola County Commission and two Osceola County residents appointed by the Governor. The FDOT District 5 Secretary would serve as an ex-officio, non-voting member. No Authority member may be an officer or employee of Osceola County.

- The members shall serve 4-year terms, except that the Governor's initial appointees shall serve 2-year terms.
- The board members would serve without compensation, but be eligible to receive per diem and other travel expenses pursuant to s. 112.061, F.S.
- The board can hire an executive director and other staff.
- The Authority can issue revenue bonds, either on its own or through the state Division of Bond Finance. In both cases, the bonds and the issuance process must conform to State Bond Act requirements. These bonds' term may not exceed 40 years, and can not pledge the full faith and credit of the state of Florida.
- If approved by the Osceola County Commission, the Authority may pledge a portion of county gasoline tax revenues to repay the revenue bonds. The Authority must reimburse the county for any gas tax revenues it spends.
- The Authority is allowed to set and collect tolls, fees, and other charges; acquire land by purchase, donation, or eminent domain; borrow money; to sue and be sued; and enter into contracts, agreements, and partnerships with public and private entities.
- The Authority may construct, operate, and maintain roads, bridges, and other transportation facilities outside of Osceola County with the consent of the county within whose jurisdiction these projects are located.
- Likewise, the Authority may not acquire right-of-way for a project within unincorporated Osceola County until the County Commission has approved the project's route.
- The Authority may enter into lease-purchase agreements with FDOT to manage the system. FDOT also may be appointed by the Authority as its agent to oversee construction of the system's components.
- FDOT is authorized to spend up to $375,000 of its funding for the Authority's operating costs, and to conduct traffic surveys, preliminary engineering studies, and similar initial activities for the expressway system.

Other Turnpike/Expressway Issues

HB 7077 w/CS proposes a number of changes to the sections of law related to the Miami-Dade County Expressway Authority (MDX); the Orlando-Orange County Expressway Authority (OOCEA); the expanded use of transponders; and the Florida Turnpike budget. HB 7077 makes the following changes:

MDX:

- Currently, an expressway authority in a county defined in s. 125.11(1), F.S., (which applies only to MDX) can have up to 13 voting members: seven appointed by the County Commission; five appointed by the Governor; and the final member being the FDOT District 6 secretary. MDX has powers similar to those of all the other expressway authorities created in law, including the power to levy tolls on its transportation facilities.

  HB 7077 w/CS would reduce the authority board to a maximum of seven voting members, with the chair of the Miami-Dade legislative delegation, or designee, and the FDOT District 6 secretary as non-voting members The new voting membership would be comprised of: two Miami-Dade county commissioners appointed by the commission chair; one member may be a mayor of a municipality within the county and appointed by the Miami-Dade County League of Cities; and four Governor appointees.

  The legislation also would require MDX, prior to raising tolls, to publish a notice of intent in a newspaper of general circulation, as defined in s. 97.021(16), F.S., specifying the amount of the increase. The notice must be published twice, at least seven days apart, with the first notice published no more than 90 days from the effective date of the toll increase and the second publication not less than 60 days prior to the effective date. These provisions do not apply to toll increases approved by the authority prior to this legislation becoming law.

OOCEA

- Currently, OOCEA has a program that seeks to encourage Orlando-area small-business owners to bid on components of expressway authority projects. In its eight years' of existence, the so-called "micro-contract" program has attracted more than 100 small companies to perform such tasks as erecting guard rails, installing landscaping, and striping toll roads. One of the benefits of the program to small businesses has been the waiver of a performance bond for project contracts of $200,000 or less. This waiver is available to all state agencies, pursuant to s. 255.05, F.S. Persons or entities awarded public contracts greater than $200,000 must post a surety bond to guarantee the work will be performed to the state agency's specifications.

  The recent unprecedented increases in transportation construction materials and labor in Florida has increased the bids for these micro-contracts, according to OOCEA staff. As a way to save the popular program, the OOCEA is proposing amending s. 348.754, F.S., which specifies the OOCEA's purposes and powers, to raise to a maximum $500,000 the contract threshold for a performance-bond waiver for OOCEA contractors only.

  The proposal also limits participation in the program to independent businesses principally headquartered in the Orange County Standard Metropolitan Statistical Area and employing a maximum of 25 persons. Eligible businesses also must have gross annual construction sales averaging $3 million or less over the previous three calendar years; be accepted into OOCEA's economic-development program; and participate in OOCEA technical assistance or other educational programs. Any small business which has been the successful bidder on six micro-contracts is ineligible to continue participating in the program.

Toll Transponders

- Section 338.161, F.S., allows FDOT and the Turnpike to spend funds for marketing its Sun Pass transponders, and to receive funds from advertising placed on its transponders and promotional materials to defray costs. Expressway authorities, which also sell transponders to their customers, do not have similar statutory authority.

  Current law does not address potential uses of transponders other than for toll collection, although the Turnpike and the OOCEA have been allowing their customers to pay for parking at the Orlando International Airport from their transponder accounts. According to the OOCEA, about 28 percent of all airport parking lot users there pay with a SunPass or E-Pass transponder.

  HB 7077 w/CS amends s. 338.161, F.S., to extend to expressway authorities the ability to market their transponders. It also would specifically allow expressway authorities and FDOT and the Turnpike to enter into agreements with private or public entities to expand the uses of their transponders. Attorneys for the Turnpike and expressway authorities have said such express statutory permission is necessary so that future contracts to expand the use of transponder accounts are on firm legal ground.

Turnpike Budget

- In 2005 the Legislature revised several technical provisions in statute related to state budget requirements and deadlines. One of these revisions changed the roll-forward date of certified undisbursed funds in FDOT's accounts from December 31 of each year to September 30 of each year. Advancing the roll-forward date gives FDOT budget staff more information about these funds as they are preparing the agency's Legislature Budget Request in the fall. However, the Turnpike's budget process is in a different section of law than is FDOT's, and was overlooked last year.

  HB 7077 w/CS amends s. 338.2216, F.S., to correct the oversight and conform the Turnpike's roll-forward budget date to FDOT's budget process.

Public-private partnerships

- Currently, s. 348.0004(9), F.S., in Part I of the chapter, allows any expressway authority to solicit proposals from private companies wishing to enter into partnership agreements for the purpose of building, financing, operating, or owning toll facilities. No such partnership has been consummated, although the Tampa-Hillsborough Expressway Authority has advertised for proposals from private entities to help finance, design, and build a 3-mile-long, four-lane tolled highway linking Tampa Palms with I-275. The deadline for submitting proposals is May 8, 2006.

  The authority's attorneys have questioned whether the existing law is clear that any expressway authority, and not just those created pursuant to Part I of chapter 348, F.S., can participate in the public-private partnerships. To address those concerns, HB 7077 w/CS amends s. 348.0004(9), F.S., to say that "notwithstanding any law to the contrary, any expressway authority, transportation authority, bridge authority, or toll authority established either by statute or pursuant to Part I, chapter 348, F.S.," may enter into these partnerships.

M.P.O. Issues

Current Situation

As established by 23 U.S.C. s. 134 , Metropolitan Planning Organizations (M.P.O.'s) are directed to develop, in cooperation with state officials, transportation plans and programs for urbanized areas of more than 50,000 persons. The process for developing such plans and programs must provide for the 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. The plans also must emphasize projects that serve an important national, state or regional transportation purpose.

Pursuant to s. 339.175, F.S., M.P.O.'s in cooperation with the state and public transit operators develop multi-year "transportation improvement plans," or TIPs, that are the building blocks for FDOT's statewide Five-Year Work Program. Besides the TIPs, the M.P.O.'s also develop long-range transportation plans ranging over 20 years and an annual "unified planning work program" that lists all the planning tasks each M.P.O. will undertake that fiscal year.

An M.P.O. must be designated for each urbanized area of the state. Such designation must 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. Each M.P.O. must be created and operated pursuant to an interlocal agreement entered into pursuant to s. 163.01, F.S. Currently, Florida has 26 M.P.O.'s. These boards consist of local elected officials and appropriate state agencies, and may also include officials of public agencies that administer major modes of transportation within the metropolitan area.

In recent years, as the Legislature has instituted transportation policy directives focusing on regional planning and transportation infrastructure improvements, the section of law governing M.P.O.'s responsibilities in Florida has been criticized as internally inconsistent and unclear as to the entities' precise responsibilities and their degree of independence.

Effect of Proposed Changes

HB 7077 w/CS amends s. 339.175, F.S., and other sections of law to bring clarity and uniformity to M.P.O.'s administrative structure, powers and duties, and general responsibilities. For example, one criticism has been that some M.P.O.'s cannot fully embrace regional planning approaches because they, or their staffs, are not as independent as they should be from county and city governments.

The bill amends chapters 112 and 121, F.S., to clarify that M.P.O.'s are separate legal entities independent from the local governing body; allow M.P.O. staff to participate in the Florida Retirement System; designate each M.P.O.'s executive director or staff director as a member of the Senior Management Service class; and allow M.P.O.'s to establish per diem and travel reimbursement rates.

It also amends s. 339.175(5), F.S., to clarify that an M.P.O.'s executive director reports directly to his or her M.P.O. Governing Board, and that the executive director and staff are employed by the M.P.O., or through a staff services agreement between the MPO and another governmental entity. In addition, the legislation makes it clear that M.P.O. staff work for the M.P.O., and not for any of the member cities or counties.

HB 7077 w/CS also amends s. 339.175(1) and (2), F.S., to address a number of membership issues. The bill:

- Directs each M.P.O. to select a chair, vice chair, and clerk;
- Specifies the officers' responsibilities;
- Requires each M.P.O. to provide training on the urbanized transportation planning process to all who serve as members;
- Clarifies that voting members shall exclude constitutional or charter officers;
- Establishes a process by which alternate members are selected;
- Directs M.P.O.'s to appoint nonvoting representatives of various multi-modal organizations, who are not otherwise represented by voting members; and
- Directs M.P.O's to appoint representatives of major military installations as non-voting advisors if requested by the bases.

Additionally, the bill gives, or at least clarifies, M.P.O. powers common to many other types of independent boards with budgets, such as the authority to: sell, donate, dedicate, or convey property; appropriate funds; receive grants-in-aid; enjoy sovereign immunity; incur debt; hire staff, including legal counsel; acquire buildings; and have all powers provided for under federal law.

Current law requires roll-call votes of all members present in order to adopt or update certain plans. HB 7077 w/CS amends s. 339.175(12), F.S., to provide for a supermajority roll-call vote, or a hand-counted vote of a majority-plus-one, of the membership present to adopt transportation plan amendments affecting projects in the first three years of such plans. This change is related to the provision in s. 339.135(4)(b)3., F.S., that the first three years of FDOT's adopted work program is the state's commitment to undertake transportation projects that local governments may rely on for planning and concurrency purposes.

Finally, HB 7077 w/CS amends s. 339.175(5), F.S., to specify that contiguous M.P.O.'s must develop a report on regional planning actions and accomplishments. The report must be transmitted to each M.P.O.'s local legislative delegation by February of each even-numbered year. This is intended to document regional planning accomplishments, and to improve communication between M.P.O.'s and their local legislative delegations.

Local Transportation Funding Issues

Current Situation

Local governments have been receiving a share of gas tax revenues since 1971. Today, there are several local fuel taxes, some of them optional and requiring either voter approval or majority vote of the local governing board.

Over the years, the Legislature has created opportunities for county and city governments to levy additional sales taxes or surtaxes, upon voter approval, to pay for large or expensive infrastructure projects. One such funding mechanism is the Charter County Transit System Surtax, created in 1976 by the Legislature to finance development, construction, and operation of fixed guideway, rapid transit systems in charter counties. Imposition of the surtax under current law requires voter approval.

This section of law has been amended several times since it was created, so that currently only counties that adopted a charter prior to January 1, 1984, may seek to levy a maximum 1 percent sales surtax, after voter approval, to finance a variety of transportation infrastructure as well as operation and maintenance of public bus systems.

Seven counties are eligible to levy the surtax: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota and Volusia. Only two have levied the surtax: Duval since 1989 and Miami-Dade since 2003. Each county levies a half-cent sales surtax. According to the state Department of Revenue, in FY 2004 the surtax in those two counties generated $194.3 million.

Some county and city officials in recent years have expressed an interest in having the surtax eligibility broadened beyond charter counties, commenting that a surtax on sales appears more palatable to taxpayers than raising fuel taxes. They also have cited rising costs of transportation construction materials and labor, the state's new emphasis on regional transportation solutions, and required local matches for new state transportation funding programs as reasons they support broadening the surtax.

Effect of Proposed Changes

HB 7077 w/CS amends 212.055(1), F.S., to rename the Charter County Transit System Surtax as the "County Transportation System Surtax." It deletes the requirement that only certain charter counties can levy the surtax. It also expands the surtax revenues' uses to include:

- Funding a regional transportation project identified in regional plans by M.P.O.'s, pursuant to s. 339.155(5), F.S.;
- As the local match for the new Transportation Regional Incentive Program, pursuant to s. 339.2819, F.S., or the New Starts transit program, pursuant to s. s. 341.051, F.S.;
- Certain capital improvement projects and concurrency projects identified in local comprehensive plans; and
- Funding bicycle and pedestrian paths.

The maximum 1-percent surtax could be levied after the adoption of a local ordinance by the county commission and passage of a referendum. HB 7077 w/CS also includes a distribution formula, per interlocal agreement, so that counties can share the funds with municipalities. The formula takes into account population and centerline miles in the counties and cities.

Other Transportation Issues

HB 7077 w/CS includes a number of other transportation-related issues. Briefly:

Florida Transportation Commission

Currently, the four employees of the Florida Transportation Commission, the governor-appointed board that provides oversight of FDOT and makes transportation policy recommendations to the Governor and Legislature, are classified as Selected Exempt Service personnel for the purposes of salary and benefits.

HB 7077 w/CS specifies that the salary and benefits of the commission's executive director position shall be based on the Senior Management Service classification, and the rest of the commission's employees shall remain in the Selected Exempt Service classification.

Transportation Impacts of Slot Machine Gaming

During the 2005 regular and special sessions, legislation implementing a 2004 constitutional amendment allowing slot machine gambling in certain facilities in Broward and Miami-Dade counties included discussions on how to address transportation infrastructure impacts.

HB 7077 w/CS includes a proposal for an FDOT study of slot-machine gaming impacts on public highways and other transportation facilities. The proposal directs FDOT to conduct a study and draft a report of the impacts that slot machine gaming at pari-mutuel facilities and on Indian reservation lands are having on public roads and other transportation facilities, traffic congestion and other mobility issues, facility maintenance and repair costs, emergency evacuation readiness, costs of potential future widening or other improvements, and other impacts on the motoring, non-gaming public.

Due January 15, 2007, the report must include the following information:

- a listing, description, and functional classification of access roads;
- identification of those access roads that are scheduled for improvements within FDOT's Five-Year Work Program or a long-range transportation plan;
- recent traffic counts on the access roads and projected future usage, as well as projections of impacts on secondary, feeder, or connector roads, interstate highway exit and entrance ramps;
- safety and maintenance ratings of each access road and impacts on local and state emergency or evacuation services;
- the estimated infrastructure costs to maintain, improve, or widen access roads, based on future projected needs; and
- the feasibility of implementing or raising tolls on access roads to offset and mitigate traffic impacts and to finance projected future improvements.

FDOT also may include proposed legislation in the report, which must be submitted to the Governor and the Legislature.

Environmental Permitting Process

Part IV of chapter 373, F.S., regulates the management and storage of surface waters and stormwater runoff. The Florida Department of Environmental Protection (FDEP) and the five water management districts (WMDs) representing the state's five major watersheds or basins issue permits regulating public- and private-sector projects that impact wetlands, lakes, and other water bodies. Section 373.406, F.S., lists a number of exemptions from the required permits; typically these exemptions are for activities that have minimal negative impacts to the environment, or whose impacts are being mitigated by best-management practices.

FDOT is not exempt from this permitting process. Currently, even small-scale transportation activities, such as shoring up highway shoulders, adding bike lanes to existing highways, replacing bridges in the same "foot-print," and other safety improvements, are required to undergo the same environmental permitting requirements and meet many of the same standards as large-scale transportation projects.

HB 7077 w/CS amends several sections in Part IV, chapter 373, F.S., related to surface water permits. The bill creates exemptions for small-scale state transportation projects or activities, as defined in 373.4146, F.S. It also specifies that state transportation projects of less than five acres of wetlands impact may obtain general permits, rather than the more time-consuming individual permits.

The legislation also directs FDOT, FDEP, and the WMDs to develop three memoranda of understanding (MOU) within the next 30 months to address specific environmental issues. By January 1, 2007, an MOU governing the use of sovereign submerged and other state-owned lands for state transportation projects must be developed, as well as an MOU directing FDOT, FDEP, and the WMDs to develop a method for determining seasonal high-groundwater table elevation for state transportation projects. By July 1, 2008, the agencies must develop an MOU containing best management practices to handle roadway stormwater runoff.

Use of Recycled Materials

Section 336.044, F.S., created in 1988, directs FDOT to expand its usage of rubber tires, ash residue, recycled plastic, construction steel, and glass in construction projects, and to revise its rules and contract and bid specifications to eliminate any barriers to the use of recycled materials in transportation projects, where appropriate. FDOT is complying with the statute.

Under HB 7077 w/CS, the existing section of law is moved to s. 334.70, F.S. Chapter 334, F.S., deals with FDOT administration issues, and is a more appropriate location for this section than Chapter 336, F.S., which deals with the County Road System.

The bill also adds gypsum to the recycled materials that FDOT may use in demonstration projects to determine whether it is suitable for highway construction.

Gypsum is a naturally occurring inorganic compound that has many commercial uses (such as plaster paneling in home construction, as plaster of Paris for art projects and surgical splints, as a thickening agent for tofu and flour, and as a cleaning agent in toothpaste). Gypsum also is a byproduct of the chemical processes that turn phosphate rock into phosphoric acid, which is a key ingredient in fertilizer and other products.

Florida mines about 30 percent of the world's phosphate, 90 percent of which is turned into phosphoric acid. Creating 1 ton of phosphoric acid also creates a byproduct of nearly 5 tons of this phosphogypsum, which under federal regulation is stored in huge stacks near the mining and chemical operations that create it. This phosphogypsum has limited uses in the United States because of concerns of its naturally occurring amount of radiation. Typically, it is used in this country as an agricultural soil additive, but research indicates that it might have acceptable uses as road-bed filler and landfill cover, depending on its level of radiation. The state of Texas is experimenting with a mixture of phosphogypsum and Portland cement as roadbed aggregate. In Europe and Japan, phosphogypsum is recycled for use in building materials.

General Aviation Airport Funding Match

Florida has at least 83 general aviation, or community, airports that provide a number of aviation-related services to their communities, but do not offer scheduled commercial flights.

State law allows FDOT to provide half of the local share of general aviation airport (GAA) project costs when federal funding is available as a 50-percent federal/50-percent local match. But many small GAAs and their local governments can't afford to pay the required 25-percent local match, according to FDOT staff, so the federal grant is rejected. Those funds then are likely spent in another state. If the GAA project is a priority, FDOT pays the majority of the cost from state aviation funds.

HB 7077 w/CS amends s. 332.007, F.S., to allow FDOT to apply federal GAA grant funds to an eligible project, then split the remaining cost on an 80-percent state/20-percent local matching basis. This would enable the state to draw down more federal aviation grant funding, and free up state aviation funding for other projects.

Effective date

HB 7077 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 112.061, F.S., to allow MPO's to set travel, per diem, subsistence, and mileage rates in excess of statutory maximums for non-state travelers.

Section 2: Amends s. 121.021, F.S., to add MPO's to the definitions of "local agency employer" and "regularly established position" for the purpose of ensuring that MPO employees are considered public employees eligible for participation in the Florida Retirement System.

Section 3: Amends s. 121.051, F.S., to add MPO's to the list of local governmental entities that may choose to have its employees participate in the Florida Retirement System.

Section 4: Amends s. 121.055, F.S., to add the executive director or staff director of each MPO to the list of public employees included in the "Senior Management Service Class."

Section 5: Amends s. 121.061, F.S., to add MPO's to the list of governmental entities that may deduct from public funds due a non-state employer any unpaid retirement system contributions. Allows MPO's to file suit to require any employer to remit the required retirement and Social Security contributions.

Section 6: Amends s. 121.081, F.S., to allow MPO employees to claim past service credits for the purposes of participating in the Florida Retirement System.

Section 7: Amends s. 316.605, F.S., to establish placement and display requirements for vehicle license plates.

Section 8: Amends s. 316.650, F.S., to specify that motorists who use tolled highways without paying the required tolls have the option to pay the tolling authority's fine and the unpaid toll, and the traffic citation is dropped and no points are assessed.

Section 9: Amends s. 318.14, F.S., to specify that motorists who use tolled highways without paying the required tolls can elect to pay the unpaid toll and the tolling authority's fine, or if not, have 45 days to either request a court hearing or to pay the specified fines.

Section 10: Amends s. 318.18, F.S., to raise the fine for motorists who fail to pay required tolls from $100 to $150. Specifies that if adjudication is withheld or a plea is entered prior to a court hearing, the fine is $100. Specifies distribution of fine proceeds. Specifies 60-day suspension of driver's license for motorists with 10 toll violations.

Section 11: Amends s. 320.061, F.S., to specify illegality of obscuring license plates with certain substances or products. Prohibits advertising, sale, distribution, purchase and use of such substances or products. Specifies law enforcement officers may issue citations to drivers whose plates are obscured and can confiscate the plates. Specifies that the Florida Attorney General may file suit against an entity or person involved in the sale and marketing of obscuring substances and products. Provides for injunctive relief, fines, and other penalties.

Section 12: Renumbers s. 336.044, F.S., as s. 334.70, F.S., related to FDOT's use of recycled materials in transportation construction projects. Adds gypsum to the recycled materials that FDOT may use in demonstration projects to determine their viability.

Section 13: Amends s. 338.161, F.S., to allow the Florida Turnpike and other tolling agencies to market their electronic toll-collection devices and to enter into contracts with private or public entities to provide for additional uses of those devices on- or off-system.

Section 14: Amends s. 338.2216, F.S., to change the certified roll-forward date of unexpended Florida Turnpike funds from December 31 to September 30 of each year.

Section 15: Amends s. 338.2275, F.S., to change the Florida Turnpike's bond cap to $6 billion of bonds outstanding.

Section 16: Amends s. 339.175, F.S., related to M.P.O.'s. Establishes officers; clarifies eligibility of certain elected officials to serve on M.P.O.'s; directs M.P.O.'s to appoint non-voting members representatives of transportation modes not otherwise serving on their boards; lists M.P.O.'s powers and duties; requires M.P.O.'s to submit progress report to their local legislative delegations; makes numerous technical changes.

Section 17: Amends s. 20.23, F.S., to switch the Florida Transportation Commission's executive director position from the Selected Exempt Service class to the Senior Management Service class..

Section 18: Amends s. 332.007, F.S., to give FDOT more flexibility to match federal grants for general aviation airports.

Section 19: Creates the Osceola Expressway Authority with specific powers and duties, membership requirements, and bonding authority.

Section 20: Amends s. 373.036, F.S., to correct a cross-reference.

Sections 21-26: Amends various sections in Part IV of chapter 373, F.S., to exempt certain small-scale transportation projects meeting certain criteria from environmental resource permits or dredge-and-fill permits. Directs FDOT, the Florida Department of Environmental Protection, and the WMDs to enter into memoranda of understanding on the issues of: use of state-owned lands, determination of seasonal high groundwater table elevation; and highway stormwater runoff. Corrects cross-references.

Section 27: Amends s. 348.0003, F.S., to reduce membership of the Miami-Dade Expressway Authority from 13 voting members to seven voting members and two non-voting members. Specifies composition of the authority.

Section 28: Amends s. 348.0004, F.S., to create new noticing requirements for the Miami-Dade Expressway Authority for proposed toll increases. Clarifies that expressway authorities not created pursuant to Part I of chapter 348, F.S., can utilize the public-private partnership provisions in s. 348.0004(9), F.S.

Section 29: Amends s. 348.754, F.S., to allow the Orlando-Orange County Expressway Authority to increase the bond-waiver amount for small businesses meeting certain eligibility requirements for its economic-development program. Requires the Authority to conduct bond-eligibility training for qualifying businesses. Requires the Authority to prepare a report on the program every two years and submit it to the Orange County legislative delegation, beginning December 31, 2008.

Section 30: Amends s. 212.055, F.S., to rename the Charter County Transit System Surtax as the "County Transportation System Surtax." Specifies the surtax may be approved by a referendum. Specifies distribution formula of surtax proceeds to a county and its municipalities. Specifies uses of surtax proceeds. Makes technical corrections.

Section 31: Directs FDOT to conduct a study of the impacts of slot-machine gaming at pari-mutuel facilities and Indian reservations on public transportation facilities. Specifies topics to be studied. Requires FDOT to submit its findings and recommendations in a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 15, 2007.

Section 32: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Section 15 of the bill would raise the Florida Turnpike Enterprise's bond cap from an absolute $4.5 billion in bonds to a limit of $6 billion in bonds outstanding. Therefore, as the Turnpike retires bond issues, it may issue more, as long as it does not exceed $6 billion owed at any time.

   Section 18 of the bill would give FDOT the flexibility to provide a greater share of the local match required in order to obtain more federal general aviation grant funds.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Section 30 of the bill gives all 67 counties the opportunity to levy up to 1 percent sales surtax to pay for transportation infrastructure. Additionally, the surtax revenues would be shared with the municipalities within those counties that levied the surtax. The fiscal impact is indeterminate at this time, because it is unknown how many local governments would levy in the surtax.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Legislature last raised the Turnpike bond cap in 2003, from $3 billion to $4.5 billion.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 7077 w/CS does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDOT, FDEP, and the WMDs appear to have sufficient existing rulemaking authority to implement the various provisions in HB 7077, should they become law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Transportation Committee

At its February 7, 2006, meeting, the House Transportation Committee adopted 10 amendments to this bill in its original form as PCB TR 06-04. A brief description of the amendments follows:

- Amendment #1 specified that the proposed new county surtax could be levied by a supermajority vote of the entire membership of a county commission, rather than by a majority vote.
- Amendment #2 added the New Starts transit program as an eligible use of the county surtax funds.
- Amendments #3 and #4 were technical changes to the provisions related to M.P.O. participation in the Florida Retirement System.

- Amendment #5 corrected a scrivener's error on the voting membership and non-voting membership of the MDX.
- Amendment #6 was a technical amendment inserting inadvertently omitted words related to fines for non-payment of tolls.
- Amendment #7 amended s. 348.0004(9), F.S., to clarify that notwithstanding any law to the contrary, any expressway authority, transportation authority, bridge authority, or toll authority, established either in statute or by local ordinance pursuant to Part I of chapter 348, F.S., could participate in public-private partnerships for transportation infrastructure.
- Amendment #8 clarified that the Transportation Commission's executive director position would be reclassified as Senior Management Service and the remaining employee positions would remain as Selected Exempt Service.
- Amendment #9 added gypsum to the recycled materials that FDOT can use in demonstration projects.
- Amendment #10 changed the $400 million, one-time expenditure of general revenue for other arterial road projects to a recurring appropriation tied to the CPI.

The committee then voted 14-1 to report PCB TR 06-04 as favorable. After it was reported out of committee, the legislation was designated by the House Clerk's Office as HB 7077.

At the April 4, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 7077 with three amendments. The first amendment was a technical amendment which clarified what Turnpike funds may be certified forward. The second amendment removed the provision that authorized the levy of the County Transportation Surtax by supermajority vote of the county commission. The third amendment removed the $400 million appropriation.

CHAMBER ACTION

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1 The Transportation & Economic Development Appropriations
2 Committee recommends the following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to transportation; amending s. 112.061,
8 F.S.; authorizing metropolitan planning organizations and
9 certain separate entities to establish per diem and travel
10 reimbursement rates; amending s. 121.021, F.S.; revising
11 the definition of "local agency employer" to include
12 metropolitan planning organizations and certain separate
13 entities for purposes of the Florida Retirement System
14 Act; revising the definition of "regularly established
15 position" to include positions in metropolitan planning
16 organizations; amending s. 121.051, F.S.; providing for
17 metropolitan planning organizations to participate in the
18 Florida Retirement System; amending s. 121.055, F.S.;
19 requiring certain metropolitan planning organization and
20 similar entity staff positions to be in the Senior
21 Management Service Class of the Florida Retirement System;
22 amending s. 121.061, F.S.; providing for enforcement of
23 certain employer funding contributions required under the

24 Florida Retirement System; authorizing deductions of
25 amounts owed from certain funds distributed to a
26 metropolitan planning organization; authorizing the
27 governing body of a metropolitan planning organization to
28 file and maintain an action in court to require an
29 employer to remit retirement or social security member
30 contributions or employer matching payments; amending s.
31 121.081, F.S.; providing for metropolitan planning
32 organization officers and staff to claim past service for
33 retirement benefits; amending s. 316.605, F.S.; providing
34 height and placement requirements for vehicle license
35 plates; prohibiting display that obscures identification
36 of the letters and numbers on a license plate; providing
37 penalties; amending s. 316.650, F.S.; revising procedures
38 for disposition of citations issued for failure to pay
39 toll; providing that the citation will not be submitted to
40 the court and no points will be assessed on the driver's
41 license if the person cited elects to make payment
42 directly to the governmental entity that issued the
43 citation; providing for reporting of the citation by the
44 governmental entity to the Department of Highway Safety
45 and Motor Vehicles; amending s. 318.14, F.S.; providing
46 for the amount required to be paid under certain
47 procedures for disposition of a citation issued for
48 failure to pay toll; providing for the person cited to
49 request a court hearing; amending s. 318.18, F.S.;
50 revising penalties for failure to pay a prescribed toll;
51 providing for disposition of amounts received by the clerk

52 of court; revising procedures for withholding of
53 adjudication; providing for suspension of a driver's
54 license under certain circumstances; amending s. 320.061,
55 F.S.; prohibiting interfering with the legibility, angular
56 visibility, or detectability of any feature or detail on a
57 license plate or interfering with the ability to
58 photograph or otherwise record any feature or detail on a
59 license plate; prohibiting advertising, sale,
60 distribution, purchase, or use of any product made for
61 such purpose; providing penalties; providing for a law
62 enforcement officer to issue a citation and confiscate a
63 cover or other device obstructing the visibility or
64 electronic image recording of a plate or to confiscate a
65 license plate physically treated with a substance or
66 material that is obstructing the visibility or electronic
67 image recording of the plate; requiring the Department of
68 Highway Safety and Motor Vehicles to revoke the
69 registration of a plate so altered; providing for the
70 Attorney General to file suit against any entity offering
71 or marketing a product advertised as having the capacity
72 to obstruct the visibility or electronic image recording
73 of a license plate; renumbering and amending s. 336.044,
74 F.S., relating to Department of Transportation use of
75 recovered materials in construction programs; adding
76 gypsum to the list of materials authorized for use in
77 certain demonstration projects; amending s. 338.161, F.S.;
78 providing for the Department of Transportation and certain
79 toll agencies to enter into agreements with public or

80 private entities for additional uses of electronic toll
81 collection products and services; amending s. 338.2216,
82 F.S.; changing the carryforward date on certain
83 undisbursed Florida Turnpike Enterprise funds; revising
84 the maximum amount that may be carried forward; amending
85 s. 338.2275, F.S.; raising the limit on outstanding bonds
86 to fund turnpike projects; amending s. 339.175, F.S.;
87 specifying that a metropolitan planning organization is a
88 separate legal entity independent of entities represented
89 on the M.P.O. and signatories to the agreement creating
90 the M.P.O.; providing for transfer of responsibilities and
91 liabilities to the new M.P.O. upon execution of a new
92 interlocal agreement by the governmental entities
93 constituting the M.P.O.; providing for selection of
94 certain officers; revising requirements for voting
95 membership; specifying certain constitutional and charter
96 officers are not elected officials of a general-purpose
97 local government for voting membership purposes;
98 establishing a process for appointing alternate members;
99 revising provisions for nonvoting advisers; revising
100 provisions for employment of staff by an M.P.O.; providing
101 for training of certain persons who serve on an M.P.O. for
102 certain purposes; providing additional powers and duties
103 of M.P.O.'s; directing M.P.O.'s to develop coordinated
104 transportation planning processes under certain
105 conditions; requiring a report; revising voting
106 requirements for approval of certain plans and programs
107 and amendments thereto; amending s. 20.23, F.S.; providing

108 that the salary and benefits of the executive director of
109 the Florida Transportation Commission shall be set in
110 accordance with the Senior Management Service; amending s.
111 332.007, F.S.; authorizing the Department of
112 Transportation to provide funds for certain general
113 aviation projects under certain circumstances;
114 redesignating part X of chapter 348, F.S.; creating part X
115 of chapter 348, F.S.; creating the "Osceola County
116 Expressway Authority Law"; providing definitions; creating
117 the authority as an agency of the state; providing for
118 membership, terms, organization, personnel, and
119 administration; providing purposes and powers for
120 construction, expansion, maintenance, improvement, and
121 operation of the Osceola County Expressway System;
122 providing for use of certain funds to pay obligations;
123 requiring consent of local and county jurisdiction for
124 agreements that would restrict construction of roads;
125 providing for bond financing of improvements to certain
126 facilities; providing for issuance of bonds; providing for
127 rights and remedies granted to bondholders; providing for
128 appointment of a trustee to represent the bondholders;
129 providing for appointment of a receiver to take possession
130 of and operate and maintain the system; providing for
131 lease of the system to the Department of Transportation
132 under a lease-purchase agreement; authorizing the
133 department to act in place of the authority under terms of
134 the lease-purchase agreement; requiring approval by the
135 county for certain provisions of the lease-purchase

136 agreement; providing that the system is part of the state
137 road system; authorizing the department to expend a
138 limited amount of funds; providing for the authority to
139 appoint the department as its agent for certain
140 construction purposes; authorizing the authority to
141 acquire property; limiting liability of the authority for
142 contamination existing on an acquired property; providing
143 for remedial acts necessary due to such contamination;
144 authorizing agreements between the authority and other
145 entities; providing a pledge of the state to bondholders;
146 exempting the authority from taxation; providing for
147 application and construction of the part; amending s.
148 373.036, F.S.; correcting a cross-reference; amending s.
149 373.406, F.S.; exempting certain transportation projects
150 from certain requirements for management and storage of
151 surface waters; amending ss. 373.4135 and 373.4136, F.S.;
152 correcting cross-references; amending s. 373.414, F.S.;
153 exempting certain transportation projects and activities
154 from specified public-interest criteria relating to
155 surface waters and wetlands; amending s. 373.4145, F.S.;
156 exempting certain transportation projects and activities
157 within the geographical jurisdiction of the Northwest
158 Florida Water Management District from certain permitting
159 requirements; creating s. 373.4146, F.S.; specifying
160 transportation projects and activities that are exempt
161 from certain requirements for management and storage of
162 surface waters; providing for application of certain
163 requirements relating to stormwater discharge, impact

164 review, acreage thresholds, wetland impacts and general
165 permits, and minimum width or acreage restrictions on
166 stormwater treatment facilities; directing the Department
167 of Environmental Protection, the water management
168 districts, and the Department of Transportation to develop
169 memorandums of understanding relating to the use of
170 sovereign submerged lands or other state-owned lands, a
171 method for determining the seasonal high groundwater table
172 elevation, and best management practices to treat or
173 minimize identified constituents of highway stormwater
174 runoff; providing for application of the memorandums to
175 transportation projects and activities; amending s.
176 348.0003, F.S.; revising the membership of expressway
177 authority governing boards in certain counties; amending
178 s. 348.0004, F.S.; providing for public notice of a
179 proposed toll increase by certain expressway authorities;
180 authorizing a transportation authority, bridge authority,
181 or toll authority to receive or solicit proposals and
182 enter into agreements with private entities for certain
183 transportation facility purposes; providing for
184 application of specified provisions to use of certain
185 additional powers by certain expressway authorities,
186 transportation authorities, bridge authorities, or toll
187 authorities; amending s. 348.754, F.S.; authorizing the
188 Orlando-Orange County Expressway Authority to waive
189 payment and performance bonds on certain construction
190 contracts if the contract is awarded pursuant to an
191 economic development program for the encouragement of

192 local small businesses; providing criteria for
193 participation in the program; providing criteria for the
194 bond waiver; providing for certain determinations by the
195 authority's executive director or a designee as to the
196 suitability of a project; providing for certain payment
197 obligations if a payment and performance bond is waived;
198 requiring the authority to record notice of the
199 obligation; limiting eligibility to bid on the projects;
200 providing for the authority to conduct bond eligibility
201 training for certain businesses; requiring the authority
202 to submit biennial reports to the Orange County
203 legislative delegation; amending s. 212.055, F.S.;
204 renaming the Charter County Transit System Surtax as the
205 County Transportation System Surtax; authorizing all
206 counties to levy a discretionary sales surtax upon
207 approval by the governing body and the electorate of the
208 county; providing for distribution to the county and
209 municipalities by interlocal agreement or a certain
210 apportionment formula; providing for distribution of the
211 surtax by certain charter counties; providing for
212 application to certain counties in which the surtax
213 currently exists; providing for application to existing
214 agreements; revising authorized uses of the surtax to
215 include bicycle and pedestrian facilities, certain
216 transportation projects and transit programs, certain
217 capital improvements, and concurrency management;
218 directing the Department of Transportation to conduct a
219 study of the access roads to pari-mutuel facilities and

220 Indian reservation lands where gaming activities occur;
221 providing for content of the study; requiring a report to
222 the Governor and the Legislature; providing an effective
223 date.
224
225 Be It Enacted by the Legislature of the State of Florida:
226
227 Section 1. Subsection (14) of section 112.061, Florida
228 Statutes, is amended to read:
229 112.061 Per diem and travel expenses of public officers,
230 employees, and authorized persons.--
231 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
232 SCHOOL BOARDS, AND SPECIAL DISTRICTS.--
233 (a) Rates that exceed the maximum travel reimbursement
234 rates for nonstate travelers specified in paragraph (6)(a) for
235 per diem, in paragraph (6)(b) for subsistence, and in
236 subparagraph (7)(d)1. for mileage may be established by:
237 1. The governing body of a county by the enactment of an
238 ordinance or resolution;
239 2. A county constitutional officer, pursuant to s. 1(d),
240 Art. VIII of the State Constitution, by the establishment of
241 written policy;
242 3. The governing body of a district school board by the
243 adoption of rules; ~~or~~
244 4. The governing body of a special district, as defined in
245 s. 189.403(1), except those special districts that are subject
246 to s. 166.021(10), by the enactment of a resolution; or

247 5. Any metropolitan planning organization created pursuant
248 to s. 339.175, or any separate legal or administrative entity
249 created pursuant to s. 339.175 of which a metropolitan planning
250 organization is a member, by enactment of a resolution.
251 (b) Rates established pursuant to paragraph (a) must apply
252 uniformly to all travel by the county, county constitutional
253 officer and entity governed by that officer, district school
254 board, or special district.
255 (c) Except as otherwise provided in this subsection,
256 counties, county constitutional officers and entities governed
257 by those officers, district school boards, and special
258 districts, other than those subject to s. 166.021(10), remain
259 subject to the requirements of this section.
260 Section 2. Paragraph (a) of subsection (42) and paragraph
261 (b) of subsection (52) of section 121.021, Florida Statutes, are
262 amended to read:
263 121.021 Definitions.--The following words and phrases as
264 used in this chapter have the respective meanings set forth
265 unless a different meaning is plainly required by the context:
266 (42)(a) "Local agency employer" means the board of county
267 commissioners or other legislative governing body of a county,
268 however styled, including that of a consolidated or metropolitan
269 government; a clerk of the circuit court, sheriff, property
270 appraiser, tax collector, or supervisor of elections, provided
271 such officer is elected or has been appointed to fill a vacancy
272 in an elective office; a community college board of trustees or
273 district school board; or the governing body of any city,
274 metropolitan planning organization created pursuant to s.

275 339.175, or any separate legal or administrative entity created
276 pursuant to s. 339.175, or special district of the state which
277 participates in the system for the benefit of certain of its
278 employees.
279 (52) "Regularly established position" is defined as
280 follows:
281 (b) In a local agency (district school board, county
282 agency, community college, city, metropolitan planning
283 organization, or special district), the term means a regularly
284 established position which will be in existence for a period
285 beyond 6 consecutive months, except as provided by rule.
286 Section 3. Paragraph (b) of subsection (2) of section
287 121.051, Florida Statutes, is amended to read:
288 121.051 Participation in the system.--
289 (2) OPTIONAL PARTICIPATION.--
290 (b)1. The governing body of any municipality, metropolitan
291 planning organization, or special district in the state may
292 elect to participate in the system upon proper application to
293 the administrator and may cover all or any of its units as
294 approved by the Secretary of Health and Human Services and the
295 administrator. The department shall adopt rules establishing
296 provisions for the submission of documents necessary for such
297 application. Prior to being approved for participation in the
298 Florida Retirement System, the governing body of any such
299 municipality, metropolitan planning organization, or special
300 district that has a local retirement system shall submit to the
301 administrator a certified financial statement showing the
302 condition of the local retirement system as of a date within 3

303 months prior to the proposed effective date of membership in the
304 Florida Retirement System. The statement must be certified by a
305 recognized accounting firm that is independent of the local
306 retirement system. All required documents necessary for
307 extending Florida Retirement System coverage must be received by
308 the department for consideration at least 15 days prior to the
309 proposed effective date of coverage. If the municipality,
310 metropolitan planning organization, or special district does not
311 comply with this requirement, the department may require that
312 the effective date of coverage be changed.
313 2. Any city, metropolitan planning organization, or
314 special district that has an existing retirement system covering
315 the employees in the units that are to be brought under the
316 Florida Retirement System may participate only after holding a
317 referendum in which all employees in the affected units have the
318 right to participate. Only those employees electing coverage
319 under the Florida Retirement System by affirmative vote in said
320 referendum shall be eligible for coverage under this chapter,
321 and those not participating or electing not to be covered by the
322 Florida Retirement System shall remain in their present systems
323 and shall not be eligible for coverage under this chapter. After
324 the referendum is held, all future employees shall be compulsory
325 members of the Florida Retirement System.
326 3. The governing body of any city, metropolitan planning
327 organization, or special district complying with subparagraph 1.
328 may elect to provide, or not provide, benefits based on past
329 service of officers and employees as described in s. 121.081(1).
330 However, if such employer elects to provide past service

331 benefits, such benefits must be provided for all officers and
332 employees of its covered group.
333 4. Once this election is made and approved it may not be
334 revoked, except pursuant to subparagraphs 5. and 6., and all
335 present officers and employees electing coverage under this
336 chapter and all future officers and employees shall be
337 compulsory members of the Florida Retirement System.
338 5. Subject to the conditions set forth in subparagraph 6.,
339 the governing body of any hospital licensed under chapter 395
340 which is governed by the board of a special district as defined
341 in s. 189.403(1) or by the board of trustees of a public health
342 trust created under s. 154.07, hereinafter referred to as
343 "hospital district," and which participates in the system, may
344 elect to cease participation in the system with regard to future
345 employees in accordance with the following procedure:
346 a. No more than 30 days and at least 7 days before
347 adopting a resolution to partially withdraw from the Florida
348 Retirement System and establish an alternative retirement plan
349 for future employees, a public hearing must be held on the
350 proposed withdrawal and proposed alternative plan.
351 b. From 7 to 15 days before such hearing, notice of intent
352 to withdraw, specifying the time and place of the hearing, must
353 be provided in writing to employees of the hospital district
354 proposing partial withdrawal and must be published in a
355 newspaper of general circulation in the area affected, as
356 provided by ss. 50.011-50.031. Proof of publication of such
357 notice shall be submitted to the Department of Management
358 Services.

359 c. The governing body of any hospital district seeking to
360 partially withdraw from the system must, before such hearing,
361 have an actuarial report prepared and certified by an enrolled
362 actuary, as defined in s. 112.625(3), illustrating the cost to
363 the hospital district of providing, through the retirement plan
364 that the hospital district is to adopt, benefits for new
365 employees comparable to those provided under the Florida
366 Retirement System.
367 d. Upon meeting all applicable requirements of this
368 subparagraph, and subject to the conditions set forth in
369 subparagraph 6., partial withdrawal from the system and adoption
370 of the alternative retirement plan may be accomplished by
371 resolution duly adopted by the hospital district board. The
372 hospital district board must provide written notice of such
373 withdrawal to the division by mailing a copy of the resolution
374 to the division, postmarked no later than December 15, 1995. The
375 withdrawal shall take effect January 1, 1996.
376 6. Following the adoption of a resolution under sub-
377 subparagraph 5.d., all employees of the withdrawing hospital
378 district who were participants in the Florida Retirement System
379 prior to January 1, 1996, shall remain as participants in the
380 system for as long as they are employees of the hospital
381 district, and all rights, duties, and obligations between the
382 hospital district, the system, and the employees shall remain in
383 full force and effect. Any employee who is hired or appointed on
384 or after January 1, 1996, may not participate in the Florida
385 Retirement System, and the withdrawing hospital district shall
386 have no obligation to the system with respect to such employees.

387 Section 4. Paragraph (l) is added to subsection (1) of
388 section 121.055, Florida Statutes, to read:
389 121.055 Senior Management Service Class.--There is hereby
390 established a separate class of membership within the Florida
391 Retirement System to be known as the "Senior Management Service
392 Class," which shall become effective February 1, 1987.
393 (1)
394 (l) For each metropolitan planning organization that has
395 opted to become part of the Florida Retirement System,
396 participation in the Senior Management Service Class shall be
397 compulsory for the executive director or staff director of that
398 metropolitan planning organization or similar entity created
399 pursuant to s. 339.175.
400 Section 5. Paragraphs (a) and (c) of subsection (2) of
401 section 121.061, Florida Statutes, are amended to read:
402 121.061 Funding.--
403 (2)(a) Should any employer other than a state employer
404 fail to make the retirement and social security contributions,
405 both member and employer contributions, required by this
406 chapter, then, upon request by the administrator, the Department
407 of Revenue or the Department of Financial Services, as the case
408 may be, shall deduct the amount owed by the employer from any
409 funds to be distributed by it to the county, city, metropolitan
410 planning organization, special district, or consolidated form of
411 government. The amounts so deducted shall be transferred to the
412 administrator for further distribution to the trust funds in
413 accordance with this chapter.

414 (c) The governing body of each county, city, metropolitan
415 planning organization, special district, or consolidated form of
416 government participating under this chapter or the
417 administrator, acting individually or jointly, is hereby
418 authorized to file and maintain an action in the courts of the
419 state to require any employer to remit any retirement or social
420 security member contributions or employer matching payments due
421 the retirement or social security trust funds under the
422 provisions of this chapter.
423 Section 6. Paragraphs (a), (b), and (e) of subsection (1)
424 of section 121.081, Florida Statutes, are amended to read:
425 121.081 Past service; prior service;
426 contributions.--Conditions under which past service or prior
427 service may be claimed and credited are:
428 (1)(a) Past service, as defined in s. 121.021(18), may be
429 claimed as creditable service by officers or employees of a
430 city, metropolitan planning organization, or special district
431 that become a covered group under this system. The governing
432 body of a covered group in compliance with s. 121.051(2)(b) may
433 elect to provide benefits with respect to past service earned
434 prior to January 1, 1975, in accordance with this chapter, and
435 the cost for such past service shall be established by applying
436 the following formula: The member contribution for both regular
437 and special risk members shall be 4 percent of the gross annual
438 salary for each year of past service claimed, plus 4-percent
439 employer matching contribution, plus 4 percent interest thereon
440 compounded annually, figured on each year of past service, with
441 interest compounded from date of annual salary earned until July

442 1, 1975, and 6.5 percent interest compounded annually thereafter
443 until date of payment. Once the total cost for a member has been
444 figured to date, then after July 1, 1975, 6.5 percent compounded
445 interest shall be added each June 30 thereafter on any unpaid
446 balance until the cost of such past service liability is paid in
447 full. The following formula shall be used in calculating past
448 service earned prior to January 1, 1975: (Annual gross salary
449 multiplied by 8 percent) multiplied by the 4 percent or 6.5
450 percent compound interest table factor, as may be applicable.
451 The resulting product equals cost to date for each particular
452 year of past service.
453 (b) Past service earned after January 1, 1975, may be
454 claimed by officers or employees of a city, metropolitan
455 planning organization, or special district that becomes a
456 covered group under this system. The governing body of a covered
457 group may elect to provide benefits with respect to past service
458 earned after January 1, 1975, in accordance with this chapter,
459 and the cost for such past service shall be established by
460 applying the following formula: The employer shall contribute an
461 amount equal to the contribution rate in effect at the time the
462 service was earned, multiplied by the employee's gross salary
463 for each year of past service claimed, plus 6.5 percent interest
464 thereon, compounded annually, figured on each year of past
465 service, with interest compounded from date of annual salary
466 earned until date of payment.
467 (e) Past service, as defined in s. 121.021(18), may be
468 claimed as creditable service by a member of the Florida
469 Retirement System who formerly was an officer or employee of a

470 city, metropolitan planning organization, or special district,
471 notwithstanding the status or form of the retirement system, if
472 any, of that city, metropolitan planning organization, or
473 special district and irrespective of whether officers or
474 employees of that city, metropolitan planning organization, or
475 special district now or hereafter become a covered group under
476 the Florida Retirement System. Such member may claim creditable
477 service and be entitled to the benefits accruing to the regular
478 class of members as provided for the past service claimed under
479 this paragraph by paying into the retirement trust fund an
480 amount equal to the total actuarial cost of providing the
481 additional benefit resulting from such past-service credit,
482 discounted by the applicable actuarial factors to date of
483 retirement.
484 Section 7. Subsection (1) of section 316.605, Florida
485 Statutes, is amended to read:
486 316.605 Licensing of vehicles.--
487 (1) Every vehicle, at all times while driven, stopped, or
488 parked upon any highways, roads, or streets of this state, shall
489 be licensed in the name of the owner thereof in accordance with
490 the laws of this state unless such vehicle is not required by
491 the laws of this state to be licensed in this state and shall,
492 except as otherwise provided in s. 320.0706 for front-end
493 registration license plates on truck tractors and s. 320.086(5)
494 which exempts display of license plates on described former
495 military vehicles, display the license plate or both of the
496 license plates assigned to it by the state, one on the rear and,
497 if two, the other on the front of the vehicle, each to be

498 securely fastened to the vehicle outside the main body of the
499 vehicle not higher than 60 inches and not lower than 12 inches
500 from the ground and in such manner as to prevent the plates from
501 swinging, and all letters, numerals, printing, writing, and
502 other identification marks upon the plates regarding the word
503 "Florida," the registration decal, and the alphanumeric
504 designation shall be clear and distinct and free from
505 defacement, mutilation, grease, and other obscuring matter, so
506 that they will be plainly visible and legible at all times 100
507 feet from the rear or front. Vehicle license plates shall be
508 affixed and displayed in such a manner that the letters and
509 numerals shall be read from left to right parallel to the
510 ground. No vehicle license plate may be displayed in an inverted
511 or reversed position or in such a manner that the letters and
512 numbers and their proper sequence are not readily identifiable.
513 Nothing shall be placed upon the face of a Florida plate except
514 as permitted by law or by rule or regulation of a governmental
515 agency. No license plates other than those furnished by the
516 state shall be used. However, if the vehicle is not required to
517 be licensed in this state, the license plates on such vehicle
518 issued by another state, by a territory, possession, or district
519 of the United States, or by a foreign country, substantially
520 complying with the provisions hereof, shall be considered as
521 complying with this chapter. A violation of this subsection is a
522 noncriminal traffic infraction, punishable as a nonmoving
523 violation as provided in chapter 318.
524 Section 8. Paragraph (b) of subsection (3) of section
525 316.650, Florida Statutes, is amended to read:

526 316.650 Traffic citations.--
527 (3)
528 (b) If a traffic citation is issued pursuant to s.
529 316.1001, a traffic enforcement officer may deposit the original
530 and one copy of such traffic citation or, in the case of a
531 traffic enforcement agency that has an automated citation
532 system, may provide an electronic facsimile with a court having
533 jurisdiction over the alleged offense or with its traffic
534 violations bureau within 45 days after the date of issuance of
535 the citation to the violator. If the person cited for the
536 violation of s. 316.1001 makes the election provided by s.
537 318.14(12) and pays the fine imposed by the toll authority plus
538 the amount of the unpaid toll that is shown on the traffic
539 citation directly to the governmental entity that issued the
540 citation in accordance with s. 318.14(12), the traffic citation
541 will not be submitted to the court, the disposition will be
542 reported to the department by the governmental entity that
543 issued the citation, and no points will be assessed against the
544 person's driver's license.
545 Section 9. Subsection (12) of section 318.14, Florida
546 Statutes, is amended to read:
547 318.14 Noncriminal traffic infractions; exception;
548 procedures.--
549 (12) Any person cited for a violation of s. 316.1001 may,
550 in lieu of making an election as set forth in subsection (4) or
551 s. 318.18(7), elect to pay a ~~his or her~~ fine of $25, or such
552 other amount as imposed by the toll authority, plus the amount
553 of the unpaid toll that is shown on the traffic citation

554 directly to the governmental entity that issued the citation~~,~~
555 within 30 days after the date of issuance of the citation. Any
556 person cited for a violation of s. 316.1001 who does not elect
557 to pay the fine imposed by the toll authority plus the amount of
558 the unpaid toll that is shown on the traffic citation directly
559 to the governmental entity that issued the citation as described
560 in this subsection ~~section~~ shall have an additional 45 days
561 after the date of the issuance of the citation in which to
562 request a court hearing or to pay the civil penalty and
563 delinquent fee, if applicable, as provided in s. 318.18(7),
564 either by mail or in person, in accordance with subsection (4).
565 Section 10. Subsection (7) of section 318.18, Florida
566 Statutes, is amended to read:
567 318.18 Amount of civil penalties.--The penalties required
568 for a noncriminal disposition pursuant to s. 318.14 are as
569 follows:
570 (7) Mandatory $150 plus the amount of the unpaid toll
571 shown on the traffic citation for each citation issued ~~One~~
572 ~~hundred dollars~~ for a violation of s. 316.1001. The clerk of the
573 court shall forward $50 of the $150 fine received plus the
574 amount of the unpaid toll that is shown on the citation to the
575 governmental entity that issued the citation. If adjudication is
576 withheld or there is a plea arrangement prior to a hearing,
577 there shall be a minimum mandatory cost assessed per citation of
578 $100 plus the amount of the unpaid toll for each citation
579 issued. The clerk of the court shall forward $50 of the $100
580 plus the amount of the unpaid toll as shown on the citation to
581 the governmental entity that issued the citation. The court

582 shall have specific authority to consolidate issued citations
583 for the same defendant for the purpose of sentencing and
584 aggregate jurisdiction. In addition, the department shall
585 suspend for 60 days the driver's license of a person who is
586 convicted of 10 violations of s. 316.1001 within a 36-month
587 period. ~~However, a person may elect to pay $30 to the clerk of~~
588 ~~the court, in which case adjudication is withheld, and no points~~
589 ~~are assessed under s. 322.27. Upon receipt of the fine, the~~
590 ~~clerk of the court must retain $5 for administrative purposes~~
591 ~~and must forward the $25 to the governmental entity that issued~~
592 ~~the citation.~~ Any funds received by a governmental entity for
593 this violation may be used for any lawful purpose related to the
594 operation or maintenance of a toll facility.
595 Section 11. Section 320.061, Florida Statutes, is amended
596 to read:
597 320.061 Unlawful to alter motor vehicle registration
598 certificates, license plates, mobile home stickers, or
599 validation stickers or to obscure license plates; penalty.--
600 (1) No person shall alter the original appearance of any
601 registration license plate, mobile home sticker, validation
602 sticker, or vehicle registration certificate issued for and
603 assigned to any motor vehicle or mobile home, whether by
604 mutilation, alteration, defacement, or change of color or in any
605 other manner. Any person who violates ~~the provisions of~~ this
606 subsection commits ~~section is guilty of~~ a misdemeanor of the
607 second degree, punishable as provided in s. 775.082 or s.
608 775.083.

609 (2)(a) No person shall apply or attach any substance,
610 reflective matter, illuminated device, spray, coating, covering,
611 or other material onto or around any license plate that
612 interferes with the legibility, angular visibility, or
613 detectability of any feature or detail on the license plate or
614 interferes with the ability to photograph or otherwise record
615 any feature or detail on the license plate. The advertising,
616 sale, distribution, purchase, or use of any product made for the
617 purpose of interfering with the legibility, angular visibility,
618 or detectability of any feature or detail on a license plate or
619 interfering with the ability to photograph or otherwise record
620 any feature or detail on a license plate is prohibited. Any
621 person who violates this paragraph commits a misdemeanor of the
622 second degree, punishable as provided in s. 775.082 or s.
623 775.083.
624 (b) If a state or local law enforcement officer having
625 jurisdiction observes that a cover or other device is
626 obstructing the visibility or electronic image recording of a
627 license plate, the officer shall issue a uniform traffic
628 citation and shall confiscate the cover or other device that
629 obstructs the visibility or electronic image recording of the
630 plate. If a state or local law enforcement officer having
631 jurisdiction observes that a license plate has been physically
632 treated with a substance, reflective matter, spray, coating, or
633 other material that is obstructing the visibility or electronic
634 image recording of the plate, the officer shall issue a uniform
635 traffic citation and shall confiscate the plate. The department
636 shall revoke the registration of any plate that has been found

637 by a court to have been physically altered with any chemical or
638 reflective substance or coating that obstructs the visibility or
639 electronic image recording of the plate.
640 (c) The Attorney General may file suit against any
641 individual or entity offering or marketing the sale of,
642 including via the Internet, any product advertised as having the
643 capacity to obstruct the visibility or electronic image
644 recording of a license plate. In addition to injunctive and
645 monetary relief, punitive damages, and attorney's fees, the suit
646 shall also seek a full accounting of the records of all sales to
647 residents of or entities within this state.
648 Section 12. Section 336.044, Florida Statutes, is
649 renumbered as section 334.70, Florida Statutes, and amended to
650 read:
651 334.70 ~~336.044~~ Use of recyclable materials in
652 construction.--
653 (1) It is the intent of the Legislature that the
654 Department of Transportation continue to expand its current use
655 of recovered materials in its construction programs.
656 (2) The Legislature declares it to be in the public
657 interest to find alternative ways to use certain recyclable
658 materials that currently are part of the solid waste stream and
659 that contribute to problems of declining space in landfills. To
660 determine the feasibility of using certain recyclable materials
661 for paving materials, the department may undertake demonstration
662 projects using the following materials in road construction:
663 (a) Ground rubber from automobile tires in road
664 resurfacing or subbase materials for roads.~~;~~

665 (b) Ash residue from coal combustion byproducts for
666 concrete and ash residue from waste incineration facilities and
667 oil combustion byproducts for subbase material.~~,~~
668 (c) Recycled mixed-plastic material for guardrail posts or
669 right-of-way fence posts.~~,~~
670 (d) Construction steel, including reinforcing rods and I-
671 beams, manufactured from scrap metals disposed of in the state.~~,~~
672 ~~and~~
673 (e) Glass~~,~~ and glass aggregates.
674 (f) Gypsum.
675 (3) The department shall review and revise existing bid
676 procedures and specifications for the purchase or use of
677 products and materials to eliminate any procedures and
678 specifications that explicitly discriminate against products and
679 materials with recycled content, except where such procedures
680 and specifications are necessary to protect the health, safety,
681 and welfare of the people of this state.
682 (4) The department shall review and revise its bid
683 procedures and specifications on a continuing basis to encourage
684 the use of products and materials with recycled content and
685 shall, in developing new procedures and specifications,
686 encourage the use of products and materials with recycled
687 content.
688 (5) All agencies shall cooperate with the department in
689 carrying out the provisions of this section.
690 Section 13. Subsection (3) is added to section 338.161,
691 Florida Statutes, to read:

692 338.161 Authority of department to advertise and promote
693 electronic toll collection.--
694 (3) The department or any toll agency created by statute
695 is authorized to incur expenses and advertise or promote
696 electronic toll collection through agreements with any private
697 or public entity that provides for additional uses of its
698 electronic toll collection products and services on or off the
699 turnpike or toll system, provided that the department or toll
700 agency has determined it can increase nontoll revenues or add
701 convenience or other value for its customers.
702 Section 14. Paragraph (b) of subsection (3) of section
703 338.2216, Florida Statutes, is amended to read:
704 338.2216 Florida Turnpike Enterprise; powers and
705 authority.--
706 (3)
707 (b) Notwithstanding the provisions of s. 216.301 to the
708 contrary and in accordance with s. 216.351, the Executive Office
709 of the Governor shall, on July 1 of each year, certify forward
710 all unexpended funds appropriated or provided pursuant to this
711 section for the turnpike enterprise. Of the unexpended funds
712 certified forward, any unencumbered amounts shall be carried
713 forward. Such funds carried forward shall not exceed 5 percent
714 of the original approved ~~total~~ operating budget, as defined in
715 s. 216.181(1), of the turnpike enterprise. Funds carried forward
716 pursuant to this section may be used for any lawful purpose,
717 including, but not limited to, promotional and market
718 activities, technology, and training. Any certified forward

719 funds remaining undisbursed on September 30 ~~December 31~~ of each
720 year shall be carried forward.
721 Section 15. Subsection (1) of section 338.2275, Florida
722 Statutes, is amended to read:
723 338.2275 Approved turnpike projects.--
724 (1) Legislative approval of the department's tentative
725 work program that contains the turnpike project constitutes
726 approval to issue bonds as required by s. 11(f), Art. VII of the
727 State Constitution. No more than $6 billion of bonds may be
728 outstanding to fund approved turnpike projects. ~~Turnpike~~
729 ~~projects approved to be included in future tentative work~~
730 ~~programs include, but are not limited to, projects contained in~~
731 ~~the 2003-2004 tentative work program. A maximum of $4.5 billion~~
732 ~~of bonds may be issued to fund approved turnpike projects.~~
733 Section 16. Paragraphs (e) and (f) are added to subsection
734 (1) of section 339.175, Florida Statutes, and paragraphs (a) and
735 (b) of subsection (2), paragraphs (a) and (b) of subsection (3),
736 and subsections (5) and (12) of that section are amended, to
737 read:
738 339.175 Metropolitan planning organization.--It is the
739 intent of the Legislature to encourage and promote the safe and
740 efficient management, operation, and development of surface
741 transportation systems that will serve the mobility needs of
742 people and freight within and through urbanized areas of this
743 state while minimizing transportation-related fuel consumption
744 and air pollution. To accomplish these objectives, metropolitan
745 planning organizations, referred to in this section as M.P.O.'s,
746 shall develop, in cooperation with the state and public transit

747 operators, transportation plans and programs for metropolitan
748 areas. The plans and programs for each metropolitan area must
749 provide for the development and integrated management and
750 operation of transportation systems and facilities, including
751 pedestrian walkways and bicycle transportation facilities that
752 will function as an intermodal transportation system for the
753 metropolitan area, based upon the prevailing principles provided
754 in s. 334.046(1). The process for developing such plans and
755 programs shall provide for consideration of all modes of
756 transportation and shall be continuing, cooperative, and
757 comprehensive, to the degree appropriate, based on the
758 complexity of the transportation problems to be addressed. To
759 ensure that the process is integrated with the statewide
760 planning process, M.P.O.'s shall develop plans and programs that
761 identify transportation facilities that should function as an
762 integrated metropolitan transportation system, giving emphasis
763 to facilities that serve important national, state, and regional
764 transportation functions. For the purposes of this section,
765 those facilities include the facilities on the Strategic
766 Intermodal System designated under s. 339.63 and facilities for
767 which projects have been identified pursuant to s. 339.2819(4).
768 (1) DESIGNATION.--
769 (e) An M.P.O. is a public body corporate and politic. The
770 members of the governing body shall be the members of the
771 agency, but such members constitute the head of a legal entity
772 separate, distinct, and independent from the governing body of
773 any county, municipality, or other entity that is an entity
774 represented on the M.P.O. or a signatory to the interlocal

775 agreement creating the M.P.O. Upon execution of a new interlocal
776 agreement by the governmental entities constituting the M.P.O.
777 after redesignation or reapportionment, the new M.P.O. is
778 subject to all of the responsibilities and liabilities imposed
779 or incurred by the existing agency.
780 (f) The governing body of the M.P.O. shall designate, at
781 minimum, a chair, vice chair, and agency clerk. The chair and
782 vice chair shall be selected from among the members of the
783 governing board. The agency clerk shall be a member of the
784 governing board, an employee of the M.P.O., or another natural
785 person and shall be charged with the responsibility of preparing
786 meeting minutes and maintaining agency records.
787
788 Each M.P.O. required under this section must be fully operative
789 no later than 6 months following its designation.
790 (2) VOTING MEMBERSHIP.--
791 (a) The voting membership of an M.P.O. shall consist of
792 not fewer than 5 or more than 19 apportioned members, the exact
793 number to be determined on an equitable geographic-population
794 ratio basis by the Governor, based on an agreement among the
795 affected units of general-purpose local government as required
796 by federal rules and regulations. The Governor, in accordance
797 with 23 U.S.C. s. 134, may also provide for M.P.O. members who
798 represent municipalities to alternate with representatives from
799 other municipalities within the metropolitan planning area that
800 do not have members on the M.P.O. County commission members
801 shall compose not less than one-third of the M.P.O. membership,
802 except for an M.P.O. with more than 15 members located in a

803 county with a 5-member ~~five-member~~ county commission or an
804 M.P.O. with 19 members located in a county with no more than 6
805 county commissioners, in which case county commission members
806 may compose less than one-third percent of the M.P.O.
807 membership, but all county commissioners must be members. All
808 voting members shall be elected officials of general-purpose
809 local governments, except that an M.P.O. may include, as part of
810 its apportioned voting members, a member of a statutorily
811 authorized planning board, an official of an agency that
812 operates or administers a major mode of transportation, or an
813 official of the Florida Space Authority. As used in this
814 section, elected officials of a general-purpose local government
815 shall exclude constitutional or charter officers, including
816 sheriffs, tax collectors, supervisors of elections, property
817 appraisers, clerks of the court, and similar types of officials.
818 County commissioners ~~The county commission~~ shall compose not
819 less than 20 percent of the M.P.O. membership if an official of
820 an agency that operates or administers a major mode of
821 transportation has been appointed to an M.P.O.
822 (b) In metropolitan areas in which authorities or other
823 agencies have been or may be created by law to perform
824 transportation functions and are performing transportation
825 functions that are not under the jurisdiction of a general-
826 purpose ~~general purpose~~ local government represented on the
827 M.P.O., they shall be provided voting membership on the M.P.O.
828 In all other M.P.O.'s where transportation authorities or
829 agencies are to be represented by elected officials from
830 general-purpose ~~general purpose~~ local governments, the M.P.O.

831 shall establish a process by which the collective interests of
832 such authorities or other agencies are expressed and conveyed.
833 (3) APPORTIONMENT.--
834 (a) The Governor shall, with the agreement of the affected
835 units of general-purpose local government as required by federal
836 rules and regulations, apportion the membership on the
837 applicable M.P.O. among the various governmental entities within
838 the area. At the request of a majority of the affected units of
839 general-purpose local government comprising an M.P.O., the
840 Governor and a majority of units of general-purpose local
841 governments serving on an M.P.O. ~~and~~ shall cooperatively agree
842 upon and prescribe who may serve as an alternate member and a
843 method for appointing alternate members who may vote at any
844 M.P.O. meeting that an alternate member attends in place of a
845 regular member. The methodology shall be set forth as a part of
846 the interlocal agreement describing the M.P.O.'s membership or
847 in the M.P.O.'s operating procedures and bylaws. ~~An appointed~~
848 ~~alternate member must be an elected official serving the same~~
849 ~~governmental entity or a general-purpose local government with~~
850 ~~jurisdiction within all or part of the area that the regular~~
851 ~~member serves.~~ The governmental entity so designated shall
852 appoint the appropriate number of members to the M.P.O. from
853 eligible officials. Representatives of the department shall
854 serve as nonvoting members of the M.P.O. governing board.
855 Nonvoting advisers may be appointed by the M.P.O. as deemed
856 necessary; however, to the maximum extent feasible, each M.P.O.
857 shall seek to appoint nonvoting representatives of various
858 multimodal forms of transportation not otherwise represented by

859 voting members of the M.P.O. An M.P.O. shall appoint nonvoting
860 advisers representing major military installations upon the
861 request of the major military installations and subject to the
862 agreement of the M.P.O. All nonvoting advisers may attend and
863 participate fully in governing board meetings but shall not vote
864 and shall not be members of the governing board. The Governor
865 shall review the composition of the M.P.O. membership in
866 conjunction with the decennial census as prepared by the United
867 States Department of Commerce, Bureau of the Census, and
868 reapportion it as necessary to comply with subsection (2).
869 (b) Except for members who represent municipalities on the
870 basis of alternating with representatives from other
871 municipalities that do not have members on the M.P.O. as
872 provided in paragraph (2)(a), the members of an M.P.O. shall
873 serve 4-year terms. Members who represent municipalities on the
874 basis of alternating with representatives from other
875 municipalities that do not have members on the M.P.O. as
876 provided in paragraph (2)(a) may serve terms of up to 4 years as
877 further provided in the interlocal agreement described in
878 paragraph (1)(b). The membership of a member who is a public
879 official automatically terminates upon the member's leaving his
880 or her elective or appointive office for any reason, or may be
881 terminated by a majority vote of the total membership of the
882 entity's governing board ~~a county or city governing entity~~
883 represented by the member. A vacancy shall be filled by the
884 original appointing entity. A member may be reappointed for one
885 or more additional 4-year terms.

886 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
887 privileges, and authority of an M.P.O. are those specified in
888 this section or incorporated in an interlocal agreement
889 authorized under s. 163.01. Each M.P.O. shall perform all acts
890 required by federal or state laws or rules, now and subsequently
891 applicable, which are necessary to qualify for federal aid. It
892 is the intent of this section that each M.P.O. shall be involved
893 in the planning and programming of transportation facilities,
894 including, but not limited to, airports, intercity and high-
895 speed rail lines, seaports, and intermodal facilities, to the
896 extent permitted by state or federal law.
897 (a) Each M.P.O. shall, in cooperation with the department,
898 develop:
899 1. A long-range transportation plan pursuant to the
900 requirements of subsection (6);
901 2. An annually updated transportation improvement program
902 pursuant to the requirements of subsection (7); and
903 3. An annual unified planning work program pursuant to the
904 requirements of subsection (8).
905 (b) In developing the long-range transportation plan and
906 the transportation improvement program required under paragraph
907 (a), each M.P.O. shall provide for consideration of projects and
908 strategies that will:
909 1. Support the economic vitality of the metropolitan area,
910 especially by enabling global competitiveness, productivity, and
911 efficiency;
912 2. Increase the safety and security of the transportation
913 system for motorized and nonmotorized users;

914 3. Increase the accessibility and mobility options
915 available to people and for freight;
916 4. Protect and enhance the environment, promote energy
917 conservation, and improve quality of life;
918 5. Enhance the integration and connectivity of the
919 transportation system, across and between modes, for people and
920 freight;
921 6. Promote efficient system management and operation; and
922 7. Emphasize the preservation of the existing
923 transportation system.
924 (c) In order to provide recommendations to the department
925 and local governmental entities regarding transportation plans
926 and programs, each M.P.O. shall:
927 1. Prepare a congestion management system for the
928 metropolitan area and cooperate with the department in the
929 development of all other transportation management systems
930 required by state or federal law;
931 2. Assist the department in mapping transportation
932 planning boundaries required by state or federal law;
933 3. Assist the department in performing its duties relating
934 to access management, functional classification of roads, and
935 data collection;
936 4. Execute all agreements or certifications necessary to
937 comply with applicable state or federal law;
938 5. Represent all the jurisdictional areas within the
939 metropolitan area in the formulation of transportation plans and
940 programs required by this section; and

941 6. Perform all other duties required by state or federal
942 law.
943 (d) Each M.P.O. shall appoint a technical advisory
944 committee that includes planners; engineers; representatives of
945 local aviation authorities, port authorities, and public transit
946 authorities or representatives of aviation departments, seaport
947 departments, and public transit departments of municipal or
948 county governments, as applicable; the school superintendent of
949 each county within the jurisdiction of the M.P.O. or the
950 superintendent's designee; and other appropriate representatives
951 of affected local governments. In addition to any other duties
952 assigned to it by the M.P.O. or by state or federal law, the
953 technical advisory committee is responsible for considering safe
954 access to schools in its review of transportation project
955 priorities, long-range transportation plans, and transportation
956 improvement programs, and shall advise the M.P.O. on such
957 matters. In addition, the technical advisory committee shall
958 coordinate its actions with local school boards and other local
959 programs and organizations within the metropolitan area which
960 participate in school safety activities, such as locally
961 established community traffic safety teams. Local school boards
962 must provide the appropriate M.P.O. with information concerning
963 future school sites and in the coordination of transportation
964 service.
965 (e)1. Each M.P.O. shall appoint a citizens' advisory
966 committee, the members of which serve at the pleasure of the
967 M.P.O. The membership on the citizens' advisory committee must
968 reflect a broad cross section of local residents with an

969 interest in the development of an efficient, safe, and cost-
970 effective transportation system. Minorities, the elderly, and
971 the handicapped must be adequately represented.
972 2. Notwithstanding the provisions of subparagraph 1., an
973 M.P.O. may, with the approval of the department and the
974 applicable federal governmental agency, adopt an alternative
975 program or mechanism to ensure citizen involvement in the
976 transportation planning process.
977 (f) The department shall allocate to each M.P.O., for the
978 purpose of accomplishing its transportation planning and
979 programming duties, an appropriate amount of federal
980 transportation planning funds.
981 (g) Each M.P.O. shall have an executive or staff director,
982 who reports directly to the M.P.O. governing board for all
983 matters regarding the administration and operation of the
984 M.P.O., and any additional personnel as deemed necessary. The
985 executive director and any additional personnel may be employed
986 either by an M.P.O. or by another governmental entity, such as a
987 county, city, or regional planning council, that has a signed
988 staff services agreement in effect with the M.P.O. In addition,
989 an M.P.O. ~~may employ personnel or~~ may enter into contracts with
990 local or state governmental agencies, private planning or
991 engineering firms, or other private ~~engineering~~ firms to
992 accomplish its transportation planning and programming duties
993 and administrative functions required by state or federal law.
994 (h) Each M.P.O. shall provide training opportunities for
995 local elected officials and others who serve on an M.P.O. in
996 order to enhance their knowledge, effectiveness, and

997 participation in the urbanized area transportation planning
998 process. The training opportunities may be conducted by an
999 individual M.P.O. or through statewide and federal training
1000 programs and initiatives that are specifically designed to meet
1001 the needs of M.P.O. board members.
1002 (i) In addition to the powers set forth in this section,
1003 M.P.O.'s shall have the powers set forth in this paragraph. The
1004 enumeration of the following powers is not intended to be an
1005 exhaustive list of all M.P.O. powers:
1006 1. To grant, sell, hold, donate, dedicate, or lease or
1007 otherwise convey title, easements, or use rights in real
1008 property, including tax-reverted real property, title to which
1009 is in such public agency or separate legal entity, to any other
1010 public agency or separate legal entity created under interlocal
1011 agreement. Real property and interests in real property granted
1012 or conveyed to an M.P.O. shall be for a public purpose that may
1013 not necessarily be contemplated in the interlocal agreement.
1014 2. To appropriate funds and sell, give, or otherwise
1015 supply personnel, services, facilities, property, franchises, or
1016 funds thereof to any party designated to operate the joint or
1017 cooperative undertaking.
1018 3. To receive grants-in-aid or other assistance funds from
1019 the Federal Government or this state for use in carrying out
1020 transportation-related purposes.
1021 4. To have all of the privileges and immunities from
1022 liability as set forth in the State Constitution, s. 768.28, and
1023 otherwise and to have exemptions from laws, ordinances, and
1024 rules applicable to public agencies of the state. An M.P.O.

1025 shall ascertain whether, as a separate and distinct body politic
1026 and corporate entity, it should purchase separate public
1027 liability or workers' compensation insurance.
1028 5. To have and provide pensions and relief, disability
1029 benefits, workers' compensation, employee salary compensation
1030 and reimbursement, and other benefits which apply to the
1031 activity of its officers or employees when performing their
1032 respective functions.
1033 6. To employ agencies or employees.
1034 7. To acquire, construct, manage, maintain, or operate
1035 buildings, works, or improvements.
1036 8. To incur debts, liabilities, or obligations that do not
1037 constitute the debts, liabilities, or obligations of any of the
1038 parties to the agreement unless specifically and in writing
1039 assumed by any of the parties to the interlocal agreement
1040 creating the M.P.O.
1041 9. To appoint a legal counsel or legal staff of its
1042 choice. If the legal counsel is also an attorney for an entity
1043 that is a member of the M.P.O., both the M.P.O. governing board
1044 and the member entity's governing body shall waive any potential
1045 for ethical conflict.
1046 10. In addition to its other powers as set forth in this
1047 section and in s. 163.01, to have such powers as are provided
1048 for under federal law or federal administrative rules.
1049 (j) ~~(h)~~ A chair's coordinating committee is created,
1050 composed of the M.P.O.'s serving Hernando, Hillsborough,
1051 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The
1052 committee must, at a minimum:

1053 1. Coordinate transportation projects deemed to be
1054 regionally significant by the committee.
1055 2. Review the impact of regionally significant land use
1056 decisions on the region.
1057 3. Review all proposed regionally significant
1058 transportation projects in the respective transportation
1059 improvement programs which affect more than one of the M.P.O.'s
1060 represented on the committee.
1061 4. Institute a conflict resolution process to address any
1062 conflict that may arise in the planning and programming of such
1063 regionally significant projects.
1064 (k) ~~(i)~~1. The Legislature finds that the state's rapid
1065 growth in recent decades has caused many urbanized areas subject
1066 to M.P.O. jurisdiction to become contiguous to each other. As a
1067 result, various transportation projects may cross from the
1068 jurisdiction of one M.P.O. into the jurisdiction of another
1069 M.P.O. To more fully accomplish the purposes for which M.P.O.'s
1070 have been mandated, M.P.O.'s shall develop coordination
1071 mechanisms with one another to expand and improve transportation
1072 within the state. The appropriate method of coordination between
1073 M.P.O.'s shall vary depending upon the project involved and
1074 given local and regional needs. Consequently, it is appropriate
1075 to set forth a flexible methodology that can be used by M.P.O.'s
1076 to coordinate with other M.P.O.'s and appropriate political
1077 subdivisions as circumstances demand.
1078 2. Any M.P.O. may join with any other M.P.O. or any
1079 individual political subdivision to coordinate activities or to
1080 achieve any federal or state transportation planning or

1081 development goals or purposes consistent with federal or state
1082 law. When an M.P.O. determines that it is appropriate to join
1083 with another M.P.O. or any political subdivision to coordinate
1084 activities, the M.P.O. or political subdivision shall enter into
1085 an interlocal agreement pursuant to s. 163.01, which, at a
1086 minimum, creates a separate legal or administrative entity to
1087 coordinate the transportation planning or development activities
1088 required to achieve the goal or purpose; provides ~~provide~~ the
1089 purpose for which the entity is created; provides ~~provide~~ the
1090 duration of the agreement and the entity~~,~~ and specifies ~~specify~~
1091 how the agreement may be terminated, modified, or rescinded;
1092 describes ~~describe~~ the precise organization of the entity,
1093 including who has voting rights on the governing board, whether
1094 alternative voting members are provided for, how voting members
1095 are appointed, and what the relative voting strength is for each
1096 constituent M.P.O. or political subdivision; provides ~~provide~~
1097 the manner in which the parties to the agreement will provide
1098 for the financial support of the entity and payment of costs and
1099 expenses of the entity; provides ~~provide~~ the manner in which
1100 funds may be paid to and disbursed from the entity; and provides
1101 ~~provide~~ how members of the entity will resolve disagreements
1102 regarding interpretation of the interlocal agreement or disputes
1103 relating to the operation of the entity. Such interlocal
1104 agreement shall become effective upon its recordation in the
1105 official public records of each county in which a member of the
1106 entity created by the interlocal agreement has a voting member.
1107 This paragraph does not require any M.P.O.'s to merge, combine,
1108 or otherwise join together as a single M.P.O.

1109 3. Each M.P.O. located within an urbanized area consisting
1110 of more than one M.P.O., or located in an urbanized area that is
1111 immediately adjacent to an M.P.O. serving a different urbanized
1112 area, shall coordinate with other M.P.O.'s in the urbanized area
1113 or the contiguous and adjacent M.P.O.'s to develop a report
1114 demonstrating how a coordinated transportation planning process
1115 is being developed and the results of the coordinated planning
1116 process. The report should include the progress on implementing
1117 a coordinated long-range transportation plan covering the
1118 combined metropolitan planning area that serves as the basis for
1119 the transportation improvement program of each M.P.O., separate
1120 and coordinated long-range transportation plans for the affected
1121 M.P.O.'s, a coordinated priority process for regional projects,
1122 and a regional public involvement process. The report shall be
1123 submitted to members of the M.P.O.'s local legislative
1124 delegation by no later than February of each even-numbered year
1125 and may be submitted as a joint report by two or more M.P.O.'s
1126 or separate coordinated reports by individual M.P.O.'s.
1127 (12) VOTING REQUIREMENTS.--Each long-range transportation
1128 plan required pursuant to subsection (6), each annually updated
1129 Transportation Improvement Program required under subsection
1130 (7), and each amendment that affects projects in the first 3
1131 years of such plans and programs must be approved by each M.P.O.
1132 on a supermajority ~~recorded~~ roll call vote or hand-counted vote
1133 of a majority plus one of the membership present.
1134 Section 17. Paragraph (h) of subsection (2) of section
1135 20.23, Florida Statutes, is amended to read:

1136 20.23 Department of Transportation.--There is created a
1137 Department of Transportation which shall be a decentralized
1138 agency.
1139 (2)
1140 (h) The commission shall appoint an executive director and
1141 assistant executive director, who shall serve under the
1142 direction, supervision, and control of the commission. The
1143 executive director, with the consent of the commission, shall
1144 employ such staff as are necessary to perform adequately the
1145 functions of the commission, within budgetary limitations. All
1146 employees of the commission are exempt from part II of chapter
1147 110 and shall serve at the pleasure of the commission. The
1148 salaries and benefits of all employees of the commission, except
1149 for the executive director, shall be set in accordance with the
1150 Selected Exempt Service; ~~provided,~~ however, ~~that~~ the salary and
1151 benefits of the executive director shall be set in accordance
1152 with the Senior Management Service. The commission shall have
1153 complete authority for fixing the salary of the executive
1154 director and assistant executive director.
1155 Section 18. Paragraph (c) of subsection (6) of section
1156 332.007, Florida Statutes, is amended to read:
1157 332.007 Administration and financing of aviation and
1158 airport programs and projects; state plan.--
1159 (6) Subject to the availability of appropriated funds, the
1160 department may participate in the capital cost of eligible
1161 public airport and aviation development projects in accordance
1162 with the following rates, unless otherwise provided in the

1163 General Appropriations Act or the substantive bill implementing
1164 the General Appropriations Act:
1165 (c) When federal funds are not available, the department
1166 may fund up to 80 percent of master planning and eligible
1167 aviation development projects at publicly owned, publicly
1168 operated airports. If federal funds are available but
1169 insufficient to meet the maximum authorized federal share, the
1170 department may fund up to 80 percent of the nonfederal share of
1171 such projects. Such funding is limited to airports that have no
1172 scheduled commercial service.
1173 Section 19. Part X of chapter 348, Florida Statutes, is
1174 redesignated as part XI, and a new part X, consisting of
1175 sections 348.9801, 348.9802, 348.9803, 348.9804, 348.9805,
1176 348.9806, 348.9807, 348.9808, 348.9809, 348.9811, 348.9812,
1177 348.9813, 348.9814, 348.9815, 348.9816, and 348.9817, is added
1178 to that chapter to read:
1179 PART X
1180 Osceola County Expressway Authority
1181 348.9801 Short title.--This part may be cited as the
1182 "Osceola County Expressway Authority Law."
1183 348.9802 Definitions.--The following terms, whenever used
1184 or referred to in this part, shall have the following meanings,
1185 except in those instances where the context clearly indicates
1186 otherwise:
1187 (1) "Agency of the state" means and includes the state and
1188 any department of, or corporation, agency, or instrumentality
1189 heretofore or hereafter created, designated, or established by,
1190 the state.

1191 (2) "Authority" means the body politic and corporate and
1192 agency of the state created by this part.
1193 (3) "Bonds" means and includes the notes, bonds, refunding
1194 bonds, or other evidences of indebtedness or obligations, in
1195 either temporary or definitive form, which the authority is
1196 authorized to issue pursuant to this part.
1197 (4) "County" means Osceola County.
1198 (5) "Department" means the Department of Transportation.
1199 (6) "Expressway" is the same as limited access expressway.
1200 (7) "Federal agency" means and includes the United States,
1201 the President of the United States, and any department of or
1202 corporation, agency, or instrumentality heretofore or hereafter
1203 created, designated, or established by the United States.
1204 (8) "Lease-purchase agreement" means the lease-purchase
1205 agreements which the authority is authorized pursuant to this
1206 part to enter into with the department.
1207 (9) "Limited access expressway" means a street or highway
1208 especially designed for through traffic and over, from, or to
1209 which no person shall have the right of easement, use, or access
1210 except in accordance with the rules and regulations promulgated
1211 and established by the authority for the use of such facility.
1212 Such highways or streets may be parkways from which trucks,
1213 buses, and other commercial vehicles shall be excluded or they
1214 may be freeways open to use by all customary forms of street and
1215 highway traffic.
1216 (10) "Members" means the governing body of the authority,
1217 and the term "member" means one of the individuals constituting
1218 such governing body.

1219 (11) "Osceola County gasoline tax funds" means all of the
1220 80-percent surplus gasoline tax funds accruing in each year to
1221 the department for use in Osceola County under the provisions of
1222 s. 9, Art. XII of the State Constitution after deduction only of
1223 any amounts of said gasoline tax funds heretofore pledged by the
1224 department or the county for outstanding obligations.
1225 (12) "Osceola County Expressway System" means any and all
1226 expressways and appurtenant facilities thereto, including, but
1227 not limited to, all approaches, roads, bridges, and avenues of
1228 access for said expressways that are either built by the
1229 authority or whose ownership is transferred to the authority by
1230 other governmental or private entities.
1231 (13) "State Board of Administration" means the body
1232 corporate existing under the provisions of s. 9, Art. XII of the
1233 State Constitution or any successor thereto.
1234 348.9803 Osceola County Expressway Authority.--
1235 (1) There is hereby created and established a body politic
1236 and corporate, an agency of the state, to be known as the
1237 Osceola County Expressway Authority, hereinafter referred to as
1238 "authority."
1239 (2)(a) The governing body of the authority shall consist
1240 of six members. Three members shall be citizens of Osceola
1241 County, who shall be appointed by the governing body of the
1242 county. Two members shall be citizens of Osceola County
1243 appointed by the Governor. The term of each appointed member
1244 shall be for 4 years. However, the members appointed by the
1245 Governor for the first time shall serve a term of 2 years. Each
1246 appointed member shall hold office until his or her successor

1247 has been appointed and has qualified. A vacancy occurring during
1248 a term shall be filled only for the balance of the unexpired
1249 term. Each appointed member of the authority shall be a person
1250 of outstanding reputation for integrity, responsibility, and
1251 business ability, but no person who is an officer or employee of
1252 any city or of Osceola County in any other capacity shall be an
1253 appointed member of the authority. A member of the authority
1254 shall be eligible for reappointment.
1255 (b) Members of the authority may be removed from office by
1256 the Governor for misconduct, malfeasance, or nonfeasance in
1257 office.
1258 (c) The district secretary of the department serving in
1259 the district that includes Osceola County shall serve as an ex
1260 officio, nonvoting member.
1261 (3)(a) The authority shall elect one of its members as
1262 chair of the authority. The authority shall also elect a
1263 secretary and a treasurer who may or may not be members of the
1264 authority. The chair, secretary, and treasurer shall hold such
1265 offices at the will of the authority.
1266 (b) Four members of the authority shall constitute a
1267 quorum, and the vote of three members shall be necessary for any
1268 action taken by the authority. No vacancy in the authority shall
1269 impair the right of a quorum of the authority to exercise all of
1270 the rights and perform all of the duties of the authority.
1271 (4)(a) The authority may employ an executive secretary, an
1272 executive director, its own counsel and legal staff, technical
1273 experts, such engineers, and such employees, permanent or
1274 temporary, as it may require; may determine the qualifications

1275 and fix the compensation of such persons, firms, or
1276 corporations; and may employ a fiscal agent or agents. However,
1277 the authority shall solicit sealed proposals from at least three
1278 persons, firms, or corporations for the performance of any
1279 services as fiscal agents. The authority may delegate to one or
1280 more of its agents or employees such of its power as it shall
1281 deem necessary to carry out the purposes of this part, subject
1282 always to the supervision and control of the authority.
1283 (b) Members of the authority shall be entitled to receive
1284 from the authority their travel and other necessary expenses
1285 incurred in connection with the business of the authority as
1286 provided in s. 112.061, but they shall draw no salaries or other
1287 compensation.
1288 348.9804 Purposes and powers.--
1289 (1)(a) The authority created and established by the
1290 provisions of this part is hereby granted and shall have the
1291 right to acquire, hold, construct, improve, maintain, operate,
1292 own, and lease in the capacity of lessor the Osceola County
1293 Expressway System, hereinafter referred to as "system."
1294 (b) It is the express intention of this part that the
1295 authority, in the construction of the Osceola County Expressway
1296 System, shall be authorized to construct any extensions,
1297 additions, or improvements to the system or appurtenant
1298 facilities, including all necessary approaches, roads, bridges,
1299 and avenues of access with such changes, modifications, or
1300 revisions of the project as shall be deemed desirable and
1301 proper.

1302 (2) The authority is hereby granted and shall have and may
1303 exercise all powers necessary, appurtenant, convenient, or
1304 incidental to the carrying out of its purposes, including, but
1305 not limited to, the following rights and powers:
1306 (a) To sue and be sued, implead and be impleaded, and
1307 complain and defend in all courts.
1308 (b) To adopt, use, and alter at will a corporate seal.
1309 (c) To acquire by donation or otherwise, purchase, hold,
1310 lease as lessee, and use any franchise or property, real,
1311 personal, or mixed, tangible or intangible, or any options
1312 thereof, in its own name or in conjunction with others, or
1313 interest therein, necessary or desirable for carrying out the
1314 purposes of the authority, and to sell, lease as lessor,
1315 transfer, and dispose of any property or interest therein at any
1316 time acquired by it.
1317 (d) To enter into and make leases for terms not exceeding
1318 40 years as either lessee or lessor in order to carry out the
1319 right to lease as set forth in this part.
1320 (e) To enter into and make lease-purchase agreements with
1321 the department for terms not exceeding 40 years or until any
1322 bonds secured by a pledge of rentals thereunder and any
1323 refundings thereof are fully paid as to both principal and
1324 interest, whichever is longer.
1325 (f) To fix, alter, charge, establish, and collect rates,
1326 fees, rentals, and other charges for the services and facilities
1327 of the Osceola County Expressway System, which rates, fees,
1328 rentals, and other charges shall always be sufficient to comply
1329 with any covenants made with the holders of any bonds issued

1330 pursuant to this part; however, such right and power may be
1331 assigned or delegated by the authority to the department.
1332 (g) To borrow money and make and issue negotiable notes,
1333 bonds, refunding bonds, and other evidences of indebtedness or
1334 obligations, either in temporary or definitive form, in this
1335 part sometimes called "bonds" of the authority, for the purpose
1336 of financing all or part of the improvement or extension of the
1337 Osceola County Expressway System and appurtenant facilities,
1338 including all approaches, streets, roads, bridges, and avenues
1339 of access for the Osceola County Expressway System and for any
1340 other purpose authorized by this part, said bonds to mature in
1341 not exceeding 40 years after the date of the issuance thereof,
1342 and to secure the payment of such bonds or any part thereof by a
1343 pledge of any or all of its revenues, rates, fees, rentals, or
1344 other charges, including all or any portion of the Osceola
1345 County gasoline tax funds received by the authority pursuant to
1346 the terms of any lease-purchase agreement between the authority
1347 and the department; and, in general, to provide for the security
1348 of the bonds and the rights and remedies of the holders thereof.
1349 However, no portion of the Osceola County gasoline tax funds
1350 shall be pledged for the construction of any project for which a
1351 toll is to be charged unless the anticipated tolls are
1352 reasonably estimated by the board of county commissioners, at
1353 the date of its resolution pledging said funds, to be sufficient
1354 to cover the principal and interest of such obligations during
1355 the period when said pledge of funds shall be in effect.
1356 1. The authority shall reimburse Osceola County for any
1357 sums expended from said gasoline tax funds used for the payment

1358 of such obligations. Any gasoline tax funds so disbursed shall
1359 be repaid when the authority deems it practicable, together with
1360 interest at the highest rate applicable to any obligations of
1361 the authority.
1362 2. If the authority determines to fund or refund any bonds
1363 theretofore issued by the authority or by the board of county
1364 commissioners as aforesaid prior to the maturity thereof, the
1365 proceeds of the funding or refunding bonds shall, pending the
1366 prior redemption of the bonds to be funded or refunded, be
1367 invested in direct obligations of the United States. It is the
1368 express intention of this part that such outstanding bonds may
1369 be funded or refunded by the issuance of bonds pursuant to this
1370 part.
1371 (h) To make contracts of every name and nature, including,
1372 but not limited to, partnerships providing for participation in
1373 ownership and revenues, and to execute all instruments necessary
1374 or convenient for the carrying on of its business.
1375 (i) Without limitation of the foregoing, to borrow money
1376 and accept grants from and to enter into contracts, leases, or
1377 other transactions with any federal agency, the state, any
1378 agency of the state, Osceola County, or with any other public
1379 body of the state.
1380 (j) To have the power of eminent domain, including the
1381 procedural powers granted under chapters 73 and 74.
1382 (k) To pledge, hypothecate, or otherwise encumber all or
1383 any part of the revenues, rates, fees, rentals, or other charges
1384 or receipts of the authority, including all or any portion of
1385 the Osceola County gasoline tax funds received by the authority

1386 pursuant to the terms of any lease-purchase agreement between
1387 the authority and the department, as security for all or any of
1388 the obligations of the authority.
1389 (l) To enter into partnership and other agreements
1390 respecting ownership and revenue participation in order to
1391 facilitate financing and constructing any project or portions
1392 thereof.
1393 (m) To participate in developer agreements or to receive
1394 developer contributions.
1395 (n) To contract with Osceola County for the operation of a
1396 toll facility within the county.
1397 (o) To do all acts and things necessary or convenient for
1398 the conduct of its business and the general welfare of the
1399 authority in order to carry out the powers granted to it by this
1400 part or any other law.
1401 (p) With the consent of the county within whose
1402 jurisdiction the following activities occur, to construct,
1403 operate, and maintain roads, bridges, avenues of access,
1404 thoroughfares, and boulevards outside the jurisdictional
1405 boundaries of Osceola County together with the right to
1406 construct, repair, replace, operate, install, and maintain
1407 electronic toll payment systems thereon with all necessary and
1408 incidental powers to accomplish the foregoing.
1409 (3) The authority shall have no power at any time or in
1410 any manner to pledge the credit or taxing power of the state or
1411 any political subdivision or agency thereof, including Osceola
1412 County, nor shall any of the authority's obligations be deemed
1413 to be obligations of the state or of any political subdivision

1414 or agency thereof, nor shall the state or any political
1415 subdivision or agency thereof, except the authority, be liable
1416 for the payment of the principal of or interest on such
1417 obligations.
1418 (4) Anything in this part to the contrary notwithstanding,
1419 acquisition of right-of-way for a project of the authority which
1420 is within the boundaries of any municipality in Osceola County
1421 shall not be started unless and until the route of said project
1422 within said municipality has been given prior approval by the
1423 governing body of said municipality.
1424 (5) Anything in this part to the contrary notwithstanding,
1425 acquisition of right-of-way for a project of the authority which
1426 is within the unincorporated area of Osceola County shall not be
1427 started unless and until the route of said project within the
1428 unincorporated area has been given prior approval by the
1429 governing body of Osceola County.
1430 (6) The authority shall have no power other than by
1431 consent of Osceola County or any affected city to enter into any
1432 agreement which would legally prohibit the construction of any
1433 road by Osceola County or by any municipality within Osceola
1434 County.
1435 348.9805 Authority for bond financing of
1436 improvements.--Pursuant to s. 11(f), Art. VII of the State
1437 Constitution, the Legislature hereby approves for bond financing
1438 by the Osceola County Expressway Authority improvements to toll
1439 collection facilities, interchanges to the legislatively
1440 approved expressway system, and any other facility appurtenant,
1441 necessary, or incidental to the approved system. Subject to

1442 terms and conditions of applicable revenue bond resolutions and
1443 covenants, such costs may be financed in whole or in part by
1444 revenue bonds issued pursuant to s. 348.9806(1)(a) or (b)
1445 whether currently issued or issued in the future, or by a
1446 combination of such bonds.
1447 348.9806 Bonds of the authority.--
1448 (1)(a) Bonds may be issued on behalf of the authority
1449 pursuant to the State Bond Act.
1450 (b) Alternatively, the authority may issue its own bonds
1451 pursuant to this part at such times and in such principal amount
1452 as, in the opinion of the authority, is necessary to provide
1453 sufficient moneys for achieving its purposes; however, such
1454 bonds may not pledge the full faith and credit of the state.
1455 Bonds issued by the authority pursuant to this paragraph or
1456 paragraph (a), whether on original issuance or on refunding,
1457 shall be authorized by resolution of the members thereof, may be
1458 either term or serial bonds, and shall bear such date or dates,
1459 mature at such time or times, not exceeding 40 years after their
1460 respective dates, bear interest at such rate or rates, payable
1461 semiannually, be in such denominations, be in such form, either
1462 coupon or fully registered, carry such registration,
1463 exchangeability, and interchangeability privileges, be payable
1464 in such medium of payment and at such place or places, be
1465 subject to such terms of redemption, and be entitled to such
1466 priorities on the revenues, rates, fees, rentals, or other
1467 charges or receipts of the authority including the Osceola
1468 County gasoline tax funds received by the authority pursuant to
1469 the terms of any lease-purchase agreement between the authority

1470 and the department, as such resolution or any resolution
1471 subsequent thereto may provide. The bonds shall be executed
1472 either by manual or facsimile signature by such officers as the
1473 authority shall determine, provided that such bonds shall bear
1474 at least one signature which is manually executed thereon, and
1475 the coupons attached to such bonds shall bear the facsimile
1476 signature or signatures of such officer or officers as shall be
1477 designated by the authority and shall have the seal of the
1478 authority affixed, imprinted, reproduced, or lithographed
1479 thereon, all as may be prescribed in such resolution or
1480 resolutions.
1481 (c) Bonds issued pursuant to paragraph (a) or paragraph
1482 (b) shall be sold at public sale in the same manner provided by
1483 the State Bond Act. However, if the authority shall, by official
1484 action at a public meeting, determine that a negotiated sale of
1485 such bonds is in the best interest of the authority, the
1486 authority may negotiate the sale of such bonds with the
1487 underwriter designated by the authority and the Division of Bond
1488 Finance of the State Board of Administration with respect to
1489 bonds issued pursuant to paragraph (a) or solely the authority
1490 with respect to bonds issued pursuant to paragraph (b). The
1491 authority's determination to negotiate the sale of such bonds
1492 may be based, in part, upon the written advice of the
1493 authority's financial adviser. Pending the preparation of
1494 definitive bonds, interim certificates may be issued to the
1495 purchaser or purchasers of such bonds and may contain such terms
1496 and conditions as the authority may determine.

1497 (d) The authority may issue bonds pursuant to paragraph
1498 (b) to refund any bonds previously issued regardless of whether
1499 the bonds being refunded were issued by the authority pursuant
1500 to this chapter or on behalf of the authority pursuant to the
1501 State Bond Act.
1502 (2) Any such resolution or resolutions authorizing any
1503 bonds hereunder may contain provisions which shall be part of
1504 the contract with the holders of such bonds, as to:
1505 (a) The pledging of all or any part of the revenues,
1506 rates, fees, rentals (including all or any portion of the
1507 Osceola County gasoline tax funds received by the authority
1508 pursuant to the terms of any lease-purchase agreement between
1509 the authority and the department, or any part thereof), or other
1510 charges or receipts of the authority, derived by the authority,
1511 from the Osceola County Expressway System.
1512 (b) The completion, improvement, operation, extension,
1513 maintenance, repair, lease, or lease-purchase agreement of said
1514 system and the duties of the authority and others, including the
1515 department, with reference thereto.
1516 (c) Limitations on the purposes to which the proceeds of
1517 the bonds, then or thereafter to be issued, or of any loan or
1518 grant by the United States or the state may be applied.
1519 (d) The fixing, charging, establishing, and collecting of
1520 rates, fees, rentals, or other charges for use of the services
1521 and facilities of the Osceola County Expressway System or any
1522 part thereof.

1523 (e) The setting aside of reserves or sinking funds or
1524 repair and replacement funds and the regulation and disposition
1525 thereof.
1526 (f) Limitations on the issuance of additional bonds.
1527 (g) The terms and provisions of any lease-purchase
1528 agreement, deed of trust, or indenture securing the bonds or
1529 under which the same may be issued.
1530 (h) Any other or additional agreements with the holders of
1531 the bonds which the authority may deem desirable and proper.
1532 (3) The authority may employ fiscal agents as provided by
1533 this part or the State Board of Administration may, upon request
1534 of the authority, act as fiscal agent for the authority in the
1535 issuance of any bonds which may be issued pursuant to this part.
1536 The State Board of Administration may, upon request of the
1537 authority, take over the management, control, administration,
1538 custody, and payment of any or all debt services or funds or
1539 assets now or hereafter available for any bonds issued pursuant
1540 to this part. The authority may enter into any deeds of trust,
1541 indentures, or other agreements with its fiscal agent or with
1542 any bank or trust company within or without the state as
1543 security for such bonds and may, under such agreements, sign and
1544 pledge all or any of the revenues, rates, fees, rentals, or
1545 other charges or receipts of the authority, including all or any
1546 portion of the Osceola County gasoline tax funds received by the
1547 authority pursuant to the terms of any lease-purchase agreement
1548 between the authority and the department, thereunder. Such deed
1549 of trust, indenture, or other agreement may contain such
1550 provisions as are customary in such instruments or, as the

1551 authority may authorize, including, but without limitation,
1552 provisions as to:
1553 (a) The completion, improvement, operation, extension,
1554 maintenance, repair, and lease of or lease-purchase agreement
1555 relating to the Osceola County Expressway System and the duties
1556 of the authority and others including the department with
1557 reference thereto.
1558 (b) The application of funds and the safeguarding of funds
1559 on hand or on deposit.
1560 (c) The rights and remedies of the trustee and the holders
1561 of the bonds.
1562 (d) The terms and provisions of the bonds or the
1563 resolutions authorizing the issuance of same.
1564 (4) Any of the bonds issued pursuant to this part are, and
1565 are hereby declared to be, negotiable instruments and shall have
1566 all the qualities and incidents of negotiable instruments under
1567 the law merchant and the negotiable instruments law of the
1568 state.
1569 (5) Notwithstanding any of the provisions of this part,
1570 each project, building, or facility which has been financed by
1571 the issuance of bonds or other evidence of indebtedness under
1572 this part and any refinancing thereof is hereby approved as
1573 provided for in s. 11(f), Art. VII of the State Constitution.
1574 348.9807 Remedies of the bondholders.--
1575 (1) The rights and the remedies herein conferred upon or
1576 granted to the bondholders shall be in addition to and not in
1577 limitation of any rights and remedies lawfully granted to such
1578 bondholders by the resolution or resolutions providing for the

1579 issuance of bonds or by a lease-purchase agreement, deed of
1580 trust, indenture, or other agreement under which the bonds may
1581 be issued or secured. If the authority defaults in the payment
1582 of the principal of or interest on any of the bonds issued
1583 pursuant to the provisions of this part after such principal of
1584 or interest on said bonds becomes due, whether at maturity or
1585 upon call for redemption, or if the department defaults in any
1586 payments under or covenants made in any lease-purchase agreement
1587 between the authority and the department and such default
1588 continues for a period of 30 days or if the authority or the
1589 department fails or refuses to comply with the provisions of
1590 this part or any agreement made with or for the benefit of the
1591 holders of the bonds, the holders of 25 percent in aggregate
1592 principal amount of the bonds then outstanding shall be entitled
1593 as of right to the appointment of a trustee to represent such
1594 bondholders for the purposes hereof; provided that such holders
1595 of 25 percent in aggregate principal amount of the bonds then
1596 outstanding shall have first given notice to the authority and
1597 to the department of their intention to appoint a trustee. Such
1598 notice shall be deemed to have been given if given in writing,
1599 deposited in a securely sealed postpaid wrapper, mailed at a
1600 regularly maintained United States post office box or station,
1601 and addressed, respectively, to the chair of the authority and
1602 to the Secretary of Transportation at the principal office of
1603 the department.
1604 (2) Such trustee and any trustee under any deed of trust,
1605 indenture, or other agreement may and, upon written request of
1606 the holders of 25 percent or such other percentages as may be

1607 specified in any deed of trust, indenture, or other agreement
1608 aforesaid, in principal amount of the bonds then outstanding,
1609 shall in any court of competent jurisdiction in his, her, or its
1610 own name:
1611 (a) By mandamus or other suit, action, or proceeding at
1612 law or in equity, enforce all rights of the bondholders,
1613 including the right to require the authority to fix, establish,
1614 maintain, collect, and charge rates, fees, rentals, and other
1615 charges adequate to carry out any agreement as to or pledge of
1616 the revenues or receipts of the authority to carry out any other
1617 covenants and agreements with or for the benefit of the
1618 bondholders, and to perform its and their duties under this
1619 part.
1620 (b) By mandamus or other suit, action, or proceeding at
1621 law or in equity, enforce all rights of the bondholders under or
1622 pursuant to any lease-purchase agreement between the authority
1623 and the department, including the right to require the
1624 department to make all rental payments required to be made by it
1625 under the provisions of any such lease-purchase agreement,
1626 whether from the Osceola County gasoline tax funds or other
1627 funds of the department so agreed to be paid, and to require the
1628 department to carry out any other covenants and agreements with
1629 or for the benefit of the bondholders and to perform its and
1630 their duties under this part.
1631 (c) Bring suit upon the bonds.
1632 (d) By action or suit in equity, require the authority or
1633 the department to account as if it were the trustee of an
1634 express trust for the bondholders.

1635 (e) By action or suit in equity, enjoin any acts or things
1636 which may be unlawful or in violation of the rights of the
1637 bondholders.
1638 (3) Whether or not all bonds have been declared due and
1639 payable, any trustee, when appointed under this section or
1640 acting under a deed of trust, indenture, or other agreement,
1641 shall be entitled as of right to the appointment of a receiver
1642 who may enter upon and take possession of the Osceola County
1643 Expressway System or the facilities or any part or parts
1644 thereof, the rates, fees, rentals, or other revenues, charges,
1645 or receipts from which are or may be applicable to the payment
1646 of the bonds so in default, and, subject to and in compliance
1647 with the provisions of any lease-purchase agreement between the
1648 authority and the department, operate and maintain the same for
1649 and on behalf and in the name of the authority, the department,
1650 and the bondholders and collect and receive all rates, fees,
1651 rentals, and other charges or receipts or revenues arising
1652 therefrom in the same manner as the authority or the department
1653 might do, and shall deposit all such moneys in a separate
1654 account and apply the same in such manner as the court shall
1655 direct. In any suit, action, or proceeding by the trustee, the
1656 fees, counsel fees, and expenses of the trustee and said
1657 receiver, if any, and all costs and disbursements allowed by the
1658 court shall be a first charge on any rates, fees, rentals, or
1659 other charges, revenues, or receipts derived from the Osceola
1660 County Expressway System or the facilities or services or any
1661 part or parts thereof, including payments under any such lease-
1662 purchase agreement as aforesaid which said rates, fees, rentals,

1663 or other charges, revenues, or receipts shall or may be
1664 applicable to the payment of the bonds so in default. Such
1665 trustee shall also have and possess all of the powers necessary
1666 or appropriate for the exercise of any functions specifically
1667 set forth in this part or incident to the representation of the
1668 bondholders in the enforcement and protection of their rights.
1669 (4) Nothing in this section or any other section of this
1670 part shall authorize any receiver appointed pursuant to this
1671 part for the purpose, subject to and in compliance with the
1672 provisions of any lease-purchase agreement between the authority
1673 and the department, of operating and maintaining the Osceola
1674 County Expressway System or any facilities or part or parts
1675 thereof to sell, assign, mortgage, or otherwise dispose of any
1676 of the assets of whatever kind and character belonging to the
1677 authority. It is the intention of this part to limit the powers
1678 of such receiver, subject to and in compliance with the
1679 provisions of any lease-purchase agreement between the authority
1680 and the department, to the operation and maintenance of the
1681 Osceola County Expressway System or any facility or part or
1682 parts thereof, as the court may direct, in the name and for and
1683 on behalf of the authority, the department, and the bondholders.
1684 No holder of bonds on the authority nor any trustee shall ever
1685 have the right in any suit, action, or proceeding at law or in
1686 equity to compel a receiver, nor shall any receiver be
1687 authorized or any court be empowered to direct the receiver, to
1688 sell, assign, mortgage, or otherwise dispose of any assets of
1689 whatever kind or character belonging to the authority.
1690 348.9808 Lease-purchase agreement.--

1691 (1) In order to effectuate the purposes of this part and
1692 as authorized by this part, the authority may enter into a
1693 lease-purchase agreement with the department relating to and
1694 covering the Osceola County Expressway System.
1695 (2) Such lease-purchase agreement shall provide for the
1696 leasing of the Osceola County Expressway System by the authority
1697 as lessor to the department as lessee, shall prescribe the term
1698 of such lease and the rentals to be paid thereunder, and shall
1699 provide that, upon the completion of the faithful performance
1700 thereunder and the termination of such lease-purchase agreement,
1701 title in fee simple absolute to the Osceola County Expressway
1702 System as then constituted shall be transferred in accordance
1703 with law by the authority to the state and the authority shall
1704 deliver to the department such deeds and conveyances as shall be
1705 necessary or convenient to vest title in fee simple absolute in
1706 the state.
1707 (3) Such lease-purchase agreement may include such other
1708 provisions, agreements, and covenants as the authority and the
1709 department deem advisable or required, including, but not
1710 limited to, provisions as to the bonds to be issued under and
1711 for the purposes of this part; the completion, extension,
1712 improvement, operation, and maintenance of the Osceola County
1713 Expressway System; the expenses and the cost of operation of
1714 said authority; the charging and collection of tolls, rates,
1715 fees, and other charges for the use of the services and
1716 facilities thereof; the application of federal or state grants
1717 or aid which may be made or given to assist the authority in the
1718 completion, extension, improvement, operation, and maintenance

1719 of the Orlando Expressway System which the authority is hereby
1720 authorized to accept and apply to such purposes; the enforcement
1721 of payment and collection of rentals; and any other terms,
1722 provisions, or covenants necessary, incidental, or appurtenant
1723 to the making of and full performance under such lease-purchase
1724 agreement.
1725 (4) The department as lessee under such lease-purchase
1726 agreement is hereby authorized to pay as rentals thereunder any
1727 rates, fees, charges, funds, moneys, receipts, or income
1728 accruing to the department from the operation of the Osceola
1729 County Expressway System and the Osceola County gasoline tax
1730 funds and may also pay as rentals any appropriations received by
1731 the department pursuant to any act of the Legislature heretofore
1732 or hereafter enacted. However, nothing herein nor in such lease-
1733 purchase agreement is intended to nor shall this part or such
1734 lease-purchase agreement require the making or continuance of
1735 such appropriations nor shall any holder of bonds issued
1736 pursuant to this part ever have any right to compel the making
1737 or continuance of such appropriations.
1738 (5) No pledge of said Osceola County gasoline tax funds as
1739 rentals under such lease-purchase agreement shall be made
1740 without the consent of Osceola County evidenced by a resolution
1741 duly adopted by the board of county commissioners of said county
1742 at a public hearing held pursuant to due notice thereof
1743 published at least once a week for 3 consecutive weeks before
1744 the hearing in a newspaper of general circulation in Osceola
1745 County. In addition to other provisions, the resolution shall
1746 provide that any excess of said pledged gasoline tax funds which

1747 is not required for debt service or reserves for such debt
1748 service for any bonds issued by said authority shall be returned
1749 annually to the department for distribution to Osceola County as
1750 provided by law. Before making any application for such pledge
1751 of gasoline tax funds, the authority shall present the plan of
1752 its proposed project to the Osceola County Planning and Zoning
1753 Commission for its comments and recommendations.
1754 (6) The department shall have power to covenant in any
1755 lease-purchase agreement that it will pay all or any part of the
1756 cost of the operation, maintenance, repair, renewal, and
1757 replacement of the system and any part of the cost of completing
1758 the system to the extent that the proceeds of bonds issued
1759 therefor are insufficient from sources other than the revenues
1760 derived from the operation of the system and Osceola County
1761 gasoline tax funds. The department may also agree to make such
1762 other payments from any moneys available to the commission or
1763 the county in connection with the construction or completion of
1764 the system as shall be deemed by the department to be fair and
1765 proper under any such covenants heretofore or hereafter entered
1766 into.
1767 (7) The system shall be a part of the state road system
1768 and the department is hereby authorized, upon the request of the
1769 authority, to expend out of any funds available for the purpose
1770 such moneys and to use such of its engineering and other forces
1771 as may be necessary and desirable in the judgment of the
1772 department for the operation of the authority and for traffic
1773 surveys, borings, surveys, preparation of plans and
1774 specifications, estimates of cost, and other preliminary

1775 engineering and other studies; however, the aggregate amount of
1776 moneys expended for said purposes by the department shall not
1777 exceed the sum of $375,000.
1778 348.9809 Department may be appointed agent of authority
1779 for construction.--The authority may appoint the department as
1780 its agent for the purpose of constructing improvements and
1781 extensions to the Osceola County Expressway System and for the
1782 completion thereof. In such event, the authority shall provide
1783 the department with complete copies of all documents,
1784 agreements, resolutions, contracts, and instruments relating
1785 thereto; shall request the department to do such construction
1786 work, including the planning, surveying, and actual construction
1787 of the completion, extensions, and improvements of the Osceola
1788 County Expressway System; and shall transfer to the credit of an
1789 account of the department in the treasury of the state the
1790 necessary funds therefor, and the department shall thereupon be
1791 authorized, empowered, and directed to proceed with such
1792 construction and to use the funds for such purpose in the same
1793 manner that it is now authorized to use the funds otherwise
1794 provided by law for its use in construction of roads and
1795 bridges.
1796 348.9811 Acquisition of lands and property.--
1797 (1) For the purposes of this part, the Osceola County
1798 Expressway Authority may acquire private or public property and
1799 property rights, including rights of access, air, view, and
1800 light, by gift, devise, purchase, or condemnation by eminent
1801 domain proceedings as the authority may deem necessary for any
1802 of the purposes of this part, including, but not limited to, any

1803 lands reasonably necessary for securing applicable permits,
1804 areas necessary for management of access, borrow pits, drainage
1805 ditches, water retention areas, rest areas, replacement access
1806 for landowners whose access is impaired due to the construction
1807 of a facility, and replacement rights-of-way for relocated rail
1808 and utility facilities; for existing, proposed, or anticipated
1809 transportation facilities on the Osceola County Expressway
1810 System or in a transportation corridor designated by the
1811 authority; or for the purposes of screening, relocation,
1812 removal, or disposal of junkyards and scrap metal processing
1813 facilities. The authority shall also have the power to condemn
1814 any material and property necessary for such purposes.
1815 (2) The right of eminent domain conferred in this part
1816 shall be exercised by the authority in the manner provided by
1817 law.
1818 (3) When the authority acquires property for a
1819 transportation facility or in a transportation corridor, it is
1820 not subject to any liability imposed by chapter 376 or chapter
1821 403 for preexisting soil or groundwater contamination due solely
1822 to its ownership. This section does not affect the rights or
1823 liabilities of any past or future owners of the acquired
1824 property, nor does it affect the liability of any governmental
1825 entity for the results of its actions which create or exacerbate
1826 a pollution source. The authority and the Department of
1827 Environmental Protection may enter into interagency agreements
1828 for the performance, funding, and reimbursement of the
1829 investigative and remedial acts necessary for property acquired
1830 by the authority.

1831 348.9812 Cooperation with other units, boards, agencies,
1832 and individuals.--Express authority and power is hereby given
1833 and granted to any county, municipality, drainage district, road
1834 and bridge district, school district, or any other political
1835 subdivision, board, commission, or individual in or of the state
1836 to make and enter into with the authority contracts, leases,
1837 conveyances, partnerships, or other agreements within the
1838 provisions and purposes of this part. The authority is hereby
1839 expressly authorized to make and enter into contracts, leases,
1840 conveyances, partnerships, and other agreements with any
1841 political subdivision, agency, or instrumentality of the state
1842 and any and all federal agencies, corporations, and individuals
1843 for the purpose of carrying out the provisions of this part.
1844 348.9813 Covenant of the state.--The state does hereby
1845 pledge to and agrees with any person, firm, or corporation or
1846 federal or state agency subscribing to or acquiring the bonds to
1847 be issued by the authority for the purposes of this part that
1848 the state will not limit or alter the rights hereby vested in
1849 the authority and the department until all bonds at any time
1850 issued, together with the interest thereon, are fully paid and
1851 discharged insofar as the same affects the rights of the holders
1852 of bonds issued hereunder. The state does further pledge to and
1853 agree with the United States that in the event any federal
1854 agency shall construct or contribute any funds for the
1855 completion, extension, or improvement of the Osceola County
1856 Expressway System, or any part or portion thereof, the state
1857 will not alter or limit the rights and powers of the authority
1858 and the department in any manner which would be inconsistent

1859 with the continued maintenance and operation of the Osceola
1860 County Expressway System or the completion, extension, or
1861 improvement thereof or which would be inconsistent with the due
1862 performance of any agreements between the authority and any such
1863 federal agency. The authority and the department shall continue
1864 to have and may exercise all powers herein granted so long as
1865 the same shall be necessary or desirable for the carrying out of
1866 the purposes of this part and the purposes of the United States
1867 in the completion, extension, or improvement of the Osceola
1868 County Expressway System or any part or portion thereof.
1869 348.9814 Exemption from taxation.--The effectuation of the
1870 authorized purposes of the authority created under this part is,
1871 shall, and will be in all respects for the benefit of the people
1872 of the state, for the increase of their commerce and prosperity,
1873 and for the improvement of their health and living conditions
1874 and, since the authority will be performing essential
1875 governmental functions in effectuating such purposes, the
1876 authority shall not be required to pay any taxes or assessments
1877 of any kind or nature whatsoever upon any property acquired or
1878 used by it for such purposes or upon any rates, fees, rentals,
1879 receipts, income, or charges at any time received by it and the
1880 bonds issued by the authority, their transfer, and the income
1881 therefrom, including any profits made on the sale thereof, shall
1882 at all times be free from taxation of any kind by the state or
1883 by any political subdivision or taxing agency or instrumentality
1884 thereof. The exemption granted by this section shall not be
1885 applicable to any tax imposed by chapter 220 on interest,
1886 income, or profits on debt obligations owned by corporations.

1887 348.9815 Eligibility for investments and security.--Any
1888 bonds or other obligations issued pursuant to this part shall be
1889 and constitute legal investments for banks, savings banks,
1890 trustees, executors, administrators, and all other fiduciaries
1891 and for all state, municipal, and other public funds and shall
1892 also be and constitute securities eligible for deposit as
1893 security for all state, municipal, or other public funds,
1894 notwithstanding the provisions of any other law or laws to the
1895 contrary.
1896 348.9816 Pledges enforceable by bondholders.--It is the
1897 express intention of this part that any pledge by the department
1898 of rates, fees, revenues, Osceola County gasoline tax funds, or
1899 other funds, as rentals, to the authority, or any covenants or
1900 agreements relative thereto, may be enforceable in any court of
1901 competent jurisdiction against the authority or directly against
1902 the department by any holder of bonds issued by the authority.
1903 348.9817 This part complete and additional authority.--
1904 (1) The powers conferred by this part shall be in addition
1905 and supplemental to the existing powers of the board and the
1906 department, and this part shall not be construed as repealing
1907 any of the provisions of any other law, general, special, or
1908 local, but to supersede such other laws in the exercise of the
1909 powers provided in this part and to provide a complete method
1910 for the exercise of the powers granted in this part. The
1911 extension and improvement of the Osceola County Expressway
1912 System and the issuance of bonds hereunder to finance all or
1913 part of the cost thereof may be accomplished upon compliance
1914 with the provisions of this part without regard to or necessity

1915 for compliance with the provisions, limitations, or restrictions
1916 contained in any other general, special, or local law,
1917 including, but not limited to, s. 215.821. No approval of any
1918 bonds issued under this part by the qualified electors or
1919 qualified electors who are freeholders in the state or in
1920 Osceola County or in any other political subdivision of the
1921 state shall be required for the issuance of such bonds pursuant
1922 to this part.
1923 (2) This part shall not be deemed to repeal, rescind, or
1924 modify the Osceola County Charter. This part shall not be deemed
1925 to repeal, rescind, or modify any other law relating to the
1926 State Board of Administration, the Department of Transportation,
1927 or the Division of Bond Finance of the State Board of
1928 Administration but shall be deemed to and shall supersede such
1929 other laws as are inconsistent with the provisions of this part,
1930 including, but not limited to, s. 215.821.
1931 Section 20. Paragraph (b) of subsection (7) of section
1932 373.036, Florida Statutes, is amended to read:
1933 373.036 Florida water plan; district water management
1934 plans.--
1935 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL
1936 REPORT.--
1937 (b) The consolidated annual report shall contain the
1938 following elements, as appropriate to that water management
1939 district:
1940 1. A district water management plan annual report or the
1941 annual work plan report allowed in subparagraph (2)(e)4.

1942 2. The department-approved minimum flows and levels annual
1943 priority list and schedule required by s. 373.042(2).
1944 3. The annual 5-year capital improvements plan required by
1945 s. 373.536(6)(a)3.
1946 4. The alternative water supplies annual report required
1947 by s. 373.1961(2)(k).
1948 5. The final annual 5-year water resource development work
1949 program required by s. 373.536(6)(a)4.
1950 6. The Florida Forever Water Management District Work Plan
1951 annual report required by s. 373.199(7).
1952 7. The mitigation donation annual report required by s.
1953 373.414(1)(c) ~~(b)~~2.
1954 Section 21. Subsection (12) is added to section 373.406,
1955 Florida Statutes, to read:
1956 373.406 Exemptions.--The following exemptions shall apply:
1957 (12) Department of Transportation projects and activities
1958 described in s. 373.4146(1) are exempt from regulation under
1959 this part and from any rule, manual, or order adopted under this
1960 part.
1961 Section 22. Paragraph (e) of subsection (6) and subsection
1962 (7) of section 373.4135, Florida Statutes, are amended to read:
1963 373.4135 Mitigation banks and offsite regional
1964 mitigation.--
1965 (6) An environmental creation, preservation, enhancement,
1966 or restoration project, including regional offsite mitigation
1967 areas, for which money is donated or paid as mitigation, that is
1968 sponsored by the department, a water management district, or a
1969 local government and provides mitigation for five or more

1970 applicants for permits under this part, or for 35 or more acres
1971 of adverse impacts, shall be established and operated under a
1972 memorandum of agreement. The memorandum of agreement shall be
1973 between the governmental entity proposing the mitigation project
1974 and the department or water management district, as appropriate.
1975 Such memorandum of agreement need not be adopted by rule. For
1976 the purposes of this subsection, one creation, preservation,
1977 enhancement, or restoration project shall mean one or more
1978 parcels of land with similar ecological communities that are
1979 intended to be created, preserved, enhanced, or restored under a
1980 common scheme.
1981 (e) Projects governed by this subsection, except for
1982 projects established pursuant to subsection (7), shall be
1983 subject to the provisions of s. 373.414(1)(c) ~~(b)~~1.
1984 (7) The department, water management districts, and local
1985 governments may elect to establish and manage mitigation sites,
1986 including regional offsite mitigation areas, or contract with
1987 permitted mitigation banks, to provide mitigation options for
1988 private single-family lots or homeowners. The department, water
1989 management districts, and local governments shall provide a
1990 written notice of their election under this subsection by United
1991 States mail to those individuals who have requested, in writing,
1992 to receive such notice. The use of mitigation options
1993 established under this subsection are not subject to the full-
1994 cost-accounting provision of s. 373.414(1)(c) ~~(b)~~1. To use a
1995 mitigation option established under this subsection, the
1996 applicant for a permit under this part must be a private,
1997 single-family lot or homeowner, and the land upon which the

1998 adverse impact is located must be intended for use as a single-
1999 family residence by the current owner. The applicant must not be
2000 a corporation, partnership, or other business entity. However,
2001 the provisions of this subsection shall not apply to other
2002 entities that establish offsite regional mitigation as defined
2003 in this section and s. 373.403.
2004 Section 23. Paragraph (d) of subsection (6) of section
2005 373.4136, Florida Statutes, is amended to read:
2006 373.4136 Establishment and operation of mitigation
2007 banks.--
2008 (6) MITIGATION SERVICE AREA.--The department or water
2009 management district shall establish a mitigation service area
2010 for each mitigation bank permit. The department or water
2011 management district shall notify and consider comments received
2012 on the proposed mitigation service area from each local
2013 government within the proposed mitigation service area. Except
2014 as provided herein, mitigation credits may be withdrawn and used
2015 only to offset adverse impacts in the mitigation service area.
2016 The boundaries of the mitigation service area shall depend upon
2017 the geographic area where the mitigation bank could reasonably
2018 be expected to offset adverse impacts. Mitigation service areas
2019 may overlap, and mitigation service areas for two or more
2020 mitigation banks may be approved for a regional watershed.
2021 (d) If the requirements in s. 373.414(1)(c) ~~(b)~~ and (8) are
2022 met, the following projects or activities regulated under this
2023 part shall be eligible to use a mitigation bank, regardless of
2024 whether they are located within the mitigation service area:

2025 1. Projects with adverse impacts partially located within
2026 the mitigation service area.
2027 2. Linear projects, such as roadways, transmission lines,
2028 distribution lines, pipelines, or railways.
2029 3. Projects with total adverse impacts of less than 1 acre
2030 in size.
2031 Section 24. Paragraphs (b) and (c) of subsection (1) of
2032 section 373.414, Florida Statutes, are redesignated as
2033 paragraphs (c) and (d), respectively, and a new paragraph (b) is
2034 added to that subsection to read:
2035 373.414 Additional criteria for activities in surface
2036 waters and wetlands.--
2037 (1) As part of an applicant's demonstration that an
2038 activity regulated under this part will not be harmful to the
2039 water resources or will not be inconsistent with the overall
2040 objectives of the district, the governing board or the
2041 department shall require the applicant to provide reasonable
2042 assurance that state water quality standards applicable to
2043 waters as defined in s. 403.031(13) will not be violated and
2044 reasonable assurance that such activity in, on, or over surface
2045 waters or wetlands, as delineated in s. 373.421(1), is not
2046 contrary to the public interest. However, if such an activity
2047 significantly degrades or is within an Outstanding Florida
2048 Water, as provided by department rule, the applicant must
2049 provide reasonable assurance that the proposed activity will be
2050 clearly in the public interest.

2051 (b) Department of Transportation projects and activities
2052 described in s. 373.4146(1) are exempt from the public-interest
2053 criteria of this subsection.
2054 Section 25. Subsection (7) is added to section 373.4145,
2055 Florida Statutes, to read:
2056 373.4145 Interim part IV permitting program for the
2057 Northwest Florida Water Management District.--
2058 (7) Department of Transportation projects and activities
2059 described in s. 373.4146(1) are exempt from the provisions of
2060 this section and from any rules, manuals, or orders adopted
2061 under this section.
2062 Section 26. Section 373.4146, Florida Statutes, is created
2063 to read:
2064 373.4146 Permitting exemptions for Department of
2065 Transportation projects; establishment of permit thresholds.--
2066 (1) The following state transportation projects and
2067 activities are exempt from regulation under this part and from
2068 any rule, manual, or order adopted under this part:
2069 (a) Resurfacing, restoration, and rehabilitation work on
2070 existing highways to extend the service life or enhance highway
2071 safety, including, but not limited to, widening existing lanes,
2072 improving shoulders, and extending existing culverts or drainage
2073 structures to meet current highway safety standards, but not
2074 including increasing the number of through-travel lanes.
2075 (b) In-kind bridge replacement with the same number of
2076 through-travel lanes designed to current safety standards, and
2077 associated approach roadway work.

2078 (c) Intersection improvements, including the addition or
2079 extension of turn lanes and median crossings.
2080 (d) Addition of pedestrian and bicycle facilities to
2081 existing highways.
2082 (2) The following provisions apply to all state
2083 transportation projects regulated under this part:
2084 (a) As long as the stormwater discharge meets water
2085 quality standards of the receiving waters, the Department of
2086 Transportation is not required to determine or be limited to the
2087 existing discharge rate for discharges to tidally controlled
2088 bodies of water for any state transportation project as long as
2089 the discharge rate post project does not exceed the preproject
2090 discharge rate by 30 percent.
2091 (b) Any state transportation project that has undergone
2092 review pursuant to a process approved under 23 U.S.C. s. 6002
2093 will be deemed to have satisfied the cumulative impact review
2094 required pursuant to s. 373.414(8)(a).
2095 (c) State transportation projects are exempt from project
2096 size acreage thresholds for general permits under this part.
2097 (d) State transportation projects with less than 5 acres
2098 of wetland impacts may obtain general permits under this part.
2099 (e) Stormwater treatment facilities for state
2100 transportation projects shall not be subject to minimum width or
2101 acreage restrictions.
2102 (3) By January 1, 2007, the department, the water
2103 management districts, and the Department of Transportation shall
2104 develop a memorandum of understanding governing the use, and the
2105 granting of such use, of sovereign submerged or other state-

2106 owned lands pursuant to chapter 253 or chapter 258 for state
2107 transportation projects. The memorandum of understanding shall
2108 address engineering techniques to minimize the project's
2109 environmental impacts, mitigation of unavoidable environmental
2110 impacts, and other related issues.
2111 (4) By July 1, 2007, the department, the water management
2112 districts, and the Department of Transportation shall jointly
2113 develop a memorandum of understanding describing a method for
2114 determining the seasonal high groundwater table elevation to be
2115 used by the department and the water management districts when
2116 permitting state transportation projects under this part.
2117 (5) By July 1, 2008, the department, the water management
2118 districts, and the Department of Transportation shall research
2119 and identify the specific constituents of highway stormwater
2120 runoff and shall jointly develop a memorandum of understanding
2121 containing best management practices to treat or minimize these
2122 identified constituents. These best management practices shall
2123 be deemed sufficient to satisfy water treatment requirements for
2124 permits required by this part.
2125 Section 27. Paragraph (d) of subsection (2) of section
2126 348.0003, Florida Statutes, is amended to read:
2127 348.0003 Expressway authority; formation; membership.--
2128 (2) The governing body of an authority shall consist of
2129 not fewer than five nor more than nine voting members. The
2130 district secretary of the affected department district shall
2131 serve as a nonvoting member of the governing body of each
2132 authority located within the district. Each member of the
2133 governing body must at all times during his or her term of

2134 office be a permanent resident of the county which he or she is
2135 appointed to represent.
2136 (d) Notwithstanding any provision to the contrary in this
2137 subsection, in any county as defined in s. 125.011(1), the
2138 governing body of an authority shall consist of seven voting ~~up~~
2139 ~~to 13~~ members and two nonvoting members, and the following
2140 provisions of this paragraph shall apply specifically to such
2141 authority. Two ~~Except for the district secretary of the~~
2142 ~~department, the members must be residents of the county. Seven~~
2143 voting members shall be county commissioners appointed by the
2144 chair of the governing body of the county. One voting member
2145 shall be a mayor of a municipality within the county at all
2146 times while serving on the authority and shall be appointed by
2147 the Miami-Dade County League of Cities. Four ~~At the discretion~~
2148 ~~of the governing body of the county, up to two of the members~~
2149 ~~appointed by the governing body of the county may be elected~~
2150 ~~officials residing in the county. Five~~ voting members of the
2151 authority shall be appointed by the Governor and must be
2152 residents of the county or municipality at all times while
2153 serving. The Governor's appointees shall not be elected or
2154 appointed officials or employees of the county or of a
2155 municipality within the county. ~~One member shall be~~ The district
2156 secretary of the department serving in the district that
2157 contains such county shall be a nonvoting member of the
2158 authority. One member shall be the chair of the Miami-Dade
2159 legislative delegation, or another member of the delegation
2160 appointed by the chair, and shall be a nonvoting member of the
2161 authority. ~~This member shall be an ex officio voting member of~~

2162 ~~the authority. If the governing board of an authority includes~~
2163 ~~any member originally appointed by the governing body of the~~
2164 ~~county as a nonvoting member, when the term of such member~~
2165 ~~expires, that member shall be replaced by a member appointed by~~
2166 ~~the Governor until the governing body of the authority is~~
2167 ~~composed of seven members appointed by the governing body of the~~
2168 ~~county and five members appointed by the Governor.~~ The
2169 qualifications, terms of office, and obligations and rights of
2170 members of the authority shall be determined by resolution or
2171 ordinance of the governing body of the county in a manner that
2172 is consistent with subsections (3) and (4).
2173 Section 28. Paragraph (f) of subsection (2) and paragraphs
2174 (a) and (h) of subsection (9) of section 348.0004, Florida
2175 Statutes, are amended to read:
2176 348.0004 Purposes and powers.--
2177 (2) Each authority may exercise all powers necessary,
2178 appurtenant, convenient, or incidental to the carrying out of
2179 its purposes, including, but not limited to, the following
2180 rights and powers:
2181 (f)1. To fix, alter, charge, establish, and collect tolls,
2182 rates, fees, rentals, and other charges for the services and
2183 facilities system, which tolls, rates, fees, rentals, and other
2184 charges must always be sufficient to comply with any covenants
2185 made with the holders of any bonds issued pursuant to the
2186 Florida Expressway Authority Act. However, such right and power
2187 may be assigned or delegated by the authority to the department.
2188 Notwithstanding s. 338.165 or any other provision of law to the
2189 contrary, in any county as defined in s. 125.011(1), to the

2190 extent surplus revenues exist, they may be used for purposes
2191 enumerated in subsection (7), provided the expenditures are
2192 consistent with the metropolitan planning organization's adopted
2193 long-range plan. Notwithstanding any other provision of law to
2194 the contrary, but subject to any contractual requirements
2195 contained in documents securing any outstanding indebtedness
2196 payable from tolls, in any county as defined in s. 125.011(1),
2197 the board of county commissioners may, by ordinance adopted on
2198 or before September 30, 1999, alter or abolish existing tolls
2199 and currently approved increases thereto if the board provides a
2200 local source of funding to the county expressway system for
2201 transportation in an amount sufficient to replace revenues
2202 necessary to meet bond obligations secured by such tolls and
2203 increases.
2204 2. Prior to raising tolls, whether paid by cash or
2205 electronic toll collection, an expressway authority in any
2206 county as defined in s. 125.011(1) shall publish a notice of the
2207 intent to raise tolls in a newspaper of general circulation, as
2208 defined in s. 97.021(18), in the county. The notice shall
2209 provide the amount of increase to be implemented for cash
2210 payment, electronic payment, or both, as applicable. The notice
2211 also shall provide a postal address, an electronic mail or
2212 Internet address, and a local telephone number for the purpose
2213 of receiving public comment on the issue of the toll increase.
2214 The notice shall be published two times, at least 7 days apart,
2215 with the first publication occurring not more than 90 days prior
2216 to the proposed effective date of the toll increase and the
2217 second publication occurring not fewer than 60 days prior to the

2218 proposed effective date of the toll increase. The provisions of
2219 this subparagraph shall not apply to any change in the toll rate
2220 for the use of any portion of the expressway system that has
2221 been approved by this authority prior to July 1, 2006.
2222 (9) The Legislature declares that there is a public need
2223 for rapid construction of safe and efficient transportation
2224 facilities for travel within the state and that it is in the
2225 public's interest to provide for public-private partnership
2226 agreements to effectuate the construction of additional safe,
2227 convenient, and economical transportation facilities.
2228 (a) Notwithstanding any other provision of law to the
2229 contrary ~~the Florida Expressway Authority Act~~, any expressway
2230 authority, transportation authority, bridge authority, or toll
2231 authority established by statute or under this part may receive
2232 or solicit proposals and enter into agreements with private
2233 entities, or consortia thereof, for the building, operation,
2234 ownership, or financing of expressway authority transportation
2235 facilities or new transportation facilities within the
2236 jurisdiction of the expressway authority. An expressway
2237 authority is authorized to adopt rules to implement this
2238 subsection and shall, by rule, establish an application fee for
2239 the submission of unsolicited proposals under this subsection.
2240 The fee must be sufficient to pay the costs of evaluating the
2241 proposals. An expressway authority may engage private
2242 consultants to assist in the evaluation. Before approval, an
2243 expressway authority must determine that a proposed project:
2244 1. Is in the public's best interest.

2245 2. Would not require state funds to be used unless the
2246 project is on or provides increased mobility on the State
2247 Highway System.
2248 3. Would have adequate safeguards to ensure that no
2249 additional costs or service disruptions would be realized by the
2250 traveling public and citizens of the state in the event of
2251 default or the cancellation of the agreement by the expressway
2252 authority.
2253 (h) Except as herein provided, this subsection is not
2254 intended to amend existing laws by granting additional powers to
2255 or further restricting the governmental entities from regulating
2256 and entering into cooperative arrangements with the private
2257 sector for the planning, construction, and operation of
2258 transportation facilities. Use of the powers granted in this
2259 subsection by a statutorily created expressway authority,
2260 transportation authority, bridge authority, or toll authority,
2261 except one statutorily created under this part, shall not be
2262 subject to any of the requirements of this part except those
2263 contained in this subsection.
2264 Section 29. Subsection (6) is added to section 348.754,
2265 Florida Statutes, to read:
2266 348.754 Purposes and powers.--
2267 (6)(a) Notwithstanding s. 255.05, the Orlando-Orange
2268 County Expressway Authority may waive payment and performance
2269 bonds on construction contracts for the construction of a public
2270 building, for the prosecution and completion of a public work,
2271 or for repairs on a public building or public work that has a
2272 cost of $500,000 or less and when the project is awarded

2273 pursuant to an economic development program for the
2274 encouragement of local small businesses that has been adopted by
2275 the governing body of the Orlando-Orange County Expressway
2276 Authority pursuant to a resolution or policy.
2277 (b) The authority's adopted criteria for participation in
2278 the economic development program for local small businesses
2279 requires that a participant:
2280 1. Be an independent business.
2281 2. Be principally domiciled in the Orange County Standard
2282 Metropolitan Statistical Area.
2283 3. Employ 25 or fewer full-time employees.
2284 4. Have gross annual sales averaging $3 million or less
2285 over the immediately preceding 3 calendar years with regard to
2286 any construction element of the program.
2287 5. Be accepted as a participant in the Orlando-Orange
2288 County Expressway Authority's microcontracts program or such
2289 other small business program as may be hereinafter enacted by
2290 the Orlando-Orange County Expressway Authority.
2291 6. Participate in an educational curriculum or technical
2292 assistance program for business development that will assist the
2293 small business in becoming eligible for bonding.
2294 (c) The authority's adopted procedures for waiving payment
2295 and performance bonds on projects with values not less than
2296 $200,000 and not exceeding $500,000 shall provide that payment
2297 and performance bonds may only be waived on projects that have
2298 been set aside to be competitively bid on by participants in an
2299 economic development program for local small businesses. The
2300 authority's executive director or his or her designee shall

2301 determine whether specific construction projects are suitable
2302 for:
2303 1. Bidding under the authority's microcontracts program by
2304 registered local small businesses; and
2305 2. Waiver of the payment and performance bond.
2306
2307 The decision of the authority's executive director or deputy
2308 executive director to waive the payment and performance bond
2309 shall be based upon his or her investigation and conclusion that
2310 there exists sufficient competition so that the authority
2311 receives a fair price and does not undertake any unusual risk
2312 with respect to such project.
2313 (d) For any contract for which a payment and performance
2314 bond has been waived pursuant to the authority set forth in this
2315 section, the Orlando-Orange County Expressway Authority shall
2316 pay all persons defined in s. 713.01 who furnish labor,
2317 services, or materials for the prosecution of the work provided
2318 for in the contract to the same extent and upon the same
2319 conditions that a surety on the payment bond under s. 255.05
2320 would have been obligated to pay such persons if the payment and
2321 performance bond had not been waived. The authority shall record
2322 notice of this obligation in the manner and location that surety
2323 bonds are recorded. The notice shall include the information
2324 describing the contract that s. 255.05(1) requires be stated on
2325 the front page of the bond. Notwithstanding that s. 255.05(9)
2326 generally applies when a performance and payment bond is
2327 required, s. 255.05(9) shall apply under this subsection to any
2328 contract on which performance or payment bonds are waived and

2329 any claim to payment under this subsection shall be treated as a
2330 contract claim pursuant to s. 255.05(9).
2331 (e) A small business that has been the successful bidder
2332 on six projects for which the payment and performance bond was
2333 waived by the authority pursuant to paragraph (a) shall be
2334 ineligible to bid on additional projects for which the payment
2335 and performance bond is to be waived. The local small business
2336 may continue to participate in other elements of the economic
2337 development program for local small businesses as long as it is
2338 eligible.
2339 (f) The authority shall conduct bond eligibility training
2340 for businesses qualifying for bond waiver under this subsection
2341 to encourage and promote bond eligibility for such businesses.
2342 (g) The authority shall prepare a biennial report on the
2343 activities undertaken pursuant to this subsection to be
2344 submitted to the Orange County legislative delegation. The
2345 initial report shall be due December 31, 2008.
2346 Section 30. Subsection (1) of section 212.055, Florida
2347 Statutes, is amended to read:
2348 212.055 Discretionary sales surtaxes; legislative intent;
2349 authorization and use of proceeds.--It is the legislative intent
2350 that any authorization for imposition of a discretionary sales
2351 surtax shall be published in the Florida Statutes as a
2352 subsection of this section, irrespective of the duration of the
2353 levy. Each enactment shall specify the types of counties
2354 authorized to levy; the rate or rates which may be imposed; the
2355 maximum length of time the surtax may be imposed, if any; the
2356 procedure which must be followed to secure voter approval, if

2357 required; the purpose for which the proceeds may be expended;
2358 and such other requirements as the Legislature may provide.
2359 Taxable transactions and administrative procedures shall be as
2360 provided in s. 212.054.
2361 (1) ~~CHARTER~~ COUNTY TRANSPORTATION ~~TRANSIT~~ SYSTEM SURTAX.--
2362 (a) The governing authority in each ~~charter~~ county ~~which~~
2363 ~~adopted a charter prior to January 1, 1984, and each county the~~
2364 ~~government of which is consolidated with that of one or more~~
2365 ~~municipalities,~~ may levy a discretionary sales surtax pursuant
2366 to an ordinance enacted by a majority of the members of the
2367 county governing authority and~~,~~ subject to approval by a
2368 majority vote of the electorate of the county ~~or by a charter~~
2369 ~~amendment approved by a majority vote of the electorate of the~~
2370 ~~county~~.
2371 (b) The rate shall be up to 1 percent.
2372 (c) The proposal to adopt a discretionary sales surtax as
2373 provided in this subsection ~~and to create a trust fund within~~
2374 ~~the county accounts~~ shall be placed on the ballot in accordance
2375 with law at a time to be set at the discretion of the governing
2376 body of the county.
2377 (d) Proceeds from the surtax shall be distributed to the
2378 county and to each municipality within the county in which the
2379 surtax is collected, according to:
2380 1. A separate interlocal agreement between the county
2381 governing body and the governing body of any municipality within
2382 the county; or
2383 2. If there is no interlocal agreement between the county
2384 governing body and the governing body of any municipality within

2385 the county, the proceeds shall be distributed according to an
2386 apportionment factor for each eligible local government as
2387 specified in this subparagraph.
2388 a. The apportionment factor for an eligible county shall
2389 be composed of two equally weighted portions as follows:
2390 (I) Each eligible county's population in the
2391 unincorporated areas of the county as a percentage of the total
2392 county population as determined pursuant to s. 186.901.
2393 (II) Each eligible county's percentage of centerline miles
2394 derived from the combined total number of centerline miles owned
2395 and maintained by the county and each municipality within the
2396 county as annually reported in the City/County Mileage Report
2397 promulgated by the Transportation Statistics Office within the
2398 Department of Transportation.
2399 b. The apportionment factor for an eligible municipality
2400 shall be composed of two equally weighted portions as follows:
2401 (I) Each eligible municipality's population as a
2402 percentage of the total county population as determined pursuant
2403 to s. 186.901.
2404 (II) Each eligible municipality's percentage of centerline
2405 miles derived from the combined total number of centerline miles
2406 owned and maintained by the county and each municipality within
2407 the county as annually reported in the City/County Mileage
2408 Report promulgated by the Transportation Statistics Office
2409 within the Department of Transportation.
2410 (e) A charter county that has adopted a surtax pursuant to
2411 this subsection by referendum as of July 1, 2006, shall not be
2412 required to distribute surtax proceeds pursuant to paragraph (d)

2413 but shall follow the procedures established in paragraph (f).
2414 Each charter county that adopted a charter prior to January 1,
2415 1984, and each county the government of which is consolidated
2416 with that of one or more municipalities, that adopts a surtax
2417 pursuant to this subsection by referendum after July 1, 2006,
2418 shall not be required to distribute surtax proceeds pursuant to
2419 paragraph (d) but shall follow the procedures established in
2420 paragraph (f). Pursuant to an interlocal agreement entered into
2421 pursuant to chapter 163, the governing body of the charter
2422 county may distribute proceeds from the tax to a municipality,
2423 or an expressway or transportation authority created by law, to
2424 be expended for the purposes authorized by paragraph (f).
2425 Interlocal agreements entered into as of July 1, 2006, pursuant
2426 to chapter 163 by the governing body of the county to distribute
2427 proceeds from the tax to a municipality or an expressway or
2428 transportation authority created by law shall not be affected by
2429 the changes made to this subsection by this act effective July
2430 1, 2006.
2431 (f) Proceeds from the surtax shall be applied to as many
2432 or as few of the uses enumerated below in whatever combination
2433 the governing body of the municipality or the county ~~commission~~
2434 deems appropriate:
2435 1. Deposited by the governing body of the municipality or
2436 the county in the trust fund and shall be used for the purposes
2437 of development, construction, equipment, maintenance, operation,
2438 supportive services, including a ~~countywide~~ bus system, and
2439 related costs of a fixed guideway rapid transit system.~~;~~

2440 2. Remitted by the governing body of the municipality or
2441 county to an expressway or transportation authority created by
2442 law to be used, at the discretion of such authority, for the
2443 development, construction, operation, or maintenance of roads,
2444 bicycle and pedestrian facilities, or bridges in the county or
2445 municipality, for the operation and maintenance of a bus system,
2446 for the payment of principal and interest on existing bonds
2447 issued for the construction of such roads, bicycle or pedestrian
2448 facilities, or bridges, and, upon approval by the governing body
2449 of the municipality or county ~~commission~~, such proceeds may be
2450 pledged for bonds issued to refinance existing bonds or new
2451 bonds issued for the construction of such roads or bridges.~~;~~
2452 ~~3. Used by the charter county for the development,~~
2453 ~~construction, operation, and maintenance of roads and bridges in~~
2454 ~~the county; for the expansion, operation, and maintenance of bus~~
2455 ~~and fixed guideway systems; and for the payment of principal and~~
2456 ~~interest on bonds issued for the construction of fixed guideway~~
2457 ~~rapid transit systems, bus systems, roads, or bridges; and such~~
2458 ~~proceeds may be pledged by the governing body of the county for~~
2459 ~~bonds issued to refinance existing bonds or new bonds issued for~~
2460 ~~the construction of such fixed guideway rapid transit systems,~~
2461 ~~bus systems, roads, or bridges and no more than 25 percent used~~
2462 ~~for nontransit uses; and~~
2463 3.~~4.~~ Used by the governing body of the municipality or
2464 ~~charter~~ county for the planning, development, construction,
2465 operation, and maintenance of roads, bicycle and pedestrian
2466 facilities, and bridges in the county; for the planning,
2467 development, expansion, operation, and maintenance of bus and

2468 fixed guideway systems; and for the payment of principal and
2469 interest on bonds issued for the construction of fixed guideway
2470 rapid transit systems, bus systems, roads, bicycle and
2471 pedestrian facilities, or bridges; and such proceeds may be
2472 pledged by the governing body of the municipality or county for
2473 bonds issued to refinance existing bonds or new bonds issued for
2474 the construction of such fixed guideway rapid transit systems,
2475 bus systems, roads, bicycle and pedestrian facilities, or
2476 bridges. ~~Pursuant to an interlocal agreement entered into~~
2477 ~~pursuant to chapter 163, the governing body of the charter~~
2478 ~~county may distribute proceeds from the tax to a municipality,~~
2479 ~~or an expressway or transportation authority created by law to~~
2480 ~~be expended for the purpose authorized by this paragraph.~~
2481 4. Used by the county or municipality to fund regionally
2482 significant transportation projects identified in a regional
2483 transportation plan developed in accordance with s. 339.155(5)
2484 or to provide matching funds for the Transportation Regional
2485 Incentive Program in accordance with s. 339.2819 or the New
2486 Starts Transit Program as provided in s. 341.051.
2487 5. Used by the county or municipality to fund projects
2488 identified in a capital improvements element of a comprehensive
2489 plan that has been determined to be in compliance with part II
2490 of chapter 163 or to implement a long-term concurrency
2491 management system adopted by a local government in accordance
2492 with s. 163.3177(3) or (9).
2493 Section 31. Department of Transportation study of
2494 transportation facilities providing access to pari-mutuel

2495 facilities and Indian reservations; report and
2496 recommendations.--
2497 (1) The Department of Transportation is directed to
2498 conduct a study of the impacts that slot machine gaming at pari-
2499 mutuel facilities and on Indian reservation lands is having on
2500 public roads and other transportation facilities, regarding
2501 traffic congestion and other mobility issues, facility
2502 maintenance and repair costs, emergency evacuation readiness,
2503 and costs of potential future widening or other improvements,
2504 and of other impacts on the motoring, nongaming public.
2505 (2) The study shall include, but is not limited to, the
2506 following information:
2507 (a) A listing, description, and functional classification
2508 of the access roads to and from pari-mutuel facilities and
2509 Indian reservations that conduct slot machine gaming in the
2510 state.
2511 (b) An identification of the access roads identified under
2512 paragraph (a) that are either scheduled for improvements within
2513 the Department of Transportation's 5-year work program or are
2514 listed on the 20-year, long-range transportation plan of the
2515 department or a metropolitan planning organization.
2516 (c) The most recent traffic counts on the access roads and
2517 projected future usage, as well as any projections of impacts on
2518 secondary, feeder, or connector roads, interstate highway exit
2519 and entrance ramps, or other area transportation facilities.
2520 (d) The safety and maintenance ratings of each access road
2521 and a detailed review of impacts on the ability of local and

2522 state emergency management agencies to provide emergency or
2523 evacuation services.
2524 (e) The estimated infrastructure costs to maintain,
2525 improve, or widen these access roads based on future projected
2526 needs.
2527 (f) The feasibility of implementing tolls on these access
2528 roads or, if already tolled, raising the toll to offset and
2529 mitigate the impacts of traffic generated by pari-mutuel
2530 facility and Indian reservation slot machine gaming activities
2531 on nontribal communities in the state and to finance projected
2532 future improvements to the access roads.
2533 (3) The department shall present its findings and
2534 recommendations in a report to be submitted to the Governor, the
2535 President of the Senate, and the Speaker of the House of
2536 Representatives by January 15, 2007. The report may include any
2537 department recommendations for proposed legislation.
2538 Section 32. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7079 PCB TR 06-03 Highway Safety and Motor Vehicles
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee	14 Y, 0 N,	Thompson	Miller
1) Transportation & Economic Development Appropriations Committee	15 Y, 0 N	McAuliffe	Gordon
2) State Infrastructure Council		Thompson J.T.	Havlicak RH
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7079 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of major provisions in the bill include:

- Grants DHSMV the authority to make rules regarding settlement or compromise of taxes, penalties or interests; and authorizes DHSMV to enter into agreements for scheduling payments of taxes and penalties;
- Clarifies that "Motorized scooters" and "miniature motorcycles" are not "street legal" and provides the public with better notice of their legal status through sales disclosure requirements;
- Requires motorcycle riders under 21 years old to display a license plate unique in design and color; requires that the owner must prove when registering a motorcycle that they have obtained a motorcycle endorsement on their driver license; and requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of a motorcycle safety course;
- Allows All-Terrain Vehicles (ATV's) to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph;
- Brings intrastate hours-of-service requirements for commercial motor carriers into compliance with federal tolerance guidelines, and provides for changes recently enacted into federal law for utilities and agricultural transportation;
- Allows certain forestry equipment to operate on public roads between one point of harvest to another;
- Increases penalties for speeding 30 miles per hour over the posted speed limit, red light violations resulting in a crash and failure to secure loads while traveling on the public roads and highways;
- Allows veterans of recent military conflicts to display a tag that shows their service in Operation Iraqi Freedom and Operation Enduring Freedom;
- Revises the definitions of driver's license, identification card, and temporary driver license or temporary identification card to comply with federal requirements;
- Clarifies certain law enforcement and judicial procedures for suspension of driver licenses for driving with unlawful blood or breath alcohol level and the review of such suspensions.

Some of the bill's provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have an indeterminate fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—HB 7079:

- The bill gives DHSMV the authority to make rules regarding settlement or compromise of taxes, penalties or interest;
- The bill requires that upon original registration of any motorcycle, motor driven cycle or moped the owner must prove they have obtained necessary endorsement on the driver license;
- The bill requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of the motorcycle safety course.
- The bill gives law enforcement agencies the authority to appeal any decision of DHSMV invalidating a driver license suspension by a petition for writ of certiori to the circuit court in the county where a formal review was conducted.

Promote Personal Responsibility—HB 7079:

- The bill increases driver license points, requires a mandatory hearing, and doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more;
- The bill increases the points for a red light violation resulting in a crash to six points (same as speeding resulting in a crash);
- The bill increases the fines for failing to secure loads from $100 to $200, and increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of 1 year to a minimum of one year and a maximum of two years;

Safeguard Individual Liberty—HB 7079:

- The bill provides for the operation of "ATV's" by licensed drivers and minors under the supervision of a licensed driver on unpaved roadways where the speed limit is 35 mph or less;
- The bill removes the requirement for a franchise motor vehicle dealer to attend eight hours of continuing education when applying for an initial license;

B. EFFECT OF PROPOSED CHANGES:

Settlement or Compromise of Taxes, Penalty or Interest

Background

In 1981 the legislature passed HB 439[1] transferring the taxation of motor fuel and special fuel from the Public Service Commission to the Department of Revenue. In 1987 the legislature passed HB 761[2] transferring the fuel use tax functions of the Department of Revenue to DHSMV. Since the transfer of the administration of Chapter 207, F.S., to DHSMV from the Department of Revenue, DHSMV's authority to settle or compromise assessments and enter into stipulation agreements has been uncertain. The bill addresses three areas related to taxes, penalties and interest assessed by DHSMV: record-keeping requirements; informal settlement conferences; and scheduling payments.

[1] Chapter 81-151, Laws of Florida
[2] Chapter 87-198, Laws of Florida

Records

Section 207.008, F.S., requires each registered motor carrier to maintain records and papers as required by the Department of Revenue for the administration of the settlement or compromise of taxes, penalty or interest. Motor carriers are to preserve these records until expiration of the time within which the Department of Revenue is able to make an assessment with respect to that tax pursuant to Florida law[3]. The bill amends s. 207.008, F.S., to provide that records must be maintained for four years.

Informal Conferences

Section 207.021, F.S., only allows DHSMV to settle or compromise penalties or interest imposed under Chapter 207, F.S., using the provisions of Section 213.21, F.S., which relates to the Department of Revenue. There is no specific authority in Chapter 207, F.S., for DHSMV to conduct informal conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.

The bill grants DHSMV statutory rulemaking authority regarding settlement or compromise of chapter 207, F.S., taxes, penalties or interest. The bill also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The bill authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The bill specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under International Fuel Tax Agreement (IFTA)[4]. A taxpayer's liability for penalties may be settled or compromised if DHSMV determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

The International Registration Plan

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all states (except Alaska and Hawaii), the District of Columbia, and the Canadian provinces (except Yukon and Northwest Territory).

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee. They distribute the fees to the other jurisdictions based on the percentage of miles the carrier will travel, or has traveled, in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.405, F.S., relating to the IRP, does not authorize DHSMV to enter into agreements for scheduling payments of taxes and penalties due to DHSMV as a result of audit assessments issues.

[3] s. 95.091(3), F.S.
[4] s. 207.0281(1), F.S.

The bill would allow DHSMV to enter into agreements for scheduling payments of such taxes and penalties due to the department as a result of audit assessments issued under this section.

Motorized Scooters and Miniature Motorcycles

Background

Motorized scooters are two-wheel vehicles, equipped with either a small two-cycle gasoline engine or an electric motor and a battery. To operate within the letter of the law some manufacturers are retrofitting these scooters with electric motors and kits. The gasoline-powered scooters usually cost between $400 and $1,300. Electric scooters range from under $200 to about $1,000.

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. A new year-long study released by CPSC[5] finds there were an estimated 10,000 emergency room injuries involving powered scooters nationally from July 2003 through June 2004.

Chapter 322, F.S., relating to drivers' licenses, defines the term "motor vehicle" as any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and motorized bicycles. This definition requires the operator of any motor vehicle including motorized scooters, operating on the public roadways to have a class E driver's license.

Section 320.02, F.S., relating to motor vehicle registration, provides that every owner or person in charge of a motor vehicle which is operated or driven on the roads of this state must register the vehicle in this state. While that chapter requires any motor vehicle to be registered, s. 320.08, F.S., does not provide a license tax classification for motorized scooters. DHSMV has therefore advised that since such vehicles may not be registered, they may not be operated on the public streets and roads.

Section 316.1995, F.S., provides that no person may drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway and provides penalties. Motorized scooters are not exempted from the definition of "vehicle" in section 316.003(75), F.S., which defines the term as every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. Thus, motorized scooters appear to be prohibited from operating on sidewalks.

Section 316.003(83), F.S., defines electric personal assistive mobility devices as any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. Electric personal assistive mobility devices are not vehicles as defined in this section. Section 316.2068, F.S., relating to electric personal assistive mobility devices, allows such devices to be operated on certain roads and on sidewalks without a driver's license and without being registered.

The bill creates s. 316.2128, F.S., to provide clarification that motorized scooters and miniature motorcycles are not street legal and to provide potential buyers with notice of these vehicles' current legal status. Section 316.2128, F.S., provides the following:

- Prohibits the operation of motorized scooters and miniature motorcycles on public roads, streets, or sidewalks and such vehicles may not be registered as a motor vehicle,

[5] CONSUMER PRODUCT SAFETY REVIEW Fall 2005; VOL. 10, NO. 2: http://www.cpsc.gov/cpscpub/pubs/cpsr_nws38.pdf

- Requires the operator of motorized scooters and miniature motorcycles to keep proof of ownership in the form of a receipt, sales invoice, bill of sale, or other written documentation in his or her possession at all times;
- Prohibits a person from knowingly permitting his or her child or ward under 16 or between the ages of 16 and 18 years old to drive a motorized scooter or miniature motorcycle in violation of this section;
- Provides that a violation is a non-criminal traffic infraction punishable as a moving violation. A person violating this provision would be subject to a $60 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from $112.50 to $118.50, and an assessment of three points against the driver's license; and
- Requires a person selling "motorized scooters" and "miniature motorcycles" to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the "Florida Deceptive and Unfair Trade Practices Act"[6] and are liable for a civil penalty of not more than $10,000 for each violation plus applicable court costs and attorney fees.

The bill amends s. 316.003, F.S., to make the following changes:

- Includes motorized scooters in the definition of "motor vehicle." This change will subject motorized scooters to the traffic laws that apply throughout the state and counties and uniform traffic ordinances that apply in all municipalities;
- Excludes miniature motorcycles from the definition of motorcycle so that miniature motorcycles will not be classified as street legal motorcycles;
- Clarifies the definition of motorized scooter to inform the public that because of its small size, its design or lack of required safety equipment, or other non-compliance with federal regulations these scooters are not eligible for a manufacturer's certificate of origin or for registration; and
- Creates the term "miniature motorcycle" and defines it as any vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three wheels in contact with the ground, and which because of its small size, its design or lack of required safety equipment, or other non-compliance with federal regulations, is not eligible for a manufacturer's certificate of origin or for registration as a motorcycle. The term does not include off-highway vehicles. This definition will clarify that these vehicles are not "street legal" and will provide the public with notice of their legal status.

Motorcycle Riders

Equipment

The National Highway Traffic Safety Administration has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance. FMVSS Standard No. 218, establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

Currently, s. 316.211, F.S., provides the following requirements for motorcycle and moped riders:

- A person is not to operate or ride on a motorcycle unless the person is properly wearing protective headgear which complies with FMVSS Standard 218;
- A person may not operate a motorcycle unless the person is properly wearing an eye-protective device of a type approved by DHSMV;

[6] S. 501.201, F.S.

- These regulations do not apply to persons riding within an enclosed cab or 16 years of age or older and operating or riding a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of two brake horsepower and which is not capable of propelling itself at a speed greater than 30 miles per hour on level ground;
- A person over 21 years of age is allowed to operate or ride a motorcycle without wearing protective headgear if they are covered by an insurance policy providing for at least $10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.
- A person under 16 years of age may not operate or ride a moped unless the person is properly wearing protective headgear which complies with FMVSS Standard 218; and
- DHSMV must make available a list of approved protective headgear, and the list must be provided on request.

The bill would amend s. 316.211, F.S., to require, effective January 1, 2007, that motorcycles registered to persons who have not attained 21 years of age must display a license plate that is unique in design and color. Because the helmet exemption applies to riders over 21, this would allow for better enforcement of the state's helmet law requirements.

Registration

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

The bill amends s. 320.02, F.S., to provide that before an original registration of a motorcycle, motor driven cycle or moped can be issued, the owner must present proof of successfully completing a test of his or her knowledge concerning the safe operation of the motorcycle or moped and a test of his or her driving skills on such vehicle. This provision will become effective January 1, 2007.

Examination of Applicants

Currently, s. 322.12, F.S., requires that every first-time applicant for licensure to operate a motorcycle who is under 21 years of age must provide proof of completion of a motorcycle safety course, as provided in 322.0255, F.S., before the applicant is licensed to operate a motorcycle. The bill amends this provision and would require that regardless of age, all first-time applicants for licensure to operate a motorcycle must provide proof of completion of a motorcycle safety course. This provision will become effective July 1, 2008.

According to DHSMV, fatalities among motorcyclists have risen in Florida. Statistics show that within the last two years, there have been no fatalities among those riders completing the Florida Motorcycle Safety Education Program. These changes to licensing and registration laws are intended to reduce crashes among motorcyclists.

All-Terrain Vehicles (ATV's)

Operation

Current law, s. 316.2074, F.S., does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency. All-terrain vehicles are defined in s. 316.2074, F.S., as any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. The definition of "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003, F.S.

According to the Division of Forestry the speed limit on all roads within forests is 30 mph unless posted otherwise. These speed limits are based on road design and basic knowledge of maximum safe speeds within each park. The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act, Chapter 261, F.S. provides the State of Florida with a set of guidelines to follow for maintaining and providing state lands for Off-Highway Motorcycle and All-Terrain Vehicle users. This act does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency.

Section 316.2074, F.S., also provides the following related to ATV's:

- No person under 16 years of age is allowed to operate, or ride an all-terrain vehicle unless the person wears an approved safety helmet and eye protection;
- If a crash results in the death of any person or injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash must give notice of the crash as required by s. 316.066, F.S.;
- An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach;
- An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties; and
- A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, F.S.

The bill creates s. 316.2123, F.S., allowing "ATV's" to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The drivers are required to provide proof of ownership if requested by law enforcement.

Dump Trucks

Taillamps

Currently s. 316.221, F.S., relating to taillamps, requires taillamps or separate lamps to be constructed and placed to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, must be wired to light up whenever the headlamps or auxiliary driving lamps are lighted. The bill exempts dump trucks and vehicles with dump bodies from the requirements of this section relating to illumination of license plates.

License Plates

Section 320.0706, F.S., requires the owner of any commercial truck of gross vehicle weight of 26,001 pounds or more to display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605, F.S. However, the owner of a truck tractor is required to display the registration license plate only on the front of such vehicle. Current law does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.

The bill amends s. 320.0706, F.S., allowing the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches from the ground to the top of the license plate to allow for better visibility.

Motor Carrier Compliance

Hours of Service

The federal Motor Carrier Safety Assistance Program (MCSAP) provides funding to all the states, territories and the District of Columbia for state enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs). The purpose of the MCSAP financial assistance to states is to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMVs).

To be eligible for MCSAP funding, a state must adopt and enforce compatible regulations identical for interstate transportation and within the federal tolerance guidelines[7] for intrastate transportation. The federal tolerance guidelines set forth limited deviations from the FMCSRs that are allowed in Florida's laws and regulations. These variances apply only to motor carriers, CMV drivers and CMVs engaged in intrastate commerce and are not subject to federal jurisdiction.

According to federal law, 49 C.F.R. 350.345, 100 percent funding for all states may be granted if the following criteria are met:

- If the state law achieves the same purpose as the corresponding federal regulations;
- If the additional variances do not apply to interstate commerce; and
- If the additional variances are not likely to have an adverse impact on safety.

Florida currently receives 50% ($3.3 million) of its allocated federal funding ($6.6 million) through MCSAP. The state does not receive 100 percent MCSAP funding because it is not in compliance with the federal hours of service regulations for intrastate truck drivers.

Sections 316.302, 316.003 and 316.515, F.S., provide the following variances that are not consistent with the safety goals of the U.S. Department of Transportation:

- All intrastate drivers (except hazardous materials drivers) may drive 15 hours (12 allowed under the tolerance guidelines);
- Citrus growers and forestry drivers are exempt from Florida's maximum driving time regulations, which are incompatible with federal allowances;
- 200-mile radius drivers are exempt from log requirements (150 allowed by the tolerance guidelines);
- Drivers can drive 72 hours in seven days, or 84 hours in eight days (70 hours in seven days and 80 hours in eight days are allowed by the tolerance guidelines); This restarts every 24 hours;
- Drivers of farm or forest products and unprocessed agricultural products during harvest season are exempt from the federal requirements relating to driver qualification, hours of service, inspection, repair and maintenance regulations.[8]
- Vehicles less than 26,000 pounds gross vehicle weight ratio, transporting petroleum products are exempt from safety regulations including driver qualification, hours of service, inspection, repair and maintenance regulations.[9]

The bill amends ss. 316.302, 316.003 and 316.515, F.S., to bring intrastate hours-of-service requirements into compliance with federal tolerance guidelines, and to provide for changes recently enacted into federal law for utilities and agricultural transportation. The bill also contains the following changes:

- Deletes the exemption from federal requirements relating to driving and resting, changing the time limit a commercial motor vehicle driver may drive in a 24 hour period from 15 hours to the federally required 12 hours;
    - This provision does not apply to utility service vehicles.
- Changes the weekly limit of on duty hours from 72 hours to 70 hours in any period of seven consecutive days, and from 84 to 80 hours in any period of eight consecutive days;

[7] 49 C.F.R. 350.341
[8] 49 C.F.R. 391, 395, 396
[9] 49 C.F.R. 391, 395, 396

- This provision does not apply to drivers operating solely within the state and transporting agricultural commodities or farm supplies or to utility service vehicles.
- Updates the reference to current (October 1, 2005) federal rules and regulations applicable to commercial motor vehicles.

CDL Vision Exemption

Currently s. 316.302, F.S., contains a grandfather clause that exempts a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987, and whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the two-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under federal law[10], and who operates a commercial vehicle in intrastate commerce only, from requirements of the federal law relating to minimum vision requirements in both eyes. However, such operators are still subject to the requirements of ss. 322.12 and 322.121, F.S., relating to the examination of driver license applicants. As proof of eligibility, such driver is to have in his or her possession a physical examination form dated within the past 24 months.

The bill would allow a person with normal vision in only one eye whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the two-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the vision requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10). The driver would have to have in his or her possession a physical examination form dated within the past 24 months. This change would make the state exemption consistent with federal waiver provisions.

Other Commercial Motor Vehicle Provisions

Currently s. 316.003, F.S., defines saddle mounts as an arrangement whereby the front wheels of one vehicle rest in a secured position upon another vehicle and all of the wheels of the towing vehicle are upon the ground. The bill allows such towing combinations to include one full mount which is a smaller transport vehicle that is placed completely on the last towed vehicle.

Under current law s. 316.515, F.S., relating to maximum width, height, and length of commercial motor vehicles, provides that an automobile transporting new or used trucks may use a "saddle mount" if the overall length does not exceed 75 feet and no more than three saddle mounts are in tow. The bill increases the overall allowable length for saddle mount combinations to 97 feet. The bill allows these vehicles transporting new or used trucks to include one "full mount," bringing the state law in compliance with federal tolerance guidelines.

Forestry Equipment

Section 316.515, F.S., currently only allows the following machinery to operate on public roads from one point of production to another:

- Straight trucks,
- Agricultural tractors,
- Cotton module movers, not exceeding 50 feet in length,
- Any combination of up to and including three implements of husbandry including the towing power unit,
- Any single agricultural trailer with a load thereon,
- Agricultural implements attached to a towing power unit not exceeding 130 inches in width, and
- A self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width.

[10] 49 C.F.R. part 391

This section only allows the above listed machinery to operate on public roads from one point of production to another for the following purposes:

- Transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage,
- Returning to the point of production,
- Moving the tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler.

The bill amends s. 316.515, F.S., to allow equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest not to exceed 10 miles, by a person engaged in the harvesting of forest products. These vehicles must be operated in accordance with all safety requirements prescribed s. 316.2295(5) and (6), F.S., relating to slow moving vehicle emblems on farm tractors, farm equipment and implements of husbandry.

Driver Education Program Surcharge

Currently s. 318.1215, F.S., (the "Dori Slosberg Driver Education Safety Act") allows county commissioners to adopt an ordinance requiring the clerk of the court to collect an additional $3 with each civil traffic penalty. The funds are to be used to fund driver education programs in public and nonpublic schools. The ordinance must provide for the board of county commissioners to administer the funds for direct educational expenses and must prohibit using the funds for administration. The bill amends s. 318.1215, F.S., to increase the amount of money that a county may collect with each traffic penalty from $3 to $5. Currently 53 counties are collecting the $3 surcharge.

Traffic Control—Speeding

Background on Speeding Violations

According to law enforcement, the number of speeders traveling in excess of 30 miles per hour over the speed limit on limited access highways throughout Florida is increasing. The maximum penalties for speeding are $250 and four points on the driver's license. In addition to the $250 statutory base fine, court costs and fees amount to $52.50 making the speeding penalty $302.50. Optional surcharges could add as much as $24 to this. Florida Highway Patrol Troopers are writing 20 tickets a month for triple digit speeds on I-4, five tickets a month on state Road 417, and 20 to 30 tickets each week on Florida's Turnpike south of St. Cloud. The accidents caused by these excessive speeding violations are more severe than accidents that involve motor vehicles traveling at or around the speed limit.

Neighboring states have taken measures to inhibit the most dangerous of unlawful speed violators. Increased speeding fines and reckless driving charges have been instituted in these states to allow for stricter penalties when speeds reach untenable heights. Officers interviewed also suggested that more effort be made to revoke or suspend the licenses of motorists who drive at such high rates of speed. The following changes to speeding penalties could increase traffic safety by deterring excessive speeding.

Mandatory hearings

Current law s. 318.14, F.S., relating to noncriminal traffic infractions, provides that a person who does not hold a commercial driver's license and who is issued a citation for speeding may elect to pay the fine without appearing before a hearing officer or judge and to attend a basic driver improvement course approved by DHSMV. In such a case, adjudication is withheld, points as provided by s. 322.27, F.S., are not assessed, and the civil penalty is reduced by 18 percent. A person is allowed to attend a driver improvement course in lieu of appearing before a hearing officer or judge once every twelve months. A person may make no more than five total elections under this subsection.

Section 318.19, F.S., provides that citations for the following infractions require a mandatory hearing:

- Any infraction which results in a crash and causes the death of another person;
- Any infraction which results in a crash that causes "serious bodily injury" of another person;
- Any infraction of failing to stop for a school bus; or
- Any infraction of failing to secure loads on vehicles.

The bill amends s. 318.14, F.S., to provide that any person who is issued a citation for exceeding the posted speed limit by 30 miles per hour or more may not attend a driver improvement course in lieu of appearing before a hearing officer or judge. The bill also amends s. 318.19, F.S., requiring a mandatory hearing for a citation of exceeding the posted speed limit by 30 miles per hour or more.

Speeding Fines

Currently s. 318.18, F.S., relating to penalties for speeding, provides that for moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h	Warning
6-9 m.p.h.	$ 25
10-14 m.p.h.	$100
15-19 m.p.h.	$125
20-29 m.p.h.	$150
30 m.p.h. and above	$250

The bill amends s. 318.18, F.S., to provide that a person who is found guilty of a second violation of exceeding the posted speed limit by 30 miles per hour or more within a 12-month period must pay a fine double the amount listed in the table above. Also, the bill defines "conviction" for these violations as a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, notwithstanding that adjudication was withheld.

Florida's Point System

Section 322.27, F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of a person to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person if the licensee has been convicted of the violation of motor vehicle laws amounting to 12 or more points within a 12-month period. The suspension will be for a period of not more than one year. The point system statute has the following provisions:

The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving—four points.
2. Leaving the scene of a crash resulting in property damage of more than $50—six points.
3. Unlawful speed resulting in a crash—six points.
4. Passing a stopped school bus—four points.
5. Unlawful speed:
    a. Not in excess of 15 miles per hour of lawful or posted speed—three points.
    b. In excess of 15 miles per hour of lawful or posted speed—four points.
6. All other moving violations (including parking on a highway outside the limits of a municipality)—three points.
7. Any moving violation, excluding unlawful speed, resulting in a crash—four points.
8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—three points.

9. Driving during restricted hours—three points.
10. Violation of curfew—three points.
11. Open container as an operator—three points.
12. Child restraint violation—three points.

When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days. When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than three months. When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than one year.

The bill increases the number of points assessed for a conviction of exceeding the posted speed limit by 30 miles per hour or more from four points to six points. For purposes of speeding violations in excess of 30 miles per hour over the posted speed limit, the bill defines "conviction" as a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, notwithstanding that adjudication was withheld.

Traffic Control—Red Light Violations

According to the Federal Highway Administration (FHA), in 1999 there were 92,000 automobile crashes caused by running red lights in United States urban areas.[11] These accidents resulted in 90,000 injuries and 950 fatalities with estimated social costs, including property damage, injury, lost time and death, exceeding $7 billion. The FHA also has done surveys in which 55.8% of Americans admit to running red-lights and 99.6% of drivers fear being hit by another driver running a red light.

Section 322.27 (3), F.S., establishes a system of points that are assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. It provides that for a violation of a traffic control signal device 4 points are assessed to the driver's license. The point system is used for the evaluation and determination of the continuing qualification of a person to operate a motor vehicle. The provisions of the point system detailed above are under the heading, Florida's Point System.

Under current law, it is possible that a red light runner could cause a crash seriously injuring someone and suffer no more than a $60 fine and a brief suspension of driving privileges. The bill amends s. 322.27, F.S., to assess 6 points on the driver's license for a conviction of a red light violation that results in a crash. This is the same number of points assessed for crashes resulting from speeding.

Failing to Secure Loads

Under current law, s. 316.520, F.S., a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded to prevent its load from dropping, shifting, leaking, blowing, or escaping. Also, it is the duty of the owner and driver, of vehicles hauling dirt, sand, lime rock, gravel, silica, trash, garbage, inanimate objects, or material that could fall or be blown from the vehicle, to prevent such materials from escaping by covering and securing the load with a close-fitting tarpaulin, cover or a load securing device meeting the requirements of 49 C.F.R. s. 393.100 or a device designed to reasonably ensure that cargo will not shift, or fall from the vehicle.

Section 318.18, F.S., provides the following penalties for violations of s. 316.520(1) or (2), F.S., failing to secure loads:

- One hundred dollars for a violation of s. 316.520(1) or (2), F.S., relating to failing to secure loads on vehicles [covering and securing the load with a tarp, cover or other load securing device is considered compliance with this section; and
- For a second or subsequent adjudication within a period of 5 years, the DHSMV must suspend the driver's license of the person for not less than 180 days and not more than one year.

[11] Inadvertent Red Light Violations: An Economic Analysis, Craig A. Depken, II; Department of Economics; University of Texas at Arlington; Arlington, Texas 76019-0479.

The bill amends s. 318.18, F.S., providing for an increase in penalties for failing to secure loads on vehicles. The bill doubles the $100 fine making it $200 plus applicable fees and court costs and increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years. This change could decrease traffic accidents caused by unsecured loads on vehicles and deter violations for failing to secure loads on vehicles.

Police Vehicles—Title Branding

Section 319.14, F.S., prohibits the sale, or exchange of any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681 relating to motor vehicle sales warranties or the "lemon law," until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. According to some law enforcement agencies, branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles.

The bill amends the definition of "police vehicles" in s. 319.14, F.S., to include the words "marked and outfitted as a pursuit vehicle" so that only pursuit vehicles would have to be issued a title branded as a police vehicle. According to some law enforcement agencies this provision would increase the resale value of non-pursuit vehicles owned by the law enforcement agency.

Operation Iraqi Freedom and Operation Enduring Freedom License Plates

Currently an owner or lessee of a private vehicle who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active or retired member of any branch of the United States Armed Forces Reserve, may apply to DHSMV and be issued either a "National Guard," "Pearl Harbor Survivor," "Combat-Wounded Veteran," or "U.S. Reserve" license plate.

The bill amends s. 320.089, F.S., to create Operation Iraqi Freedom and Operation Enduring Freedom license plates and qualifies Operation Iraqi Freedom and Operation Enduring Freedom veterans as the exclusive recipients of these plates. There would be no additional charge for the new license plate.

Motor Vehicle Dealers

Continuing Education & Training

Currently s. 320.27, F.S., requires all independent motor vehicle dealers to complete eight hours of continuing education prior to filing the renewal forms to DHSMV. The continuing education is to include at least two hours of legal or legislative issues, one hour of department issues, and five hours of relevant motor vehicle industry topics. The education may be provided in a classroom setting or by correspondence. This section also requires that for each initial license application, franchise motor vehicle dealers or an employee must attend an eight hour training and information seminar. The seminar includes, but is not limited to, dealer requirements, which include bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and other information that will promote good business practices.

The bill would require only independent motor vehicle dealers who have been in business for less than five years to complete the continuing education listed in s. 320.27, F.S. This change would limit the continuing education course requirement to only those independent dealers who are relatively new to the business. The bill would also delete the current provision requiring franchise motor vehicle dealers to attend an eight hour training and information seminar for each initial license application.

Low Speed Vehicles

Currently, s. 320.27, F.S., relating to motor vehicle dealers, defines "motor vehicle" as any motor vehicle of the type and kind required to be registered and titled under chapters 319 and 327, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.

The bill amends s. 320.27, F.S., by adding low speed vehicles to the list of vehicles excepted from the definition of "motor vehicles" for motor vehicle dealer licensing purposes. Low speed vehicles are defined in s. 320.01, F.S., as any four-wheeled electric vehicle complying with federal safety standards whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

Sellers of low speed vehicles are required to be licensed as motor vehicle dealers. These same businesses are not required to be licensed to sell golf carts. Low speed vehicles and golf carts are similar in design. This change would eliminate the requirement that sellers of low speed vehicles be licensed as motor vehicle dealers.

Driver's Licenses and Identification Cards

Background: The REAL ID Act

The REAL ID Act of 2005, signed into law in May 2005, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and identification (ID) cards to ensure that licensed drivers and persons issued ID cards are U.S. citizens or legal immigrants. Florida has begun the implementation of the Real ID Act to ensure that Florida's driver licenses and ID cards can be used for Federal identification purposes.

Currently the following provisions of the Real ID Act are being enforced in Florida:

- Requiring identity documents which evidences lawful presence;
- Obtaining minimum document requirements of full legal name, date of birth, and gender;
- Capturing and digitizing photographs and signatures;
- Obtaining the address of principle residence;
- Producing licenses and identification cards with three levels of security features – overt, covert, and forensic as well as the security of the equipment and materials;
- Utilizing common machine readable technology with defined minimum data elements;
- Obtaining proof of Social Security Number which is verified through the Social Security Administration;
- Verifying legal presence through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE);
- Issuing temporary and limited tenure licenses and identification cards for non-citizens based on term of legal presence;
- Providing digital scanning and storing of identity source documents of non-United States citizens and the use of document authentication equipment;
- Providing fraudulent document training for field staff statewide;
- Subjecting all persons authorized to manufacture or procedure cards to appropriate security clearances. (Criminal back ground checks for employees and vendors);
- Maintaining a state motor vehicles database that contains all data fields printed on the drivers' licenses and identification cards; and their driving histories; and
- Limiting the period of validity of all driver's licenses and identification cards to a period not to exceed eight years.

The bill contains revisions to definitions and the application process for driver's licenses and ID cards in Chapter 322, Florida Statutes, to ensure compliance with all the provisions of the federal Real ID Act.

Driver's License Definitions

Currently s. 322.01, F.S., defines "driver's license" as a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. Currently this section of law does not provide definitions for identification cards or temporary driver licenses.

The bill amends s. 322.01, F.S., to revise the following definitions to comply with federal codes:

- "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301;
- "Identification card" means a personal identification card issued by the department and which conforms to the definition in 18 U.S.C. s. 1028 (D);
- "Temporary driver license" means a certificate issued by the department, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States, and
- "Temporary identification card" means a personal identification card issued by the department that conforms to the definition in 18 U.S.C. s. 1028(D), and denotes that the holder is not a permanent resident of the United States but is permitted to stay in the United States for a short duration of time specified on the card.

Application for Licenses

Currently, s. 322.08, F.S., requires the following information for proof of nonimmigrant classification provided by the Department of Homeland Security, for an original driver's license:

- A notice of hearing from an immigration court scheduling a hearing;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Immigration and Naturalization Service,
- Any official documentation confirming the filing of a petition for asylum status or other relief issued by the Immigration and Naturalization Service;
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the Immigration and Naturalization Service; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The bill would allow the documentation of refugee status and evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.08, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original driver's license, entitles the applicant to a driver's license for a period not to exceed the expiration date of the document presented or two years, whichever occurs first. The bill would change the maximum period of entitlement for a driver's license from two years to one year if these documents are presented by the applicant.

ID Cards

Currently s. 322.051, F.S., relating to ID cards, provides that any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking

permit[12], under Florida law can be issued an ID card by DHSMV upon completion of an application and payment of an application fee. The bill would amend s. 322.051, F.S., changing the minimum age requirement that ID cards may be issued from 12 years old to five years old.

Section 322.051, F.S., also requires the following documents to be presented in order to prove non-immigrant classification for purposes of obtaining an ID card:

- A notice of hearing from an immigration court scheduling;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Bureau of Citizenship and Immigration Services;
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the Bureau of Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to Florida, issued by the Bureau of Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The bill would allow evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.051, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original identification card, entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or two years, whichever occurs first. The bill would change the maximum period of entitlement for driver's identification cards from two years to one year if these documents are presented by the applicant.

Driver License Digital Image and Record Sharing

The Help America Vote Act of 2002

On October 29, 2002, the U.S. Congress passed and the President signed the federal Help America Vote Act of 2002 ("HAVA"). It authorizes over $3 billion dollars in federal aid over three years to the states to upgrade antiquated voting equipment, to assist the states in meeting the new election administration requirements in the bill, and for other election administration projects. It also contains several new, highly-technical substantive requirements. The Florida Legislature has already enacted a number of reforms that go a long way toward meeting the new federal requirements. There are still some provisions of Florida law that need amending to meet HAVA's new, somewhat technical substantive requirements.

One requirement of HAVA is:

> Statewide Voter Registration System: By January 1, 2006 (pursuant to requested waiver of a 2004 deadline by the State of Florida), the State must make operational a statewide voter registration system that will serve as the official registration record for all federal elections; the system database must be cross-referenced against driver's license and social security administration records to confirm the identities of persons registering to vote.

HAVA Computerized Statewide Voter Registration List Requirements

[12] S. 320.0848, F.S.

The statewide voter registration list must be an interactive statewide list maintained and administered at the state level, containing the name and address of every voter, with a unique identifier having the following attributes:

- Serves as the single system for storing and managing the official list of voters;
- Must contain the name and registration information of every registered voter in the state;
- Must have a unique identifier assigned to each voter;
- Must coordinate with other agency databases;
- Any election official in the state must be able to obtain immediate electronic access to the information;
- Supervisors of elections must enter information in the database on a expedited basis;
- State must provide support to supervisors; and
- Serves as the official voter registration list for federal elections.

Section 322.142, F.S., relating to color photographic or digital imaged licenses, allows DHSMV to maintain a film negative or print file and requires the department to maintain a record of the digital image and signature of the licensees, with other data required by the department for identification and retrieval. Reproductions are only permitted for departmental administrative purposes or for the issuance of duplicate licenses, in response to law enforcement agency requests or to certain state agencies (including the Department of State) pursuant to interagency agreements.

This change would allow DHSMV to share driver license digital images and records with Supervisors of Elections for determining voter eligibility. Current law allows this information to be shared with the Department of State for determining voter eligibility, but not with the Supervisors of Elections.

Suspension of License and Right to Review

Background: Driving Under the Influence (DUI)

Currently, when an individual is arrested for a violation of s. 316.193, F.S., and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest. The bill revises various provisions to Chapter 322, to provide clarification and consistency between driver license administrative suspension laws, ss. 322.2615 and 322.2616, and also addresses issues raised by courts in cases involving DHSMV's implementation of these sections.

Lawful Arrest

According to a recent Florida case[13], Section 322.2615, F.S., provides that during a formal administrative review of a driver license suspension, the hearing officer must determine whether the person was placed under lawful arrest for a violation of s. 316.193, F.S., if the validity of the traffic stop is challenged. The court's opinion stated, "This provision contemplates that issues relating to the lawfulness of the stop... will be resolved under the issue concerning the lawfulness of the arrest."[14]

Driver License Suspension—Procedures & Reviews

The bill makes the following changes to s. 322.2615, F.S. to negate the need for DHSMV to show during the administrative review of a driver license suspension that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The bill:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
    - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher,

[13] See Adam Schwartz v. State of Florida, Department of Highway Safety and Motor Vehicles, 920 So.2d 664 (Fla 3rd DCA 2005)
[14] *ID.*

    - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer, or the agency employing the officer, is required to transmit the results to DHSMV within 5 days after receipt of the results.
- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended;
- Clarifies the authority of hearing officer when suspension is under formal review, specifying that the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides that materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying that the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiori to the circuit court; and
- Provides that DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Technical Changes

Reexamination of Drivers

The bill makes technical changes to s. 322.121, F.S., related to the periodic reexamination of drivers. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Motor Vehicle Dealers

The bill makes technical changes to s. 320.27(9) (b)18. F.S., of the motor vehicle dealer law to change the word 'owned' to 'owed ' and to correct a cross reference to s. 320.02(17).

Gross Vehicle Weight

The bill makes technical changes to s. 316.302, F.S., related to commercial motor vehicle's safety regulations. This change would correct a reference to declared gross vehicle weight of less than 26,000 pounds to declared gross vehicle weight of less than 26,001 pounds.

Effective Date

Except as specifically provided in various sections of the bill, the bill takes effect on October 1, 2006.

C. SECTION DIRECTORY:

Section 1 amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by DHSMV;

Section 2 amends s. 207.021, F.S., to provide for informal conferences to DHSMV to resolve disputes arising from the assessment of taxes, penalties, or interest;

Section 3 amends s. 316.003, F.S., to exclude miniature motorcycles from the definition of motorcycle; to provide a definition of "motorized scooter"; to define the term "miniature motorcycle"; and to conform current definitions of "saddle mount" to federal definitions;

Section 4 amends s. 316.211, F.S., effective January 1, 2007, to require motorcycle riders under 21 years old to display a license plate unique in design and color;

Section 5 creates s. 316.2123, F.S., to allow "ATV's" to be operated by licensed drivers during the daytime on unpaved roads where the posted speed limit is less than 35 miles per hour; requiring proof of ownership by the operator;

Section 6 creates s. 316.2128, F.S., to prohibit the operation of "motorized scooters" and "miniature motorcycles" on public roads and sidewalks; to require the operator to have proof of ownership in possession at all times; to require a person selling "motorized scooters" and "miniature motorcycles" to provide a notice that these vehicles are not legal to operate on public roads or sidewalks; and to provide penalties for violations;

Section 7 amends s. 316.221, F.S., to provide a taillamp exemption for dump trucks;

Section 8 amends s. 316.302, F.S., to provide updates to federal regulations regarding commercial motor vehicle rules and regulations; to bring the intrastate hours-of-service requirements into compliance with federal tolerance allowances; to conform state utility and agricultural transportation law with federal law; and to revise the requirements for a CDL vision exemption;

Section 9 amends s. 316.515, F.S., to allow the operation of certain forestry equipment on public roads; and to conform current definitions of "automobile towaway and driveaway operations" and "saddle mount" to federal definitions;

Section 10 amends s. 318.1215, F.S., the Dori Slosberg Driver Education Safety Act, to provide an increase in the amount of money the clerk of the court may collect for with each traffic penalty from $3 to $5;

Section 11 amends s. 318.14, F.S., to exclude drivers exceeding the speed posted speed limit by 30 miles per hour or more from paying a fine and attending traffic school in lieu of a court appearance;

Section 12 amends s. 318.18, F.S., to provide for a second offense in a twelve month period of exceeding the posted speed limit by 30 miles per hour or more an increase in fines from $250 to $500; and to increase the penalties for failing to secure loads;

Section 13 amends s. 318.19, F.S., to require a mandatory hearing for drivers exceeding the speed posted speed limit by 30 miles per hour or more;

Section 14 amends s. 319.14, F.S., to revise the definition of police vehicle for the purpose of title branding;

Section 15 amends s. 320.02, F.S., effective January 1, 2007, to require that for an original registration of any motorcycle, motor-driven cycle, or moped, the owner is to present proof that he or she has obtained the necessary endorsement as required in s. 322.57, F.S.;

Section 16 amends s. 320.0706, F.S., to revise the display of license plates on dump trucks;

Section 17 amends s. 320.089, F.S to create the "Operation Iraqi Freedom" and the "Operation Enduring Freedom" license plates;

Section 18 amends s. 320.27, F.S., to provide that sellers of low speed vehicles do not have to be licensed as motor vehicle dealers; to revise the motor vehicle dealer licensing requirements for continuing education and for training and information seminar; to change the word owned to owed; to correct a cross reference to s. 320.02(17), F.S.

Section 19 amends s. 320.405, F.S., to provide that DHSMV is authorized to enter into agreements related to the International Registration Plan tax payments;

Section 20 amends s. 322.01, F.S., to revise the definition of "driver license"; to define "identification card", "temporary driver license", and "temporary identification card";

Section 21 amends s. 322.051, F.S., to revise the age requirements for the issuance of ID cards from 12 years old to five; to revise the criteria related to the proof of nonimmigrant classification of an applicant for an identification card; and to reduce the maximum period that certain ID cards are valid to one year;

Section 22 amends s. 322.08, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for a driver's license; and to reduce the maximum period that drivers licenses are valid to 1 year;

Section 23 amends s. 322.12, F.S., effective January 1, 2008, to revise the safety course requirements for first-time applicants for licensure to operate a motorcycle;

Section 24 amends s. 322.121, F.S., to clarify periodic license examination requirements;

Section 25 amends s. 322.142, F.S., to allow DHSMV to share driver license digital images and records with Supervisors of Elections for determining voter eligibility;

Section 26 amends s. 322.2615, F.S., to clarify procedures, language and content related to suspension of license and right to review for driving with unlawful breath alcohol or blood-alcohol levels;

Section 27 amends s. 322.27, F.S., to increase driver license points from four to six for exceeding the posted speed limit by 30 miles per hour or more; to increase driver license points for a red light violation resulting in a crash to six points;

Section 28 provides that this bill takes effect October 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section, below

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below

D. FISCAL COMMENTS:

Traffic Control Violations

Sections 11, 12, 13, and 27 amend ss. 318.14, 318.18, 318.19, and 322.27, F.S., to increase driver license points for exceeding the posted speed limit, requires mandatory hearings, doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more. The bill also increases the driver's license points for a red light violation resulting in a crash and increases the penalty for failing to secure loads. These provisions could have an indeterminate fiscal impact on the private sector and on state and local governments if violations are committed and citations are issued.

To the extent that the bill deters unsafe traffic activity in Florida, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

State Impacts

Motor Carrier Compliance

Section 8 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Florida currently receives 50% ($3.3 million) of its allocated federal funding ($6.6 million) through the federal Motor Carrier Safety Assistance Program (MCSAP). The provisions of the bill relating to commercial motor vehicles would allow Florida to receive full federal allocation of $6.6 million for the MCSAP. Failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Police Vehicles

Section 14 amends s. 319.14, F.S., related to title branding. This change could have a positive fiscal impact on state law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Local Impacts

The Dori Slosberg Driver Education Safety Surcharge

Section 10 amends s. 318.1215, F.S., to provide an increase in the amount of money the clerk of the court may collect for with each traffic penalty from $3 to $5. To the extent that local governments choose to increase their surcharge, this provision would have an indeterminate positive impact on the driver education programs in public and nonpublic schools that are funded from this surcharge.

Police Vehicles

Section 14 amends s. 319.14, F.S., related to title branding. This change could have a positive fiscal impact on local law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Private Sector Impacts

Pocket Motorcycles and Motorized Scooters

Section 6 creates s. 316.2128, F.S., requiring a person selling "motorized scooters" and "miniature motorcycles" to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the "Florida Deceptive and Unfair Trade Practices Act"[15] and are liable for a civil penalty of not more than $10,000 for each violation plus applicable court costs and attorney fees. This change could have an indeterminate negative fiscal impact on the sellers of these vehicles for complying with display and disclosure requirements, or if these requirements are violated.

Motor Carrier Compliance

Section 8 amends s. 316.302, F.S., relating to intrastate hours-of-service requirements. Due to hour-of-service changes the bill could have a negative fiscal impact on the commercial motor carrier industry. The amount of the operational costs associated with these changes are unknown.

Forestry Equipment

Section 9 amends s. 316.515, F.S., to allow certain forestry equipment to operate on public roads to go from one point of harvest to another. This change could have an indeterminate positive fiscal impact on the owners of the equipment being transported.

Low Speed Vehicles

Section 18 amends s. 320.27, F.S., to eliminate the requirement for sellers of low speed vehicles to be licensed as motor vehicle dealers. This change could have an indeterminate positive fiscal impact on businesses that sell low speed vehicles.

Independent Motor Vehicle Dealers

Section 18 amends s. 320.27, F.S., to require only independent motor vehicle dealers who have been in business for less than five years to complete the continuing education courses, limiting the continuing education course requirement to only those independent dealers who are relatively new to the business. This could have an indeterminate positive fiscal impact on the independent dealers who have been in business five years or more and an indeterminate positive fiscal impact on the providers of the continuing education courses.

Franchise Motor Vehicle Dealers

Section 18 amends s. 320.27, F.S., to delete the current provision requiring new franchise motor vehicle dealers to attend an eight hour training and information seminar for each initial license application. This could have an indeterminate positive fiscal impact on these franchise motor vehicle dealers and an indeterminate negative fiscal impact on the training and information seminar providers.

Motorcycle Riders

Section 23 amends s. 322.12, F.S., effective July 1, 2008 to require all applicants for a motorcycle driver's license endorsement, regardless of age, to successfully complete a motorcycle safety course. These courses are offered by different vendors throughout the state. The course registration fees vary

[15] S. 501.201, F.S.

and will result in an indeterminate negative fiscal impact on motorcycle drivers over 21 and an indeterminate positive fiscal impact for the course providers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On **February 7, 2006** the Committee on Transportation considered PCB TR 06-03 and adopted 11 amendments which added the following issues to the proposed bill.

- Amendment #1: Increased driver license points, requires a mandatory hearing, and doubles the fine for a second offense for exceeding the posted speed limit by 30 miles per hour or more;

- Amendment #2: Increased the points for a red light violation resulting in a crash to six points (same as speeding resulting in a crash);

- Amendment #3: Increased the penalty for failing to secure loads from $100 to $200. Increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years;

- Amendment #5 Clarified the prohibition of the operation of "Pocket Motorcycles" and "Motorized Scooters" on public roads and sidewalks; required the operator to have proof of ownership; and sets out sales disclosure requirements;

- Amendment #6 Clarified the provisions on the bill relating to operating forestry equipment on public roads so that such movements are restricted to a maximum of 10 miles; and provided that such vehicles must comply with slow moving vehicle emblem requirements;

- Amendment #7: Allowed DHSMV to share driver license digital images and records with Supervisors of Elections for determining voter eligibility. Current law allows this information to be provided to the Department of State for this purpose, but does not refer to Supervisors;

- Amendment #8: Relating to Motor Carrier Compliance this amendment did the following:
  - Brings the intrastate hours-of-service requirements into compliance with federal tolerance allowances;

- Conforms state law to changes recently enacted into federal law for utilities and agricultural transportation;
- Conforms the current definitions of "automobile towaway and driveaway operations" and "saddle mount" to federal definitions;
- Updates the statutory reference to current Federal Motor Carrier Regulations; and
- Makes a technical change to weight threshold requirements by changing "26,000" pounds to "26,001" pounds;

- Amendment #9: Removed the requirement for a franchise motor vehicle dealer to attend an 8 hour training and information seminar for each initial license application;

- Amendment #10: Changed the effective date of the requirement that all first time applicants for licensure to operate a motorcycle complete a motorcycle safety course to July 1, 2008;

- Amendment #11: Increased the amount of money the clerk of the court may collect with each traffic penalty from $3 to $5.

The bill was then reported favorably as amended. The legislation was filed and became HB 7079.

1 A bill to be entitled
2 An act relating to highway safety and motor vehicles;
3 amending s. 207.008, F.S.; revising requirements for motor
4 carriers to retain certain records as required by the
5 Department of Highway Safety and Motor Vehicles for tax
6 purposes; amending s. 207.021, F.S.; authorizing the
7 department to adopt rules establishing informal
8 conferences to resolve disputes with motor carriers
9 arising from the assessment of taxes, penalties, or
10 interest or the denial of refunds; specifying certain
11 rights of the motor carrier; providing for closing
12 agreements to settle or compromise the taxpayer's
13 liability; providing conditions for settlement or
14 compromise; authorizing installment payment to settle
15 liability; amending s. 316.003, F.S.; revising the
16 definitions of "motor vehicle," "motorcycle," and
17 "motorized scooter"; defining "miniature motorcycle" and
18 "full mount"; revising the definition of "saddle mount" to
19 provide for a full mount; amending s. 316.211, F.S.;
20 requiring motorcycles registered to certain persons to
21 display a license plate that is unique in design and
22 color; providing penalties; creating s. 316.2123, F.S.;
23 providing for all-terrain vehicle operation under certain
24 conditions; requiring the operator to provide proof of
25 ownership to a law enforcement officer; creating s.
26 316.2128, F.S.; prohibiting use of motorized scooters and
27 miniature motorcycles on public roads and sidewalks;
28 requiring the operator to possess proof of ownership;

29 prohibiting causing or allowing a child or ward to operate
30 a motorized scooter or miniature motorcycle on public
31 roads or sidewalks or without proof of ownership;
32 providing penalties; providing requirements for commercial
33 sale of motorized scooters and miniature motorcycles;
34 providing that a violation of the commercial sales
35 requirements is an unfair and deceptive trade practice;
36 amending s. 316.221, F.S.; providing an exemption from
37 certain taillamp requirements for dump trucks and vehicles
38 with dump bodies; amending s. 316.302, F.S.; updating
39 reference to federal commercial motor vehicle regulations;
40 revising hours-of-service requirements for certain
41 intrastate motor carriers; revising conditions for an
42 exemption from commercial driver license requirements;
43 revising weight requirements for application of certain
44 exceptions to specified federal regulations and to
45 operation of certain commercial motor vehicles by persons
46 of a certain age; amending s. 316.515, F.S.; authorizing
47 certain uses of forestry equipment; providing width and
48 speed limitations; requiring such vehicles to be operated
49 in accordance with specified safety requirements; revising
50 length and mount requirements for automobile towaway and
51 driveaway operations; authorizing saddle mount
52 combinations to include one full mount; amending s.
53 318.1215, F.S.; increasing the amount of a local option
54 surcharge on traffic penalties; amending s. 318.14, F.S.;
55 providing exceptions to procedures for certain speed limit
56 violations; removing the option for certain offenders to

57 attend driver improvement school; amending s. 318.18,
58 F.S.; providing increased penalties for certain speed
59 limit violations and violations of vehicle load
60 requirements; defining "conviction" for specified
61 purposes; amending s. 318.19, F.S.; requiring mandatory
62 hearings for certain speed limit violations; amending s.
63 319.14, F.S.; revising definition of "police vehicle" for
64 purpose of resale or exchange; amending s. 320.02, F.S.;
65 requiring proof of required endorsement on a driver
66 license as a condition for original registration of a
67 motorcycle, motor-driven cycle, or moped; amending s.
68 320.0706, F.S.; revising license display requirements for
69 dump trucks; amending s. 320.089, F.S.; providing for
70 Operation Iraqi Freedom and Operation Enduring Freedom
71 license plates for qualified military personnel; amending
72 s. 320.27, F.S.; revising motor vehicle dealer licensing
73 requirements; revising the definition of "motor vehicle"
74 to provide an exception for certain low-speed vehicles;
75 revising conditions for license renewal for certain
76 independent dealers; removing certain training provisions;
77 correcting terminology; correcting a cross-reference;
78 amending s. 320.405, F.S.; authorizing the department to
79 enter into certain agreements to schedule payments to
80 settle certain liabilities under the International
81 Registration Plan; amending s. 322.01, F.S.; revising the
82 definition of "driver's license"; defining "identification
83 card," "temporary driver's license," and "temporary
84 identification card"; amending s. 322.051, F.S.; revising

85 the age requirement for issuance of an identification
86 card; revising criteria for proof of the identity and
87 status of an applicant for an identification card;
88 revising the period of issuance for certain temporary
89 identification cards; amending s. 322.08, F.S.; revising
90 criteria for proof of the identity and status of an
91 applicant for a driver license; revising the period of
92 issuance for certain temporary driver licenses or permits;
93 amending s. 322.12, F.S.; requiring all first-time
94 applicants for licensure to operate a motorcycle to
95 provide proof of completion of a motorcycle safety course;
96 amending s. 322.121, F.S.; revising periodic license
97 examination requirements; providing for such testing of
98 applicants for renewal of a license under provisions
99 requiring an endorsement permitting the applicant to
100 operate a tank vehicle transporting hazardous materials;
101 amending s. 322.142, F.S.; providing authority for driver
102 license digital images and signatures to be reproduced and
103 provided to supervisors of elections for certain purposes;
104 amending s. 322.2615, F.S.; revising provisions for
105 suspension of driver licenses and review of suspension by
106 the department; revising criteria for notice of the
107 suspension; providing that certain materials shall be
108 considered self-authenticating and available to a hearing
109 officer; revising authority of the hearing officer to
110 subpoena and question witnesses; removing provision for
111 the department and the person arrested to subpoena
112 witnesses; providing for appeal by a law enforcement

113 agency of a department decision invalidating a suspension;
114 providing that the court review may not be used in a trial
115 for driving under the influence; amending s. 322.27, F.S.;
116 providing for an increase in driver license points
117 assessed for certain speed limit violations and for
118 traffic control signal device violations resulting in a
119 crash; defining "conviction" for specified purposes;
120 providing effective dates.
121
122 Be It Enacted by the Legislature of the State of Florida:
123
124 Section 1. Section 207.008, Florida Statutes, is amended
125 to read:
126 207.008 Retention of records by motor carrier.--Each
127 registered motor carrier shall maintain and keep pertinent
128 records and papers as may be required by the department for the
129 reasonable administration of this chapter and shall preserve the
130 records upon which each quarterly tax return is based for 4
131 years after the due date or filing date of the return, whichever
132 is later ~~such records as long as required by s. 213.35~~.
133 Section 2. Section 207.021, Florida Statutes, is amended
134 to read:
135 207.021 Informal conferences; settlement or compromise of
136 taxes, penalties, or interest.--~~The department may settle or~~
137 ~~compromise, pursuant to s. 213.21, penalties or interest imposed~~
138 ~~under this chapter.~~
139 (1)(a) The department may adopt rules pursuant to ss.
140 120.536(1) and 120.54 for establishing informal conferences to

141 resolve disputes arising from the assessment of taxes,
142 penalties, or interest or the denial of refunds.
143 (b) During any proceeding arising under this section, the
144 motor carrier has the right to be represented at and record all
145 proceedings at the motor carrier's expense.
146 (2)(a) The executive director of the department or his or
147 her designee is authorized to enter into closing agreements with
148 any taxpayer settling or compromising the taxpayer's liability
149 for any tax, interest, or penalty assessed under this chapter.
150 The agreement shall be in writing and must be in the form of a
151 closing agreement approved by the department and signed by the
152 executive director or his or her designee. The agreement shall
153 be final and conclusive except upon a showing of material fraud
154 or misrepresentation of material fact. No additional assessment
155 may be made by the department against the taxpayer for the tax,
156 interest, or penalty specified in the closing agreement for the
157 time specified in the closing agreement, and the taxpayer shall
158 not be entitled to institute any judicial or administrative
159 proceeding to recover any tax, interest, or penalty paid
160 pursuant to the closing agreement. The executive director or his
161 or her designee is authorized to approve any such closing
162 agreement.
163 (b) Notwithstanding the provisions of paragraph (a), for
164 the purpose of settling and compromising the liability of any
165 taxpayer for tax or interest on the grounds of doubt as to
166 liability based on the taxpayer's reasonable reliance on a
167 written determination issued by the department, the department
168 may compromise the amount of such tax or interest resulting from

169 such reasonable reliance.
170 (3) A taxpayer's liability for any tax or interest
171 specified in this chapter may be compromised by the department
172 upon the grounds of doubt as to liability for or the ability to
173 collect such tax or interest. Doubt as to the liability of a
174 taxpayer for tax and interest exists if the taxpayer
175 demonstrates that he or she reasonably relied on a written
176 determination of the department.
177 (4) A taxpayer's liability for any tax or interest under
178 this chapter shall be settled or compromised in whole or in part
179 whenever or to the extent allowable under the International Fuel
180 Tax Agreement Articles of Agreement.
181 (5) A taxpayer's liability for penalties under this
182 chapter may be settled or compromised if it is determined by the
183 department that the noncompliance is due to reasonable cause and
184 not to willful negligence, willful neglect, or fraud.
185 (6) The department is authorized to enter into agreements
186 for scheduling payments of taxes, penalties, and interest due to
187 the department as a result of audit assessments issued under
188 this chapter.
189 Section 3. Subsections (21), (22), (43), and (82) of
190 section 316.003, Florida Statutes, are amended, and subsection
191 (86) is added to that section, to read:
192 316.003 Definitions.--The following words and phrases,
193 when used in this chapter, shall have the meanings respectively
194 ascribed to them in this section, except where the context
195 otherwise requires:

196 (21) MOTOR VEHICLE.--Any self-propelled vehicle not
197 operated upon rails or guideway, but not including any bicycle,
198 ~~motorized scooter,~~ electric personal assistive mobility device,
199 or moped.
200 (22) MOTORCYCLE.--Any motor vehicle having a seat or
201 saddle for the use of the rider and designed to travel on not
202 more than three wheels in contact with the ground, but excluding
203 a tractor, a miniature motorcycle, or a moped.
204 (43) SADDLE MOUNT; FULL MOUNT.--An arrangement whereby the
205 front wheels of one vehicle rest in a secured position upon
206 another vehicle. All of the wheels of the towing vehicle are
207 upon the ground and only the rear wheels of the towed vehicle
208 rest upon the ground. Such combinations may include one full
209 mount, whereby a smaller transport vehicle is placed completely
210 on the last towed vehicle.
211 (82) MOTORIZED SCOOTER.--Any vehicle not having a seat or
212 saddle for the use of the rider, designed to travel on not more
213 than three wheels, and not capable of propelling the vehicle at
214 a speed greater than 30 miles per hour on level ground and that,
215 because of its small size, its design or lack of required safety
216 equipment, or other noncompliance with federal regulations, is
217 not eligible for a manufacturer's certificate of origin and for
218 registration pursuant to chapter 320.
219 (86) MINIATURE MOTORCYCLE.--Any vehicle having a seat or
220 saddle for the use of the rider and designed to travel on not
221 more than three wheels in contact with the ground and that,
222 because of its small size, its design or lack of required safety
223 equipment, or other noncompliance with federal regulations, is

224 not eligible for a manufacturer's certificate of origin and for
225 registration as a motorcycle pursuant to chapter 320. The term
226 does not include off-highway vehicles as defined in chapter 317.
227 Section 4. Effective January 1, 2007, subsection (6) of
228 section 316.211, Florida Statutes, is renumbered as subsection
229 (7), and a new subsection (6) is added to that section, to read:
230 316.211 Equipment for motorcycle and moped riders.--
231 (6) Motorcycles registered to persons who have not
232 attained 21 years of age shall display a license plate that is
233 unique in design and color.
234 (7) ~~(6)~~ A violation of this section is a noncriminal
235 traffic infraction, punishable as a nonmoving violation as
236 provided in chapter 318.
237 Section 5. Section 316.2123, Florida Statutes, is created
238 to read:
239 316.2123 Operation of an ATV on certain roadways.--The
240 operation of an ATV as defined in s. 317.0003 upon the public
241 roads or streets of this state is prohibited, except that an ATV
242 may be operated during the daytime on an unpaved roadway where
243 the posted speed limit is less than 35 miles per hour by a
244 licensed driver or by a minor under the supervision of a
245 licensed driver. The operator must provide proof of ownership
246 pursuant to chapter 317 upon request by a law enforcement
247 officer.
248 Section 6. Section 316.2128, Florida Statutes, is created
249 to read:
250 316.2128 Operation of motorized scooters and miniature
251 motorcycles; requirements for sales.--

252 (1) The operation of motorized scooters and miniature
253 motorcycles, as defined in s. 316.003, on the public roads or
254 streets of this state or on the sidewalks of this state is
255 prohibited, and such vehicles may not be registered pursuant to
256 chapter 320. Except when operating the vehicle on the operator's
257 own private property, the operator of such a vehicle must keep
258 proof of ownership in the form of a receipt, sales invoice, bill
259 of sale, or other written documentation in his or her possession
260 at all times.
261 (2)(a) No person shall cause or knowingly permit his or
262 her child or ward who has not attained 16 years of age to drive
263 a motorized scooter or miniature motorcycle in violation of
264 subsection (1).
265 (b) No person shall cause or knowingly permit his or her
266 child or ward who is between 16 to 18 years of age and who is
267 not a licensed driver to drive a motorized scooter or miniature
268 motorcycle in violation of subsection (1).
269 (3) A violation of subsection (1) or subsection (2) is a
270 noncriminal traffic infraction, punishable as a moving violation
271 as provided in chapter 318. A minor in violation of any
272 provision of this section is also subject to the additional
273 sanctions of s. 318.143.
274 (4) A person who engages in the business of, serves in the
275 capacity of, or acts as a commercial seller of motorized
276 scooters or miniature motorcycles in this state must comply with
277 this subsection. Each such person shall prominently display at
278 his or her place of business a notice that such vehicles are not
279 legal to operate on public roads or sidewalks and may not be

280 registered as motor vehicles. The required notice must also
281 appear in all forms of advertising offering motorized scooters
282 or miniature motorcycles for sale. The notice and a copy of this
283 section must also be provided to a consumer prior to the
284 consumer's purchasing or becoming obligated to purchase a
285 motorized scooter or a miniature motorcycle. Any person selling
286 or offering a motorized scooter or a miniature motorcycle for
287 sale in violation of this subsection commits an unfair and
288 deceptive trade practice as defined in part II of chapter 501.
289 Section 7. Subsection (2) of section 316.221, Florida
290 Statutes, is amended to read:
291 316.221 Taillamps.--
292 (2) Either a taillamp or a separate lamp shall be so
293 constructed and placed as to illuminate with a white light the
294 rear registration plate and render it clearly legible from a
295 distance of 50 feet to the rear. Any taillamp or taillamps,
296 together with any separate lamp or lamps for illuminating the
297 rear registration plate, shall be so wired as to be lighted
298 whenever the headlamps or auxiliary driving lamps are lighted.
299 Dump trucks and vehicles with dump bodies are exempt from the
300 requirements of this subsection.
301 Section 8. Paragraph (b) of subsection (1), paragraphs
302 (b), (c), (d), (f), and (i) of subsection (2), and subsection
303 (3) of section 316.302, Florida Statutes, are amended to read:
304 316.302 Commercial motor vehicles; safety regulations;
305 transporters and shippers of hazardous materials; enforcement.--
306 (1)

307 (b) Except as otherwise provided in this section, all
308 owners or drivers of commercial motor vehicles that are engaged
309 in intrastate commerce are subject to the rules and regulations
310 contained in 49 C.F.R. parts 382, 385, and 390-397, with the
311 exception of 49 C.F.R. s. 390.5 as it relates to the definition
312 of bus, as such rules and regulations existed on October 1, 2005
313 ~~2004~~.
314 (2)
315 (b) Except as provided in 49 C.F.R. s. 395.1(k), a person
316 who operates a commercial motor vehicle solely in intrastate
317 commerce not transporting any hazardous material in amounts that
318 require placarding pursuant to 49 C.F.R. part 172 may not drive:
319 1. More than 12 hours following 10 consecutive hours off
320 duty; or
321 2. For any period after the end of the 16th hour after
322 coming on duty following 10 consecutive hours off duty ~~is exempt~~
323 ~~from 49 C.F.R. s. 395.3(a) and (b) and may, after 8 hours' rest,~~
324 ~~and following the required initial motor vehicle inspection, be~~
325 ~~permitted to drive any part of the first 15 on-duty hours in any~~
326 ~~24-hour period, but may not be permitted to operate a commercial~~
327 ~~motor vehicle after that until the requirement of another 8~~
328 ~~hours' rest has been fulfilled~~.
329
330 The provisions of this paragraph do not apply to drivers of
331 utility service vehicles as defined in 49 C.F.R. s. 395.2 ~~public~~
332 ~~utility vehicles or authorized emergency vehicles during periods~~
333 ~~of severe weather or other emergencies~~.

334 (c) Except as provided in 49 C.F.R. s. 395.1(k), a person
335 who operates a commercial motor vehicle solely in intrastate
336 commerce not transporting any hazardous material in amounts that
337 require placarding pursuant to 49 C.F.R. part 172 may not drive
338 after having been on duty more than 70 hours in any period of 7
339 consecutive days or more than 80 hours in any period of 8
340 consecutive days if the motor carrier operates every day of the
341 week. Twenty-four ~~be on duty more than 72 hours in any period of~~
342 ~~7 consecutive days, but carriers operating every day in a week~~
343 ~~may permit drivers to remain on duty for a total of not more~~
344 ~~than 84 hours in any period of 8 consecutive days; however, 24~~
345 consecutive hours off duty shall constitute the end of any such
346 period of 7 or 8 consecutive days. This weekly limit does not
347 apply to a person who operates a commercial motor vehicle solely
348 within this state while transporting, during harvest periods,
349 any unprocessed agricultural products or unprocessed food or
350 fiber that is ~~are~~ subject to seasonal harvesting from place of
351 harvest to the first place of processing or storage or from
352 place of harvest directly to market or while transporting
353 livestock, livestock feed, or farm supplies directly related to
354 growing or harvesting agricultural products. Upon request of the
355 Department of Transportation, motor carriers shall furnish time
356 records or other written verification to that department so that
357 the Department of Transportation can determine compliance with
358 this subsection. These time records must be furnished to the
359 Department of Transportation within 10 days after receipt of
360 that department's request. Falsification of such information is
361 subject to a civil penalty not to exceed $100. The provisions of

362 this paragraph do not apply to drivers of ~~public~~ utility service
363 vehicles as defined in 49 C.F.R. s. 395.2 ~~or authorized~~
364 ~~emergency vehicles during periods of severe weather or other~~
365 ~~emergencies~~.
366 (d) A person who operates a commercial motor vehicle
367 solely in intrastate commerce not transporting any hazardous
368 material in amounts that require placarding pursuant to 49
369 C.F.R. part 172 within a 150 ~~200~~ air-mile radius of the location
370 where the vehicle is based need not comply with 49 C.F.R. s.
371 395.8, except that time records shall be maintained as
372 prescribed in 49 C.F.R. s. 395.1(e)(5).
373 (f) A person who operates a commercial motor vehicle
374 having a declared gross vehicle weight of less than 26,001
375 ~~26,000~~ pounds solely in intrastate commerce and who is not
376 transporting hazardous materials in amounts that require
377 placarding pursuant to 49 C.F.R. part 172, or who is
378 transporting petroleum products as defined in s. 376.301, is
379 exempt from subsection (1). However, such person must comply
380 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
381 396.3(a)(1) and 396.9.
382 (i) A person ~~who was a regularly employed driver of a~~
383 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving
384 record shows no traffic convictions, pursuant to s. 322.61,
385 during the 2-year period immediately preceding the application
386 for the commercial driver's license, ~~and~~ who is otherwise
387 qualified as a driver under 49 C.F.R. part 391, and who operates
388 a commercial vehicle in intrastate commerce only~~,~~ shall be
389 exempt from the requirements of 49 C.F.R. part 391, subpart E,

390 s. 391.41(b)(10). However, such operators are still subject to
391 the requirements of ss. 322.12 and 322.121. As proof of
392 eligibility, such driver shall have in his or her possession a
393 physical examination form dated within the past 24 months.
394 (3) A person who has not attained ~~under the age of~~ 18
395 years of age may not operate a commercial motor vehicle, except
396 that a person who has not attained ~~under the age of~~ 18 years of
397 age may operate a commercial motor vehicle which has a gross
398 vehicle weight of less than 26,001 ~~26,000~~ pounds while
399 transporting agricultural products, including horticultural or
400 forestry products, from farm or harvest place to storage or
401 market.
402 Section 9. Subsections (5) and (10) of section 316.515,
403 Florida Statutes, are amended to read:
404 316.515 Maximum width, height, length.--
405 (5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
406 FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.--
407 (a) Notwithstanding any other provisions of law, straight
408 trucks, agricultural tractors, and cotton module movers, not
409 exceeding 50 feet in length, or any combination of up to and
410 including three implements of husbandry including the towing
411 power unit, and any single agricultural trailer with a load
412 thereon or any agricultural implements attached to a towing
413 power unit not exceeding 130 inches in width, or a self-
414 propelled agricultural implement or an agricultural tractor not
415 exceeding 130 inches in width, is authorized for the purpose of
416 transporting peanuts, grains, soybeans, cotton, hay, straw, or
417 other perishable farm products from their point of production to

418 the first point of change of custody or of long-term storage,
419 and for the purpose of returning to such point of production, or
420 for the purpose of moving such tractors, movers, and implements
421 from one point of agricultural production to another, by a
422 person engaged in the production of any such product or custom
423 hauler, if such vehicle or combination of vehicles otherwise
424 complies with this section. Such vehicles shall be operated in
425 accordance with all safety requirements prescribed by law and
426 Department of Transportation rules. The Department of
427 Transportation may issue overlength permits for cotton module
428 movers greater than 50 feet but not more than 55 feet in overall
429 length.
430 (b) Notwithstanding any other provisions of law, equipment
431 not exceeding 136 inches in width and not capable of speeds
432 exceeding 20 miles per hour that is used exclusively for the
433 purpose of harvesting forestry products is authorized for the
434 purpose of transporting the equipment from one point of harvest
435 to another point of harvest, not to exceed 10 miles, by a person
436 engaged in the harvesting of forestry products. Such vehicles
437 shall be operated in accordance with all safety requirements
438 prescribed by s. 316.2295(5) and (6).
439 (10) AUTOMOBILE TOWAWAY AND DRIVEAWAY OPERATIONS.--An
440 automobile towaway or driveaway operation transporting new or
441 used trucks may use what is known to the trade as "saddle
442 mounts," if the overall length does not exceed 97 ~~75~~ feet and no
443 more than three saddle mounts are towed. Such combinations may
444 include one full mount. Saddle mount combinations must also

445 comply with the applicable safety regulations in 49 C.F.R. s.
446 393.71.
447 Section 10. Section 318.1215, Florida Statutes, is amended
448 to read:
449 318.1215 Dori Slosberg Driver Education Safety
450 Act.--~~Effective October 1, 2002,~~ Notwithstanding the provisions
451 of s. 318.121, a board of county commissioners may require, by
452 ordinance, that the clerk of the court collect an additional $5
453 ~~$3~~ with each civil traffic penalty, which shall be used to fund
454 driver education programs in public and nonpublic schools. The
455 ordinance shall provide for the board of county commissioners to
456 administer the funds, which shall be used for enhancement, and
457 not replacement, of driver education program funds. The funds
458 shall be used for direct educational expenses and shall not be
459 used for administration. Each driver education program receiving
460 funds pursuant to this section shall require that a minimum of
461 30 percent of a student's time in the program be behind-the-
462 wheel training. This section may be cited as the "Dori Slosberg
463 Driver Education Safety Act."
464 Section 11. Subsection (9) of section 318.14, Florida
465 Statutes, is amended to read:
466 318.14 Noncriminal traffic infractions; exception;
467 procedures.--
468 (9) Any person who does not hold a commercial driver's
469 license and who is cited for an infraction under this section
470 other than a violation of s. 316.183(2), s. 316.187, or s.
471 316.189, when the driver exceeds the posted limit by 30 miles
472 per hour or more, or s. 320.0605, s. 320.07(3)(a) or (b), s.

473 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a
474 court appearance, elect to attend in the location of his or her
475 choice within this state a basic driver improvement course
476 approved by the Department of Highway Safety and Motor Vehicles.
477 In such a case, adjudication must be withheld; points, as
478 provided by s. 322.27, may not be assessed; and the civil
479 penalty that is imposed by s. 318.18(3) must be reduced by 18
480 percent; however, a person may not make an election under this
481 subsection if the person has made an election under this
482 subsection in the preceding 12 months. A person may make no more
483 than five elections under this subsection. The requirement for
484 community service under s. 318.18(8) is not waived by a plea of
485 nolo contendere or by the withholding of adjudication of guilt
486 by a court.
487 Section 12. Paragraph (g) is added to subsection (3) of
488 section 318.18, Florida Statutes, and subsection (12) of that
489 section is amended, to read:
490 318.18 Amount of civil penalties.--The penalties required
491 for a noncriminal disposition pursuant to s. 318.14 are as
492 follows:
493 (3)
494 (g) A person cited for a second or subsequent violation of
495 exceeding the speed limit by 30 miles per hour and above within
496 a 12-month period shall pay a fine double the amount listed in
497 paragraph (b). For purposes of this paragraph, the term
498 "conviction" means a finding of guilt, with or without
499 adjudication of guilt, as a result of a jury verdict, nonjury

500 trial, or entry of a plea of guilty or nolo contendere,
501 notwithstanding s. 318.14(11).
502 (12) Two ~~One~~ hundred dollars for a violation of s.
503 316.520(1) or (2). If, at a hearing, the alleged offender is
504 found to have committed this offense, the court shall impose a
505 minimum civil penalty of $200 ~~$100~~. For a second or subsequent
506 adjudication within a period of 5 years, the department shall
507 suspend the driver's license of the person for not less than 1
508 year ~~180 days~~ and not more than 2 years ~~1 year~~.
509 Section 13. Section 318.19, Florida Statutes, is amended
510 to read:
511 318.19 Infractions requiring a mandatory hearing.--Any
512 person cited for the infractions listed in this section shall
513 not have the provisions of s. 318.14(2), (4), and (9) available
514 to him or her but must appear before the designated official at
515 the time and location of the scheduled hearing:
516 (1) Any infraction which results in a crash that causes
517 the death of another;
518 (2) Any infraction which results in a crash that causes
519 "serious bodily injury" of another as defined in s. 316.1933(1);
520 (3) Any infraction of s. 316.172(1)(b); ~~or~~
521 (4) Any infraction of s. 316.520(1) or (2); or
522 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
523 316.189 of exceeding the speed limit by 30 miles per hour or
524 more.
525 Section 14. Paragraph (c) of subsection (1) of section
526 319.14, Florida Statutes, is amended to read:

527 319.14 Sale of motor vehicles registered or used as
528 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
529 and nonconforming vehicles.--
530 (1)
531 (c) As used in this section:
532 1. "Police vehicle" means a motor vehicle owned or leased
533 by the state or a county or municipality, marked and outfitted
534 as a pursuit vehicle, and used in law enforcement.
535 2.a. "Short-term-lease vehicle" means a motor vehicle
536 leased without a driver and under a written agreement to one or
537 more persons from time to time for a period of less than 12
538 months.
539 b. "Long-term-lease vehicle" means a motor vehicle leased
540 without a driver and under a written agreement to one person for
541 a period of 12 months or longer.
542 c. "Lease vehicle" includes both short-term-lease vehicles
543 and long-term-lease vehicles.
544 3. "Rebuilt vehicle" means a motor vehicle or mobile home
545 built from salvage or junk, as defined in s. 319.30(1).
546 4. "Assembled from parts" means a motor vehicle or mobile
547 home assembled from parts or combined from parts of motor
548 vehicles or mobile homes, new or used. "Assembled from parts"
549 does not mean a motor vehicle defined as a "rebuilt vehicle" in
550 subparagraph 3., which has been declared a total loss pursuant
551 to s. 319.30.
552 5. "Kit car" means a motor vehicle assembled with a kit
553 supplied by a manufacturer to rebuild a wrecked or outdated
554 motor vehicle with a new body kit.

555 6. "Glider kit" means a vehicle assembled with a kit
556 supplied by a manufacturer to rebuild a wrecked or outdated
557 truck or truck tractor.
558 7. "Replica" means a complete new motor vehicle
559 manufactured to look like an old vehicle.
560 8. "Flood vehicle" means a motor vehicle or mobile home
561 that has been declared to be a total loss pursuant to s.
562 319.30(3)(a) resulting from damage caused by water.
563 9. "Nonconforming vehicle" means a motor vehicle which has
564 been purchased by a manufacturer pursuant to a settlement,
565 determination, or decision under chapter 681.
566 10. "Settlement" means an agreement entered into between a
567 manufacturer and a consumer that occurs after a dispute is
568 submitted to a program, or an informal dispute settlement
569 procedure established by a manufacturer or is approved for
570 arbitration before the New Motor Vehicle Arbitration Board as
571 defined in s. 681.102.
572 Section 15. Effective January 1, 2007, subsection (1) of
573 section 320.02, Florida Statutes, is amended to read:
574 320.02 Registration required; application for
575 registration; forms.--
576 (1) Except as otherwise provided in this chapter, every
577 owner or person in charge of a motor vehicle which is operated
578 or driven on the roads of this state shall register the vehicle
579 in this state. The owner or person in charge shall apply to the
580 department or to its authorized agent for registration of each
581 such vehicle on a form prescribed by the department. <u>Prior to an</u>
582 <u>original registration of any motorcycle, motor-driven cycle, or</u>

583 moped, the owner shall present proof that he or she has obtained
584 the necessary endorsement as required in s. 322.57. No
585 registration is required for any motor vehicle which is not
586 operated on the roads of this state during the registration
587 period.
588 Section 16. Section 320.0706, Florida Statutes, is amended
589 to read:
590 320.0706 Display of license plates on trucks.--The owner
591 of any commercial truck of gross vehicle weight of 26,001 pounds
592 or more shall display the registration license plate on both the
593 front and rear of the truck in conformance with all the
594 requirements of s. 316.605 that do not conflict with this
595 section. To allow for better visibility, the owner of a dump
596 truck may place the rear license plate on the gate so that the
597 distance from the ground to the top of the license plate is no
598 more than 60 inches. However, the owner of a truck tractor shall
599 be required to display the registration license plate only on
600 the front of such vehicle.
601 Section 17. Subsection (4) is added to section 320.089,
602 Florida Statutes, to read:
603 320.089 Members of National Guard and active United States
604 Armed Forces reservists; former prisoners of war; survivors of
605 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
606 Freedom and Operation Enduring Freedom veterans; special license
607 plates; fee.--
608 (4) Each owner or lessee of an automobile or truck for
609 private use, truck weighing not more than 7,999 pounds, or
610 recreational vehicle as specified in s. 320.08(9)(c) or (d),

611 which automobile, truck, or recreational vehicle is not used for
612 hire or commercial use, who is a resident of the state and a
613 current or former member of the United States military who was
614 deployed and served in Iraq during Operation Iraqi Freedom or in
615 Afghanistan during Operation Enduring Freedom shall, upon
616 application to the department, accompanied by proof of active
617 membership or former active duty status during one of these
618 operations, and upon payment of the license tax for the vehicle
619 as provided in s. 320.08, be issued a license plate as provided
620 by s. 320.06 upon which, in lieu of the registration license
621 number prescribed by s. 320.06, shall be stamped the words
622 "Operation Iraqi Freedom" or "Operation Enduring Freedom," as
623 appropriate, followed by the registration license number of the
624 plate.
625 Section 18. Paragraph (b) of subsection (1), paragraph (a)
626 of subsection (4), and paragraph (b) of subsection (9) of
627 section 320.27, Florida Statutes, are amended to read:
628 320.27 Motor vehicle dealers.--
629 (1) DEFINITIONS.--The following words, terms, and phrases
630 when used in this section have the meanings respectively
631 ascribed to them in this subsection, except where the context
632 clearly indicates a different meaning:
633 (b) "Motor vehicle" means any motor vehicle of the type
634 and kind required to be registered and titled under chapter 319
635 and this chapter, except a recreational vehicle, moped,
636 motorcycle powered by a motor with a displacement of 50 cubic
637 centimeters or less, low-speed vehicle as defined in s. 320.01,
638 or mobile home.

639 (4) LICENSE CERTIFICATE.--
640 (a) A license certificate shall be issued by the
641 department in accordance with such application when the
642 application is regular in form and in compliance with the
643 provisions of this section. The license certificate may be in
644 the form of a document or a computerized card as determined by
645 the department. The actual cost of each original, additional, or
646 replacement computerized card shall be borne by the licensee and
647 is in addition to the fee for licensure. Such license, when so
648 issued, entitles the licensee to carry on and conduct the
649 business of a motor vehicle dealer. Each license issued to a
650 franchise motor vehicle dealer expires annually on December 31
651 unless revoked or suspended prior to that date. Each license
652 issued to an independent or wholesale dealer or auction expires
653 annually on April 30 unless revoked or suspended prior to that
654 date. Not less than 60 days prior to the license expiration
655 date, the department shall deliver or mail to each licensee the
656 necessary renewal forms. Each independent dealer <u>who has been in</u>
657 <u>business for less than 5 years</u> shall certify that the dealer
658 principal (owner, partner, officer of the corporation, or
659 director) has completed 8 hours of continuing education prior to
660 filing the renewal forms with the department. Such certification
661 shall be filed once every 2 years commencing with the 2006
662 renewal period. The continuing education shall include at least
663 2 hours of legal or legislative issues, 1 hour of department
664 issues, and 5 hours of relevant motor vehicle industry topics.
665 Continuing education shall be provided by dealer schools
666 licensed under paragraph (b) either in a classroom setting or by

667 correspondence. Such schools shall provide certificates of
668 completion to the department and the customer which shall be
669 filed with the license renewal form, and such schools may charge
670 a fee for providing continuing education. Any licensee who does
671 not file his or her application and fees and any other requisite
672 documents, as required by law, with the department at least 30
673 days prior to the license expiration date shall cease to engage
674 in business as a motor vehicle dealer on the license expiration
675 date. A renewal filed with the department within 45 days after
676 the expiration date shall be accompanied by a delinquent fee of
677 $100. Thereafter, a new application is required, accompanied by
678 the initial license fee. A license certificate duly issued by
679 the department may be modified by endorsement to show a change
680 in the name of the licensee, provided, as shown by affidavit of
681 the licensee, the majority ownership interest of the licensee
682 has not changed or the name of the person appearing as
683 franchisee on the sales and service agreement has not changed.
684 Modification of a license certificate to show any name change as
685 herein provided shall not require initial licensure or
686 reissuance of dealer tags; however, any dealer obtaining a name
687 change shall transact all business in and be properly identified
688 by that name. All documents relative to licensure shall reflect
689 the new name. In the case of a franchise dealer, the name change
690 shall be approved by the manufacturer, distributor, or importer.
691 A licensee applying for a name change endorsement shall pay a
692 fee of $25 which fee shall apply to the change in the name of a
693 main location and all additional locations licensed under the
694 provisions of subsection (5). ~~Each initial license application~~

695 ~~received by the department shall be accompanied by verification~~
696 ~~that, within the preceding 6 months, the applicant, or one or~~
697 ~~more of his or her designated employees, has attended a training~~
698 ~~and information seminar conducted by a licensed motor vehicle~~
699 ~~dealer training school. Such seminar shall include, but is not~~
700 ~~limited to, statutory dealer requirements, which requirements~~
701 ~~include required bookkeeping and recordkeeping procedures,~~
702 ~~requirements for the collection of sales and use taxes, and such~~
703 ~~other information that in the opinion of the department will~~
704 ~~promote good business practices. No seminar may exceed 8 hours~~
705 ~~in length.~~
706 (9) DENIAL, SUSPENSION, OR REVOCATION.--
707 (b) The department may deny, suspend, or revoke any
708 license issued hereunder or under the provisions of s. 320.77 or
709 s. 320.771 upon proof that a licensee has committed, with
710 sufficient frequency so as to establish a pattern of wrongdoing
711 on the part of a licensee, violations of one or more of the
712 following activities:
713 1. Representation that a demonstrator is a new motor
714 vehicle, or the attempt to sell or the sale of a demonstrator as
715 a new motor vehicle without written notice to the purchaser that
716 the vehicle is a demonstrator. For the purposes of this section,
717 a "demonstrator," a "new motor vehicle," and a "used motor
718 vehicle" shall be defined as under s. 320.60.
719 2. Unjustifiable refusal to comply with a licensee's
720 responsibility under the terms of the new motor vehicle warranty
721 issued by its respective manufacturer, distributor, or importer.
722 However, if such refusal is at the direction of the

723 manufacturer, distributor, or importer, such refusal shall not
724 be a ground under this section.
725 3. Misrepresentation or false, deceptive, or misleading
726 statements with regard to the sale or financing of motor
727 vehicles which any motor vehicle dealer has, or causes to have,
728 advertised, printed, displayed, published, distributed,
729 broadcast, televised, or made in any manner with regard to the
730 sale or financing of motor vehicles.
731 4. Failure by any motor vehicle dealer to provide a
732 customer or purchaser with an odometer disclosure statement and
733 a copy of any bona fide written, executed sales contract or
734 agreement of purchase connected with the purchase of the motor
735 vehicle purchased by the customer or purchaser.
736 5. Failure of any motor vehicle dealer to comply with the
737 terms of any bona fide written, executed agreement, pursuant to
738 the sale of a motor vehicle.
739 6. Failure to apply for transfer of a title as prescribed
740 in s. 319.23(6).
741 7. Use of the dealer license identification number by any
742 person other than the licensed dealer or his or her designee.
743 8. Failure to continually meet the requirements of the
744 licensure law.
745 9. Representation to a customer or any advertisement to
746 the public representing or suggesting that a motor vehicle is a
747 new motor vehicle if such vehicle lawfully cannot be titled in
748 the name of the customer or other member of the public by the
749 seller using a manufacturer's statement of origin as permitted
750 in s. 319.23(1).

751 10. Requirement by any motor vehicle dealer that a
752 customer or purchaser accept equipment on his or her motor
753 vehicle which was not ordered by the customer or purchaser.
754 11. Requirement by any motor vehicle dealer that any
755 customer or purchaser finance a motor vehicle with a specific
756 financial institution or company.
757 12. Requirement by any motor vehicle dealer that the
758 purchaser of a motor vehicle contract with the dealer for
759 physical damage insurance.
760 13. Perpetration of a fraud upon any person as a result of
761 dealing in motor vehicles, including, without limitation, the
762 misrepresentation to any person by the licensee of the
763 licensee's relationship to any manufacturer, importer, or
764 distributor.
765 14. Violation of any of the provisions of s. 319.35 by any
766 motor vehicle dealer.
767 15. Sale by a motor vehicle dealer of a vehicle offered in
768 trade by a customer prior to consummation of the sale, exchange,
769 or transfer of a newly acquired vehicle to the customer, unless
770 the customer provides written authorization for the sale of the
771 trade-in vehicle prior to delivery of the newly acquired
772 vehicle.
773 16. Willful failure to comply with any administrative rule
774 adopted by the department or the provisions of s. 320.131(8).
775 17. Violation of chapter 319, this chapter, or ss.
776 559.901-559.9221, which has to do with dealing in or repairing
777 motor vehicles or mobile homes. Additionally, in the case of
778 used motor vehicles, the willful violation of the federal law

779 and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to
780 the consumer sales window form.
781 18. Failure to maintain evidence of notification to the
782 owner or coowner of a vehicle regarding registration or titling
783 fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.
784 Section 19. Subsection (5) is added to section 320.405,
785 Florida Statutes, to read:
786 320.405 International Registration Plan; inspection of
787 records; hearings.--
788 (5) The department is authorized to enter into agreements
789 for scheduling payments of taxes and penalties due to the
790 department as a result of audit assessments issued under this
791 section.
792 Section 20. Subsection (16) of section 322.01, Florida
793 Statutes, is amended, subsections (24)-(40) are renumbered as
794 subsections (25)-(41), respectively, subsections (41) and (42)
795 are renumbered as subsections (44) and (45), respectively, and
796 new subsections (24), (42), and (43) are added to that section,
797 to read:
798 322.01 Definitions.--As used in this chapter:
799 (16) "Driver's license" means a certificate that ~~which~~,
800 subject to all other requirements of law, authorizes an
801 individual to drive a motor vehicle and that denotes an
802 operator's license as defined in 49 U.S.C. s. 30301.
803 (24) "Identification card" means a personal identification
804 card issued by the department that conforms to the definition in
805 18 U.S.C. s. 1028(D).

806 (42) "Temporary driver's license" means a certificate
807 issued by the department that, subject to all other requirements
808 of law, authorizes an individual to drive a motor vehicle,
809 denotes an operator's license as defined in 49 U.S.C. s. 30301,
810 and denotes that the holder is not a permanent resident of the
811 United States but is permitted to stay in the United States for
812 a short duration of time specified on the license.
813 (43) "Temporary identification card" means a personal
814 identification card issued by the department that conforms to
815 the definition in 18 U.S.C. s. 1028(D) and denotes that the
816 holder is not a permanent resident of the United States but is
817 permitted to stay in the United States for a short duration of
818 time specified on the card.
819 Section 21. Subsection (1) of section 322.051, Florida
820 Statutes, is amended to read:
821 322.051 Identification cards.--
822 (1) Any person who is 5 ~~12~~ years of age or older, or any
823 person who has a disability, regardless of age, who applies for
824 a disabled parking permit under s. 320.0848, may be issued an
825 identification card by the department upon completion of an
826 application and payment of an application fee.
827 (a) Each such application shall include the following
828 information regarding the applicant:
829 1. Full name (first, middle or maiden, and last), gender,
830 social security card number, county of residence and mailing
831 address, country of birth, and a brief description.
832 2. Proof of birth date satisfactory to the department.

833 3. Proof of identity satisfactory to the department. Such
834 proof must include one of the following documents issued to the
835 applicant:
836 a. A driver's license record or identification card record
837 from another jurisdiction that required the applicant to submit
838 a document for identification which is substantially similar to
839 a document required under sub-subparagraph b., sub-subparagraph
840 c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph
841 f., or sub-subparagraph g.;
842 b. A certified copy of a United States birth certificate;
843 c. A United States passport;
844 d. A naturalization certificate issued by the United
845 States Department of Homeland Security;
846 e. An alien registration receipt card (green card);
847 f. An employment authorization card issued by the United
848 States Department of Homeland Security; or
849 g. Proof of nonimmigrant classification provided by the
850 United States Department of Homeland Security, for an original
851 identification card. In order to prove such nonimmigrant
852 classification, applicants may produce but are not limited to
853 the following documents:
854 (I) A notice of hearing from an immigration court
855 scheduling a hearing on any proceeding.
856 (II) A notice from the Board of Immigration Appeals
857 acknowledging pendency of an appeal.
858 (III) Notice of the approval of an application for
859 adjustment of status issued by the United States Bureau of
860 Citizenship and Immigration Services.

861 (IV) Any official documentation confirming the filing of a
862 petition for asylum status or any other relief issued by the
863 United States Bureau of Citizenship and Immigration Services.
864 (V) Notice of action transferring any pending matter from
865 another jurisdiction to Florida, issued by the United States
866 Bureau of Citizenship and Immigration Services.
867 (VI) Order of an immigration judge or immigration officer
868 granting any relief that authorizes the alien to live and work
869 in the United States including, but not limited to asylum.
870 (VII) Evidence that an application is pending for
871 adjustment of status to that of an alien lawfully admitted for
872 permanent residence in the United States or conditional
873 permanent resident status in the United States, provided that a
874 visa number is available with a current priority date for
875 processing by the United States Citizenship and Immigration
876 Services.
877
878 Presentation of any of the documents described in sub-
879 subparagraph f. or sub-subparagraph g. entitles the applicant to
880 an identification card for a period not to exceed the expiration
881 date of the document presented or 1 year ~~2 years~~, whichever
882 first occurs.
883 (b) An application for an identification card must be
884 signed and verified by the applicant in a format designated by
885 the department before a person authorized to administer oaths.
886 The fee for an identification card is $3, including payment for
887 the color photograph or digital image of the applicant.

888 (c) Each such applicant may include fingerprints and any
889 other unique biometric means of identity.
890 Section 22. Paragraph (c) of subsection (2) of section
891 322.08, Florida Statutes, is amended to read:
892 322.08 Application for license.--
893 (2) Each such application shall include the following
894 information regarding the applicant:
895 (c) Proof of identity satisfactory to the department. Such
896 proof must include one of the following documents issued to the
897 applicant:
898 1. A driver's license record or identification card record
899 from another jurisdiction that required the applicant to submit
900 a document for identification which is substantially similar to
901 a document required under subparagraph 2., subparagraph 3.,
902 subparagraph 4., subparagraph 5., subparagraph 6., or
903 subparagraph 7.;
904 2. A certified copy of a United States birth certificate;
905 3. A United States passport;
906 4. A naturalization certificate issued by the United
907 States Department of Homeland Security;
908 5. An alien registration receipt card (green card);
909 6. An employment authorization card issued by the United
910 States Department of Homeland Security; or
911 7. Proof of nonimmigrant classification provided by the
912 United States Department of Homeland Security, for an original
913 driver's license. In order to prove nonimmigrant classification,
914 an applicant may produce the following documents, including, but
915 not limited to:

916 a. A notice of hearing from an immigration court
917 scheduling a hearing on any proceeding.
918 b. A notice from the Board of Immigration Appeals
919 acknowledging pendency of an appeal.
920 c. A notice of the approval of an application for
921 adjustment of status issued by the United States Immigration and
922 Naturalization Service.
923 d. Any official documentation confirming the filing of a
924 petition for asylum or refugee status or any other relief issued
925 by the United States Immigration and Naturalization Service.
926 e. A notice of action transferring any pending matter from
927 another jurisdiction to this state issued by the United States
928 Immigration and Naturalization Service.
929 f. An order of an immigration judge or immigration officer
930 granting any relief that authorizes the alien to live and work
931 in the United States, including, but not limited to, asylum.
932 g. Evidence that an application is pending for adjustment
933 of status to that of an alien lawfully admitted for permanent
934 residence in the United States or conditional permanent resident
935 status in the United States, provided that a visa number is
936 available with a current priority date for processing by the
937 United States Citizenship and Immigration Services.
938
939 Presentation of any of the documents in subparagraph 6. or
940 subparagraph 7. entitles the applicant to a driver's license or
941 temporary permit for a period not to exceed the expiration date
942 of the document presented or 1 year ~~2 years~~, whichever occurs
943 first.

944 Section 23. Effective July 1, 2008, paragraph (a) of
945 subsection (5) of section 322.12, Florida Statutes, is amended
946 to read:
947 322.12 Examination of applicants.--
948 (5)(a) The department shall formulate a separate
949 examination for applicants for licenses to operate motorcycles.
950 Any applicant for a driver's license who wishes to operate a
951 motorcycle, and who is otherwise qualified, must successfully
952 complete such an examination, which is in addition to the
953 examination administered under subsection (3). The examination
954 must test the applicant's knowledge of the operation of a
955 motorcycle and of any traffic laws specifically relating thereto
956 and must include an actual demonstration of his or her ability
957 to exercise ordinary and reasonable control in the operation of
958 a motorcycle. Any applicant who fails to pass the initial
959 knowledge examination will incur a $5 fee for each subsequent
960 examination, to be deposited into the Highway Safety Operating
961 Trust Fund. Any applicant who fails to pass the initial skills
962 examination will incur a $10 fee for each subsequent
963 examination, to be deposited into the Highway Safety Operating
964 Trust Fund. In the formulation of the examination, the
965 department shall consider the use of the Motorcycle Operator
966 Skills Test and the Motorcycle in Traffic Test offered by the
967 Motorcycle Safety Foundation. The department shall indicate on
968 the license of any person who successfully completes the
969 examination that the licensee is authorized to operate a
970 motorcycle. If the applicant wishes to be licensed to operate a
971 motorcycle only, he or she need not take the skill or road test

972 required under subsection (3) for the operation of a motor
973 vehicle, and the department shall indicate such a limitation on
974 his or her license as a restriction. Every first-time applicant
975 for licensure to operate a motorcycle ~~who is under 21 years of~~
976 ~~age~~ must provide proof of completion of a motorcycle safety
977 course, as provided for in s. 322.0255, before the applicant may
978 be licensed to operate a motorcycle.
979 Section 24. Subsection (8) of section 322.121, Florida
980 Statutes, is amended to read:
981 322.121 Periodic reexamination of all drivers.--
982 (8) In addition to any other examination authorized by
983 this section, an applicant for a renewal of an endorsement
984 issued under s. 322.57(1)(a), (b), (c), (d), ~~or~~ (e)<u>, or (f)</u> may
985 be required to complete successfully an examination of his or
986 her knowledge regarding state and federal rules, regulations,
987 and laws, governing the type of vehicle which he or she is
988 seeking an endorsement to operate.
989 Section 25. Subsection (4) of section 322.142, Florida
990 Statutes, is amended to read:
991 322.142 Color photographic or digital imaged licenses.--
992 (4) The department may maintain a film negative or print
993 file. The department shall maintain a record of the digital
994 image and signature of the licensees, together with other data
995 required by the department for identification and retrieval.
996 Reproductions from the file or digital record shall be made and
997 issued only for departmental administrative purposes; for the
998 issuance of duplicate licenses; in response to law enforcement
999 agency requests; to the Department of State <u>and to the</u>

1000 supervisors of elections pursuant to an interagency agreement to
1001 facilitate determinations of eligibility of voter registration
1002 applicants and registered voters in accordance with ss. 98.045
1003 and 98.075; to the Department of Revenue pursuant to an
1004 interagency agreement for use in establishing paternity and
1005 establishing, modifying, or enforcing support obligations in
1006 Title IV-D cases; or to the Department of Financial Services
1007 pursuant to an interagency agreement to facilitate the location
1008 of owners of unclaimed property, the validation of unclaimed
1009 property claims, and the identification of fraudulent or false
1010 claims, and are exempt from the provisions of s. 119.07(1).
1011 Section 26. Subsections (1) through (5), paragraphs (a)
1012 and (b) of subsection (6), subsections (7) and (8), paragraph
1013 (b) of subsection (10), and subsections (13) and (14) of section
1014 322.2615, Florida Statutes, are amended to read:
1015 322.2615 Suspension of license; right to review.--
1016 (1)(a) A law enforcement officer or correctional officer
1017 shall, on behalf of the department, suspend the driving
1018 privilege of a person who is driving or in actual physical
1019 control of a motor vehicle with an ~~has been arrested by a law~~
1020 ~~enforcement officer for a violation of s. 316.193, relating to~~
1021 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1022 higher~~,~~ or of a person who has refused to submit to a ~~breath,~~
1023 urine~~, or blood~~ test or a test of his or her breath-alcohol or
1024 blood-alcohol level ~~authorized by s. 316.1932~~. The officer shall
1025 take the person's driver's license and issue the person a 10-day
1026 temporary permit if the person is otherwise eligible for the
1027 driving privilege and shall issue the person a notice of

1028 suspension. If a blood test has been administered, ~~the results~~
1029 ~~of which are not available to~~ the officer or ~~at the time of the~~
1030 ~~arrest,~~ the agency employing the officer shall transmit the ~~such~~
1031 results to the department within 5 days after receipt of the
1032 results. If the department then determines that the person ~~was~~
1033 ~~arrested for a violation of s. 316.193 and that the person~~ had a
1034 blood-alcohol level or breath-alcohol level of 0.08 or higher,
1035 the department shall suspend the person's driver's license
1036 pursuant to subsection (3).
1037 (b) The suspension under paragraph (a) shall be pursuant
1038 to, and the notice of suspension shall inform the driver of, the
1039 following:
1040 1.a. The driver refused to submit to a lawful breath,
1041 blood, or urine test and his or her driving privilege is
1042 suspended for a period of 1 year for a first refusal or for a
1043 period of 18 months if his or her driving privilege has been
1044 previously suspended as a result of a refusal to submit to such
1045 a test; or
1046 b. The driver was driving or in actual physical control of
1047 a motor vehicle ~~violated s. 316.193 by driving~~ with an unlawful
1048 blood-alcohol level or breath-alcohol level of 0.08 or higher ~~as~~
1049 ~~provided in that section~~ and his or her driving privilege is
1050 suspended for a period of 6 months for a first offense or for a
1051 period of 1 year if his or her driving privilege has been
1052 previously suspended under this section ~~for a violation of s.~~
1053 ~~316.193~~.
1054 2. The suspension period shall commence on the date of
1055 ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~

1056 ~~later~~.
1057 3. The driver may request a formal or informal review of
1058 the suspension by the department within 10 days after the date
1059 of ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~
1060 ~~later~~.
1061 4. The temporary permit issued at the time of arrest will
1062 expire at midnight of the 10th day following the date of ~~arrest~~
1063 ~~or~~ issuance of the notice of suspension~~, whichever is later~~.
1064 5. The driver may submit to the department any materials
1065 relevant to the suspension ~~arrest~~.
1066 (2) Except as provided in paragraph (1)(a), the law
1067 enforcement officer shall forward to the department, within 5
1068 days after issuing ~~the date of the arrest, a copy of~~ the notice
1069 of suspension, the person's driver's license and ~~of the person~~
1070 ~~arrested, and a report of the arrest, including~~ an affidavit
1071 stating the officer's grounds for belief that the person was
1072 driving or in actual physical control of a motor vehicle while
1073 under the influence of alcoholic beverages or chemical or
1074 controlled substances ~~arrested was in violation of s. 316.193~~;
1075 the results of any breath or blood test or an affidavit stating
1076 that a breath, blood, or urine test was requested by a law
1077 enforcement officer or correctional officer and that the person
1078 ~~arrested~~ refused to submit; ~~a copy of the citation issued to the~~
1079 ~~person arrested; and~~ the officer's description of the person's
1080 field sobriety test, if any; a copy of the crash report, if any;
1081 and the notice of suspension. The failure of the officer to
1082 submit materials within the 5-day period specified in this
1083 subsection and in subsection (1) shall not affect the

1084 department's ability to consider any evidence submitted at or
1085 prior to the hearing. The officer may also submit a copy of a
1086 videotape of the field sobriety test or the attempt to
1087 administer such test. Materials submitted to the department by a
1088 law enforcement agency or correctional agency shall be
1089 considered self-authenticating and shall be in the record for
1090 consideration by the hearing officer. Notwithstanding s.
1091 316.066(4), the crash report shall be considered by the hearing
1092 officer.
1093 (3) If the department determines that the license ~~of the~~
1094 ~~person arrested~~ should be suspended pursuant to this section and
1095 if the notice of suspension has not already been served upon the
1096 person by a law enforcement officer or correctional officer as
1097 provided in subsection (1), the department shall issue a notice
1098 of suspension and, unless the notice is mailed pursuant to s.
1099 322.251, a temporary permit which expires 10 days after the date
1100 of issuance if the driver is otherwise eligible.
1101 (4) If the person whose license is suspended ~~arrested~~
1102 requests an informal review pursuant to subparagraph (1)(b)3.,
1103 the department shall conduct the informal review by a hearing
1104 officer employed by the department. Such informal review hearing
1105 shall consist solely of an examination by the department of the
1106 materials submitted by a law enforcement officer or correctional
1107 officer and by the person whose license is suspended ~~arrested~~,
1108 and the presence of an officer or witness is not required.
1109 (5) After completion of the informal review, notice of the
1110 department's decision sustaining, amending, or invalidating the
1111 suspension of the person's driver's license ~~of the person~~

1112 ~~arrested~~ must be provided to such person. Such notice must be
1113 mailed to the person at the last known address shown on the
1114 department's records, or to the address provided in the law
1115 enforcement officer's report if such address differs from the
1116 address of record, within 21 days after the expiration of the
1117 temporary permit issued pursuant to subsection (1) or subsection
1118 (3).
1119 (6)(a) If the person whose license is suspended ~~arrested~~
1120 requests a formal review, the department must schedule a hearing
1121 to be held within 30 days after such request is received by the
1122 department and must notify the person of the date, time, and
1123 place of the hearing.
1124 (b) Such formal review hearing shall be held before a
1125 hearing officer employed by the department, and the hearing
1126 officer shall be authorized to administer oaths, examine
1127 witnesses and take testimony, receive relevant evidence, issue
1128 subpoenas for the officers and witnesses identified in documents
1129 provided in subsection (2), regulate the course and conduct of
1130 the hearing, question witnesses, and make a ruling on the
1131 suspension. The ~~department and the person arrested may subpoena~~
1132 ~~witnesses, and the~~ party requesting the presence of a witness
1133 shall be responsible for the payment of any witness fees and for
1134 notifying in writing the state attorney's office in the
1135 appropriate circuit of the issuance of the subpoena. If the
1136 person who requests a formal review hearing fails to appear and
1137 the hearing officer finds such failure to be without just cause,
1138 the right to a formal hearing is waived and the suspension shall
1139 be sustained.

1140 (7) In a formal review hearing under subsection (6) or an
1141 informal review hearing under subsection (4), the hearing
1142 officer shall determine by a preponderance of the evidence
1143 whether sufficient cause exists to sustain, amend, or invalidate
1144 the suspension. The scope of the review shall be limited to the
1145 following issues:
1146 (a) If the license was suspended for driving with an
1147 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1148 higher ~~in violation of s. 316.193~~:
1149 1. Whether the ~~arresting~~ law enforcement officer had
1150 probable cause to believe that the person whose license is
1151 suspended was driving or in actual physical control of a motor
1152 vehicle in this state while under the influence of alcoholic
1153 beverages or chemical or controlled substances.
1154 ~~2. Whether the person was placed under lawful arrest for a~~
1155 ~~violation of s. 316.193.~~
1156 2.~~3.~~ Whether the person whose license is suspended had an
1157 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1158 higher as provided in s. 316.193.
1159 (b) If the license was suspended for refusal to submit to
1160 a breath, blood, or urine test:
1161 1. Whether the ~~arresting~~ law enforcement officer had
1162 probable cause to believe that the person whose license is
1163 suspended was driving or in actual physical control of a motor
1164 vehicle in this state while under the influence of alcoholic
1165 beverages or chemical or controlled substances.
1166 ~~2. Whether the person was placed under lawful arrest for a~~
1167 ~~violation of s. 316.193.~~

1168 2.~~3.~~ Whether the person whose license is suspended refused
1169 to submit to any such test after being requested to do so by a
1170 law enforcement officer or correctional officer.
1171 3.~~4.~~ Whether the person whose license is suspended was
1172 told that if he or she refused to submit to such test his or her
1173 privilege to operate a motor vehicle would be suspended for a
1174 period of 1 year or, in the case of a second or subsequent
1175 refusal, for a period of 18 months.
1176 (8) Based on the determination of the hearing officer
1177 pursuant to subsection (7) for both informal hearings under
1178 subsection (4) and formal hearings under subsection (6), the
1179 department shall:
1180 (a) Sustain the suspension of the person's driving
1181 privilege for a period of 1 year for a first refusal, or for a
1182 period of 18 months if the driving privilege of such person has
1183 been previously suspended as a result of a refusal to submit to
1184 such tests, if the ~~arrested~~ person refused to submit to a lawful
1185 breath, blood, or urine test. The suspension period commences on
1186 the date of ~~the arrest or~~ issuance of the notice of suspension~~,~~
1187 ~~whichever is later~~.
1188 (b) Sustain the suspension of the person's driving
1189 privilege for a period of 6 months for a blood-alcohol level or
1190 breath-alcohol level of 0.08 or higher ~~violation of s. 316.193~~,
1191 or for a period of 1 year if the driving privilege of such
1192 person has been previously suspended under this section as a
1193 result of driving with an unlawful blood-alcohol level or
1194 breath-alcohol level ~~a violation of s. 316.193~~. The suspension
1195 period commences on the date of ~~the arrest or~~ issuance of the

1196 notice of suspension~~, whichever is later~~.
1197 (10) A person whose driver's license is suspended under
1198 subsection (1) or subsection (3) may apply for issuance of a
1199 license for business or employment purposes only if the person
1200 is otherwise eligible for the driving privilege pursuant to s.
1201 322.271.
1202 (b) If the suspension of the person's driver's license ~~of~~
1203 ~~the person arrested for a violation of s. 316.193,~~ relating to
1204 an unlawful blood-alcohol level or breath-alcohol level of 0.08
1205 or higher~~,~~ is sustained, the person is not eligible to receive a
1206 license for business or employment purposes only pursuant to s.
1207 322.271 until 30 days have elapsed after the expiration of the
1208 last temporary permit issued. If the driver is not issued a 10-
1209 day permit pursuant to this section or s. 322.64 because he or
1210 she is ineligible for the permit and the suspension ~~for a~~
1211 ~~violation of s. 316.193,~~ relating to an unlawful blood-alcohol
1212 level or breath-alcohol level of 0.08 or higher~~,~~ is not
1213 invalidated by the department, the driver is not eligible to
1214 receive a business or employment license pursuant to s. 322.271
1215 until 30 days have elapsed from the date of the suspension
1216 ~~arrest~~.
1217 (13) A person may appeal any decision of the department
1218 sustaining a suspension of his or her driver's license by a
1219 petition for writ of certiorari to the circuit court in the
1220 county wherein such person resides or wherein a formal or
1221 informal review was conducted pursuant to s. 322.31. However, an
1222 appeal shall not stay the suspension. A law enforcement agency
1223 may appeal any decision of the department invalidating a

1224 suspension by a petition for writ of certiorari to the circuit
1225 court in the county where a formal or informal review was
1226 conducted. This subsection shall not be construed to provide for
1227 a de novo appeal.
1228 (14)(a) The decision of the department under this section
1229 or any circuit court review thereof may not be considered in any
1230 trial for a violation of s. 316.193, and a written statement
1231 submitted by a person in his or her request for departmental
1232 review under this section may not be admitted into evidence
1233 against him or her in any such trial.
1234 (b) The disposition of any related criminal proceedings
1235 does not affect a suspension for refusal to submit to a blood,
1236 breath, or urine test~~, authorized by s. 316.1932 or s. 316.1933,~~
1237 imposed under this section.
1238 Section 27. Paragraph (d) of subsection (3) of section
1239 322.27, Florida Statutes, is amended, and paragraph (j) is added
1240 to that subsection, to read:
1241 322.27 Authority of department to suspend or revoke
1242 license.--
1243 (3) There is established a point system for evaluation of
1244 convictions of violations of motor vehicle laws or ordinances,
1245 and violations of applicable provisions of s. 403.413(6)(b) when
1246 such violations involve the use of motor vehicles, for the
1247 determination of the continuing qualification of any person to
1248 operate a motor vehicle. The department is authorized to suspend
1249 the license of any person upon showing of its records or other
1250 good and sufficient evidence that the licensee has been
1251 convicted of violation of motor vehicle laws or ordinances, or

1252 applicable provisions of s. 403.413(6)(b), amounting to 12 or
1253 more points as determined by the point system. The suspension
1254 shall be for a period of not more than 1 year.
1255 (d) The point system shall have as its basic element a
1256 graduated scale of points assigning relative values to
1257 convictions of the following violations:
1258 1. Reckless driving, willful and wanton--4 points.
1259 2. Leaving the scene of a crash resulting in property
1260 damage of more than $50--6 points.
1261 3. Unlawful speed resulting in a crash--6 points.
1262 4. Passing a stopped school bus--4 points.
1263 5. Unlawful speed:
1264 a. Not in excess of 15 miles per hour of lawful or posted
1265 speed--3 points.
1266 b. In excess of 15 miles per hour <u>but not in excess of 30</u>
1267 <u>miles per hour</u> of lawful or posted speed--4 points.
1268 <u>c. In excess of 30 miles per hour of lawful or posted</u>
1269 <u>speed--6 points.</u>
1270 6.<u>a.</u> A violation of a traffic control signal device as
1271 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
1272 <u>b. A violation of a traffic control signal device as</u>
1273 <u>provided in s. 316.074(1) or s. 316.075(1)(c)1. resulting in a</u>
1274 <u>crash--6 points.</u>
1275 7. All other moving violations (including parking on a
1276 highway outside the limits of a municipality)--3 points.
1277 However, no points shall be imposed for a violation of s.
1278 316.0741 or s. 316.2065(12).

1279 8. Any moving violation covered above, excluding unlawful
1280 speed, resulting in a crash--4 points.
1281 9. Any conviction under s. 403.413(6)(b)--3 points.
1282 10. Any conviction under s. 316.0775(2)--4 points.
1283 (j) For purposes of sub-subparagraph (d)5.c., the term
1284 "conviction" means a finding of guilt, with or without
1285 adjudication of guilt, as a result of a jury verdict, nonjury
1286 trial, or entry of a plea of guilty or nolo contendere,
1287 notwithstanding s. 318.14(11).
1288 Section 28. Except as otherwise expressly provided in this
1289 act, this act shall take effect October 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7167 CS PCB GM 06-01 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	10 Y, 0 N	Grayson	Grayson
1) Transportation & Economic Development Appropriations Committee	15 Y, 1 N, w/CS	McAuliffe	Gordon
2) State Infrastructure Council		Grayson	Havlicak
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7167 is the glitch bill for CS/CS/CS/SB 360 (2005), ch. 2005-290, L.O.F., the Act, relating to infrastructure planning and funding. The bill:

- Conforms terminology to the phrase "proportionate fair-share mitigation."
- Corrects cross-references.
- Merges language into one provision relating to the public schools interlocal agreement.
- Provides that the "under actual-construction" requirement of transportation facility concurrency is met when construction funding needed is provided in the first 3 years of the Department of Transportation's (DOT) work plan.
- Requires DOT to publish and distribute, after public workshops, policy guidelines to assist local governments in planning to assess and mitigate impacts of proposed concurrency management areas.
- Provides a consequence for failure to timely adopt the local government proportionate fair-share mitigation methodology.
- Requires DOT to concur or withhold its concurrence, within 30 days, with the local government's plan for mitigation of impacts to the Strategic Intermodal System (SIS) from proposed transportation exception areas. If DOT fails to respond within 30 days, it is deemed to have concurred with the mitigation.
- Makes technical appropriation corrections to Chapter 2005-290, L.O.F.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

This bill addresses inadvertent errors and other glitches contained in ch. 2005-290, L.O.F., the growth management act of the 2005 Legislative Session.

Background

The 2005 Legislature enacted ch. 2005-290, L.O.F. (the Act), relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session. As a result, the Act contains a number of matters that may require correction or clarification.

Effect of Proposed Changes

Terminology for Proportionate Share

As outlined in the table below, the Act utilizes seven different terms to refer to the concept of "proportionate fair-share mitigation." The Florida Department of Transportation (DOT) utilized the phrase "proportionate fair-share mitigation" in their development of the model ordinance required in s. 163.3180(16)(a), F.S., as a result of the Act. That phrase appears to best represent the concepts embodied in the Act.

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Cross-references

The Act contains a number of cross-references that are inaccurate and should be corrected as outlined below.

- Correction: In s. 163.3177(13)(c)4, F.S., the cross-reference to "subsection (2)" should be "subsection (14)".

  Explanation: The section addresses the topics which a local government must discuss as part of the workshops and public meetings for the development of a community vision. Specifically, this reference is to the designation of an urban service boundary, which is referred to in subsection (14), and not subsection (2).

- Correction: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6), F.S., should be "163.31777, F.S."

  Explanation: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements, and should refer to the entire section itself, s. 163.31777, F.S.

- Correction: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32), F.S., should be "s. 163.3164(32), F.S."

  Explanation: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of "financially feasible" which is found at s. 163.3164(32), F.S.

- Correction: In s. 163.3184(17), F.S., the citation to s. 163.31773(13), F.S., should be "s. 163.3177(13) F.S."

  Explanation: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

- Correction: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) F.S., should be "s. 163.3180(9), F.S."

  Explanation: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9), F.S., relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), F.S., relates to long-term transportation and school concurrency management systems.

Funding Issues

The Act contains a number of appropriations and other funding matters that are inadvertent or otherwise need to be corrected, adjusted, or readdressed, as outlined below.

- Transportation Funding

  - Non-recurring Strategic Intermodal System (SIS) Appropriation - The Act appropriates $200 million for the 2005-2006 fiscal year to fund projects on the SIS. The intended funding level was $175 million non-recurring to correspond with a one-time $175 million transfer. The bill makes this correction.

  - State Infrastructural Bank (SIB) non-recurring transfer – The bill deletes s. 339.55(10), F.S. The subsection was inadvertently inserted in the Act last year. There were no funds deposited into

the State Transportation Trust Fund pursuant to s. 201.15(1)(d), F.S., (the DOC Stamp recurring funding) for the SIB.

Public Schools Interlocal Agreement

The bill amends several sections of existing law to merge the requirements for the public schools interlocal agreement into s. 163.31777, F.S. This was undertaken in an effort to provide a single statutory source for these requirements. Specifically, requirements currently existing in ss. 163.3180(13)(g), 1013.33(2) and (3), F.S., are combined and revised into s. 163.31777, F.S.

Concurrency

Transportation Facilities: The bill provides that if the construction funding needed for transportation facilities is provided in the first 3 years of the DOT work program, then the "under-actual-construction" requirement of s. 163.3180(2)(c), F.S., is satisfied.

Impacts to the Strategic Intermodal System

Transportation Concurrency Exception Areas: The bill provides that DOT must publish and distribute, after publicly noticed workshops, policy guidelines containing criteria and options to assist local government in planning to assess and mitigate impacts of a proposed concurrency exception area as described in s. 163.3180(5)(f) and (7), F.S.

Required Adoption of a Proportionate Fair-Share Mitigation Methodology and Transportation Concurrency Management System

The bill provides if a local government fails to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, that local government would be subject to sanctions imposed by the Administration Commission. Section 163.3184(11)(a), F.S., provides that the Administration Commission may specify remedial actions which would bring the comprehensive plan or plan amendment into compliance and may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of the local government not in compliance. The commission order may also specify that the local government may not be eligible for grants administered under the following programs:

- The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049, F.S.
- The Florida Recreation Development Assistance Program, as authorized by chapter 375, F.S.
- Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, F.S., to the extent not pledged to pay back bonds.

DOT Comments on Proposed Transportation Concurrency Exception Areas

The Act provides that a local government proposing a transportation concurrency exception area must confer with DOT regarding impacts to, and mitigation of impacts to, SIS facilities. The bill provides that DOT must concur or withhold its concurrence with the mitigation of development impacts to facilities on the SIS within 30 days of the date of submission. If DOT fails to respond within the allotted time period, then DOT is deemed to have concurred.

C. SECTION DIRECTORY:

Section 1 - Amends s. 163.3164(32), F.S., correcting terminology.

Section 2 – Amends s. 163.3177(13)(c), F.S., correcting cross-reference.

Section 3 – Amends s. 163.31777, F.S., relating to public schools interlocal agreements.

Section 4 – Amends s. 163.3180, F.S., relating to concurrency.

Section 5 – Amends s. 163.3184(17), F.S., relating to adoption and amendment of comprehensive plans.

Section 6 – Amends s. 339.2819(4)(a), F.S., relating to the Transportation Regional Incentive Program.

Section 7 – Amends s. 339.55, F.S., relating to the state-funded infrastructure bank; and correcting an appropriations error.

Section 8 – Amends s. 380.06(24)(l), (m) and (n), F.S., relating to developments of regional impact; correcting terminology.

Section 9 – Amends s. 1013.33(2), (3), and (12), F.S., relating to the coordination of school planning with local governments.

Section 10 – Amends s. 1013.65(2)(a), F.S., relating to the Public Education Capital Outlay and Debt Service Trust Fund; removing an appropriation for the Classrooms for Kids Program.

Section 11 – Amends s. 27 of ch. 2005-290, L.O.F., relating to appropriations.

Section 12 - Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have an impact on state revenues.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Indeterminate. Counties that fail to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, would be subject to sanctions imposed by the Administration Commission.

2. Expenditures:

   Indeterminate. While the bill strengthens certain timing requirements for local government planning related activities, the requirement to undertake those activities exists in current law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill both strengthens the timing requirements for certain local government actions and appropriates funding which provides the potential for some local government benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

The bill does not appear to raise any constitutional issues.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted one amendment. The amendment removed the deletion of s. 163.31777(3)(b) and (c), F.S. from the bill.

At the April 17, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 7167 with four amendments. The first amendment was a technical amendment. The second amendment removed the requirement from the bill that public schools interlocal agreements for school concurrency service areas must establish a process and schedule for the mandatory incorporation of school concurrency service areas, and the criteria and standards for the establishment of those service areas into the local comprehensive plan. The third amendment removed the appropriations from the bill, and the fourth amendment provided if a local government fails to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, that local government would be subject to sanctions imposed by the Administration Commission.

CHAMBER ACTION

1 The Transportation & Economic Development Appropriations
2 Committee recommends the following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to growth management; amending s.
8 163.3164, F.S.; revising a definition; amending s.
9 163.3177, F.S.; correcting a cross-reference; amending s.
10 163.31777, F.S.; revising requirements and procedures for
11 public schools interlocal agreements; amending s.
12 163.3180, F.S.; revising concurrency requirements and
13 procedures; providing sanctions; amending ss. 163.3184 and
14 339.2819, F.S.; correcting cross-references; amending s.
15 339.55, F.S.; deleting an annual appropriation from the
16 State Transportation Trust Fund for State Infrastructure
17 Bank purposes; amending s. 380.06, F.S.; revising certain
18 statutory exemption provisions for developments of
19 regional impact; amending s. 1013.33, F.S.; revising
20 requirements and procedures for coordination of planning
21 with local governing bodies; amending s. 1013.65, F.S.;
22 revising provisions relating to sources of appropriations
23 to the Public Education Capital Outlay and Debt Service

24 Trust Fund to delete an annual appropriation to the
25 Classroom for Kids Program; amending s. 27, ch. 2005-290,
26 Laws of Florida; revising an appropriation from the State
27 Transportation Trust Fund for Florida Strategic Intermodal
28 System purposes; providing an effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
31
32 Section 1. Subsection (32) of section 163.3164, Florida
33 Statutes, is amended to read:
34 163.3164 Local Government Comprehensive Planning and Land
35 Development Regulation Act; definitions.--As used in this act:
36 (32) "Financial feasibility" means that sufficient
37 revenues are currently available or will be available from
38 committed funding sources for the first 3 years, or will be
39 available from committed or planned funding sources for years 4
40 and 5, of a 5-year capital improvement schedule for financing
41 capital improvements, such as ad valorem taxes, bonds, state and
42 federal funds, tax revenues, impact fees, and developer
43 contributions, which are adequate to fund the projected costs of
44 the capital improvements identified in the comprehensive plan
45 necessary to ensure that adopted level-of-service standards are
46 achieved and maintained within the period covered by the 5-year
47 schedule of capital improvements. The requirement that level-of-
48 service standards be achieved and maintained shall not apply if
49 the <u>proportionate fair-share mitigation</u> ~~proportionate-share~~
50 process set forth in s. 163.3180(12) and (16) is used.

51 Section 2. Paragraph (c) of subsection (13) of section
52 163.3177, Florida Statutes, is amended to read:
53 163.3177 Required and optional elements of comprehensive
54 plan; studies and surveys.--
55 (13) Local governments are encouraged to develop a
56 community vision that provides for sustainable growth,
57 recognizes its fiscal constraints, and protects its natural
58 resources. At the request of a local government, the applicable
59 regional planning council shall provide assistance in the
60 development of a community vision.
61 (c) As part of the workshops and public meetings, the
62 local government must discuss strategies for addressing the
63 topics discussed under paragraph (b), including:
64 1. Strategies to preserve open space and environmentally
65 sensitive lands, and to encourage a healthy agricultural
66 economy, including innovative planning and development
67 strategies, such as the transfer of development rights;
68 2. Incentives for mixed-use development, including
69 increased height and intensity standards for buildings that
70 provide residential use in combination with office or commercial
71 space;
72 3. Incentives for workforce housing;
73 4. Designation of an urban service boundary pursuant to
74 subsection (14) ~~(2)~~; and
75 5. Strategies to provide mobility within the community and
76 to protect the Strategic Intermodal System, including the
77 development of a transportation corridor management plan under
78 s. 337.273.

79 Section 3. Subsections (1) and (2), paragraph (a) of
80 subsection (3), and subsection (4) of section 163.31777, Florida
81 Statutes, are amended to read:
82 163.31777 Public schools interlocal agreement.--
83 (1)(a) The district school board, county, and nonexempt
84 municipalities located within the geographic area of a school
85 district shall enter into an interlocal agreement ~~with the~~
86 ~~district school board~~ which jointly establishes the specific
87 ways in which the plans and processes of the district school
88 board and the local governments are to be coordinated. ~~The~~
89 ~~interlocal agreements shall be submitted to the state land~~
90 ~~planning agency and the Office of Educational Facilities and the~~
91 ~~SMART Schools Clearinghouse in accordance with a schedule~~
92 ~~published by the state land planning agency.~~
93 ~~(b) The schedule must establish staggered due dates for~~
94 ~~submission of interlocal agreements that are executed by both~~
95 ~~the local government and the district school board, commencing~~
96 ~~on March 1, 2003, and concluding by December 1, 2004, and must~~
97 ~~set the same date for all governmental entities within a school~~
98 ~~district. However, if the county where the school district is~~
99 ~~located contains more than 20 municipalities, the state land~~
100 ~~planning agency may establish staggered due dates for the~~
101 ~~submission of interlocal agreements by these municipalities. The~~
102 ~~schedule must begin with those areas where both the number of~~
103 ~~districtwide capital outlay full-time equivalent students equals~~
104 ~~80 percent or more of the current year's school capacity and the~~
105 ~~projected 5-year student growth is 1,000 or greater, or where~~

106 ~~the projected 5-year student growth rate is 10 percent or~~
107 ~~greater.~~
108 (b) ~~(c)~~ If the student population has declined over the 5-
109 year period preceding the due date for submittal of an
110 interlocal agreement by the local government and the district
111 school board, the local government and the district school board
112 may petition the state land planning agency for a waiver of one
113 or more requirements of subsection (2). The waiver must be
114 granted if the procedures called for in subsection (2) are
115 unnecessary because of the school district's declining school
116 age population, considering the district's 5-year facilities
117 work program prepared pursuant to s. 1013.35. The state land
118 planning agency may modify or revoke the waiver upon a finding
119 that the conditions upon which the waiver was granted no longer
120 exist. The district school board and local governments must
121 submit an interlocal agreement within 1 year after notification
122 by the state land planning agency that the conditions for a
123 waiver no longer exist.
124 (c) ~~(d)~~ ~~Interlocal agreements between local governments and~~
125 ~~district school boards adopted pursuant to s. 163.3177 before~~
126 ~~the effective date of this section must be updated and executed~~
127 ~~pursuant to the requirements of this section, if necessary.~~
128 ~~Amendments to interlocal agreements adopted pursuant to this~~
129 ~~section must be submitted to the state land planning agency~~
130 ~~within 30 days after execution by the parties for review~~
131 ~~consistent with this section.~~ Local governments and the district
132 school board in each school district are encouraged to adopt a
133 single updated interlocal agreement to which all join as

134 parties. The state land planning agency shall assemble and make
135 available model interlocal agreements meeting the requirements
136 of this section and notify local governments and, jointly with
137 the Department of Education, the district school boards of the
138 requirements of this section, the dates for compliance, and the
139 sanctions for noncompliance. The state land planning agency
140 shall be available to informally review proposed interlocal
141 agreements. If the state land planning agency has not received a
142 proposed interlocal agreement for informal review, the state
143 land planning agency shall, at least 60 days before the deadline
144 for submission of the executed agreement, renotify the local
145 government and the district school board of the upcoming
146 deadline and the potential for sanctions.
147 (2) The interlocal agreement must acknowledge the school
148 board's constitutional and statutory obligations to provide a
149 uniform system of free public schools on a countywide basis and
150 the land use authority of local governments, including the
151 authority to approve or deny comprehensive plan amendments and
152 development orders. ~~At a minimum,~~ The interlocal agreement must
153 ~~address interlocal agreement requirements in s. 163.3180(13)(g),~~
154 ~~except for exempt local governments as provided in s.~~
155 ~~163.3177(12), and must~~ address the following issues:
156 (a) Mechanisms for coordinating the development, adoption,
157 and amendment of each local government's public school
158 facilities element with each other local government that is a
159 party to the agreements and the plans of the school board to
160 ensure a uniform districtwide school concurrency system.

161 (b) A process for developing siting criteria that
162 encourages the location of public schools proximate to urban
163 residential areas to the extent possible and seeks to collocate
164 schools with other public facilities, including, but not limited
165 to, parks, libraries, and community centers, to the extent
166 possible.
167 (c) Uniform, districtwide, level-of-service standards for
168 public schools of the same type and a process for modifying
169 adopted level-of-service standards.
170 (d) A process for establishing a financially feasible
171 public school capital facilities program and a process and
172 schedule for incorporation of the public school capital
173 facilities program into the local government comprehensive plans
174 on an annual basis.
175 (e) If school concurrency is to be applied on a less than
176 districtwide basis in the form of concurrency service areas,
177 criteria and standards for the establishment and modification of
178 school concurrency service areas. The agreement must ensure
179 maximum use of school capacity, taking into account
180 transportation costs and court-approved desegregation plans and
181 other applicable factors.
182 (f) A uniform districtwide procedure for implementing
183 school concurrency that provides for:
184 1. Evaluation of development applications for compliance
185 with school concurrency requirements, including, but not limited
186 to, information provided by the school board on affected
187 schools.

188 2. Monitoring and evaluation of the school concurrency
189 system.
190 (g) A process and uniform methodology for determining
191 proportionate fair-share mitigation pursuant to s. 380.06.
192 (h) ~~(a)~~ A process by which each local government and the
193 district school board agree and base their plans on consistent
194 projections of the amount, type, and distribution of population
195 growth and student enrollment. The geographic distribution of
196 jurisdiction-wide growth forecasts is a major objective of the
197 process.
198 (i) ~~(b)~~ A process to coordinate and share information
199 relating to existing and planned public school facilities,
200 including school renovations and closures, and local government
201 plans for development and redevelopment.
202 (j) ~~(c)~~ Participation by affected local governments with
203 the district school board in the process of evaluating potential
204 school closures, significant renovations to existing schools,
205 and new school site selection before land acquisition. Local
206 governments shall advise the district school board as to the
207 consistency of the proposed closure, renovation, or new site
208 with the local comprehensive plan, including appropriate
209 circumstances and criteria under which a district school board
210 may request an amendment to the comprehensive plan for school
211 siting.
212 (k) ~~(d)~~ A process for determining the need for and timing
213 of onsite and offsite improvements to support new, proposed
214 expansion, or redevelopment of existing schools. The process

215 must address identification of the party or parties responsible
216 for the improvements.
217 ~~(e) A process for the school board to inform the local~~
218 ~~government regarding the effect of comprehensive plan amendments~~
219 ~~on school capacity. The capacity reporting must be consistent~~
220 ~~with laws and rules relating to measurement of school facility~~
221 ~~capacity and must also identify how the district school board~~
222 ~~will meet the public school demand based on the facilities work~~
223 ~~program adopted pursuant to s. 1013.35.~~
224 (l) ~~(f)~~ Participation of the local governments in the
225 preparation of the annual update to the district school board's
226 5-year district facilities work program and educational plant
227 survey prepared pursuant to s. 1013.35.
228 (m) ~~(g)~~ A process for determining where and how joint use
229 of either school board or local government facilities can be
230 shared for mutual benefit and efficiency.
231 (n) ~~(h)~~ A procedure for the resolution of disputes between
232 the district school board and local governments, which may
233 include the dispute resolution processes contained in chapters
234 164 and 186.
235 (o) ~~(i)~~ An oversight process, including an opportunity for
236 public participation, for the implementation of the interlocal
237 agreement.
238 (p) A process for development of a public school
239 facilities element pursuant to s. 163.3177(12).
240 (q) Provisions for siting and modification or enhancements
241 to existing school facilities so as to encourage urban infill
242 and redevelopment.

243 (r) A process for the use and conversion of historic
244 school facilities that are no longer suitable for educational
245 purposes, as determined by the district school board.
246 (s) A process for informing the local government regarding
247 the effect of comprehensive plan amendments and rezonings on
248 school capacity. The capacity reporting must be consistent with
249 laws and rules relating to measurement of school facility
250 capacity and must also identify how the district school board
251 will meet the public school demand based on the facilities work
252 program adopted pursuant to s. 1013.35.
253 (t) A process to ensure an opportunity for the school
254 board to review and comment on the effect of comprehensive plan
255 amendments and rezonings on the public school facilities plan.
256
257 For those local governments that receive a waiver pursuant to
258 subsection (1), the interlocal agreement shall not include the
259 issues provided for in paragraphs (a), (c), (d), (e), (f), (g),
260 and (p). For counties or municipalities that do not have a
261 public school interlocal agreement or public school facility
262 element, the assessment shall determine whether the local
263 government continues to meet the criteria of s. 163.3177(12). If
264 a county or municipality determines that it no longer meets the
265 criteria, the county or municipality must adopt appropriate
266 school concurrency goals, objectives, and policies in its plan
267 amendments pursuant to the requirements of the public school
268 facility element and enter into the existing interlocal
269 agreement required by this section and s. 173.3177(6)(h)2. in
270 order to fully participate in the school concurrency system.

271 (3)(a) The updated interlocal agreement adopted pursuant
272 to the schedule adopted in accordance with s. 163.3177(12)(i)
273 and any subsequent amendments must be submitted to the state
274 land planning agency and the Office of Educational Facilities
275 within 30 days after execution by the parties to the agreement
276 for review consistent with this section. The office ~~and SMART~~
277 ~~Schools Clearinghouse~~ shall submit any comments or concerns
278 regarding the executed interlocal agreement or agreement
279 amendments to the state land planning agency within 30 days
280 after receipt of the executed interlocal agreement or agreement
281 amendments. The state land planning agency shall review the
282 updated executed interlocal agreement or agreement amendments to
283 determine whether they are ~~it is~~ consistent with the
284 requirements of subsection (2), the adopted local government
285 comprehensive plan, and other requirements of law. Within 60
286 days after receipt of an updated executed interlocal agreement
287 or agreement amendments, the state land planning agency shall
288 publish a notice on the agency's Internet website that states ~~of~~
289 ~~intent in the Florida Administrative Weekly and shall post a~~
290 ~~copy of the notice on the agency's Internet site. The notice of~~
291 ~~intent must state~~ whether the interlocal agreement is consistent
292 or inconsistent with the requirements of subsection (2) and this
293 subsection, as appropriate.
294 (4) If an updated executed interlocal agreement is not
295 timely submitted to the state land planning agency for review,
296 the state land planning agency shall, within 15 working days
297 after the deadline for submittal, issue to the local government
298 and the district school board a Notice to Show Cause why

299 sanctions should not be imposed for failure to submit an
300 executed interlocal agreement by the deadline established by the
301 agency. The agency shall forward the notice and the responses to
302 the Administration Commission, which may enter a final order
303 citing the failure to comply and imposing sanctions against the
304 local government and district school board by directing the
305 appropriate agencies to withhold at least 5 percent of state
306 funds pursuant to s. 163.3184(11) and by directing the
307 Department of Education to withhold from the district school
308 board at least 5 percent of funds for school construction
309 available pursuant to ss. 1013.65, 1013.68, 1013.70, and
310 1013.72.
311 Section 4. Paragraph (c) of subsection (2), paragraph (f)
312 of subsection (5), subsection (7), paragraphs (e), (f), (g), and
313 (h) of subsection (13), and paragraphs (a), (b), (c), (e), and
314 (f) of subsection (16) of section 163.3180, Florida Statutes,
315 are amended to read:
316 163.3180 Concurrency.--
317 (2)
318 (c) Consistent with the public welfare, and except as
319 otherwise provided in this section, transportation facilities
320 needed to serve new development shall be in place or under
321 actual construction within 3 years after the local government
322 approves a building permit or its functional equivalent that
323 results in traffic generation. <u>For purposes of this paragraph</u>
324 <u>and all provisions relating to transportation concurrency, if</u>
325 <u>the construction funding needed for facilities is provided in</u>
326 <u>the first 3 years of the Department of Transportation's work</u>

327 program or the local government's schedule of capital
328 improvements, the under-actual-construction requirements of this
329 paragraph shall be deemed to have been met.
330 (5)
331 (f) Prior to the designation of a concurrency exception
332 area, the Department of Transportation shall be consulted by the
333 local government to assess the impact that the proposed
334 exception area is expected to have on the adopted level-of-
335 service standards established for Strategic Intermodal System
336 facilities, as defined in s. 339.64, and roadway facilities
337 funded in accordance with s. 339.2819. Further, the local
338 government shall, in cooperation with the Department of
339 Transportation, develop a plan to mitigate ~~any~~ impacts to the
340 Strategic Intermodal System, including, if appropriate, the
341 development of a long-term concurrency management system
342 pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions
343 may be available only within the specific geographic area of the
344 jurisdiction designated in the plan. Pursuant to s. 163.3184,
345 any affected person may challenge a plan amendment establishing
346 these guidelines and the areas within which an exception could
347 be granted. By October 1, 2006, the Department of
348 Transportation, after publicly noticed workshops, shall publish
349 and distribute to local governments a policy guideline
350 containing criteria and options to assist local governments in
351 planning to assess and mitigate the impacts of a proposed
352 concurrency exception area as described in this paragraph.
353 (7) In order to promote infill development and
354 redevelopment, one or more transportation concurrency management

355 areas may be designated in a local government comprehensive
356 plan. A transportation concurrency management area must be a
357 compact geographic area with an existing network of roads where
358 multiple, viable alternative travel paths or modes are available
359 for common trips. A local government may establish an areawide
360 level-of-service standard for such a transportation concurrency
361 management area based upon an analysis that provides for a
362 justification for the areawide level of service, how urban
363 infill development or redevelopment will be promoted, and how
364 mobility will be accomplished within the transportation
365 concurrency management area. Prior to the designation of a
366 concurrency management area, the Department of Transportation
367 shall be consulted by the local government to assess the impact
368 that the proposed concurrency management area is expected to
369 have on the adopted level-of-service standards established for
370 Strategic Intermodal System facilities, as defined in s. 339.64,
371 and roadway facilities funded in accordance with s. 339.2819.
372 Further, the local government shall, in cooperation with the
373 Department of Transportation, develop a plan to mitigate any
374 impacts to the Strategic Intermodal System, including, if
375 appropriate, the development of a long-term concurrency
376 management system pursuant to subsection (9) and s.
377 163.3177(3)(d). Transportation concurrency management areas
378 existing prior to July 1, 2005, shall meet, at a minimum, the
379 provisions of this section by July 1, 2006, or at the time of
380 the comprehensive plan update pursuant to the evaluation and
381 appraisal report, whichever occurs last. The state land planning
382 agency shall amend chapter 9J-5, Florida Administrative Code, to

383 be consistent with this subsection. By October 1, 2006, the
384 Department of Transportation, after publicly noticed workshops,
385 shall publish and distribute to local governments a policy
386 guideline containing criteria and options to assist local
387 governments in planning to assess and mitigate the impacts of a
388 proposed concurrency management area as described in this
389 paragraph.
390 (13) School concurrency shall be established on a
391 districtwide basis and shall include all public schools in the
392 district and all portions of the district, whether located in a
393 municipality or an unincorporated area unless exempt from the
394 public school facilities element pursuant to s. 163.3177(12).
395 The application of school concurrency to development shall be
396 based upon the adopted comprehensive plan, as amended. All local
397 governments within a county, except as provided in paragraph
398 (f), shall adopt and transmit to the state land planning agency
399 the necessary plan amendments, along with the interlocal
400 agreement, for a compliance review pursuant to s. 163.3184(7)
401 and (8). The minimum requirements for school concurrency are the
402 following:
403 (e) Availability standard.--Consistent with the public
404 welfare, a local government may not deny an application for site
405 plan, final subdivision approval, or the functional equivalent
406 for a development or phase of a development authorizing
407 residential development for failure to achieve and maintain the
408 level-of-service standard for public school capacity in a local
409 school concurrency management system where adequate school
410 facilities will be in place or under actual construction within

411 3 years after the issuance of final subdivision or site plan
412 approval, or the functional equivalent. School concurrency shall
413 be satisfied if the developer executes a legally binding
414 commitment to provide proportionate fair-share mitigation
415 against ~~proportionate to~~ the demand for public school facilities
416 to be created by actual development of the property, including,
417 but not limited to, the options described in subparagraph 1.
418 Options for proportionate fair-share ~~proportionate-share~~
419 mitigation of impacts on public school facilities shall be
420 established in the public school facilities element and the
421 interlocal agreement pursuant to s. 163.31777.
422 1. Appropriate proportionate fair-share mitigation options
423 include the contribution of land; the construction, expansion,
424 or payment for land acquisition or construction of a public
425 school facility; or the creation of mitigation banking based on
426 the construction of a public school facility in exchange for the
427 right to sell capacity credits. Such options must include
428 execution by the applicant and the local government of a binding
429 development agreement that constitutes a legally binding
430 commitment to pay proportionate fair-share ~~proportionate-share~~
431 mitigation for the additional residential units approved by the
432 local government in a development order and actually developed
433 on the property, taking into account residential density allowed
434 on the property prior to the plan amendment that increased
435 overall residential density. The district school board shall be
436 a party to such an agreement. As a condition of its entry into
437 such a development agreement, the local government may require

438 the landowner to agree to continuing renewal of the agreement
439 upon its expiration.
440 2. If the education facilities plan and the public
441 educational facilities element authorize a contribution of land;
442 the construction, expansion, or payment for land acquisition; or
443 the construction or expansion of a public school facility, or a
444 portion thereof, as proportionate fair-share ~~proportionate-share~~
445 mitigation, the local government shall credit such a
446 contribution, construction, expansion, or payment toward any
447 other impact fee or exaction imposed by local ordinance for the
448 same need, on a dollar-for-dollar basis at fair market value.
449 3. Any proportionate fair-share ~~proportionate-share~~
450 mitigation must be directed by the school board toward a school
451 capacity improvement identified in a financially feasible 5-year
452 district work plan and which satisfies the demands created by
453 that development in accordance with a binding developer's
454 agreement.
455 4. This paragraph does not limit the authority of a local
456 government to deny a development permit or its functional
457 equivalent pursuant to its home rule regulatory powers, except
458 as provided in this part.
459 (f) Intergovernmental coordination.--
460 1. When establishing concurrency requirements for public
461 schools, a local government shall satisfy the requirements for
462 intergovernmental coordination set forth in s. 163.3177(6)(h)1.
463 and 2., except that a municipality is not required to be a
464 signatory to the interlocal agreement required by ss.
465 163.3177(6)(h)2. and 163.31777~~(6)~~, as a prerequisite for

466 imposition of school concurrency, and as a nonsignatory, shall
467 not participate in the adopted local school concurrency system,
468 if the municipality meets all of the following criteria for
469 having no significant impact on school attendance:
470 a. The municipality has issued development orders for
471 fewer than 50 residential dwelling units during the preceding 5
472 years, or the municipality has generated fewer than 25
473 additional public school students during the preceding 5 years.
474 b. The municipality has not annexed new land during the
475 preceding 5 years in land use categories which permit
476 residential uses that will affect school attendance rates.
477 c. The municipality has no public schools located within
478 its boundaries.
479 d. At least 80 percent of the developable land within the
480 boundaries of the municipality has been built upon.
481 2. A municipality which qualifies as having no significant
482 impact on school attendance pursuant to the criteria of
483 subparagraph 1. must review and determine at the time of its
484 evaluation and appraisal report pursuant to s. 163.3191 whether
485 it continues to meet the criteria pursuant to s. 163.31777(6).
486 If the municipality determines that it no longer meets the
487 criteria, it must adopt appropriate school concurrency goals,
488 objectives, and policies in its plan amendments based on the
489 evaluation and appraisal report, and enter into the existing
490 interlocal agreement required by ss. 163.3177(6)(h)2. and
491 163.31777, in order to fully participate in the school
492 concurrency system. If such a municipality fails to do so, it
493 will be subject to the enforcement provisions of s. 163.3191.

494 ~~(g) Interlocal agreement for school concurrency.--When~~
495 ~~establishing concurrency requirements for public schools, a~~
496 ~~local government must enter into an interlocal agreement that~~
497 ~~satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and~~
498 ~~163.31777 and the requirements of this subsection. The~~
499 ~~interlocal agreement shall acknowledge both the school board's~~
500 ~~constitutional and statutory obligations to provide a uniform~~
501 ~~system of free public schools on a countywide basis, and the~~
502 ~~land use authority of local governments, including their~~
503 ~~authority to approve or deny comprehensive plan amendments and~~
504 ~~development orders. The interlocal agreement shall be submitted~~
505 ~~to the state land planning agency by the local government as a~~
506 ~~part of the compliance review, along with the other necessary~~
507 ~~amendments to the comprehensive plan required by this part. In~~
508 ~~addition to the requirements of ss. 163.3177(6)(h) and~~
509 ~~163.31777, the interlocal agreement shall meet the following~~
510 ~~requirements:~~
511 ~~1. Establish the mechanisms for coordinating the~~
512 ~~development, adoption, and amendment of each local government's~~
513 ~~public school facilities element with each other and the plans~~
514 ~~of the school board to ensure a uniform districtwide school~~
515 ~~concurrency system.~~
516 ~~2. Establish a process for the development of siting~~
517 ~~criteria which encourages the location of public schools~~
518 ~~proximate to urban residential areas to the extent possible and~~
519 ~~seeks to collocate schools with other public facilities such as~~
520 ~~parks, libraries, and community centers to the extent possible.~~

521 ~~3. Specify uniform, districtwide level-of-service~~
522 ~~standards for public schools of the same type and the process~~
523 ~~for modifying the adopted level-of-service standards.~~
524 ~~4. Establish a process for the preparation, amendment, and~~
525 ~~joint approval by each local government and the school board of~~
526 ~~a public school capital facilities program which is financially~~
527 ~~feasible, and a process and schedule for incorporation of the~~
528 ~~public school capital facilities program into the local~~
529 ~~government comprehensive plans on an annual basis.~~
530 ~~5. Define the geographic application of school~~
531 ~~concurrency. If school concurrency is to be applied on a less~~
532 ~~than districtwide basis in the form of concurrency service~~
533 ~~areas, the agreement shall establish criteria and standards for~~
534 ~~the establishment and modification of school concurrency service~~
535 ~~areas. The agreement shall also establish a process and schedule~~
536 ~~for the mandatory incorporation of the school concurrency~~
537 ~~service areas and the criteria and standards for establishment~~
538 ~~of the service areas into the local government comprehensive~~
539 ~~plans. The agreement shall ensure maximum utilization of school~~
540 ~~capacity, taking into account transportation costs and court-~~
541 ~~approved desegregation plans, as well as other factors. The~~
542 ~~agreement shall also ensure the achievement and maintenance of~~
543 ~~the adopted level-of-service standards for the geographic area~~
544 ~~of application throughout the 5 years covered by the public~~
545 ~~school capital facilities plan and thereafter by adding a new~~
546 ~~fifth year during the annual update.~~
547 ~~6. Establish a uniform districtwide procedure for~~
548 ~~implementing school concurrency which provides for:~~

549 ~~a. The evaluation of development applications for~~
550 ~~compliance with school concurrency requirements, including~~
551 ~~information provided by the school board on affected schools,~~
552 ~~impact on levels of service, and programmed improvements for~~
553 ~~affected schools and any options to provide sufficient capacity;~~
554 ~~b. An opportunity for the school board to review and~~
555 ~~comment on the effect of comprehensive plan amendments and~~
556 ~~rezonings on the public school facilities plan; and~~
557 ~~c. The monitoring and evaluation of the school concurrency~~
558 ~~system.~~
559 ~~7. Include provisions relating to amendment of the~~
560 ~~agreement.~~
561 ~~8. A process and uniform methodology for determining~~
562 ~~proportionate-share mitigation pursuant to subparagraph (e)1.~~
563 (g) ~~(h)~~ Local government authority.--This subsection does
564 not limit the authority of a local government to grant or deny a
565 development permit or its functional equivalent prior to the
566 implementation of school concurrency.
567 (16) It is the intent of the Legislature to provide a
568 method by which the impacts of development on transportation
569 facilities can be mitigated by the cooperative efforts of the
570 public and private sectors. The methodology used to calculate
571 proportionate fair-share mitigation under this section shall be
572 as provided for in subsection (12).
573 (a) By December 1, 2006, each local government shall adopt
574 by ordinance a methodology for assessing proportionate fair-
575 share mitigation options. A local government that fails to adopt
576 a methodology for assessing proportionate fair-share mitigation

577 options by December 1, 2006, shall be subject to the sanctions
578 described in s. 163.3184(11)(a) imposed by the Administration
579 Commission. By December 1, 2005, the Department of
580 Transportation shall develop a model transportation concurrency
581 management ordinance with methodologies for assessing
582 proportionate fair-share mitigation options.
583 (b)1. In its transportation concurrency management system,
584 a local government shall, by December 1, 2006, include
585 methodologies that will be applied to calculate proportionate
586 fair-share mitigation. A local government that fails to include
587 such methodologies by December 1, 2006, shall be subject to the
588 sanctions described in s. 163.3184(11)(a) imposed by the
589 Administration Commission. A developer may choose to satisfy all
590 transportation concurrency requirements by contributing or
591 paying proportionate fair-share mitigation if transportation
592 facilities or facility segments identified as mitigation for
593 traffic impacts are specifically identified for funding in the
594 5-year schedule of capital improvements in the capital
595 improvements element of the local plan or the long-term
596 concurrency management system or if such contributions or
597 payments to such facilities or segments are reflected in the 5-
598 year schedule of capital improvements in the next regularly
599 scheduled update of the capital improvements element. Updates to
600 the 5-year capital improvements element which reflect
601 proportionate fair-share contributions may not be found not in
602 compliance based on ss. 163.3164(32) ~~163.164(32)~~ and 163.3177(3)
603 if additional contributions, payments or funding sources are

604 reasonably anticipated during a period not to exceed 10 years to
605 fully mitigate impacts on the transportation facilities.
606 2. Proportionate fair-share mitigation shall be applied as
607 a credit against impact fees to the extent that all or a portion
608 of the proportionate fair-share mitigation is used to address
609 the same capital infrastructure improvements contemplated by the
610 local government's impact fee ordinance.
611 (c) Proportionate fair-share mitigation includes, without
612 limitation, separately or collectively, private funds,
613 contributions of land, and construction and contribution of
614 facilities and may include public funds as determined by the
615 local government. The fair market value of the proportionate
616 fair-share mitigation shall not differ based on the form of
617 mitigation. A local government may not require a development to
618 pay more than its proportionate fair-share mitigation
619 ~~contribution~~ regardless of the method of mitigation.
620 (e) Mitigation for development impacts to facilities on
621 the Strategic Intermodal System made pursuant to this subsection
622 requires the concurrence of the Department of Transportation.
623 The department has 30 days from the date of submission by the
624 applicable local government to concur or withhold concurrence
625 with the mitigation of development impacts to facilities on the
626 Strategic Intermodal System. If the department does not respond
627 within the 30-day period, the department is deemed to have
628 concurred with the mitigation.
629 (f) If ~~In the event the~~ funds in an adopted 5-year capital
630 improvements element are insufficient to fully fund construction
631 of a transportation improvement required by the local

632 government's concurrency management system, a local government
633 and a developer may still enter into a binding proportionate
634 fair-share mitigation ~~proportionate-share~~ agreement authorizing
635 the developer to construct that amount of development on which
636 the proportionate fair-share mitigation ~~proportionate-share~~ is
637 calculated if the proportionate fair-share mitigation
638 ~~proportionate-share~~ amount in such agreement is sufficient to
639 pay for one or more improvements which will, in the opinion of
640 the governmental entity or entities maintaining the
641 transportation facilities, significantly benefit the impacted
642 transportation system. The improvement or improvements funded by
643 the proportionate fair-share mitigation ~~proportionate-share~~
644 component must be adopted into the 5-year capital improvements
645 schedule of the comprehensive plan at the next annual capital
646 improvements element update.
647 Section 5. Subsection (17) of section 163.3184, Florida
648 Statutes, is amended to read:
649 163.3184 Process for adoption of comprehensive plan or
650 plan amendment.--
651 (17) A local government that has adopted a community
652 vision and urban service boundary under s. 163.3177(13)
653 ~~163.31773(13)~~ and (14) may adopt a plan amendment related to map
654 amendments solely to property within an urban service boundary
655 in the manner described in subsections (1), (2), (7), (14),
656 (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3.,
657 such that state and regional agency review is eliminated. The
658 department may not issue an objections, recommendations, and
659 comments report on proposed plan amendments or a notice of

660 intent on adopted plan amendments; however, affected persons, as
661 defined by paragraph (1)(a), may file a petition for
662 administrative review pursuant to the requirements of s.
663 163.3187(3)(a) to challenge the compliance of an adopted plan
664 amendment. This subsection does not apply to any amendment
665 within an area of critical state concern, to any amendment that
666 increases residential densities allowable in high-hazard coastal
667 areas as defined in s. 163.3178(2)(h), or to a text change to
668 the goals, policies, or objectives of the local government's
669 comprehensive plan. Amendments submitted under this subsection
670 are exempt from the limitation on the frequency of plan
671 amendments in s. 163.3187.
672 Section 6. Paragraph (a) of subsection (4) of section
673 339.2819, Florida Statutes, is amended to read:
674 339.2819 Transportation Regional Incentive Program.--
675 (4)(a) Projects to be funded with Transportation Regional
676 Incentive Program funds shall, at a minimum:
677 1. Support those transportation facilities that serve
678 national, statewide, or regional functions and function as an
679 integrated regional transportation system.
680 2. Be identified in the capital improvements element of a
681 comprehensive plan that has been determined to be in compliance
682 with part II of chapter 163, after July 1, 2005, or to implement
683 a long-term concurrency management system adopted by a local
684 government in accordance with s. 163.3180(9) ~~163.3177(9)~~.
685 Further, the project shall be in compliance with local
686 government comprehensive plan policies relative to corridor
687 management.

688 3. Be consistent with the Strategic Intermodal System Plan
689 developed under s. 339.64.
690 4. Have a commitment for local, regional, or private
691 financial matching funds as a percentage of the overall project
692 cost.
693 Section 7. Subsection (10) of section 339.55, Florida
694 Statutes, is amended to read:
695 339.55 State-funded infrastructure bank.--
696 ~~(10) Funds paid into the State Transportation Trust Fund~~
697 ~~pursuant to s. 201.15(1)(d) for the purposes of the State~~
698 ~~Infrastructure Bank are hereby annually appropriated for~~
699 ~~expenditure to support that program.~~
700 Section 8. Paragraphs (l), (m), and (n) of subsection (24)
701 of section 380.06, Florida Statutes, are amended to read:
702 380.06 Developments of regional impact.--
703 (24) STATUTORY EXEMPTIONS.--
704 (l) Any proposed development within an urban service
705 boundary established under s. 163.3177(14) is exempt from the
706 provisions of this section if the local government having
707 jurisdiction over the area where the development is proposed has
708 adopted the urban service boundary and has entered into a
709 binding agreement with adjacent jurisdictions and the Department
710 of Transportation regarding the mitigation of impacts on state
711 and regional transportation facilities, and has adopted a
712 proportionate fair-share mitigation ~~share~~ methodology pursuant
713 to s. 163.3180(16).
714 (m) Any proposed development within a rural land
715 stewardship area created under s. 163.3177(11)(d) is exempt from

716 the provisions of this section if the local government that has
717 adopted the rural land stewardship area has entered into a
718 binding agreement with jurisdictions that would be impacted and
719 the Department of Transportation regarding the mitigation of
720 impacts on state and regional transportation facilities, and has
721 adopted a proportionate fair-share mitigation ~~share~~ methodology
722 pursuant to s. 163.3180(16).
723 (n) Any proposed development or redevelopment within an
724 area designated as an urban infill and redevelopment area under
725 s. 163.2517 is exempt from the provisions of this section if the
726 local government has entered into a binding agreement with
727 jurisdictions that would be impacted and the Department of
728 Transportation regarding the mitigation of impacts on state and
729 regional transportation facilities, and has adopted a
730 proportionate fair-share mitigation ~~share~~ methodology pursuant
731 to s. 163.3180(16).
732 Section 9. Subsections (2), (3), and (12) of section
733 1013.33, Florida Statutes, are amended to read:
734 1013.33 Coordination of planning with local governing
735 bodies.--
736 (2)(a) The school board, county, and nonexempt
737 municipalities located within the geographic area of a school
738 district shall enter into an interlocal agreement that jointly
739 establishes the specific ways in which the plans and processes
740 of the district school board and the local governments are to be
741 coordinated. Any updated ~~The~~ interlocal agreements and agreement
742 amendments shall be submitted to the state land planning agency
743 and the Office of Educational Facilities ~~and the SMART Schools~~

744 ~~Clearinghouse~~ in accordance with a schedule published by the
745 state land planning agency pursuant to s. 163.3177(12)(i).
746 ~~(b) The schedule must establish staggered due dates for~~
747 ~~submission of interlocal agreements that are executed by both~~
748 ~~the local government and district school board, commencing on~~
749 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
750 ~~the same date for all governmental entities within a school~~
751 ~~district. However, if the county where the school district is~~
752 ~~located contains more than 20 municipalities, the state land~~
753 ~~planning agency may establish staggered due dates for the~~
754 ~~submission of interlocal agreements by these municipalities. The~~
755 ~~schedule must begin with those areas where both the number of~~
756 ~~districtwide capital outlay full-time-equivalent students equals~~
757 ~~80 percent or more of the current year's school capacity and the~~
758 ~~projected 5-year student growth rate is 1,000 or greater, or~~
759 ~~where the projected 5-year student growth rate is 10 percent or~~
760 ~~greater.~~
761 (b) ~~(c)~~ If the student population has declined over the 5-
762 year period preceding the due date for submittal of an
763 interlocal agreement by the local government and the district
764 school board, the local government and district school board may
765 petition the state land planning agency for a waiver of one or
766 more of the requirements of subsection (3). The waiver must be
767 granted if the procedures called for in subsection (3) are
768 unnecessary because of the school district's declining school
769 age population, considering the district's 5-year work program
770 prepared pursuant to s. 1013.35. The state land planning agency
771 may modify or revoke the waiver upon a finding that the

772 conditions upon which the waiver was granted no longer exist.
773 The district school board and local governments must submit an
774 interlocal agreement within 1 year after notification by the
775 state land planning agency that the conditions for a waiver no
776 longer exist.
777 (c) ~~(d) Interlocal agreements between local governments and~~
778 ~~district school boards adopted pursuant to s. 163.3177 before~~
779 ~~the effective date of subsections (2)-(9) must be updated and~~
780 ~~executed pursuant to the requirements of subsections (2)-(9), if~~
781 ~~necessary. Amendments to interlocal agreements adopted pursuant~~
782 ~~to subsections (2)-(9) must be submitted to the state land~~
783 ~~planning agency within 30 days after execution by the parties~~
784 ~~for review consistent with subsections (3) and (4).~~ Local
785 governments and the district school board in each school
786 district are encouraged to adopt a single updated interlocal
787 agreement in which all join as parties. The state land planning
788 agency shall assemble and make available model interlocal
789 agreements meeting the requirements of subsections (2)-(9) and
790 shall notify local governments and, jointly with the Department
791 of Education, the district school boards of the requirements of
792 subsections (2)-(9), the dates for compliance, and the sanctions
793 for noncompliance. The state land planning agency shall be
794 available to informally review proposed interlocal agreements.
795 If the state land planning agency has not received a proposed
796 interlocal agreement for informal review, the state land
797 planning agency shall, at least 60 days before the deadline for
798 submission of the executed agreement, renotify the local

799 government and the district school board of the upcoming
800 deadline and the potential for sanctions.
801 (3) ~~At a minimum,~~ The interlocal agreement must address
802 ~~interlocal agreement requirements in s. 163.3180(13)(g), except~~
803 ~~for exempt local governments as provided in s. 163.3177(12), and~~
804 ~~must address~~ the ~~following~~ issues specified in s. 163.31777(2).~~:~~
805 ~~(a) A process by which each local government and the~~
806 ~~district school board agree and base their plans on consistent~~
807 ~~projections of the amount, type, and distribution of population~~
808 ~~growth and student enrollment. The geographic distribution of~~
809 ~~jurisdiction-wide growth forecasts is a major objective of the~~
810 ~~process.~~
811 ~~(b) A process to coordinate and share information relating~~
812 ~~to existing and planned public school facilities, including~~
813 ~~school renovations and closures, and local government plans for~~
814 ~~development and redevelopment.~~
815 ~~(c) Participation by affected local governments with the~~
816 ~~district school board in the process of evaluating potential~~
817 ~~school closures, significant renovations to existing schools,~~
818 ~~and new school site selection before land acquisition. Local~~
819 ~~governments shall advise the district school board as to the~~
820 ~~consistency of the proposed closure, renovation, or new site~~
821 ~~with the local comprehensive plan, including appropriate~~
822 ~~circumstances and criteria under which a district school board~~
823 ~~may request an amendment to the comprehensive plan for school~~
824 ~~siting.~~
825 ~~(d) A process for determining the need for and timing of~~
826 ~~onsite and offsite improvements to support new construction,~~

827 ~~proposed expansion, or redevelopment of existing schools. The~~
828 ~~process shall address identification of the party or parties~~
829 ~~responsible for the improvements.~~
830 ~~(e) A process for the school board to inform the local~~
831 ~~government regarding the effect of comprehensive plan amendments~~
832 ~~on school capacity. The capacity reporting must be consistent~~
833 ~~with laws and rules regarding measurement of school facility~~
834 ~~capacity and must also identify how the district school board~~
835 ~~will meet the public school demand based on the facilities work~~
836 ~~program adopted pursuant to s. 1013.35.~~
837 ~~(f) Participation of the local governments in the~~
838 ~~preparation of the annual update to the school board's 5-year~~
839 ~~district facilities work program and educational plant survey~~
840 ~~prepared pursuant to s. 1013.35.~~
841 ~~(g) A process for determining where and how joint use of~~
842 ~~either school board or local government facilities can be shared~~
843 ~~for mutual benefit and efficiency.~~
844 ~~(h) A procedure for the resolution of disputes between the~~
845 ~~district school board and local governments, which may include~~
846 ~~the dispute resolution processes contained in chapters 164 and~~
847 ~~186.~~
848 ~~(i) An oversight process, including an opportunity for~~
849 ~~public participation, for the implementation of the interlocal~~
850 ~~agreement.~~
851 (12) As early in the design phase as feasible and
852 consistent with an interlocal agreement entered pursuant to
853 subsections (2)-(8), but no later than 120 ~~90~~ days before
854 commencing construction, the district school board shall in

855 writing request a determination of consistency with the local
856 government's comprehensive plan. The local governing body that
857 regulates the use of land shall determine, in writing within 45
858 days after receiving the necessary information and a school
859 board's request for a determination, whether a proposed
860 educational facility is consistent with the local comprehensive
861 plan and consistent with local land development regulations. If
862 the determination is affirmative, school construction may
863 commence and further local government approvals are not
864 required, except as provided in this section. Failure of the
865 local governing body to make a determination in writing within
866 90 days after a district school board's request for a
867 determination of consistency shall be considered an approval of
868 the district school board's application. Campus master plans and
869 development agreements must comply with the provisions of ss.
870 1013.30 and 1013.63.
871 Section 10. Paragraph (a) of subsection (2) of section
872 1013.65, Florida Statutes, is amended to read:
873 1013.65 Educational and ancillary plant construction
874 funds; Public Education Capital Outlay and Debt Service Trust
875 Fund; allocation of funds.--
876 (2)(a) The Public Education Capital Outlay and Debt
877 Service Trust Fund shall be comprised of the following sources,
878 which are hereby appropriated to the trust fund:
879 1. Proceeds, premiums, and accrued interest from the sale
880 of public education bonds and that portion of the revenues
881 accruing from the gross receipts tax as provided by s. 9(a)(2),

882 Art. XII of the State Constitution, as amended, interest on
883 investments, and federal interest subsidies.
884 2. General revenue funds appropriated to the fund for
885 educational capital outlay purposes.
886 3. All capital outlay funds previously appropriated and
887 certified forward pursuant to s. 216.301.
888 4.~~a.~~ Funds paid pursuant to s. 201.15(1)(d).
889 ~~b. The sum of $41.75 million of such funds shall be~~
890 ~~appropriated annually for expenditure to fund the Classrooms for~~
891 ~~Kids Program created in s. 1013.735 and shall be distributed as~~
892 ~~provided by that section.~~
893 Section 11. Paragraph (a) of subsection (2) of section 27
894 of chapter 2005-290, Laws of Florida, is amended to read:
895 Section 27.
896 (2) The following appropriations are made for the 2005-
897 2006 fiscal year only on a nonrecurring basis:
898 (a) From the State Transportation Trust Fund in the
899 Department of Transportation:
900 1. <u>One hundred seventy-five</u> ~~Two hundred~~ million dollars
901 for the purposes specified in sections 339.61, 339.62, 339.63,
902 and 339.64, Florida Statutes.
903 2. Two hundred seventy-five million dollars for the
904 purposes specified in section 339.2819, Florida Statutes.
905 3. One hundred million dollars for the purposes specified
906 in section 339.55, Florida Statutes.
907 4. Twenty-five million for the purposes specified in
908 section 339.2817, Florida Statutes.
909 Section 12. This act shall take effect July 1, 2006.

State Infrastructure Council

AMENDMENT PACKET

Friday, April 21, 2006
1:15 pm – 3:15 pm
404 House Office Building

Representative David D. Russell, Chair
Representative Adam Hasner, Vice Chair

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

1 Council/Committee hearing bill: State Infrastructure Council
2 Representative(s) Russell offered the following:
3
4 **Amendment #1 (with title amendment)**
5 Remove everything after the enacting clause and insert:
6
7 Section 1. Subsection (1) of section 338.2275, Florida
8 Statutes, is amended to read:
9 338.2275 Approved turnpike projects.--
10 (1) Legislative approval of the department's tentative
11 work program that contains the turnpike project constitutes
12 approval to issue bonds as required by s. 11(f), Art. VII of the
13 State Constitution. No more than $6 billion of bonds may be
14 outstanding to fund approved turnpike projects. ~~Turnpike~~
15 ~~projects approved to be included in future tentative work~~
16 ~~programs include, but are not limited to, projects contained in~~
17 ~~the 2003-2004 tentative work program. A maximum of $4.5 billion~~
18 ~~of bonds may be issued to fund approved turnpike projects.~~
19 Section 2. Section 212.0606, Florida Statutes, is amended
20 to read:
21 212.0606 Rental car surcharge.--

22 (1) A surcharge of $2 ~~$2.00~~ per day or any part of a day
23 is imposed upon the lease or rental of a motor vehicle licensed
24 for hire and designed to carry fewer ~~less~~ than nine passengers,
25 regardless of whether such motor vehicle is licensed in Florida.
26 The surcharge applies to only the first 30 days of the term of
27 any lease or rental and~~. The surcharge~~ is subject to all
28 applicable taxes imposed by this chapter.
29 (2)(a) Notwithstanding ~~the provisions of~~ section 212.20,
30 and less costs of administration, 80 percent of the proceeds of
31 the ~~this~~ surcharge imposed under subsection (1) shall be
32 deposited in the State Transportation Trust Fund, 15.75 percent
33 of the proceeds of this surcharge shall be deposited in the
34 Tourism Promotional Trust Fund created in s. 288.122, and 4.25
35 percent of the proceeds of this surcharge shall be deposited in
36 the Florida International Trade and Promotion Trust Fund. As
37 used in ~~For the purposes of~~ this subsection, "proceeds" of the
38 surcharge means all funds collected and received by the
39 department under subsection (1) ~~this section~~, including interest
40 and penalties on delinquent surcharges. The department shall
41 provide the Department of Transportation rental car surcharge
42 revenue information for the previous state fiscal year by
43 September 1 of each year.
44 (b) Notwithstanding any other provision of law, in fiscal
45 year 2007-2008 and each year thereafter, the proceeds deposited
46 in the State Transportation Trust Fund shall be allocated on an
47 annual basis in the Department of Transportation's work program
48 to each department district, except the Turnpike District. The
49 amount allocated for each district shall be based upon the
50 amount of proceeds attributed to the counties within each
51 respective district.

52 (3)(a) In addition to the surcharge imposed under
53 subsection (1), a county may impose by countywide referendum a
54 local surcharge of $2 per day or any part of a day upon the
55 lease or rental of a motor vehicle licensed for hire and
56 designed to carry fewer than nine passengers, regardless of
57 whether such motor vehicle is licensed in this state. The local
58 surcharge may be applied to only the first 30 days of the term
59 of any lease or rental. The local surcharge shall not apply to
60 the lease or rental of a motor vehicle by a person for the
61 period of time required to have a motor vehicle owned by the
62 person undergo maintenance or repair. The person must provide a
63 receipt for the cost of the maintenance or repair services and
64 documentation that the person owns the motor vehicle undergoing
65 maintenance or repair. The local surcharge is subject to all
66 applicable taxes imposed by this chapter.
67 (b) If the ordinance authorizing the imposition of the
68 local surcharge is approved by such referendum, a certified copy
69 of the ordinance shall be furnished by the county to the
70 department within 10 days after such approval, but no later than
71 November 16 prior to the effective date. The notice must specify
72 the time period during which the local surcharge will be in
73 effect and must include a copy of the ordinance and such other
74 information as the department may require by rule. Failure to
75 timely provide such notification to the department shall result
76 in the delay of the effective date for a period of 1 year. The
77 effective date for any county to impose the local surcharge
78 shall be January 1 following the year in which the ordinance was
79 approved by referendum. A local surcharge may not terminate on a
80 date other than December 31.
81 (c) Any local surcharge proceeds collected by a dealer
82 that fails to report surcharge collections by county as required

83 by paragraph (4)(b) shall be deposited into the Solid Waste
84 Management Trust Fund and then transferred to the Local Option
85 Fuel Tax Trust Fund as separate from the county surcharge
86 collection accounts. The department shall distribute funds in
87 this account, less the cost of administration, using a
88 distribution factor determined for each county that levies a
89 local surcharge, based upon the county's latest official
90 population determined pursuant to s. 186.901 and multiplied by
91 the amount of funds in the account and available for
92 distribution.
93 (d) Notwithstanding s. 212.20, and less the costs of
94 administration, the proceeds of the local surcharge imposed
95 under paragraph (a) shall be transferred to the Local Option
96 Fuel Tax Trust Fund for the purposes allowed under s. 206.60 and
97 distributed monthly by the department under s. 336.025(3)(a)1.
98 or (4)(a). As used in this subsection, "proceeds" of the local
99 surcharge means all funds collected and received by the
100 department under this subsection, including interest and
101 penalties on delinquent local surcharges.
102 (4) ~~(3)~~(a) Except as provided in this section, the
103 department shall administer, collect, and enforce the surcharge
104 and local surcharge as provided in this chapter.
105 (b) The department shall require dealers to report
106 surcharge collections according to the county to which the
107 surcharge and local surcharge was attributed. For purposes of
108 this section, the surcharge and local surcharge shall be
109 attributed to the county where the rental agreement was entered
110 into.
111 (c) Dealers who collect a ~~the~~ rental car surcharge shall
112 report to the department all surcharge and local surcharge
113 revenues attributed to the county where the rental agreement was

114 entered into on a timely filed return for each required
115 reporting period. The provisions of this chapter which apply to
116 interest and penalties on delinquent taxes shall apply to the
117 surcharge and local surcharge. The surcharge and local surcharge
118 shall not be included in the calculation of estimated taxes
119 pursuant to s. 212.11. The dealer's credit provided in s. 212.12
120 shall not apply to any amount collected under this section.
121 (5) ~~(4)~~ The surcharge and any local surcharge imposed by
122 this section do ~~does~~ not apply to a motor vehicle provided at no
123 charge to a person whose motor vehicle is being repaired,
124 adjusted, or serviced by the entity providing the replacement
125 motor vehicle.
126 Section 3. Paragraph (b) of subsection (1) of section
127 343.54, Florida Statutes, is amended to read:
128 343.54 Powers and duties.--
129 (1)
130 (b) It is the express intention of this part that the
131 authority be authorized to plan, develop, own, purchase, lease,
132 or otherwise acquire, demolish, construct, improve, relocate,
133 equip, repair, maintain, operate, and manage a transit system
134 and transit facilities; to establish and determine the policies
135 necessary for the best interest of the operation and promotion
136 of a transit system; and to adopt rules necessary to govern the
137 operation of a transit ~~commuter rail~~ system and transit ~~commuter~~
138 ~~rail~~ facilities. It is the intent of the Legislature that the
139 South Florida Regional Transportation Authority shall have
140 overall authority to coordinate, develop, and operate a regional
141 transportation system within the area served.
142 Section 4. Subsection (4) is added to section 343.55,
143 Florida Statutes, to read:
144 343.55 Issuance of revenue bonds.--

145 (4) The state pledges to and agrees with any person, firm,
146 corporation, or federal or state agency subscribing to or
147 acquiring the bonds to be issued by the authority for the
148 purposes of the South Florida Regional Transportation Authority
149 Act that the state will not limit or alter the rights vested in
150 the authority under this section until all bonds at any time
151 issued and secured by revenues remitted to the authority
152 pursuant to s. 343.58, together with the interest thereon, are
153 fully paid and discharged, insofar as the same affects the
154 rights of the holders of bonds issued under this section.
155 Section 5. Section 343.58, Florida Statutes, is amended to
156 read:
157 343.58 County funding for the South Florida Regional
158 Transportation Authority.--
159 (1) Each county served by the South Florida Regional
160 Transportation Authority must dedicate and transfer not less
161 than $2.67 million to the authority annually. The recurring
162 annual $2.67 million must be dedicated by the governing body of
163 each county prior to October 31 of each fiscal year ~~by August 1,~~
164 ~~2003~~. ~~Notwithstanding ss. 206.41 and 206.87, such dedicated~~
165 ~~funding may come from each county's share of the ninth-cent fuel~~
166 ~~tax, the local option fuel tax, or any other source of local gas~~
167 ~~taxes or other nonfederal funds available to the counties. In~~
168 ~~addition, the Legislature authorizes the levy of an annual~~
169 ~~license tax in the amount of $2 for the registration or renewal~~
170 ~~of registration of each vehicle taxed under s. 320.08 and~~
171 ~~registered in the area served by the South Florida Regional~~
172 ~~Transportation Authority. The annual license tax shall take~~
173 ~~effect in any county served by the authority upon approval by~~
174 ~~the residents in a county served by the authority. The annual~~
175 ~~license tax shall be levied and the Department of Highway Safety~~

176 ~~and Motor Vehicles shall remit the proceeds each month from the~~
177 ~~tax to the South Florida Regional Transportation Authority.~~
178 (2) At least $45 million of a state-authorized, local-
179 option recurring funding source available to Broward, Miami-
180 Dade, and Palm Beach Counties shall be directed to the authority
181 to fund its capital, operating, and maintenance expenses. The
182 funding source shall be dedicated to the authority only if
183 Broward, Miami-Dade, and Palm Beach Counties each impose the
184 local-option funding source.
185 (3) ~~(2)~~ In addition, each county shall continue to annually
186 fund the operations of the South Florida Regional Transportation
187 Authority in an amount not less than $4.2 ~~$1.565~~ million.
188 Revenue raised ~~Such funds~~ pursuant to this subsection shall also
189 be considered a dedicated funding source.
190 (4) The current funding obligations under subsections (1)
191 and (3) shall cease upon commencement of the collection of
192 funding from the funding source under subsection (2). Should the
193 funding under subsection (2) be discontinued for any reason, the
194 funding obligations under subsections (1) and (3) shall resume
195 when collection from the funding source under subsection (2)
196 ceases. Payment by the counties will be on a pro rata basis the
197 first year following cessation of the funding under subsection
198 (2). The authority shall refund a pro rata share of the payments
199 for the current fiscal year made pursuant to the current funding
200 obligations under subsections (1) and (3) as soon as reasonably
201 practicable after it begins to receive funds under subsection
202 (2).
203 (5) If, by December 31, 2015 ~~2009~~, the South Florida
204 Regional Transportation Authority has not received federal
205 matching funds based upon the dedication of funds under
206 subsection (1), subsection (1) shall be repealed.

207 Section 6. This act shall take effect July 1, 2006.
208
209
210 ========== T I T L E A M E N D M E N T ==========
211 Remove the entire title and insert:
212
213 A bill to be entitled
214 An act relating to transportation; amending s. 338.2275,
215 F.S.; deleting obsolete provisions; revising the maximum
216 amount of bonds that are available for turnpike projects;
217 amending s. 212.0606, F.S.; providing for the imposition
218 by countywide referendum of an additional surcharge on the
219 lease or rental of a motor vehicle; providing an
220 exception; providing procedures and requirements for
221 imposing the surcharge; providing for time of effect of
222 the surcharge; providing for a methodology for
223 distribution of certain funds by the Department of Revenue
224 to certain counties; providing for the proceeds of the
225 surcharge to be transferred to the Local Option Fuel Tax
226 Trust Fund and used for the construction and maintenance
227 of state roads; amending s. 343.54, F.S.; revising
228 language relating to powers and duties of the authority;
229 deleting the term "commuter rail"; amending s. 343.55,
230 F.S.; providing pledge to bondholders that the state will
231 not alter certain rights vested in the authority that
232 affect the rights of bondholders while bonds are
233 outstanding; amending s. 343.58, F.S.; revising provisions
234 for funding of the authority; requiring counties served by
235 the authority to annually transfer certain funds before a
236 certain date; removing provisions for sources of that
237 funding; removing authorization for a vehicle registration

238 tax; providing for a certain funding source for capital,
239 operating, and maintenance expenses; revising county
240 funding amounts to fund operations; providing for
241 cessation of specified county funding contributions and
242 providing for certain refunding of the contributions under
243 certain circumstances; revising timeframe for repeal of
244 specified funding provisions under certain circumstances;
245 providing an effective date.
246
247

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: State Infrastructure Council
2 Representative(s) M. Davis offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Section 125.379, Florida Statutes, is created
7 to read:
8 125.379. Disposition of county property for affordable
9 housing.--
10 (1) By July 1, 2007, and every 3 years thereafter, each
11 county shall prepare an inventory list of all real property
12 within its jurisdiction to which the county holds fee simple
13 title that is appropriate for use as affordable housing. The
14 inventory list must include the address and legal description of
15 each such property and specify whether the property is vacant or
16 improved. The governing body of the county must review the
17 inventory list at a public hearing and may revise it at the
18 conclusion of the public hearing. The governing body of the
19 county shall adopt a resolution that includes an inventory list
20 of such property following the public hearing.
21 (2) The properties identified as appropriate for use as
22 affordable housing on the inventory list adopted by the county

23 may be offered for sale and the proceeds may be used to purchase
24 land for the development of affordable housing or to increase
25 the local government fund earmarked for affordable housing, or
26 may be sold with a restriction that requires the development of
27 the property as permanent affordable housing, or may be donated
28 to a nonprofit housing organization for the construction of
29 permanent affordable housing. Alternatively, the county may
30 otherwise make the property available for use for the production
31 and preservation of permanent affordable housing. For purposes
32 of this section, the term "affordable" shall have the same
33 meaning as in section 420.004(3).
34 Section 2. Subsections (1) and (4) and paragraphs (b),
35 (d), (e), and (f) of subsection (2) of section 163.31771,
36 Florida Statutes, are amended, and paragraph (g) is added to
37 subsection (2) of that section, to read:
38 163.31771 Accessory dwelling units.--
39 (1) The Legislature finds that the median price of homes
40 in this state has increased steadily over the last decade and at
41 a greater rate of increase than the median income in many urban
42 areas. The Legislature finds that the cost of rental housing has
43 also increased steadily and the cost often exceeds an amount
44 that is affordable to extremely-low-income, very-low-income,
45 low-income, or moderate-income persons and has resulted in a
46 critical shortage of affordable rentals in many urban areas in
47 the state. This shortage of affordable rentals constitutes a
48 threat to the health, safety, and welfare of the residents of
49 the state. Therefore, the Legislature finds that it serves an
50 important public purpose to encourage the permitting of
51 accessory dwelling units in single-family residential areas in
52 order to increase the availability of affordable rentals for

53 extremely-low-income, very-low-income, low-income, or moderate-
54 income persons.
55 (2) As used in this section, the term:
56 (b) "Affordable rental" means that monthly rent and
57 utilities do not exceed 30 percent of that amount which
58 represents the percentage of the median adjusted gross annual
59 income for extremely-low-income, very-low-income, low-income, or
60 moderate-income persons.
61 (d) "Low-income persons" has the same meaning as in s.
62 420.0004(10)~~(9)~~.
63 (e) "Moderate-income persons" has the same meaning as in
64 s. 420.0004(11)~~(10)~~.
65 (f) "Very-low-income persons" has the same meaning as in
66 s. 420.0004(15)~~(14)~~.
67 (4) If the local government adopts an ordinance under this
68 section, an application for a building permit to construct an
69 accessory dwelling unit must include an affidavit from the
70 applicant which attests that the unit will be rented at an
71 affordable rate to a extremely-low-income, very-low-income, low-
72 income, or moderate-income person or persons.
73 (g) "Extremely-low-income persons" has the same meaning as
74 in s. 420.0004(8).
75 Section 3. Paragraph (c) of subsection (1) of section
76 163.3187, Florida Statutes, is amended to read:
77 163.3187 Amendment of adopted comprehensive plan.--
78 (1) Amendments to comprehensive plans adopted pursuant to
79 this part may be made not more than two times during any
80 calendar year, except:
81 (c) Any local government comprehensive plan amendments
82 directly related to proposed small scale development activities
83 may be approved without regard to statutory limits on the

84 frequency of consideration of amendments to the local
85 comprehensive plan. A small scale development amendment may be
86 adopted only under the following conditions:
87 1. The proposed amendment involves a use of 10 acres or
88 fewer and:
89 a. The cumulative annual effect of the acreage for all
90 small scale development amendments adopted by the local
91 government shall not exceed:
92 (I) A maximum of 120 acres in a local government that
93 contains areas specifically designated in the local
94 comprehensive plan for urban infill, urban redevelopment, or
95 downtown revitalization as defined in s. 163.3164, urban infill
96 and redevelopment areas designated under s. 163.2517,
97 transportation concurrency exception areas approved pursuant to
98 s. 163.3180(5), or regional activity centers and urban central
99 business districts approved pursuant to s. 380.06(2)(e);
100 however, amendments under this paragraph may be applied to no
101 more than 60 acres annually of property outside the designated
102 areas listed in this sub-sub-subparagraph. Amendments adopted
103 pursuant to paragraph (k) shall not be counted toward the
104 acreage limitations for small scale amendments under this
105 paragraph.
106 (II) A maximum of 80 acres in a local government that does
107 not contain any of the designated areas set forth in sub-sub-
108 subparagraph (I).
109 (III) A maximum of 120 acres in a county established
110 pursuant to s. 9, Art. VIII of the State Constitution.
111 b. The proposed amendment does not involve the same
112 property granted a change within the prior 12 months.

113 c. The proposed amendment does not involve the same
114 owner's property within 200 feet of property granted a change
115 within the prior 12 months.
116 d. The proposed amendment does not involve a text change
117 to the goals, policies, and objectives of the local government's
118 comprehensive plan, but only proposes a land use change to the
119 future land use map for a site-specific small scale development
120 activity.
121 e. The property that is the subject of the proposed
122 amendment is not located within an area of critical state
123 concern, unless the project subject to the proposed amendment
124 involves the construction of affordable housing units meeting
125 the criteria of s. 420.0004(3), and is located within an area of
126 critical state concern designated by s. 380.0552 or by the
127 Administration Commission pursuant to s. 380.05(1). Such
128 amendment is not subject to the density limitations of sub-
129 subparagraph f., and shall be reviewed by the state land
130 planning agency for consistency with the principles for guiding
131 development applicable to the area of critical state concern
132 where the amendment is located and shall not become effective
133 until a final order is issued under s. 380.05(6).
134 f. If the proposed amendment involves a residential land
135 use, the residential land use has a density of 10 units or less
136 per acre or the proposed future land use category allows a
137 maximum residential density of the same or less than the maximum
138 residential density allowable under the existing future land use
139 category, except that this limitation does not apply to small
140 scale amendments involving the construction of affordable
141 housing units meeting the criteria of s. 420.0004(3) on property
142 which will be the subject of a land use restriction agreement ~~or~~
143 ~~extended use agreement recorded in conjunction with the issuance~~

144 ~~of tax exempt bond financing or an allocation of federal tax~~
145 ~~credits issued through the Florida Housing Finance Corporation~~
146 ~~or a local housing finance authority authorized by the Division~~
147 ~~of Bond Finance of the State Board of Administration~~, or small
148 scale amendments described in sub-sub-subparagraph a.(I) that
149 are designated in the local comprehensive plan for urban infill,
150 urban redevelopment, or downtown revitalization as defined in s.
151 163.3164, urban infill and redevelopment areas designated under
152 s. 163.2517, transportation concurrency exception areas approved
153 pursuant to s. 163.3180(5), or regional activity centers and
154 urban central business districts approved pursuant to s.
155 380.06(2)(e).
156 2.a. A local government that proposes to consider a plan
157 amendment pursuant to this paragraph is not required to comply
158 with the procedures and public notice requirements of s.
159 163.3184(15)(c) for such plan amendments if the local government
160 complies with the provisions in s. 125.66(4)(a) for a county or
161 in s. 166.041(3)(c) for a municipality. If a request for a plan
162 amendment under this paragraph is initiated by other than the
163 local government, public notice is required.
164 b. The local government shall send copies of the notice
165 and amendment to the state land planning agency, the regional
166 planning council, and any other person or entity requesting a
167 copy. This information shall also include a statement
168 identifying any property subject to the amendment that is
169 located within a coastal high-hazard area as identified in the
170 local comprehensive plan.
171 3. Small scale development amendments adopted pursuant to
172 this paragraph require only one public hearing before the
173 governing board, which shall be an adoption hearing as described
174 in s. 163.3184(7), and are not subject to the requirements of s.

175 163.3184(3)-(6) unless the local government elects to have them
176 subject to those requirements.
177 4. If the small scale development amendment involves a
178 site within an area that is designated by the Governor as a
179 rural area of critical economic concern under s. 288.0656(7) for
180 the duration of such designation, the 10-acre limit listed in
181 subparagraph 1. shall be increased by 100 percent to 20 acres.
182 The local government approving the small scale plan amendment
183 shall certify to the Office of Tourism, Trade, and Economic
184 Development that the plan amendment furthers the economic
185 objectives set forth in the executive order issued under s.
186 288.0656(7), and the property subject to the plan amendment
187 shall undergo public review to ensure that all concurrency
188 requirements and federal, state, and local environmental permit
189 requirements are met.
190 Section 4. Section 166.0451, Florida Statutes, is created
191 to read:
192 166.0451. Disposition of municipal property for affordable
193 housing.--
194 (1) By July 1, 2007, and every 3 years thereafter, each
195 municipality shall prepare an inventory list of all real
196 property within its jurisdiction to which the municipality holds
197 fee simple title that is appropriate for use as affordable
198 housing. The inventory list must include the address and legal
199 description of each such property and specify whether the
200 property is vacant or improved. The governing body of the
201 municipality must review the inventory list at a public hearing
202 and may revise it at the conclusion of the public hearing. The
203 governing body of the municipality shall adopt a resolution that
204 includes an inventory list of such property following the public
205 hearing.

206 (2) The properties identified as appropriate for use as
207 affordable housing on the inventory list adopted by the
208 municipality may be offered for sale and the proceeds may be
209 used to purchase land for the development of affordable housing
210 or to increase the local government fund earmarked for
211 affordable housing, or may be sold with a restriction that
212 requires the development of the property as permanent affordable
213 housing, or may be donated to a nonprofit housing organization
214 for the construction of permanent affordable housing.
215 Alternatively, the municipality may otherwise make the property
216 available for use for the production and preservation of
217 permanent affordable housing. For purposes of this section, the
218 term "affordable" shall have the same meaning as in s. 420.004.
219 Section 5. Subsections (6) and (7) are added to section
220 189.4155, Florida Statutes, to read:
221 189.4155 Activities of special districts; local government
222 comprehensive planning.--
223 (6) Any independent special district created pursuant to
224 chapter 190 is authorized to provide housing and housing
225 assistance for persons whose total annual household income does
226 not exceed 140 percent of the area median income, adjusted for
227 family size.
228 (7) Any independent special district created pursuant to
229 special act or general law, including, but not limited to, this
230 chapter and chapter 298, for the purpose of providing urban
231 infrastructure or services is authorized to provide housing and
232 housing assistance for its employed personnel whose total annual
233 household income does not exceed 140 percent of the area median
234 income, adjusted for family size.
235 Section 6. Subsection (19) is added to section 191.006,
236 Florida Statutes, to read:

237 191.006 General powers.--The district shall have, and the
238 board may exercise by majority vote, the following powers:
239 (19) To provide housing and housing assistance for its
240 employed personnel whose total annual household income does not
241 exceed 140 percent of the area median income, adjusted for
242 family size.
243 7Section 7. Section 193.018, Florida Statutes, is created
244 to read:
245 193.018 The Manny Diaz Affordable Housing Property Tax
246 Relief Initiative.--
247 (1) For the purpose of assessing just valuation of
248 affordable housing properties serving persons with income limits
249 defined as extremely-low, low, moderate, and very-low, as
250 specified in s. 420.0004(8), (10), (11), and (15), the actual
251 rental income from rent-restricted units in such a property
252 shall be recognized by the property appraiser for assessment
253 purposes, and a rental income approach pursuant to s. 193.011(7)
254 shall be used for assessment of the rents for the following
255 affordable housing properties:
256 (a) Property that is funded by the United States
257 Department of Housing and Urban Development under s. 8 of the
258 United States Housing Act of 1937 that is used to provide
259 affordable housing serving eligible persons as defined by s.
260 159.603(7) and elderly persons, extremely-low-income persons,
261 and very-low-income persons as defined by s. 420.0004(7), (8),
262 and (15) and that has undergone financial restructuring as
263 provided in s. 501, Title V, Subtitle A of the Multifamily
264 Assisted Housing Reform and Affordability Act of 1997;
265 (b) Multifamily, farmworker, or elderly rental properties
266 that are funded by the Florida Housing Finance Corporation under
267 ss. 420.5087 and 420.5089 and the State Housing Initiatives

268 Partnership Program under ss. 420.9072 and 420.9075, s. 42 of
269 the Internal Revenue Code, 26 U.S.C. s. 42; the HOME Investment
270 Partnership Program under the Cranston-Gonzalez National
271 Affordable Housing Act, 42 U.S.C. s. 12741 et seq.; or the
272 Federal Home Loan Banks' Affordable Housing Program established
273 pursuant to the Financial Institutions Reform, Recovery and
274 Enforcement Act of 1989, Pub. L. No. 101-73; or
275 (c) Multifamily residential rental properties of 10 or
276 more units that are deed restricted as affordable housing and
277 certified by the local housing agency as having at least 95
278 percent of its units providing affordable housing to extremely-
279 low-income persons, very-low-income persons, low-income persons,
280 and moderate-income persons as defined by s. 420.0004(8), (15),
281 (10), and (11).
282 8Section 8. Section 196.1978, Florida Statutes, is amended
283 to read:
284 196.1978 Affordable housing property exemption.--
285 (1) Property used to provide affordable housing serving
286 eligible persons as defined by s. 159.603(7) and persons meeting
287 income limits specified in s. 420.0004 (8), (10)~~(9)~~, (11)~~(10)~~,
288 and (15)~~(14)~~, which property is owned entirely by a nonprofit
289 entity which is qualified as charitable under s. 501(c)(3) of
290 the Internal Revenue Code and which complies with Rev. Proc. 96-
291 32, 1996-1 C.B. 717, shall be considered property owned by an
292 exempt entity and used for a charitable purpose, and those
293 portions of the affordable housing property which provide
294 housing to individuals with incomes as defined in s.
295 420.0004(10)~~(9)~~ and (15)~~(14)~~ shall be exempt from ad valorem
296 taxation to the extent authorized in s. 196.196.
297 (2) For the purposes of this section, ownership entirely
298 by a nonprofit entity is classified as ownership by either:

299 (a) A corporation not for profit; or
300 (b) A Florida limited partnership the sole general partner
301 of which is either a corporation not for profit or a Florida
302 limited liability company or corporation the sole member or
303 shareholder, respectively, of which is a corporation not for
304 profit.
305 (3) All property owned by a nonprofit entity identified in
306 this section shall comply with the criteria for determination of
307 exempt status to be applied by property appraisers on an annual
308 basis as defined in s. 196.195. In order to qualify for exempt
309 status, the nonprofit entity must affirmatively demonstrate to
310 the property appraiser that no part of the subject property, or
311 the sale, lease, or other disposition of the assets of the
312 property, will inure to the benefit of its member, officers,
313 limited liability partners, or any person or firm operating for
314 profit or for a nonexempt purpose. The Legislature intends that
315 any property owned by a limited liability company which is
316 disregarded as an entity for federal income tax purposes
317 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
318 treated as owned by its sole member.
319 Section 9. Paragraphs (o) and (q) of subsection (5) of
320 section 212.08, Florida Statutes, are amended to read:
321 212.08 Sales, rental, use, consumption, distribution, and
322 storage tax; specified exemptions.--The sale at retail, the
323 rental, the use, the consumption, the distribution, and the
324 storage to be used or consumed in this state of the following
325 are hereby specifically exempt from the tax imposed by this
326 chapter.
327 (5) EXEMPTIONS; ACCOUNT OF USE.--
328 (o) Building materials in redevelopment projects.--
329 1. As used in this paragraph, the term:

330 a. "Building materials" means tangible personal property
331 that becomes a component part of a housing project or a mixed-
332 use project.
333 b. "Housing project" means the conversion of an existing
334 manufacturing or industrial building to housing units in an
335 urban high-crime area, enterprise zone, empowerment zone, Front
336 Porch Community, designated brownfield area, or urban infill
337 area and in which the developer agrees to set aside at least 20
338 percent of the housing units in the project for extremely-low-
339 income, low-income, and moderate-income persons or the
340 construction in a designated brownfield area of affordable
341 housing for persons described in s. 420.0004(8)~~(9)~~, (11)~~(10)~~, or
342 (15)~~(14)~~, or in s. 159.603(7).
343 c. "Mixed-use project" means the conversion of an existing
344 manufacturing or industrial building to mixed-use units that
345 include artists' studios, art and entertainment services, or
346 other compatible uses. A mixed-use project must be located in an
347 urban high-crime area, enterprise zone, empowerment zone, Front
348 Porch Community, designated brownfield area, or urban infill
349 area, and the developer must agree to set aside at least 20
350 percent of the square footage of the project for low-income and
351 moderate-income housing.
352 d. "Substantially completed" has the same meaning as
353 provided in s. 192.042(1).
354 2. Building materials used in the construction of a
355 housing project or mixed-use project are exempt from the tax
356 imposed by this chapter upon an affirmative showing to the
357 satisfaction of the department that the requirements of this
358 paragraph have been met. This exemption inures to the owner
359 through a refund of previously paid taxes. To receive this

360 refund, the owner must file an application under oath with the
361 department which includes:
362 a. The name and address of the owner.
363 b. The address and assessment roll parcel number of the
364 project for which a refund is sought.
365 c. A copy of the building permit issued for the project.
366 d. A certification by the local building code inspector
367 that the project is substantially completed.
368 e. A sworn statement, under penalty of perjury, from the
369 general contractor licensed in this state with whom the owner
370 contracted to construct the project, which statement lists the
371 building materials used in the construction of the project and
372 the actual cost thereof, and the amount of sales tax paid on
373 these materials. If a general contractor was not used, the owner
374 shall provide this information in a sworn statement, under
375 penalty of perjury. Copies of invoices evidencing payment of
376 sales tax must be attached to the sworn statement.
377 3. An application for a refund under this paragraph must
378 be submitted to the department within 6 months after the date
379 the project is deemed to be substantially completed by the local
380 building code inspector. Within 30 working days after receipt of
381 the application, the department shall determine if it meets the
382 requirements of this paragraph. A refund approved pursuant to
383 this paragraph shall be made within 30 days after formal
384 approval of the application by the department. The provisions of
385 s. 212.095 do not apply to any refund application made under
386 this paragraph.
387 4. The department shall establish by rule an application
388 form and criteria for establishing eligibility for exemption
389 under this paragraph.

390 5. The exemption shall apply to purchases of materials on
391 or after July 1, 2000.
392 (q) Community contribution tax credit for donations.--
393 1. Authorization.--~~Beginning July 1, 2001,~~ Persons who are
394 registered with the department under s. 212.18 to collect or
395 remit sales or use tax and who make donations to eligible
396 sponsors are eligible for tax credits against their state sales
397 and use tax liabilities as provided in this paragraph:
398 a. The credit shall be computed as 50 percent of the
399 person's approved annual community contribution.~~;~~
400 b. The credit shall be granted as a refund against state
401 sales and use taxes reported on returns and remitted in the 12
402 months preceding the date of application to the department for
403 the credit as required in sub-subparagraph 3.c. If the annual
404 credit is not fully used through such refund because of
405 insufficient tax payments during the applicable 12-month period,
406 the unused amount may be included in an application for a refund
407 made pursuant to sub-subparagraph 3.c. in subsequent years
408 against the total tax payments made for such year. Carryover
409 credits may be applied for a 3-year period without regard to any
410 time limitation that would otherwise apply under s. 215.26.~~;~~
411 c. A person may not receive more than $200,000 in annual
412 tax credits for all approved community contributions made in any
413 one year.~~;~~
414 d. All proposals for the granting of the tax credit
415 require the prior approval of the Office of Tourism, Trade, and
416 Economic Development.~~;~~
417 e. The total amount of tax credits which may be granted
418 for all programs approved under this paragraph, s. 220.183, and
419 s. 624.5105 is $10 ~~$12~~ million annually for projects that
420 provide homeownership opportunities for extremely-low-income

421 persons, as defined in s. 420.004(8), or low-income or very-low-
422 income persons, as defined in s. 420.9071(19) and (28), and $3
423 million annually for all other projects.~~; and~~
424 f. A person who is eligible to receive the credit provided
425 for in this paragraph, s. 220.183, or s. 624.5105 may receive
426 the credit only under the one section of the person's choice.
427 2. Eligibility requirements.--
428 a. A community contribution by a person must be in the
429 following form:
430 (I) Cash or other liquid assets;
431 (II) Real property;
432 (III) Goods or inventory; or
433 (IV) Other physical resources as identified by the Office
434 of Tourism, Trade, and Economic Development.
435 b. All community contributions must be reserved
436 exclusively for use in a project. As used in this sub-
437 subparagraph, the term "project" means any activity undertaken
438 by an eligible sponsor which is designed to construct, improve,
439 or substantially rehabilitate housing that is affordable to
440 extremely-low-income persons, as defined in s. 420.0004(8), or
441 low-income or very-low-income households, as defined in s.
442 420.9071(19) and (28); designed to provide commercial,
443 industrial, or public resources and facilities; or designed to
444 improve entrepreneurial and job-development opportunities for
445 low-income persons. A project may be the investment necessary to
446 increase access to high-speed broadband capability in rural
447 communities with enterprise zones, including projects that
448 result in improvements to communications assets that are owned
449 by a business. A project may include the provision of museum
450 educational programs and materials that are directly related to
451 any project approved between January 1, 1996, and December 31,

452 1999, and located in an enterprise zone designated pursuant to
453 s. 290.0065. This paragraph does not preclude projects that
454 propose to construct or rehabilitate housing for extremely-low-
455 income, low-income or very-low-income households on scattered
456 sites. With respect to housing, contributions may be used to pay
457 the following eligible extremely-low-income, low-income and
458 very-low-income housing-related activities:
459 (I) Project development impact and management fees for
460 extremely-low-income, low-income, or very-low-income housing
461 projects;
462 (II) Down payment and closing costs for eligible persons,
463 as defined in s. 420.9071(19) and (28) and s. 420.0004(8);
464 (III) Administrative costs, including housing counseling
465 and marketing fees, not to exceed 10 percent of the community
466 contribution, directly related to extremely-low-income, low-
467 income, or very-low-income projects; and
468 (IV) Removal of liens recorded against residential
469 property by municipal, county, or special district local
470 governments when satisfaction of the lien is a necessary
471 precedent to the transfer of the property to an eligible person,
472 as defined in s. 420.9071(19) and (28) and s. 420.0004(8), for
473 the purpose of promoting home ownership. Contributions for lien
474 removal must be received from a nonrelated third party.
475 c. The project must be undertaken by an "eligible
476 sponsor," which includes:
477 (I) A community action program;
478 (II) A nonprofit community-based development organization
479 whose mission is the provision of housing for extremely-low-
480 income, low-income, or very-low-income households or increasing
481 entrepreneurial and job-development opportunities for low-income
482 persons;

483 (III) A neighborhood housing services corporation;
484 (IV) A local housing authority created under chapter 421;
485 (V) A community redevelopment agency created under s.
486 163.356;
487 (VI) The Florida Industrial Development Corporation;
488 (VII) A historic preservation district agency or
489 organization;
490 (VIII) A regional workforce board;
491 (IX) A direct-support organization as provided in s.
492 1009.983;
493 (X) An enterprise zone development agency created under s.
494 290.0056;
495 (XI) A community-based organization incorporated under
496 chapter 617 which is recognized as educational, charitable, or
497 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
498 and whose bylaws and articles of incorporation include
499 affordable housing, economic development~~,~~ or community
500 development as the primary mission of the corporation;
501 (XII) Units of local government;
502 (XIII) Units of state government; or
503 (XIV) Any other agency that the Office of Tourism, Trade,
504 and Economic Development designates by rule.
505
506 In no event may a contributing person have a financial interest
507 in the eligible sponsor.
508 d. The project must be located in an area designated an
509 enterprise zone or a Front Porch Florida Community pursuant to
510 s. 20.18(6), unless the project increases access to high-speed
511 broadband capability for rural communities with enterprise zones
512 but is physically located outside the designated rural zone
513 boundaries. Any project designed to construct or rehabilitate

514 housing for extremely-low-income households as defined in s.
515 420.004(8) or low-income or very-low-income households as
516 defined in s. 420.9071~~0971~~(19) and (28) and s. 420.0004(8) is
517 exempt from the area requirement of this sub-subparagraph.
518 e.(I) ~~For the first 6 months of the fiscal year, the~~
519 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
520 ~~80 percent of the first $10 million in available annual tax~~
521 ~~credits and 70 percent of any available annual tax credits in~~
522 ~~excess of $10 million for donations made to eligible sponsors~~
523 ~~for projects that provide homeownership opportunities for low-~~
524 ~~income or very-low-income households as defined in s.~~
525 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
526 ~~remain after the first 6 months of the fiscal year, the office~~
527 ~~may approve the balance of these available credits for donations~~
528 ~~made to eligible sponsors for projects other than those that~~
529 ~~provide homeownership opportunities for low-income or very-low-~~
530 ~~income households.~~
531 ~~(II) For the first 6 months of the fiscal year, the office~~
532 ~~shall reserve 20 percent of the first $10 million in available~~
533 ~~annual tax credits and 30 percent of any available annual tax~~
534 ~~credits in excess of $10 million for donations made to eligible~~
535 ~~sponsors for projects other than those that provide~~
536 ~~homeownership opportunities for low-income or very-low-income~~
537 ~~households as defined in s. 420.9071(19) and (28). If any~~
538 ~~reserved annual tax credits remain after the first 6 months of~~
539 ~~the fiscal year, the office may approve the balance of these~~
540 ~~available credits for donations made to eligible sponsors for~~
541 ~~projects that provide homeownership opportunities for low-income~~
542 ~~or very-low-income households.~~
543 ~~(III)~~ If, during the first 10 business days of the state
544 fiscal year, eligible tax credit applications for projects that

545 provide homeownership opportunities for extremely-low-income
546 persons, as defined in s. 420.004(8), or low-income or very-low-
547 income persons, as defined in s. 420.9071(19) and (28), are
548 received for less than the ~~available~~ annual tax credits
549 available for those projects ~~reserved under sub-sub-subparagraph~~
550 ~~(I)~~, the office shall grant tax credits for those applications
551 and shall grant remaining tax credits on a first-come, first-
552 served basis for any subsequent eligible applications received
553 before the end of the ~~first 6 months of the~~ state fiscal year.
554 If, during the first 10 business days of the state fiscal year,
555 eligible tax credit applications for projects that provide
556 homeownership opportunities for extremely-low-income persons, as
557 defined in s. 420.004(8), or low-income or very-low-income
558 persons, as defined in s. 420.9071(19) and (28), are received
559 for more than the ~~available~~ annual tax credits available for
560 those projects ~~reserved under sub-sub-subparagraph (I)~~, the
561 office shall grant the tax credits for those ~~the~~ applications as
562 follows:
563 (A) If tax credit applications submitted for approved
564 projects of an eligible sponsor do not exceed $200,000 in total,
565 the credits shall be granted in full if the tax credit
566 applications are approved~~, subject to sub-sub-subparagraph (I)~~.
567 (B) If tax credit applications submitted for approved
568 projects of an eligible sponsor exceed $200,000 in total, the
569 amount of tax credits granted pursuant to sub-sub-sub-
570 subparagraph (A) shall be subtracted from the amount of
571 available tax credits ~~under sub-sub-subparagraph (I)~~, and the
572 remaining credits shall be granted to each approved tax credit
573 application on a pro rata basis.
574 ~~(C) If, after the first 6 months of the fiscal year,~~
575 ~~additional credits become available under sub-sub-subparagraph~~

576 ~~(II), the office shall grant the tax credits by first granting~~
577 ~~to those who received a pro rata reduction up to the full amount~~
578 ~~of their request and, if there are remaining credits, granting~~
579 ~~credits to those who applied on or after the 11th business day~~
580 ~~of the state fiscal year on a first-come, first-served basis.~~
581 (II)~~(IV)~~ If, during the first 10 business days of the
582 state fiscal year, eligible tax credit applications for projects
583 other than those that provide homeownership opportunities for
584 extremely-low-income persons, as defined in s. 420.004(8), or
585 low-income or very-low-income persons, as defined in s.
586 420.9071(19) and (28), are received for less than the ~~available~~
587 annual tax credits available for those projects ~~reserved under~~
588 ~~sub-sub-subparagraph (II)~~, the office shall grant tax credits
589 for those applications and shall grant remaining tax credits on
590 a first-come, first-served basis for any subsequent eligible
591 applications received before the end of ~~the first 6 months of~~
592 the state fiscal year. If, during the first 10 business days of
593 the state fiscal year, eligible tax credit applications for
594 projects other than those that provide homeownership
595 opportunities for extremely-low-income persons, as defined in s.
596 420.004(8), or low-income or very-low-income persons, as defined
597 in s. 420.9071(19) and (28), are received for more than the
598 ~~available~~ annual tax credits available for those projects
599 ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant
600 the tax credits for those ~~the~~ applications on a pro rata basis.
601 ~~If, after the first 6 months of the fiscal year, additional~~
602 ~~credits become available under sub-sub-subparagraph (I), the~~
603 ~~office shall grant the tax credits by first granting to those~~
604 ~~who received a pro rata reduction up to the full amount of their~~
605 ~~request and, if there are remaining credits, granting credits to~~

606 ~~those who applied on or after the 11th business day of the state~~
607 ~~fiscal year on a first-come, first-served basis.~~
608 3. Application requirements.--
609 a. Any eligible sponsor seeking to participate in this
610 program must submit a proposal to the Office of Tourism, Trade,
611 and Economic Development which sets forth the name of the
612 sponsor, a description of the project, and the area in which the
613 project is located, together with such supporting information as
614 is prescribed by rule. The proposal must also contain a
615 resolution from the local governmental unit in which the project
616 is located certifying that the project is consistent with local
617 plans and regulations.
618 b. Any person seeking to participate in this program must
619 submit an application for tax credit to the office ~~of Tourism,~~
620 ~~Trade, and Economic Development~~ which sets forth the name of the
621 sponsor, a description of the project, and the type, value, and
622 purpose of the contribution. The sponsor shall verify the terms
623 of the application and indicate its receipt of the contribution,
624 which verification must be in writing and accompany the
625 application for tax credit. The person must submit a separate
626 tax credit application to the office for each individual
627 contribution that it makes to each individual project.
628 c. Any person who has received notification from the
629 office ~~of Tourism, Trade, and Economic Development~~ that a tax
630 credit has been approved must apply to the department to receive
631 the refund. Application must be made on the form prescribed for
632 claiming refunds of sales and use taxes and be accompanied by a
633 copy of the notification. A person may submit only one
634 application for refund to the department within any 12-month
635 period.
636 4. Administration.--

637 a. The Office of Tourism, Trade, and Economic Development
638 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary
639 to administer this paragraph, including rules for the approval
640 or disapproval of proposals by a person.
641 b. The decision of the office ~~of Tourism, Trade, and~~
642 ~~Economic Development~~ must be in writing, and, if approved, the
643 notification shall state the maximum credit allowable to the
644 person. Upon approval, the office shall transmit a copy of the
645 decision to the Department of Revenue.
646 c. The office ~~of Tourism, Trade, and Economic Development~~
647 shall periodically monitor all projects in a manner consistent
648 with available resources to ensure that resources are used in
649 accordance with this paragraph; however, each project must be
650 reviewed at least once every 2 years.
651 d. The office ~~of Tourism, Trade, and Economic Development~~
652 shall, in consultation with the Department of Community Affairs~~,~~
653 ~~the Florida Housing Finance Corporation,~~ and the statewide and
654 regional housing and financial intermediaries, market the
655 availability of the community contribution tax credit program to
656 community-based organizations.
657 5. Expiration.--This paragraph expires June 30, 2015;
658 however, any accrued credit carryover that is unused on that
659 date may be used until the expiration of the 3-year carryover
660 period for such credit.
661 Section 10. Paragraph (c) of subsection (1) and paragraph
662 (b) of subsection (2) of section 220.183, Florida Statutes, are
663 amended to read:
664 220.183 Community contribution tax credit.--
665 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
666 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
667 SPENDING.--

668 (c) The total amount of tax credit which may be granted
669 for all programs approved under this section, s. 212.08(5)(q),
670 and s. 624.5105 is $10 ~~$12~~ million annually for projects that
671 provide homeownership opportunities for extremely-low-income
672 persons, as defined in s. 420.004(8), or low-income or very-low-
673 income persons, as defined in s. 420.9071(19) and (28), and $3
674 million annually for all other projects.
675 (2) ELIGIBILITY REQUIREMENTS.--
676 (b)1. All community contributions must be reserved
677 exclusively for use in projects as defined in s. 220.03(1)(t).
678 ~~2. For the first 6 months of the fiscal year, the Office~~
679 ~~of Tourism, Trade, and Economic Development shall reserve 80~~
680 ~~percent of the first $10 million in available annual tax~~
681 ~~credits, and 70 percent of any available annual tax credits in~~
682 ~~excess of $10 million, for donations made to eligible sponsors~~
683 ~~for projects that provide homeownership opportunities for low-~~
684 ~~income or very-low-income households as defined in s.~~
685 ~~420.9071(19) and (28). If any reserved annual tax credits remain~~
686 ~~after the first 6 months of the fiscal year, the office may~~
687 ~~approve the balance of these available credits for donations~~
688 ~~made to eligible sponsors for projects other than those that~~
689 ~~provide homeownership opportunities for low-income or very-low-~~
690 ~~income households.~~
691 ~~3. For the first 6 months of the fiscal year, the office~~
692 ~~shall reserve 20 percent of the first $10 million in available~~
693 ~~annual tax credits, and 30 percent of any available annual tax~~
694 ~~credits in excess of $10 million, for donations made to eligible~~
695 ~~sponsors for projects other than those that provide~~
696 ~~homeownership opportunities for low-income or very-low-income~~
697 ~~households as defined in s. 420.9071(19) and (28). If any~~
698 ~~reserved annual tax credits remain after the first 6 months of~~

699 ~~the fiscal year, the office may approve the balance of these~~
700 ~~available credits for donations made to eligible sponsors for~~
701 ~~projects that provide homeownership opportunities for low-income~~
702 ~~or very-low-income households.~~
703 2.~~4.~~ If, during the first 10 business days of the state
704 fiscal year, eligible tax credit applications for projects that
705 provide homeownership opportunities for extremely-low-income
706 persons, as defined in s. 420.004(8), or low-income or very-low-
707 income persons, as defined in s. 420.9071(19) and (28), are
708 received for less than the ~~available~~ annual tax credits
709 available for those projects ~~reserved under subparagraph 2.~~, the
710 office shall grant tax credits for those applications and shall
711 grant remaining tax credits on a first-come, first-served basis
712 for any subsequent eligible applications received before the end
713 of the ~~first 6 months of the~~ state fiscal year. If, during the
714 first 10 business days of the state fiscal year, eligible tax
715 credit applications for projects that provide homeownership
716 opportunities for extremely-low-income persons, as defined in s.
717 420.004(8), or low-income or very-low-income persons, as defined
718 in s. 420.9071(19) and (28), are received for more than the
719 ~~available~~ annual tax credits available for those projects
720 ~~reserved under subparagraph 2.~~, the office shall grant the tax
721 credits for those ~~such~~ applications as follows:
722 a. If tax credit applications submitted for approved
723 projects of an eligible sponsor do not exceed $200,000 in total,
724 the credit shall be granted in full if the tax credit
725 applications are approved~~, subject to the provisions of~~
726 ~~subparagraph 2~~.
727 b. If tax credit applications submitted for approved
728 projects of an eligible sponsor exceed $200,000 in total, the
729 amount of tax credits granted under sub-subparagraph a. shall be

730 subtracted from the amount of available tax credits ~~under~~
731 ~~subparagraph 2.~~, and the remaining credits shall be granted to
732 each approved tax credit application on a pro rata basis.
733 ~~c. If, after the first 6 months of the fiscal year,~~
734 ~~additional credits become available pursuant to subparagraph 3.,~~
735 ~~the office shall grant the tax credits by first granting to~~
736 ~~those who received a pro rata reduction up to the full amount of~~
737 ~~their request and, if there are remaining credits, granting~~
738 ~~credits to those who applied on or after the 11th business day~~
739 ~~of the state fiscal year on a first-come, first-served basis.~~
740 3.~~5.~~ If, during the first 10 business days of the state
741 fiscal year, eligible tax credit applications for projects other
742 than those that provide homeownership opportunities for
743 extremely-low-income persons, as defined in s. 420.004(8), or
744 low-income or very-low-income persons, as defined in s.
745 420.9071(19) and (28), are received for less than the ~~available~~
746 annual tax credits available for those projects ~~reserved under~~
747 ~~subparagraph 3.~~, the office shall grant tax credits for those
748 applications and shall grant remaining tax credits on a first-
749 come, first-served basis for any subsequent eligible
750 applications received before the end of the ~~first 6 months of~~
751 ~~the~~ state fiscal year. If, during the first 10 business days of
752 the state fiscal year, eligible tax credit applications for
753 projects other than those that provide homeownership
754 opportunities for extremely-low-income persons, as defined in s.
755 420.004(8), or low-income or very-low-income persons, as defined
756 in s. 420.9071(19) and (28), are received for more than the
757 ~~available~~ annual tax credits available for those projects
758 ~~reserved under subparagraph 3.~~, the office shall grant the tax
759 credits for those ~~such~~ applications on a pro rata basis. ~~If,~~
760 ~~after the first 6 months of the fiscal year, additional credits~~

761 ~~become available under subparagraph 2., the office shall grant~~
762 ~~the tax credits by first granting to those who received a pro~~
763 ~~rata reduction up to the full amount of their request and, if~~
764 ~~there are remaining credits, granting credits to those who~~
765 ~~applied on or after the 11th business day of the state fiscal~~
766 ~~year on a first-come, first-served basis.~~
767 Section 11. Paragraph (f) of subsection (6) of section
768 253.034, Florida Statutes, is amended to read:
769 253.034 State-owned lands; uses.--
770 (6) The Board of Trustees of the Internal Improvement
771 Trust Fund shall determine which lands, the title to which is
772 vested in the board, may be surplused. For conservation lands,
773 the board shall make a determination that the lands are no
774 longer needed for conservation purposes and may dispose of them
775 by an affirmative vote of at least three members. In the case of
776 a land exchange involving the disposition of conservation lands,
777 the board must determine by an affirmative vote of at least
778 three members that the exchange will result in a net positive
779 conservation benefit. For all other lands, the board shall make
780 a determination that the lands are no longer needed and may
781 dispose of them by an affirmative vote of at least three
782 members.
783 (f)1. In reviewing lands owned by the board, the council
784 shall consider whether such lands would be more appropriately
785 owned or managed by the county or other unit of local government
786 in which the land is located. The council shall recommend to the
787 board whether a sale, lease, or other conveyance to a local
788 government would be in the best interests of the state and local
789 government. The provisions of this paragraph in no way limit the
790 provisions of ss. 253.111 and 253.115. Such lands shall be
791 offered to the state, county, or local government for a period

792 of 30 days. Permittable uses for such surplus lands may include
793 public schools; public libraries; fire or law enforcement
794 substations; ~~and~~ governmental, judicial, or recreational
795 centers; and affordable housing as defined in section
796 420.004(3). County or local government requests for surplus
797 lands shall be expedited throughout the surplusing process. If
798 the county or local government does not elect to purchase such
799 lands in accordance with s. 253.111, then any surplusing
800 determination involving other governmental agencies shall be
801 made upon the board deciding the best public use of the lands.
802 Surplus properties in which governmental agencies have expressed
803 no interest shall then be available for sale on the private
804 market.
805 2. Notwithstanding subparagraph 1., any surplus lands that
806 were acquired by the state prior to 1958 by a gift or other
807 conveyance for no consideration from a municipality, and which
808 the department has filed by July 1, 2006, a notice of its intent
809 to surplus, shall be first offered for reconveyance to such
810 municipality at no cost, but for the fair market value of any
811 building or other improvements to the land, unless otherwise
812 provided in a deed restriction of record. This subparagraph
813 expires July 1, 2006.
814 Section 12. Section 253.0341, Florida Statutes, is amended
815 to read:
816 253.0341 Surplus of state-owned lands to counties or local
817 governments.--Counties and local governments may submit
818 surplusing requests for state-owned lands directly to the board
819 of trustees. County or local government requests for the state
820 to surplus conservation or nonconservation lands, whether for
821 purchase or exchange, shall be expedited throughout the
822 surplusing process. Property jointly acquired by the state and

823 other entities shall not be surplused without the consent of all
824 joint owners.
825 (1) The decision to surplus state-owned nonconservation
826 lands may be made by the board without a review of, or a
827 recommendation on, the request from the Acquisition and
828 Restoration Council or the Division of State Lands. Such
829 requests for nonconservation lands shall be considered by the
830 board within 60 days of the board's receipt of the request.
831 (2) County or local government requests for the surplusing
832 of state-owned conservation lands are subject to review of, and
833 recommendation on, the request to the board by the Acquisition
834 and Restoration Council. Requests to surplus conservation lands
835 shall be considered by the board within 120 days of the board's
836 receipt of the request.
837 (3) A local government may request that state lands be
838 specifically declared surplus lands for the purpose of providing
839 affordable housing. The request shall comply with the
840 requirements of subsection (1) if the lands are nonconservation
841 lands or subsection (2) if the lands are conservation lands.
842 Surplus lands that are conveyed to a local government for
843 affordable housing shall be disposed of by the local government
844 under the provisions of s. 125.379 or s. 166.0451.
845 Section 13. Section 295.16, Florida Statutes, is amended
846 to read:
847 295.16 Disabled veterans exempt from certain license or
848 permit fee.--No totally and permanently disabled veteran who is
849 a resident of Florida and honorably discharged from the Armed
850 Forces, who has been issued a valid identification card by the
851 Department of Veterans' Affairs in accordance with s. 295.17 or
852 has been determined by the United States Department of Veterans
853 Affairs or its predecessor to have a service-connected 100-

854 percent disability rating for compensation, or who has been
855 determined to have a service-connected disability rating of 100
856 percent and is in receipt of disability retirement pay from any
857 branch of the uniformed armed services, shall be required to pay
858 any license or permit fee, by whatever name known, to any county
859 or municipality in order to make improvements upon a dwelling
860 ~~mobile home~~ owned by the veteran which is used as the veteran's
861 residence, provided such improvements are limited to ramps,
862 widening of doors, and similar improvements for the purpose of
863 making the dwelling ~~mobile home~~ habitable for veterans confined
864 to wheelchairs.
865 Section 14. A new subsection (13)is added to section
866 376.30781, Florida Statutes to read:
867 376.30781. Partial tax credits for rehabilitation of
868 drycleaning-solvent-contaminated sites and brownfield sites in
869 designated brownfield areas; application process; rulemaking
870 authority; revocation authority.--
871 (13) An applicant that provides affordable housing as
872 defined in ss. 420.0004 shall be considered eligible for funding
873 under this section if it can certify that it is either a
874 corporate affiliate, a subsidiary of it's corporate parent or
875 has an agreement with the party that entered into a voluntary
876 cleanup agreement with the Department of Environmental
877 Protection for a drycleaning-solvent-contaminated site or a
878 Brownfield site or a Brownfield Site Rehabilitation Agreement.
879 If the applicant can certify that it qualifies for funding
880 through such certification, but has been denied tax credits for
881 that reason in the previous year, it shall be allowed to reapply
882 in the following year one time for the total amount of credits
883 for which they were denied.

884 Section 15. Paragraphs (b) and (e) of subsection (19) of
885 section 380.06, Florida Statutes, are amended and a new
886 paragraph (i) is added to said subsection to read:
887 380.06 Developments of regional impact.--
888 (19) SUBSTANTIAL DEVIATIONS.--
889 (b) Any proposed change to a previously approved
890 development of regional impact or development order condition
891 which, either individually or cumulatively with other changes,
892 exceeds any of the following criteria shall constitute a
893 substantial deviation and shall cause the development to be
894 subject to further development-of-regional-impact review without
895 the necessity for a finding of same by the local government:
896 1. An increase in the number of parking spaces at an
897 attraction or recreational facility by 5 percent or 300 spaces,
898 whichever is greater, or an increase in the number of spectators
899 that may be accommodated at such a facility by 5 percent or
900 1,000 spectators, whichever is greater.
901 2. A new runway, a new terminal facility, a 25-percent
902 lengthening of an existing runway, or a 25-percent increase in
903 the number of gates of an existing terminal, but only if the
904 increase adds at least three additional gates.
905 3. An increase in the number of hospital beds by 5 percent
906 or 60 beds, whichever is greater.
907 4. An increase in industrial development area by 5 percent
908 or 32 acres, whichever is greater.
909 5. An increase in the average annual acreage mined by 5
910 percent or 10 acres, whichever is greater, or an increase in the
911 average daily water consumption by a mining operation by 5
912 percent or 300,000 gallons, whichever is greater. An increase in
913 the size of the mine by 5 percent or 750 acres, whichever is
914 less. An increase in the size of a heavy mineral mine as defined

915 in s. 378.403(7) will only constitute a substantial deviation if
916 the average annual acreage mined is more than 500 acres and
917 consumes more than 3 million gallons of water per day.
918 6. An increase in land area for office development by 5
919 percent or an increase of gross floor area of office development
920 by 5 percent or 60,000 gross square feet, whichever is greater.
921 7. An increase in the storage capacity for chemical or
922 petroleum storage facilities by 5 percent, 20,000 barrels, or 7
923 million pounds, whichever is greater.
924 8. An increase of development at a waterport of wet
925 storage for 20 watercraft, dry storage for 30 watercraft, or
926 wet/dry storage for 60 watercraft in an area identified in the
927 state marina siting plan as an appropriate site for additional
928 waterport development or a 5-percent increase in watercraft
929 storage capacity, whichever is greater.
930 9. An increase in the number of dwelling units by 5
931 percent or 50 dwelling units, whichever is greater.
932 10. An increase in the number of dwelling units by 50
933 percent or 200 units, whichever is greater, provided that 15
934 percent of the proposed additional dwelling units are dedicated
935 to affordable workforce housing, subject to a recorded land use
936 restriction that shall be for a period of not less than 20 years
937 and that includes resale provisions to ensure long-term
938 affordability for income-eligible homeowners and renters and
939 provisions for the workforce housing to be commenced prior to
940 the completion of 50 percent of the market rate dwelling. For
941 purposes of this subparagraph, the term "affordable workforce
942 housing" means housing that is affordable to a person who earns
943 less than 120 percent of the area median income, or less than
944 140 percent of the area median income if located in a county in
945 which the median purchase price for a single-family existing

946 home exceeds the statewide median purchase price of a single-
947 family existing home. For purposes of this subparagraph, the
948 term "statewide median purchase price of a single-family
949 existing home" means the statewide purchase price as determined
950 in the Florida Sales Report, Single-Family Existing Homes,
951 released each January by the Florida Association of Realtors and
952 the University of Florida Real Estate Research Center.
953 11.~~10.~~ An increase in commercial development by 50,000
954 square feet of gross floor area or of parking spaces provided
955 for customers for 300 cars or a 5-percent increase of either of
956 these, whichever is greater.
957 12.~~11.~~ An increase in hotel or motel facility units by 5
958 percent or 75 units, whichever is greater.
959 13.~~12.~~ An increase in a recreational vehicle park area by
960 5 percent or 100 vehicle spaces, whichever is less.
961 14.~~13.~~ A decrease in the area set aside for open space of
962 5 percent or 20 acres, whichever is less.
963 15.~~14.~~ A proposed increase to an approved multiuse
964 development of regional impact where the sum of the increases of
965 each land use as a percentage of the applicable substantial
966 deviation criteria is equal to or exceeds 100 percent. The
967 percentage of any decrease in the amount of open space shall be
968 treated as an increase for purposes of determining when 100
969 percent has been reached or exceeded.
970 16.~~15.~~ A 15-percent increase in the number of external
971 vehicle trips generated by the development above that which was
972 projected during the original development-of-regional-impact
973 review.
974 17.~~16.~~ Any change which would result in development of any
975 area which was specifically set aside in the application for
976 development approval or in the development order for

977 preservation or special protection of endangered or threatened
978 plants or animals designated as endangered, threatened, or
979 species of special concern and their habitat, primary dunes, or
980 archaeological and historical sites designated as significant by
981 the Division of Historical Resources of the Department of State.
982 The further refinement of such areas by survey shall be
983 considered under sub-subparagraph (e)5.b.
984
985 The substantial deviation numerical standards in subparagraphs
986 4., 6., 10., 11., and 15. ~~14.~~, excluding residential uses, and
987 16. ~~15.~~, are increased by 100 percent for a project certified
988 under s. 403.973 which creates jobs and meets criteria
989 established by the Office of Tourism, Trade, and Economic
990 Development as to its impact on an area's economy, employment,
991 and prevailing wage and skill levels. The substantial deviation
992 numerical standards in subparagraphs 4., 6., 9., 10., 11., 12.,
993 and 15. ~~14.~~ are increased by 50 percent for a project located
994 wholly within an urban infill and redevelopment area designated
995 on the applicable adopted local comprehensive plan future land
996 use map and not located within the coastal high hazard area.
997 (e)1. Except for a development order rendered pursuant to
998 subsection (22) or subsection (25), a proposed change to a
999 development order that individually or cumulatively with any
1000 previous change is less than any numerical criterion contained
1001 in subparagraphs (b)1.-16. ~~(b)1.-15.~~ and does not exceed any
1002 other criterion, or that involves an extension of the buildout
1003 date of a development, or any phase thereof, of less than 5
1004 years is not subject to the public hearing requirements of
1005 subparagraph (f)3., and is not subject to a determination
1006 pursuant to subparagraph (f)5. Notice of the proposed change
1007 shall be made to the regional planning council and the state

1008 land planning agency. Such notice shall include a description of
1009 previous individual changes made to the development, including
1010 changes previously approved by the local government, and shall
1011 include appropriate amendments to the development order.
1012 2. The following changes, individually or cumulatively
1013 with any previous changes, are not substantial deviations:
1014 a. Changes in the name of the project, developer, owner,
1015 or monitoring official.
1016 b. Changes to a setback that do not affect noise buffers,
1017 environmental protection or mitigation areas, or archaeological
1018 or historical resources.
1019 c. Changes to minimum lot sizes.
1020 d. Changes in the configuration of internal roads that do
1021 not affect external access points.
1022 e. Changes to the building design or orientation that stay
1023 approximately within the approved area designated for such
1024 building and parking lot, and which do not affect historical
1025 buildings designated as significant by the Division of
1026 Historical Resources of the Department of State.
1027 f. Changes to increase the acreage in the development,
1028 provided that no development is proposed on the acreage to be
1029 added.
1030 g. Changes to eliminate an approved land use, provided
1031 that there are no additional regional impacts.
1032 h. Changes required to conform to permits approved by any
1033 federal, state, or regional permitting agency, provided that
1034 these changes do not create additional regional impacts.
1035 i. Any renovation or redevelopment of development within a
1036 previously approved development of regional impact which does
1037 not change land use or increase density or intensity of use.

1038 j. Any other change which the state land planning agency
1039 agrees in writing is similar in nature, impact, or character to
1040 the changes enumerated in sub-subparagraphs a.-i. and which does
1041 not create the likelihood of any additional regional impact.
1042
1043 This subsection does not require a development order amendment
1044 for any change listed in sub-subparagraphs a.-j. unless such
1045 issue is addressed either in the existing development order or
1046 in the application for development approval, but, in the case of
1047 the application, only if, and in the manner in which, the
1048 application is incorporated in the development order.
1049 3. Except for the change authorized by sub-subparagraph
1050 2.f., any addition of land not previously reviewed or any change
1051 not specified in paragraph (b) or paragraph (c) shall be
1052 presumed to create a substantial deviation. This presumption may
1053 be rebutted by clear and convincing evidence.
1054 4. Any submittal of a proposed change to a previously
1055 approved development shall include a description of individual
1056 changes previously made to the development, including changes
1057 previously approved by the local government. The local
1058 government shall consider the previous and current proposed
1059 changes in deciding whether such changes cumulatively constitute
1060 a substantial deviation requiring further development-of-
1061 regional-impact review.
1062 5. The following changes to an approved development of
1063 regional impact shall be presumed to create a substantial
1064 deviation. Such presumption may be rebutted by clear and
1065 convincing evidence.
1066 a. A change proposed for 15 percent or more of the acreage
1067 to a land use not previously approved in the development order.

1068 Changes of less than 15 percent shall be presumed not to create
1069 a substantial deviation.
1070 b. Except for the types of uses listed in subparagraph
1071 (b)17. ~~(b)16.~~, any change which would result in the development
1072 of any area which was specifically set aside in the application
1073 for development approval or in the development order for
1074 preservation, buffers, or special protection, including habitat
1075 for plant and animal species, archaeological and historical
1076 sites, dunes, and other special areas.
1077 c. Notwithstanding any provision of paragraph (b) to the
1078 contrary, a proposed change consisting of simultaneous increases
1079 and decreases of at least two of the uses within an authorized
1080 multiuse development of regional impact which was originally
1081 approved with three or more uses specified in s. 380.0651(3)(c),
1082 (d), (f), and (g) and residential use.
1083 (i) An increase in the number of residential dwelling
1084 units shall not constitute a substantial deviation and shall not
1085 be subject to development-of-regional-impact review for
1086 additional impacts provided that all the residential dwelling
1087 units are dedicated to affordable workforce housing, subject to
1088 a recorded land use restriction that shall be for a period of
1089 not less than 20 years and that includes resale provisions to
1090 ensure long-term affordability for income-eligible homeowners
1091 and renters. For purposes of this paragraph, the term
1092 "affordable workforce housing" means housing that is affordable
1093 to a person who earns less than 120 percent of the area median
1094 income, or less than 140 percent of the area median income if
1095 located in a county in which the median purchase price for a
1096 single-family existing home exceeds the statewide median
1097 purchase price of a single-family existing home. For purposes of
1098 this paragraph, the term "statewide median purchase price of a

1099 single-family existing home" means the statewide purchase price
1100 as determined in the Florida Sales Report, Single-Family
1101 Existing Homes, released each January by the Florida Association
1102 of Realtors and the University of Florida Real Estate Research
1103 Center.
1104 Section 15. Paragraph (k) of subsection (3) of section
1105 380.0651, Florida Statutes, is redesignated as paragraph (l),
1106 and a new paragraph (k) is added to that subsection to read:
1107 380.0651 Statewide guidelines and standards.--
1108 (3) The following statewide guidelines and standards shall
1109 be applied in the manner described in s. 380.06(2) to determine
1110 whether the following developments shall be required to undergo
1111 development-of-regional-impact review:
1112 (k) Workforce housing. The applicable guidelines for
1113 residential development and the residential component for
1114 multiuse development shall be increased by 50 percent where the
1115 developer demonstrates that at least 15 percent of the total
1116 residential dwelling units authorized within the development of
1117 regional impact will be dedicated to affordable workforce
1118 housing, subject to a recorded land use restriction that shall
1119 be for a period of not less than 20 years and that includes
1120 resale provisions to ensure long-term affordability for income-
1121 eligible homeowners and renters and provisions for the workforce
1122 housing to be commenced prior to the completion of 50 percent of
1123 the market rate dwelling. For purposes of this paragraph, the
1124 term "affordable workforce housing" means housing that is
1125 affordable to a person who earns less than 120 percent of the
1126 area median income, or less than 140 percent of the area median
1127 income if located in a county in which the median purchase price
1128 for a single-family existing home exceeds the statewide median
1129 purchase price of a single-family existing home. For the

1130 purposes of this paragraph, the term "statewide median purchase
1131 price of a single-family existing home" means the statewide
1132 purchase price as determined in the Florida Sales Report,
1133 Single-Family Existing Homes, released each January by the
1134 Florida Association of Realtors and the University of Florida
1135 Real Estate Research Center.
1136 Section 16. Section 420.0004, Florida Statutes, is amended
1137 to read:
1138 420.0004 Definitions.--As used in this part, unless the
1139 context otherwise indicates:
1140 (1) "Adjusted for family size" means adjusted in a manner
1141 which results in an income eligibility level which is lower for
1142 households with fewer than four people, or higher for households
1143 with more than four people, than the base income eligibility
1144 determined as provided in subsection (8), subsection (10) ~~(9)~~,
1145 subsection (11) ~~(10)~~, or subsection (15) ~~(14)~~, based upon a
1146 formula as established by the United States Department of
1147 Housing and Urban Development.
1148 (2) "Adjusted gross income" means all wages, assets,
1149 regular cash or noncash contributions or gifts from persons
1150 outside the household, and such other resources and benefits as
1151 may be determined to be income by the United States Department
1152 of Housing and Urban Development, adjusted for family size, less
1153 deductions allowable under s. 62 of the Internal Revenue Code.
1154 (3) "Affordable" means that monthly rents or monthly
1155 mortgage payments including taxes, insurance, and utilities do
1156 not exceed 30 percent of that amount which represents the
1157 percentage of the median adjusted gross annual income for the
1158 households as indicated in subsection (8), subsection (10) ~~(9)~~,
1159 subsection (11) ~~(10)~~, or subsection (15) ~~(14)~~.

1160 (4) "Corporation" means the Florida Housing Finance
1161 Corporation.
1162 (5) "Community-based organization" or "nonprofit
1163 organization" means a private corporation organized under
1164 chapter 617 to assist in the provision of housing and related
1165 services on a not-for-profit basis and which is acceptable to
1166 federal and state agencies and financial institutions as a
1167 sponsor of low-income housing.
1168 (6) "Department" means the Department of Community
1169 Affairs.
1170 (7) "Elderly" describes persons 62 years of age or older.
1171 (8) "Extremely-low-income persons" means one or more
1172 natural persons or a family whose total annual household income
1173 does not exceed 30 percent of the median annual adjusted gross
1174 income for households within the state. The Florida Housing
1175 Finance Corporation may adjust this amount annually by rule to
1176 provide that in lower income counties, extremely-low-income may
1177 exceed 30 percent of area median income and that in higher
1178 income counties, extremely-low-income may be less than 30
1179 percent of area median income.
1180 (9) ~~(8)~~ "Local public body" means any county, municipality,
1181 or other political subdivision, or any housing authority as
1182 provided by chapter 421, which is eligible to sponsor or develop
1183 housing for farmworkers and very-low-income and low-income
1184 persons within its jurisdiction.
1185 (10) ~~(9)~~ "Low-income persons" means one or more natural
1186 persons or a family, the total annual adjusted gross household
1187 income of which does not exceed 80 percent of the median annual
1188 adjusted gross income for households within the state, or 80
1189 percent of the median annual adjusted gross income for
1190 households within the metropolitan statistical area (MSA) or, if

1191 not within an MSA, within the county in which the person or
1192 family resides, whichever is greater.
1193 (11) ~~(10)~~ "Moderate-income persons" means one or more
1194 natural persons or a family, the total annual adjusted gross
1195 household income of which is less than 120 percent of the median
1196 annual adjusted gross income for households within the state, or
1197 120 percent of the median annual adjusted gross income for
1198 households within the metropolitan statistical area (MSA) or, if
1199 not within an MSA, within the county in which the person or
1200 family resides, whichever is greater.
1201 (12) ~~(11)~~ "Student" means any person not living with his or
1202 her parent or guardian who is eligible to be claimed by his or
1203 her parent or guardian as a dependent under the federal income
1204 tax code and who is enrolled on at least a half-time basis in a
1205 secondary school, career center, community college, college, or
1206 university.
1207 (13) ~~(12)~~ "Substandard" means:
1208 (a) Any unit lacking complete plumbing or sanitary
1209 facilities for the exclusive use of the occupants;
1210 (b) A unit which is in violation of one or more major
1211 sections of an applicable housing code and where such violation
1212 poses a serious threat to the health of the occupant; or
1213 (c) A unit that has been declared unfit for human
1214 habitation but that could be rehabilitated for less than 50
1215 percent of the property value.
1216 (14) ~~(13)~~ "Substantial rehabilitation" means repair or
1217 restoration of a dwelling unit where the value of such repair or
1218 restoration exceeds 40 percent of the value of the dwelling.
1219 (15) ~~(14)~~ "Very-low-income persons" means one or more
1220 natural persons or a family, not including students, the total
1221 annual adjusted gross household income of which does not exceed

1222 50 percent of the median annual adjusted gross income for
1223 households within the state, or 50 percent of the median annual
1224 adjusted gross income for households within the metropolitan
1225 statistical area (MSA) or, if not within an MSA, within the
1226 county in which the person or family resides, whichever is
1227 greater.
1228 Section 17. Sections 420.37 and 420.530, Florida Statutes,
1229 are repealed.
1230 Section 18. Subsection (18) of section 420.503, Florida
1231 Statutes, is amended to read:
1232 420.503 Definitions.--As used in this part, the term:
1233 (18)(a) "Farmworker" means a laborer who is employed on a
1234 seasonal, temporary, or permanent basis in the planting,
1235 cultivating, harvesting, or processing of agricultural or
1236 aquacultural products and who derived at least 50 percent of her
1237 or his income in the immediately preceding 12 months from such
1238 employment.
1239 (b) "Farmworker" ~~also~~ includes a person who has retired as
1240 a laborer due to age, disability, or illness. In order to be
1241 considered retired as a farmworker due to age under this part, a
1242 person must be 50 years of age or older and must have been
1243 employed for a minimum of 5 years as a farmworker before
1244 retirement. In order to be considered retired as a farmworker
1245 due to disability or illness, a person must:
1246 1.~~(a)~~ Establish medically that she or he is unable to be
1247 employed as a farmworker due to that disability or illness.
1248 2.~~(b)~~ Establish that she or he was previously employed as
1249 a farmworker.
1250 (c) Notwithstanding paragraphs (a) and (b), when
1251 corporation-administered funds are used in conjunction with
1252 United States Department of Agriculture Rural Development funds,

1253 the term "farmworker" may mean a laborer who meets, at a
1254 minimum, the definition of "domestic farm laborer" as found in 7
1255 C.F.R. s. 3560.11, as amended. The corporation may establish
1256 additional criteria by rule.
1257 Section 19. Section 420.5061, Florida Statutes, is amended
1258 to read:
1259 420.5061 Transfer of agency assets and
1260 liabilities.--Effective January 1, 1998, all assets and
1261 liabilities and rights and obligations, including any
1262 outstanding contractual obligations, of the agency shall be
1263 transferred to the corporation as legal successor in all
1264 respects to the agency. The corporation shall thereupon become
1265 obligated to the same extent as the agency under any existing
1266 agreements and be entitled to any rights and remedies previously
1267 afforded the agency by law or contract, including specifically
1268 the rights of the agency under chapter 201 and part VI of
1269 chapter 159. The corporation is a state agency for purposes of
1270 s. 159.807(4)(a). Effective January 1, 1998, all references
1271 under Florida law to the agency are deemed to mean the
1272 corporation. The corporation shall transfer to the General
1273 Revenue Fund an amount which otherwise would have been deducted
1274 as a service charge pursuant to s. 215.20(1) if the Florida
1275 Housing Finance Corporation Fund established by s. 420.508(5),
1276 the State Apartment Incentive Loan Fund established by s.
1277 420.5087(7), the Florida Homeownership Assistance Fund
1278 established by s. 420.5088(4)~~(5)~~, the HOME Investment
1279 Partnership Fund established by s. 420.5089(1), and the Housing
1280 Predevelopment Loan Fund established by s. 420.525(1) were each
1281 trust funds. For purposes of s. 112.313, the corporation is
1282 deemed to be a continuation of the agency, and the provisions
1283 thereof are deemed to apply as if the same entity remained in

1284 place. Any employees of the agency and agency board members
1285 covered by s. 112.313(9)(a)6. shall continue to be entitled to
1286 the exemption in that subparagraph, notwithstanding being hired
1287 by the corporation or appointed as board members of the
1288 corporation. Effective January 1, 1998, all state property in
1289 use by the agency shall be transferred to and become the
1290 property of the corporation.
1291 Section 20. Subsections (22), (23), and (40) of section
1292 420.507, Florida Statutes, are amended, and subsections (44) and
1293 (45) are added to that section, to read:
1294 420.507 Powers of the corporation.--The corporation shall
1295 have all the powers necessary or convenient to carry out and
1296 effectuate the purposes and provisions of this part, including
1297 the following powers which are in addition to all other powers
1298 granted by other provisions of this part:
1299 (22) To develop and administer the State Apartment
1300 Incentive Loan Program. In developing and administering that
1301 program, the corporation may:
1302 (a) Make first, second, and other subordinated mortgage
1303 loans including variable or fixed rate loans subject to
1304 contingent interest for all State Apartment Incentive Loans
1305 provided for in this chapter based upon available cash flow of
1306 the projects. The corporation shall make loans exceeding 25
1307 percent of project cost available only to nonprofit
1308 organizations and public bodies which are able to secure grants,
1309 donations of land, or contributions from other sources and to
1310 projects meeting the criteria of subparagraph 1. Mortgage loans
1311 shall be made available at the following rates of interest:
1312 1. Zero to 3 percent interest for sponsors of projects
1313 that set aside at least ~~maintain an~~ 80 percent ~~occupancy~~ of
1314 their total units for residents qualifying as farmworkers as

1315 defined in this part ~~s. 420.503(18)~~, or commercial fishing
1316 workers as defined in this part ~~s. 420.503(5)~~, or the homeless
1317 as defined in s. 420.621(4) over the life of the loan.
1318 2. Zero to 3 percent interest based on the pro rata share
1319 of units set aside for homeless residents if the total of such
1320 units is less than 80 percent of the units in the borrower's
1321 project.
1322 3. One ~~Three~~ to 9 percent interest for sponsors of
1323 projects targeted at populations other than farmworkers,
1324 commercial fishing workers, and the homeless.
1325 (b) Make loans exceeding 25 percent of project cost when
1326 the project serves extremely-low-income persons.
1327 (c) Forgive indebtedness for a share of the loan
1328 attributable to the units in a project reserved for extremely-
1329 low-income persons.
1330 (d) ~~(b)~~ Geographically and demographically target the
1331 utilization of loans.
1332 (e) ~~(c)~~ Underwrite credit, and reject projects which do not
1333 meet the established standards of the corporation.
1334 (f) ~~(d)~~ Negotiate with governing bodies within the state
1335 after a loan has been awarded to obtain local government
1336 contributions.
1337 (g) ~~(e)~~ Inspect any records of a sponsor at any time during
1338 the life of the loan or the agreed period for maintaining the
1339 provisions of s. 420.5087.
1340 (h) ~~(f)~~ Establish, by rule, the procedure for evaluating,
1341 scoring, and competitively ranking all applications based on the
1342 criteria set forth in s. 420.5087(6)(c); determining actual loan
1343 amounts; making and servicing loans; and exercising the powers
1344 authorized in this subsection.

1345 (i) ~~(g)~~ Establish a loan loss insurance reserve to be used
1346 to protect the outstanding program investment in case of a
1347 default, deed in lieu of foreclosure, or foreclosure of a
1348 program loan.
1349 (23) To develop and administer the Florida Homeownership
1350 Assistance Program. In developing and administering the program,
1351 the corporation may:
1352 (a)1. Make subordinated loans to eligible borrowers for
1353 down payments or closing costs related to the purchase of the
1354 borrower's primary residence.
1355 2. Make permanent loans to eligible borrowers related to
1356 the purchase of the borrower's primary residence.
1357 3. Make subordinated loans to nonprofit sponsors or
1358 developers of housing for purchase of property, for
1359 construction, or for financing of housing to be offered for sale
1360 to eligible borrowers as a primary residence at an affordable
1361 price.
1362 (b) Establish a loan loss insurance reserve to supplement
1363 existing sources of mortgage insurance with appropriated funds.
1364 (c) Geographically and demographically target the
1365 utilization of loans.
1366 (d) Defer repayment of loans for the term of the first
1367 mortgage.
1368 (e) Establish flexible terms for loans with an interest
1369 rate not to exceed 3 percent per annum and which are
1370 nonamortizing for the term of the first mortgage.
1371 (f) Require repayment of loans upon sale, transfer,
1372 refinancing, or rental of secured property, unless otherwise
1373 approved by the corporation.

1374 (g) Accelerate a loan for monetary default, for failure to
1375 provide the benefits of the loans to eligible borrowers, or for
1376 violation of any other restriction placed upon the loan.
1377 (h) Adopt rules for the program and exercise the powers
1378 authorized in this subsection.
1379 (40) To establish subsidiary business entities
1380 ~~corporations~~ for the purpose of taking title to and managing and
1381 disposing of property acquired by the corporation. Such
1382 subsidiary business entities ~~corporations~~ shall be public
1383 business entities ~~corporations~~ wholly owned by the corporation;
1384 shall be entitled to own, mortgage, and sell property on the
1385 same basis as the corporation; and shall be deemed business
1386 entities ~~corporations~~ primarily acting as an agent ~~agents~~ of the
1387 state, within the meaning of s. 768.28, on the same basis as the
1388 corporation. Any subsidiary business entity created by the
1389 corporation shall be subject to chapters 119, 120, and 286 to
1390 the same extent as the corporation. The subsidiary business
1391 entities shall have authority to make rules necessary to conduct
1392 business and to carry out the purposes of this subsection.
1393 (44) To adopt rules for the intervention and negotiation
1394 of terms or other actions necessary to further program goals or
1395 avoid default of a program loan. Such rules must consider fiscal
1396 program goals and the preservation or advancement of affordable
1397 housing for the state.
1398 (45) To establish by rule requirements for periodic
1399 reporting of data, including, but not limited to, financial
1400 data, housing market data, detailed economic and physical
1401 occupancy on multifamily projects, and demographic data on all
1402 housing financed through corporation programs and for
1403 participation in a housing locator system.

1404 Section 21. Subsections (1), (3), (5), and (6) of section
1405 420.5087, Florida Statutes, are amended to read:
1406 420.5087 State Apartment Incentive Loan Program.--There is
1407 hereby created the State Apartment Incentive Loan Program for
1408 the purpose of providing first, second, or other subordinated
1409 mortgage loans or loan guarantees to sponsors, including for-
1410 profit, nonprofit, and public entities, to provide housing
1411 affordable to very-low-income persons.
1412 (1) Program funds shall be distributed over successive 3-
1413 year periods in a manner that meets the need and demand for
1414 very-low-income housing throughout the state. That need and
1415 demand must be determined by using the most recent statewide
1416 low-income rental housing market studies available at the
1417 beginning of each 3-year period. However, at least 10 percent of
1418 the program funds distributed during a 3-year period must be
1419 allocated to each of the following categories of counties, as
1420 determined by using the population statistics published in the
1421 most recent edition of the Florida Statistical Abstract:
1422 (a) Counties that have a population of 825,000 or more.
1423 ~~more than 500,000 people;~~
1424 (b) Counties that have a population of more than ~~between~~
1425 100,000 but less than 825,000. ~~and 500,000 people; and~~
1426 (c) Counties that have a population of 100,000 or less.
1427
1428 Any increase in funding required to reach the 10-percent minimum
1429 shall be taken from the county category that has the largest
1430 allocation. The corporation shall adopt rules which establish an
1431 equitable process for distributing any portion of the 10 percent
1432 of program funds allocated to the county categories specified in
1433 this subsection which remains unallocated at the end of a 3-year

1434 period. Counties that have a population of 100,000 or less shall
1435 be given preference under these rules.
1436 (3) During the first 6 months of loan or loan guarantee
1437 availability, program funds shall be reserved for use by
1438 sponsors who provide the housing set-aside required in
1439 subsection (2) for the tenant groups designated in this
1440 subsection. The reservation of funds to each of these groups
1441 shall be determined using the most recent statewide very-low-
1442 income rental housing market study available at the time of
1443 publication of each notice of fund availability required by
1444 paragraph (6)(b). The reservation of funds within each notice of
1445 fund availability to the tenant groups in paragraphs (a), (b),
1446 and (d) may not be less than 10 percent of the funds available
1447 at that time. Any increase in funding required to reach the 10-
1448 percent minimum shall be taken from the tenant group that has
1449 the largest reservation. The reservation of funds within each
1450 notice of fund availability to the tenant group in paragraph (c)
1451 may not be less than 5 percent of the funds available at that
1452 time. The tenant groups are:
1453 (a) Commercial fishing workers and farmworkers;
1454 (b) Families;
1455 (c) Persons who are homeless; and
1456 (d) Elderly persons. Ten percent of the amount reserved
1457 for the elderly shall be reserved to provide loans to sponsors
1458 of housing for the elderly for the purpose of making building
1459 preservation, health, or sanitation repairs or improvements
1460 which are required by federal, state, or local regulation or
1461 code, or lifesafety or security-related repairs or improvements
1462 to such housing. Such a loan may not exceed $750,000 per housing
1463 community for the elderly. In order to receive the loan, the
1464 sponsor of the housing community must make a commitment to match

1465 at least 5 ~~15~~ percent of the loan amount to pay the cost of such
1466 repair or improvement. The corporation shall establish the rate
1467 of interest on the loan, which may not exceed 3 percent, and the
1468 term of the loan, which may not exceed 15 years; however, if the
1469 lien of the corporation's encumbrance is subordinate to the lien
1470 of another mortgagee, then the term may be made coterminous with
1471 the longest term of the superior lien. The term of the loan
1472 shall be established on the basis of a credit analysis of the
1473 applicant. The corporation shall establish, by rule, the
1474 procedure and criteria for receiving, evaluating, and
1475 competitively ranking all applications for loans under this
1476 paragraph. A loan application must include evidence of the first
1477 mortgagee's having reviewed and approved the sponsor's intent to
1478 apply for a loan. A nonprofit organization or sponsor may not
1479 use the proceeds of the loan to pay for administrative costs,
1480 routine maintenance, or new construction.
1481 (5) The amount of the mortgage provided under this program
1482 combined with any other mortgage in a superior position shall be
1483 less than the value of the project without the housing set-aside
1484 required by subsection (2). However, the corporation may waive
1485 this requirement for projects in rural areas or urban infill
1486 areas which have market rate rents that are less than the
1487 allowable rents pursuant to applicable state and federal
1488 guidelines, and for projects which reserve units for extremely-
1489 low-income persons. In no event shall the mortgage provided
1490 under this program combined with any other mortgage in a
1491 superior position exceed total project cost.
1492 (6) On all state apartment incentive loans, except loans
1493 made to housing communities for the elderly to provide for
1494 lifesafety, building preservation, health, sanitation, or

1495 security-related repairs or improvements, the following
1496 provisions shall apply:
1497 (a) The corporation shall establish two interest rates in
1498 accordance with s. 420.507(22)(a)1. and 3. ~~2.~~
1499 (b) The corporation shall publish a notice of fund
1500 availability in a publication of general circulation throughout
1501 the state. Such notice shall be published at least 60 days prior
1502 to the application deadline and shall provide notice of the
1503 temporary reservations of funds established in subsection (3).
1504 (c) The corporation shall provide by rule for the
1505 establishment of a review committee composed of the department
1506 and corporation staff and shall establish by rule a scoring
1507 system for evaluation and competitive ranking of applications
1508 submitted in this program, including, but not limited to, the
1509 following criteria:
1510 1. Tenant income and demographic targeting objectives of
1511 the corporation.
1512 2. Targeting objectives of the corporation which will
1513 ensure an equitable distribution of loans between rural and
1514 urban areas.
1515 3. Sponsor's agreement to reserve the units for persons or
1516 families who have incomes below 50 percent of the state or local
1517 median income, whichever is higher, for a time period to exceed
1518 the minimum required by federal law or the provisions of this
1519 part.
1520 4. Sponsor's agreement to reserve more than:
1521 a. Twenty percent of the units in the project for persons
1522 or families who have incomes that do not exceed 50 percent of
1523 the state or local median income, whichever is higher; or
1524 b. Forty percent of the units in the project for persons
1525 or families who have incomes that do not exceed 60 percent of

1526 the state or local median income, whichever is higher, without
1527 requiring a greater amount of the loans as provided in this
1528 section.
1529 5. Provision for tenant counseling.
1530 6. Sponsor's agreement to accept rental assistance
1531 certificates or vouchers as payment for rent~~; however, when~~
1532 ~~certificates or vouchers are accepted as payment for rent on~~
1533 ~~units set aside pursuant to subsection (2), the benefit must be~~
1534 ~~divided between the corporation and the sponsor, as provided by~~
1535 ~~corporation rule~~.
1536 7. Projects requiring the least amount of a state
1537 apartment incentive loan compared to overall project cost except
1538 that the share of the loan attributable to units serving
1539 extremely-low-income persons shall be excluded from this
1540 requirement.
1541 8. Local government contributions and local government
1542 comprehensive planning and activities that promote affordable
1543 housing.
1544 9. Project feasibility.
1545 10. Economic viability of the project.
1546 11. Commitment of first mortgage financing.
1547 12. Sponsor's prior experience.
1548 13. Sponsor's ability to proceed with construction.
1549 14. Projects that directly implement or assist welfare-to-
1550 work transitioning.
1551 15. Projects that reserve units for extremely-low-income
1552 persons.
1553 (d) The corporation may reject any and all applications.
1554 (e) The corporation may approve and reject applications
1555 for the purpose of achieving geographic targeting.

1556 (f) The review committee established by corporation rule
1557 pursuant to this subsection shall make recommendations to the
1558 board of directors of the corporation regarding program
1559 participation under the State Apartment Incentive Loan Program.
1560 The corporation board shall make the final ranking and the
1561 decisions regarding which applicants shall become program
1562 participants based on the scores received in the competitive
1563 ranking, further review of applications, and the recommendations
1564 of the review committee. The corporation board shall approve or
1565 reject applications for loans and shall determine the tentative
1566 loan amount available to each applicant selected for
1567 participation in the program. The actual loan amount shall be
1568 determined pursuant to rule adopted pursuant to s.
1569 420.507(22)(h)~~(f)~~.
1570 (g) The loan term shall be for a period of not more than
1571 15 years; however, if both a program loan and federal low-income
1572 housing tax credits are to be used to assist a project, the
1573 corporation may set the loan term for a period commensurate with
1574 the investment requirements associated with the tax credit
1575 syndication. The term of the loan may also exceed 15 years;
1576 however, if the lien of the corporation's encumbrance is
1577 subordinate to the lien of another mortgagee, then the term may
1578 be made coterminous with the longest term of the superior lien
1579 ~~necessary to conform to requirements of the Federal National~~
1580 ~~Mortgage Association~~. The corporation may renegotiate and extend
1581 the loan in order to extend the availability of housing for the
1582 targeted population. The term of a loan may not extend beyond
1583 the period for which the sponsor agrees to provide the housing
1584 set-aside required by subsection (2).
1585 (h) The loan shall be subject to sale, transfer, or
1586 refinancing. The sale, transfer, or refinancing of the loan

1587 shall be consistent with fiscal program goals and the
1588 preservation or advancement of affordable housing for the state.
1589 ~~However, all requirements and conditions of the loan shall~~
1590 ~~remain following sale, transfer, or refinancing.~~
1591 (i) The discrimination provisions of s. 420.516 shall
1592 apply to all loans.
1593 (j) The corporation may require units dedicated for the
1594 elderly.
1595 (k) Rent controls shall not be allowed on any project
1596 except as required in conjunction with the issuance of tax-
1597 exempt bonds or federal low-income housing tax credits, and
1598 except when the sponsor has committed to set aside units for
1599 extremely-low-income persons, in which case rents shall be
1600 restricted at the level applicable for federal low-income tax
1601 credits.
1602 (l) The proceeds of all loans shall be used for new
1603 construction or substantial rehabilitation which creates
1604 affordable, safe, and sanitary housing units.
1605 (m) Sponsors shall annually certify the adjusted gross
1606 income of all persons or families qualified under subsection (2)
1607 at the time of initial occupancy, who are residing in a project
1608 funded by this program. All persons or families qualified under
1609 subsection (2) may continue to qualify under subsection (2) in a
1610 project funded by this program if the adjusted gross income of
1611 those persons or families at the time of annual recertification
1612 meets the requirements established in s. 142(d)(3)(B) of the
1613 Internal Revenue Code of 1986, as amended. If the annual
1614 recertification of persons or families qualifying under
1615 subsection (2) results in noncompliance with income occupancy
1616 requirements, the next available unit must be rented to a person
1617 or family qualifying under subsection (2) in order to ensure

1618 continuing compliance of the project. The corporation may waive
1619 the annual recertification if 100 percent of the units are set
1620 aside as affordable.
1621 (n) Upon submission and approval of a marketing plan which
1622 demonstrates a good faith effort of a sponsor to rent a unit or
1623 units to persons or families reserved under subsection (3) and
1624 qualified under subsection (2), the sponsor may rent such unit
1625 or units to any person or family qualified under subsection (2)
1626 notwithstanding the reservation.
1627 (o) Sponsors may participate in federal mortgage insurance
1628 programs and must abide by the requirements of those programs.
1629 If a conflict occurs between the requirements of federal
1630 mortgage insurance programs and the requirements of this
1631 section, the requirements of federal mortgage insurance programs
1632 shall take precedence.
1633 Section 22. Section 420.5088, Florida Statutes, is amended
1634 to read:
1635 420.5088 Florida Homeownership Assistance Program.--There
1636 is created the Florida Homeownership Assistance Program for the
1637 purpose of assisting low-income and moderate-income persons in
1638 purchasing a home as their primary residence by reducing the
1639 cost of the home with below-market construction financing, by
1640 reducing the amount of down payment and closing costs paid by
1641 the borrower to a maximum of 5 percent of the purchase price, or
1642 by reducing the monthly payment to an affordable amount for the
1643 purchaser. Loans shall be made available at an interest rate
1644 that does not exceed 3 percent. The balance of any loan is due
1645 at closing if the property is sold, refinanced, rented, or
1646 transferred, unless otherwise approved by the corporation.
1647 (1) For loans made available pursuant to s.
1648 420.507(23)(a)1. or 2.:

1649 (a) The corporation may underwrite and make those mortgage
1650 loans through the program to persons or families who have
1651 incomes that do not exceed 120 ~~80~~ percent of the state or local
1652 median income, whichever is greater, adjusted for family size.
1653 (b) Loans shall be made available for the term of the
1654 first mortgage.
1655 (c) Loans may not exceed ~~are limited to~~ the lesser of 35
1656 ~~25~~ percent of the purchase price of the home or the amount
1657 necessary to enable the purchaser to meet credit underwriting
1658 criteria.
1659 (2) For loans made pursuant to s. 420.507(23)(a)3.:
1660 (a) Availability is limited to nonprofit sponsors or
1661 developers who are selected for program participation pursuant
1662 to this subsection.
1663 (b) Preference must be given ~~to community development~~
1664 ~~corporations as defined in s. 290.033 and~~ to community-based
1665 organizations as defined in s. 420.503.
1666 (c) Priority must be given to projects that have received
1667 state assistance in funding project predevelopment costs.
1668 (d) The benefits of making such loans shall be
1669 contractually provided to the persons or families purchasing
1670 homes financed under this subsection.
1671 (e) At least 30 percent of the units in a project financed
1672 pursuant to this subsection must be sold to persons or families
1673 who have incomes that do not exceed 80 percent of the state or
1674 local median income, whichever amount is greater, adjusted for
1675 family size; and at least another 30 percent of the units in a
1676 project financed pursuant to this subsection must be sold to
1677 persons or families who have incomes that do not exceed 65 ~~50~~
1678 percent of the state or local median income, whichever amount is
1679 greater, adjusted for family size.

1680 (f) The maximum loan amount may not exceed 33 percent of
1681 the total project cost.
1682 (g) A person who purchases a home in a project financed
1683 under this subsection is eligible for a loan authorized by s.
1684 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the
1685 construction loan made pursuant to this subsection. The home
1686 purchaser must meet all the requirements for loan recipients
1687 established pursuant to the applicable loan program.
1688 (h) The corporation shall provide, by rule, for the
1689 establishment of a review committee composed of corporation
1690 staff and shall establish, by rule, a scoring system for
1691 evaluating and ranking applications submitted for construction
1692 loans under this subsection, including, but not limited to, the
1693 following criteria:
1694 1. The affordability of the housing proposed to be built.
1695 2. The direct benefits of the assistance to the persons
1696 who will reside in the proposed housing.
1697 3. The demonstrated capacity of the applicant to carry out
1698 the proposal, including the experience of the development team.
1699 4. The economic feasibility of the proposal.
1700 5. The extent to which the applicant demonstrates
1701 potential cost savings by combining the benefits of different
1702 governmental programs and private initiatives, including the
1703 local government contributions and local government
1704 comprehensive planning and activities that promote affordable
1705 housing.
1706 6. The use of the least amount of program loan funds
1707 compared to overall project cost.
1708 7. The provision of homeownership counseling.
1709 8. The applicant's agreement to exceed the requirements of
1710 paragraph (e).

1711 9. The commitment of first mortgage financing for the
1712 balance of the construction loan and for the permanent loans to
1713 the purchasers of the housing.
1714 10. The applicant's ability to proceed with construction.
1715 11. The targeting objectives of the corporation which will
1716 ensure an equitable distribution of loans between rural and
1717 urban areas.
1718 12. The extent to which the proposal will further the
1719 purposes of this program.
1720 (i) The corporation may reject any and all applications.
1721 (j) The review committee established by corporation rule
1722 pursuant to this subsection shall make recommendations to the
1723 corporation board regarding program participation under this
1724 subsection. The corporation board shall make the final ranking
1725 for participation based on the scores received in the ranking,
1726 further review of the applications, and the recommendations of
1727 the review committee. The corporation board shall approve or
1728 reject applicants for loans and shall determine the tentative
1729 loan amount available to each program participant. The final
1730 loan amount shall be determined pursuant to rule adopted under
1731 s. 420.507(23)(h).
1732 (3) The corporation shall publish a notice of fund
1733 availability in a publication of general circulation throughout
1734 the state at least 60 days prior to the anticipated availability
1735 of funds.
1736 ~~(4) During the first 9 months of fund availability:~~
1737 ~~(a) Sixty percent of the program funds shall be reserved~~
1738 ~~for use by borrowers pursuant to s. 420.507(23)(a)1.;~~
1739 ~~(b) Twenty percent of the program funds shall be reserved~~
1740 ~~for use by borrowers pursuant to s. 420.507(23)(a)2.; and~~

1741 ~~(c) Twenty percent of the program funds shall be reserved~~
1742 ~~for use by borrowers pursuant to s. 420.507(23)(a)3.~~
1743
1744 ~~If the application of these percentages would cause the~~
1745 ~~reservation of program funds under paragraph (a) to be less than~~
1746 ~~$1 million, the reservation for paragraph (a) shall be increased~~
1747 ~~to $1 million or all available funds, whichever amount is less,~~
1748 ~~with the increase to be accomplished by reducing the reservation~~
1749 ~~for paragraph (b) and, if necessary, paragraph (c).~~
1750 (4) ~~(5)~~ There is authorized to be established by the
1751 corporation with a qualified public depository meeting the
1752 requirements of chapter 280 the Florida Homeownership Assistance
1753 Fund to be administered by the corporation according to the
1754 provisions of this program. Any amounts held in the Florida
1755 Homeownership Assistance Trust Fund for such purposes as of
1756 January 1, 1998, must be transferred to the corporation for
1757 deposit in the Florida Homeownership Assistance Fund, whereupon
1758 the Florida Homeownership Assistance Trust Fund must be closed.
1759 There shall be deposited in the fund moneys from the State
1760 Housing Trust Fund created by s. 420.0005, or moneys received
1761 from any other source, for the purpose of this program and all
1762 proceeds derived from the use of such moneys. In addition, all
1763 unencumbered funds, loan repayments, proceeds from the sale of
1764 any property, and any other proceeds that would otherwise accrue
1765 pursuant to the activities of the programs described in this
1766 section shall be transferred to this fund. In addition, all loan
1767 repayments, proceeds from the sale of any property, and any
1768 other proceeds that would otherwise accrue pursuant to the
1769 activities conducted under the provisions of the Florida
1770 Homeownership Assistance Program shall be deposited in the fund
1771 and shall not revert to the General Revenue Fund. Expenditures

1772 from the Florida Homeownership Assistance Fund shall not be
1773 required to be included in the corporation's budget request or
1774 be subject to appropriation by the Legislature.
1775 (5) ~~(6)~~ No more than one-fifth of the funds available in
1776 the Florida Homeownership Assistance Fund may be made available
1777 to provide loan loss insurance reserve funds to facilitate
1778 homeownership for eligible persons.
1779 Section 24. Subsection (25) of section 420.9071, Florida
1780 Statutes, is amended to read:
1781 420.9071 Definitions.--As used in ss. 420.907-420.9079,
1782 the term:
1783 (25) "Recaptured funds" means funds that are recouped by a
1784 county or eligible municipality in accordance with the recapture
1785 provisions of its local housing assistance plan pursuant to s.
1786 420.9075(5) ~~(4)~~(g) from eligible persons or eligible sponsors who
1787 default on the terms of a grant award or loan award.
1788 Section 25. Subsection (2) of section 420.9072, Florida
1789 Statutes, is amended to read:
1790 420.9072 State Housing Initiatives Partnership
1791 Program.--The State Housing Initiatives Partnership Program is
1792 created for the purpose of providing funds to counties and
1793 eligible municipalities as an incentive for the creation of
1794 local housing partnerships, to expand production of and preserve
1795 affordable housing, to further the housing element of the local
1796 government comprehensive plan specific to affordable housing,
1797 and to increase housing-related employment.
1798 (2)(a) To be eligible to receive funds under the program,
1799 a county or eligible municipality must:
1800 1. Submit to the corporation its local housing assistance
1801 plan describing the local housing assistance strategies
1802 established pursuant to s. 420.9075;

1803 2. Within 12 months after adopting the local housing
1804 assistance plan, amend the plan to incorporate the local housing
1805 incentive strategies defined in s. 420.9071(16) and described in
1806 s. 420.9076; and
1807 3. Within 24 months after adopting the amended local
1808 housing assistance plan to incorporate the local housing
1809 incentive strategies, amend its land development regulations or
1810 establish local policies and procedures, as necessary, to
1811 implement the local housing incentive strategies adopted by the
1812 local governing body. A county or an eligible municipality that
1813 has adopted a housing incentive strategy pursuant to s. 420.9076
1814 before the effective date of this act shall review the status of
1815 implementation of the plan according to its adopted schedule for
1816 implementation and report its findings in the annual report
1817 required by s. 420.9075(10) ~~(9)~~. If as a result of the review, a
1818 county or an eligible municipality determines that the
1819 implementation is complete and in accordance with its schedule,
1820 no further action is necessary. If a county or an eligible
1821 municipality determines that implementation according to its
1822 schedule is not complete, it must amend its land development
1823 regulations or establish local policies and procedures, as
1824 necessary, to implement the housing incentive plan within 12
1825 months after the effective date of this act, or if extenuating
1826 circumstances prevent implementation within 12 months, pursuant
1827 to s. 420.9075(13) ~~(12)~~, enter into an extension agreement with
1828 the corporation.
1829 (b) A county or an eligible municipality seeking approval
1830 to receive its share of the local housing distribution must
1831 adopt an ordinance containing the following provisions:
1832 1. Creation of a local housing assistance trust fund as
1833 described in s. 420.9075(6) ~~(5)~~.

1834 2. Adoption by resolution of a local housing assistance
1835 plan as defined in s. 420.9071(14) to be implemented through a
1836 local housing partnership as defined in s. 420.9071(18).
1837 3. Designation of the responsibility for the
1838 administration of the local housing assistance plan. Such
1839 ordinance may also provide for the contracting of all or part of
1840 the administrative or other functions of the program to a third
1841 person or entity.
1842 4. Creation of the affordable housing advisory committee
1843 as provided in s. 420.9076.
1844
1845 The ordinance must not take effect until at least 30 days after
1846 the date of formal adoption. Ordinances in effect prior to the
1847 effective date of amendments to this section shall be amended as
1848 needed to conform to new provisions.
1849 Section 26. Paragraphs (a) and (c) of present subsection
1850 (4) of section 420.9075, Florida Statutes, are amended,
1851 subsections (3) through (12) are renumbered as subsections (4)
1852 through (13), respectively, and a new subsection (3) is added to
1853 that section, to read:
1854 420.9075 Local housing assistance plans; partnerships.--
1855 (3)(a) Each local housing assistance plan shall include a
1856 definition of essential service personnel for the county or
1857 eligible municipality, including, but not limited to, teachers
1858 and educators, other school district, community college, and
1859 university employees, police and fire personnel, health care
1860 personnel, skilled building trades personnel, and other job
1861 categories.
1862 (b) Each county and each eligible municipality is
1863 encouraged to develop a strategy within its local housing
1864 assistance plan that emphasizes the recruitment and retention of

1865 essential service personnel. The local government is encouraged
1866 to involve public and private sector employers. Compliance with
1867 the eligibility criteria established under this strategy shall
1868 be verified by the county or eligible municipality.
1869 (c) Each county and each eligible municipality is
1870 encouraged to develop a strategy within its local housing
1871 assistance plan that addresses the needs of persons who are
1872 deprived of affordable housing due to the closure of a mobile
1873 home park or the conversion of affordable rental units to
1874 condominiums.
1875 (5) ~~(4)~~ The following criteria apply to awards made to
1876 eligible sponsors or eligible persons for the purpose of
1877 providing eligible housing:
1878 (a) At least 65 percent of the funds made available in
1879 each county and eligible municipality from the local housing
1880 distribution must be reserved for rehabilitation and
1881 construction of home ownership units for eligible extremely-low-
1882 income, low-income, or very-low-income persons.
1883 (c) The sales price or value of new or existing eligible
1884 housing may not exceed 90 percent of the average area purchase
1885 price in the statistical area in which the eligible housing is
1886 located. Such average area purchase price may be that calculated
1887 for any 12-month period beginning not earlier than the fourth
1888 calendar year prior to the year in which the award occurs or as
1889 otherwise established by the United States Department of the
1890 Treasury.
1891
1892 If both an award under the local housing assistance plan and
1893 federal low-income housing tax credits are used to assist a
1894 project and there is a conflict between the criteria prescribed
1895 in this subsection and the requirements of s. 42 of the Internal

1896 Revenue Code of 1986, as amended, the county or eligible
1897 municipality may resolve the conflict by giving precedence to
1898 the requirements of s. 42 of the Internal Revenue Code of 1986,
1899 as amended, in lieu of following the criteria prescribed in this
1900 subsection with the exception of paragraphs (a) and (d) of this
1901 subsection.
1902 Section 27. Subsection (6) of section 420.9076, Florida
1903 Statutes, is amended to read:
1904 420.9076 Adoption of affordable housing incentive
1905 strategies; committees.--
1906 (6) Within 90 days after the date of receipt of the local
1907 housing incentive strategies recommendations from the advisory
1908 committee, the governing body of the appointing local government
1909 shall adopt an amendment to its local housing assistance plan to
1910 incorporate the local housing incentive strategies it will
1911 implement within its jurisdiction. The amendment must include,
1912 at a minimum, the local housing incentive strategies specified
1913 ~~as defined~~ in paragraphs (4)(a)-(j) ~~s. 420.9071(16)~~.
1914 Section 28. Subsection (2) of section 420.9079, Florida
1915 Statutes, is amended to read:
1916 420.9079 Local Government Housing Trust Fund.--
1917 (2) The corporation shall administer the fund exclusively
1918 for the purpose of implementing the programs described in ss.
1919 420.907-420.9078 and this section. With the exception of
1920 monitoring the activities of counties and eligible
1921 municipalities to determine local compliance with program
1922 requirements, the corporation shall not receive appropriations
1923 from the fund for administrative or personnel costs. For the
1924 purpose of implementing the compliance monitoring provisions of
1925 s. 420.9075(9)~~(8)~~, the corporation may request a maximum of one-
1926 quarter of 1 percent of the annual appropriation ~~$200,000~~ per

1927 state fiscal year. When such funding is appropriated, the
1928 corporation shall deduct the amount appropriated prior to
1929 calculating the local housing distribution pursuant to ss.
1930 420.9072 and 420.9073.
1931 Section 29. Paragraph (c) of subsection (1) and paragraph
1932 (e) of subsection (2) of section 624.5105, Florida Statutes, are
1933 amended to read:
1934 624.5105 Community contribution tax credit; authorization;
1935 limitations; eligibility and application requirements;
1936 administration; definitions; expiration.--
1937 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--
1938 (c) The total amount of tax credit which may be granted
1939 for all programs approved under this section and ss.
1940 212.08(5)(q) and 220.183 is $10 ~~$12~~ million annually for
1941 projects that provide homeownership opportunities for extremely-
1942 low-income persons, as defined in s. 420.0004(8), or low-income
1943 or very-low-income persons, as defined in s. 420.9071(19) and
1944 (28), and $3 million annually for all other projects.
1945 (2) ELIGIBILITY REQUIREMENTS.--
1946 (e)1. ~~For the first 6 months of the fiscal year, the~~
1947 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
1948 ~~80 percent of the first $10 million in available annual tax~~
1949 ~~credits, and 70 percent of any available annual tax credits in~~
1950 ~~excess of $10 million, for donations made to eligible sponsors~~
1951 ~~for projects that provide homeownership opportunities for low-~~
1952 ~~income or very-low-income households as defined in s.~~
1953 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
1954 ~~remain after the first 6 months of the fiscal year, the office~~
1955 ~~may approve the balance of these available credits for donations~~
1956 ~~made to eligible sponsors for projects other than those that~~

1957 ~~provide homeownership opportunities for low-income or very-low-~~
1958 ~~income households.~~
1959 ~~2. For the first 6 months of the fiscal year, the office~~
1960 ~~shall reserve 20 percent of the first $10 million in available~~
1961 ~~annual tax credits, and 30 percent of any available annual tax~~
1962 ~~credits in excess of $10 million, for donations made to eligible~~
1963 ~~sponsors for projects other than those that provide~~
1964 ~~homeownership opportunities for low-income or very-low-income~~
1965 ~~households as defined in s. 420.9071(19) and (28). If any~~
1966 ~~reserved annual tax credits remain after the first 6 months of~~
1967 ~~the fiscal year, the office may approve the balance of these~~
1968 ~~available credits for donations made to eligible sponsors for~~
1969 ~~projects that provide homeownership opportunities for low-income~~
1970 ~~or very-low-income households.~~
1971 ~~3.~~ If, during the first 10 business days of the state
1972 fiscal year, eligible tax credit applications for projects that
1973 provide homeownership opportunities for extremely-low-income
1974 persons, as defined in s. 420.0004(8), or low-income or very-
1975 low-income persons, as defined in s. 420.9071(19) and (28), are
1976 received for less than the ~~available~~ annual tax credits
1977 available for those projects ~~reserved under subparagraph 1.~~, the
1978 office shall grant tax credits for those applications and shall
1979 grant remaining tax credits on a first-come, first-served basis
1980 for any subsequent eligible applications received before the end
1981 of the ~~first 6 months of the~~ state fiscal year. If, during the
1982 first 10 business days of the state fiscal year, eligible tax
1983 credit applications for projects that provide homeownership
1984 opportunities for extremely-low-income persons, as defined in s.
1985 420.0004(8), or low-income or very-low-income persons, as
1986 defined in s. 420.9071(19) and (28), are received for more than
1987 the ~~available~~ annual tax credits available for those projects

1988 ~~reserved under subparagraph 1.~~, the office shall grant the tax
1989 credits for those ~~the~~ applications as follows:
1990 a. If tax credit applications submitted for approved
1991 projects of an eligible sponsor do not exceed $200,000 in total,
1992 the credits shall be granted in full if the tax credit
1993 applications are approved~~, subject to subparagraph 1~~.
1994 b. If tax credit applications submitted for approved
1995 projects of an eligible sponsor exceed $200,000 in total, the
1996 amount of tax credits granted under sub-subparagraph a. shall be
1997 subtracted from the amount of available tax credits ~~under~~
1998 ~~subparagraph 1.~~, and the remaining credits shall be granted to
1999 each approved tax credit application on a pro rata basis.
2000 ~~c. If, after the first 6 months of the fiscal year,~~
2001 ~~additional credits become available under subparagraph 2., the~~
2002 ~~office shall grant the tax credits by first granting to those~~
2003 ~~who received a pro rata reduction up to the full amount of their~~
2004 ~~request and, if there are remaining credits, granting credits to~~
2005 ~~those who applied on or after the 11th business day of the state~~
2006 ~~fiscal year on a first-come, first-served basis.~~
2007 2.~~4.~~ If, during the first 10 business days of the state
2008 fiscal year, eligible tax credit applications for projects other
2009 than those that provide homeownership opportunities for
2010 extremely-low-income persons, as defined in s. 420.0004(8), or
2011 low-income or very-low-income persons, as defined in s.
2012 420.9071(19) and (28,) are received for less than the ~~available~~
2013 annual tax credits available for those projects ~~reserved under~~
2014 ~~subparagraph 2.~~, the office shall grant tax credits for those
2015 applications and shall grant remaining tax credits on a first-
2016 come, first-served basis for any subsequent eligible
2017 applications received before the end of the ~~first 6 months of~~
2018 ~~the~~ state fiscal year. If, during the first 10 business days of

2019 the state fiscal year, eligible tax credit applications for
2020 projects other than those that provide homeownership
2021 opportunities for extremely-low-income persons, as defined in s.
2022 420.0004(8), or low-income or very-low-income persons, as
2023 defined in s. 420.9071(19) and (28), are received for more than
2024 the ~~available~~ annual tax credits available for those projects
2025 ~~reserved under subparagraph 2.~~, the office shall grant the tax
2026 credits for those ~~the~~ applications on a pro rata basis. ~~If,~~
2027 ~~after the first 6 months of the fiscal year, additional credits~~
2028 ~~become available under subparagraph 1., the office shall grant~~
2029 ~~the tax credits by first granting to those who received a pro~~
2030 ~~rata reduction up to the full amount of their request and, if~~
2031 ~~there are remaining credits, granting credits to those who~~
2032 ~~applied on or after the 11th business day of the state fiscal~~
2033 ~~year on a first-come, first-served basis.~~
2034 Section 30. Subsection (12) of section 1001.43, Florida
2035 Statutes, is renumbered as subsection (13), and a new subsection
2036 (12) is added to that section to read:
2037 1001.43 Supplemental powers and duties of district school
2038 board.--The district school board may exercise the following
2039 supplemental powers and duties as authorized by this code or
2040 State Board of Education rule.
2041 (12) AFFORDABLE HOUSING.--The district school board may
2042 provide affordable housing for teachers and other district
2043 personnel independently or in conjunction with other agencies as
2044 described in subsection (5).
2045 Section 31. New paragraph (c) is added to subsection 5 of
2046 section 1013.64, Florida Statutes to read:
2047 1013.64. Funds for comprehensive educational plant needs;
2048 construction cost maximums for school district capital
2049 projects.--

2050 (5) District school boards shall identify each fund source
2051 and the use of each proportionate to the project cost, as
2052 identified in the bid document, to assure compliance with this
2053 section. The data shall be submitted to the department, which
2054 shall track this information as submitted by the boards. PECO
2055 funds shall not be expended as indicated in the following:
2056 (c) PECO funds shall not be used for the construction of
2057 affordable housing. School districts may use local and other
2058 funds to fund such projects.
2059 Section 32. The Community Workforce Housing Innovation
2060 Pilot Program is hereby created.
2061 (1) The Legislature finds and declares that recent rapid
2062 increases in the median purchase price of a home and the cost of
2063 rental housing have far outstripped the increases in median
2064 income in the state, preventing essential services personnel
2065 from living in the communities where they serve, creating the
2066 need for innovative solutions for the provision of housing
2067 opportunities for essential services personnel.
2068 (2) The Community Workforce Housing Innovation Pilot
2069 Program is created for the purpose of providing affordable
2070 rental and home ownership community workforce housing for
2071 essential services personnel affected by the high cost of
2072 housing using regulatory incentives and state and local funds to
2073 promote local public-private partnerships and leverage
2074 government and private resources.
2075 (3) For purposes of this section, the following
2076 definitions shall apply:
2077 (a) "Workforce housing" means housing affordable to
2078 natural persons or families whose total annual household income
2079 does not exceed 140 percent of the area median income, adjusted
2080 for household size, or 150 percent of area median income,

2081 adjusted for household size, in areas of critical state concern
2082 designated under s. 380.05 for which the Legislature has
2083 declared its intent to provide affordable housing and areas that
2084 were designated as areas of critical state concern for at least
2085 20 consecutive years prior to removal of the designation.
2086 (b) "Essential services personnel" means persons in need
2087 of affordable housing who are employed in occupations or
2088 professions in which they are considered essential services
2089 personnel, as defined by each county and eligible municipality
2090 within its local housing assistance plan pursuant to s.
2091 420.9075(3)(a).
2092 (c) "Public-private partnerships" means any form of
2093 business entity which includes substantial involvement of at
2094 least one county, one municipality, or one public sector entity,
2095 such as a school district or other unit of local government in
2096 which the project is to be located, and at least one private
2097 sector for-profit or not-for-profit business or charitable
2098 entity.
2099 (4) The corporation shall have the authority to provide
2100 Community Workforce Housing Innovation Pilot Program loans to an
2101 applicant for construction or rehabilitation of workforce
2102 housing in eligible areas. The corporation shall establish a
2103 funding process and selection criteria by rule or request for
2104 proposals. This funding is intended to be used with other
2105 public and private sector resources.
2106 (5) The corporation shall provide incentives for local
2107 governments in eligible areas to use local affordable housing
2108 funds, such as those from the State Housing Initiatives
2109 Partnership Program to assist in meeting the affordable housing
2110 needs of persons eligible under this program.

2111 (6) Funding shall be prioritized for projects in counties
2112 where the disparity between the area median income and the
2113 median sales price for a single family home is greatest, and for
2114 projects in areas where population growth as a percentage rate
2115 of increase is greatest. The corporation may also fund projects
2116 in counties where innovative regulatory and financial incentives
2117 are made available.
2118 (7) Projects shall receive priority consideration for
2119 funding where:
2120 (a) The local jurisdiction establishes appropriate
2121 regulatory incentives, local contributions or financial
2122 strategies, or other funding sources, to promote the development
2123 and ongoing financial viability of such projects. Local
2124 incentives include such actions as expediting review of
2125 development orders and permits, supporting development near
2126 transportation hubs and major employment centers, and adopting
2127 land development regulations designed to allow flexibility in
2128 densities, use of accessory units, mixed use developments, and
2129 flexible lot configurations. Financial strategies include such
2130 actions as promoting employer assisted housing programs, tax
2131 increment financing, and providing land.
2132 (b) Projects are innovative, and include new construction
2133 or rehabilitation, mixed-income housing, or commercial and
2134 housing mixed-use elements, and those that promote
2135 homeownership. The program funding shall not exceed the costs
2136 attributable to the portion of the project that is set aside to
2137 provide housing for the targeted population.
2138 (c) Projects that set aside at least 80 percent of units
2139 for workforce housing and at least 50 percent for essential
2140 services personnel and for projects that require the least

2141 amount of program funding compared to the overall housing costs
2142 for the project.
2143 (8) Notwithstanding the provisions of s. 163.3184(3)-(6),
2144 any local government comprehensive plan amendment to implement a
2145 Community Workforce Housing Innovation Pilot Program project
2146 found consistent with the provisions of this section shall be
2147 expedited as provided herein. At least 30 days prior to
2148 adopting a plan amendment pursuant to this paragraph, the local
2149 government shall notify the state land planning agency of its
2150 intent to do so, and the notice shall include its evaluation
2151 related to site suitability and availability of facilities and
2152 services. The public notice of the hearing required by s.
2153 163.3184(15)(e) shall include a statement that the local
2154 government intends to utilize the expedited adoption process
2155 authorized by this paragraph. Such amendments shall require only
2156 a single public hearing before the governing board which shall
2157 be an adoption hearing as described in s. 163.3184(7), and the
2158 state land planning agency shall issue its notice of intent
2159 pursuant to s. 163.3184(8) within 30 days of determining that
2160 the amendment package is complete.
2161 (9) The corporation shall award loans with interest rates
2162 set at 1 to 3 percent which may be made forgivable where long-
2163 term affordability is provided and where at least 80 percent of
2164 the units are set aside for workforce housing and at least 50
2165 percent of the units are set aside for essential services
2166 personnel
2167 (10) All eligible applications shall:
2168 (a) For home ownership, limit the sales price of a
2169 detached unit, townhome, or condominium unit to not more than
2170 the 80 percent of the median sales price for that type of unit
2171 in that county, or the statewide median sales price for that

2172 type of unit, whichever is higher, and require that all eligible
2173 purchasers of home ownership units occupy the homes as their
2174 primary residence.
2175 (b) For rental units, restrict rents for all workforce
2176 housing serving those with incomes at or below 120 percent of
2177 area median income at the appropriate income level using the
2178 restricted rents for the federal low-income housing tax credit
2179 program and, for workforce housing units serving those with
2180 incomes above 120 percent of area median income, restrict rents
2181 to those established by the corporation, not to exceed 30
2182 percent of the maximum household income adjusted to unit size.
2183 (c) Demonstrate that the applicant is a public-private
2184 partnership.
2185 (d) Have grants, donations of land, or contributions from
2186 the public-private partnership or other sources collectively
2187 totaling at least 15 percent of the total development cost. Such
2188 grants, donations of land, or contributions must only be
2189 evidenced by a letter of commitment at the time of application.
2190 (e) Demonstrate how the applicant will use the regulatory
2191 incentives and financial strategies outlined in subsection
2192 (7)(a) from the local jurisdiction in which the proposed project
2193 is to be located. The corporation may consult with the
2194 department in evaluating the use of regulatory incentives by
2195 applicants.
2196 (f) Demonstrate that the applicant possesses title to or
2197 site control of land and evidences availability of required
2198 infrastructure.
2199 (g) Demonstrate the applicant's affordable housing
2200 development and management experience.
2201 (h) Provide any research or facts available supporting the
2202 demand and need for rental or home ownership workforce housing

2203 for eligible persons in the market in which the project is
2204 proposed.
2205 (11) Projects may include manufactured housing constructed
2206 after June, 1994, and installed in accordance with mobile home
2207 installation standards of the Department of Highway and Motor
2208 Vehicles.
2209 (12) The corporation may adopt rules to implement the
2210 provisions of this section.
2211 (13) The corporation may use a maximum of 2 percent of the
2212 annual appropriation for administration and compliance
2213 monitoring.
2214 (14) The corporation shall review the success of the
2215 Community Workforce Housing Innovation Pilot Program to
2216 ascertain whether the projects financed by the program are
2217 useful in meeting the housing needs of eligible areas. The
2218 corporation shall submit its report and any recommendations
2219 regarding the program to the Governor, the Speaker of the House
2220 of Representatives, and the President of the Senate not later
2221 than 2 months after the end of the corporation's fiscal year.
2222
2223 There is hereby appropriated for fiscal year 2006-2007 to the
2224 Florida Housing Finance Corporation $50 million from the Local
2225 Government Housing Trust Fund to implement the provisions of
2226 this section.
2227 Section 34. Affordable housing land donation density bonus
2228 incentives.--
2229 (1) A local government may provide density bonus
2230 incentives pursuant to the provisions of this section to any
2231 landowner who voluntarily donates fee simple interest in real
2232 property to the local government for the purpose of assisting
2233 the local government in providing affordable housing. Donated

2234 real property must be determined by the local government to be
2235 appropriate for use as affordable housing and must be subject to
2236 deed restrictions to ensure that the property will be used for
2237 the stated purpose of affordable housing.
2238 (2) For purposes of this section, the terms "affordable,"
2239 "extremely-low-income persons," "low-income persons," "moderate-
2240 income persons," and "very-low-income persons," have the same
2241 meaning as in section 420.0004, Florida Statutes.
2242 (3) The density bonus may be applied to any land within
2243 the local government's jurisdiction provided that residential is
2244 an allowable use on the receiving land.
2245 (4) The density bonus, identification of receiving land
2246 for the bonus, and any other conditions associated with the
2247 donation of the land for affordable housing are the subject of
2248 review and approval by the local government. The award of
2249 density bonus pursuant to this section, the legal description of
2250 the land receiving the bonus, and any other conditions
2251 associated with the bonus shall be memorialized in a development
2252 agreement or other binding agreement and recorded with the clerk
2253 of court in the county where the donated land and receiving land
2254 are located.
2255 (5) The local government, as part of the approval process,
2256 shall adopt a comprehensive plan amendment, pursuant to part II
2257 of chapter 163, Florida Statutes, for the receiving land that
2258 incorporates the density bonus. Such amendment shall be adopted
2259 in the manner as required for small scale amendments pursuant to
2260 section 163.3187, Florida Statutes, is not subject to the
2261 requirements of s. 163.3184(3)-(6), Florida Statutes, and is
2262 exempt from the limitation on the frequency of plan amendments
2263 as provided in s. 163.3187, Florida Statutes.

2264 (6) The deed restrictions required pursuant to subsection
2265 (1) for an affordable housing unit must also prohibit the unit
2266 from being sold at a price that exceeds the threshold for
2267 housing that is affordable for low-income or moderate-income
2268 persons or to a buyer who is not eligible due to his or her
2269 income under chapter 420, Florida Statutes. The deed restriction
2270 may allow affordable housing units created under subsection (1)
2271 to be rented to extremely-low-income, very-low-income, low-
2272 income, or moderate-income persons.
2273 (7) The local government may transfer all or a portion of
2274 the donated land to a nonprofit housing organization, such as a
2275 community land trust, housing authority, or community
2276 redevelopment agency, to be used for the production and
2277 preservation of permanently affordable housing.
2278 Section 35. The Department of Community Affairs shall
2279 establish the Home Retrofit Hardening Program. The program is a
2280 competitive grant program to fund improvements to homes
2281 constructed before the implementation of the current Florida
2282 Building Code when the improvements will directly affect the
2283 ability of the home to withstand hurricane force winds and
2284 improve the home's rating for home insurance. Site-built and
2285 mobile homes are eligible for funding under this program.
2286 However, priority shall be given to low-income homeowners, as
2287 defined in s. 420.004(10), Florida Statutes, who live in wind-
2288 borne debris regions as defined in the Florida Building Code.
2289 (1) The program shall be administered by local
2290 governments, regional planning councils, or private nonprofit
2291 agencies under the overall direction of the department. When
2292 awarding program funds, the department shall be guided by:
2293 (a) The number of homes in need of improvement.

2294 (b) The number of homes located within the wind-borne
2295 debris region.
2296 (c) The number of persons who will benefit from the
2297 improvements.
2298 (d) The number of extremely-low-income , very-low-income
2299 and low-income households that will benefit from the
2300 improvements.
2301 (e) The costs per home to provide improvements.
2302 (2) Funds may be used for the following improvements
2303 installed in compliance with Blueprint for Safety standards:
2304 (a) Roof deck attachments.
2305 (b) Secondary water barriers.
2306 (c) Roof coverings.
2307 (d) Brace gable ends.
2308 (e) Reinforcement of roof-to-wall connections.
2309 (f) Opening protection.
2310 (g) Exterior doors.
2311 (3) Each project grant for an individual home retrofit may
2312 not exceed $10,000.
2313 (4) Administrative costs shall be kept to a minimum.
2314 (5) Grantees are encouraged to leverage grant funds
2315 available under this program with other available funds.
2316 Matching funds for a project is not a requirement. However,
2317 matching funds from other available sources may be considered by
2318 the department in the competitive-review process.
2319 (6) The sum of $50 million is appropriated from the U.S.
2320 Contributions Trust Fund to the Department of Community Affairs
2321 in fixed capital outlay for the Home Retrofit Hardening Program.
2322 No more than 5 percent of the funds provided under this section
2323 may be used by the department for administration of this
2324 funding.

2325 Section 33. The Department of Community Affairs shall
2326 establish the Disaster Recovery Assistance Program which shall
2327 be a grant program to fund repairs and rehabilitation to homes
2328 in communities severely impacted by the 2004 and 2005
2329 hurricanes. These funds shall be leveraged with other program
2330 funds targeted to the most vulnerable citizens of the state. The
2331 sum of $2 million is appropriated in fixed capital outlay from
2332 the State Housing Trust Fund in the Department of Community
2333 Affairs for the Disaster Recovery Assistance Program. For the
2334 purposes of implementing this section, the Florida Housing
2335 Finance Corporation is provided nonoperating budget authority to
2336 transfer $2 million from the State Housing Trust Fund to the
2337 Department of Community Affairs.
2338 Section 34. The Florida Housing Finance Corporation is
2339 authorized to provide funds to eligible entities for affordable
2340 housing recovery in those areas of the state which sustained
2341 housing damage due to hurricanes during 2004 and 2005. The
2342 Florida Housing Finance Corporation shall utilize data provided
2343 by the Federal Emergency Management Agency to assist in its
2344 allocation of funds to local jurisdictions. To administer these
2345 programs, the Florida Housing Finance Corporation should be
2346 guided by the "Hurricane Housing Work Group Recommendations to
2347 Assist in Florida's Long Term Housing Recovery Efforts," report
2348 dated February 16, 2005, and may adopt emergency rules pursuant
2349 to s. 120.54, Florida Statutes. The Legislature finds that
2350 emergency rules adopted pursuant to this section meet the
2351 health, safety, and welfare requirement of s. 120.54(4), Florida
2352 Statutes. The Legislature finds that such emergency rulemaking
2353 power is necessary for the preservation of the rights and
2354 welfare of the people in order to provide additional funds to
2355 assist those areas of the state which sustained housing damage

2356 due to hurricanes during 2004 and 2005. Therefore, in adopting
2357 such emergency rules, the corporation need not make the findings
2358 required by s. 120.54(4)(a), Florida Statutes. Emergency rules
2359 adopted under this section are exempt from s. 120.54(4)(c),
2360 Florida Statutes. The sum of $15 million is appropriated from
2361 the Local Government Housing Trust Fund to the Florida Housing
2362 Finance Corporation for the Hurricane Housing Recovery Program.
2363 There is appropriated from the State Housing Trust Fund to the
2364 Florida Housing Finance Corporation the sum of $25 million for
2365 the Farmworker Housing Recovery Program and the Special Housing
2366 Assistance and Development Program, the sum of $400,000 for
2367 technical and training assistance, and the sum of $176.6 million
2368 for the Rental Recovery Loan Program.
2369 Section 35. The sum of $82,904,000 is appropriated from
2370 the Florida Small Cities Community Development Block Grant
2371 Program Fund to the Department of Community Affairs. These funds
2372 shall be used consistent with the Federal Register, Vol. 71, No.
2373 29, February 13, 2006, Docket No. FR-5051-N-01 and the Action
2374 Plan for Disaster Recovery approved by the United States
2375 Department of Housing and Urban Development to meet the needs of
2376 communities impacted by Hurricanes Wilma and Katrina, with a
2377 prioritization toward affordable housing in the most impacted
2378 areas of the state.
2379 Section 36. The sum of $50 million is appropriated from
2380 the Local Government Housing Trust Fund to the Florida Housing
2381 Finance Corporation for fiscal year 2006-2007 to implement the
2382 Community Workforce Housing Innovation Program created in s.
2383 420.5095, Florida Statutes.
2384 Section 37. The sum of $33 million is appropriated from
2385 the Local Government Housing Trust Fund to the Florida Housing
2386 Finance Corporation for fiscal year 2006-2007 to assist in the

2387 production of housing units for extremely-low-income persons as
2388 defined in s. 420.0004(8), Florida Statutes.
2389 Section 38. Except as otherwise expressly provided in this
2390 act, this act shall take effect July 1, 2006.
2391
2392 ========== T I T L E A M E N D M E N T ==========
2393 Remove the entire title and insert:
2394 A bill to be entitled
2395 An act relating to affordable housing; creating s. 125.379,
2396 F.S.; providing for disposition of county property for
2397 affordable housing; amending s. 163.31771, F.S., relating to
2398 accessory dwelling units; revising legislative findings and
2399 definitions; conforming cross-references; amending s. 163.3187,
2400 F.S.; revising a limitation relating to small scale
2401 comprehensive plan amendments involving the construction of
2402 affordable housing units; creating s. 166.0451, F.S.; providing
2403 for disposition of municipal property for affordable housing;
2404 amending s. 189.4155, F.S.; authorizing independent special
2405 districts to provide for housing and housing assistance;
2406 amending s. 191.006, F.S.; authorizing independent special fire
2407 control districts to provide employee housing and housing
2408 assistance; creating s. 193.018, F.S.; creating the Manny Diaz
2409 Affordable Housing Property Tax Relief Initiative; providing
2410 criteria for assessing just valuation of affordable housing
2411 properties serving persons of low, moderate, very low, and
2412 extremely low incomes; amending s. 196.1978, F.S.; specifying
2413 what constitutes a nonprofit entity for purposes of affordable
2414 housing property tax exemption; conforming cross-references;
2415 amending ss. 212.08, 220.183, and 624.5105, F.S.; increasing the
2416 amount of available tax credits against the sales tax, corporate
2417 income tax, and insurance premium tax, respectively, for

2418 projects under the community contribution tax credit program and
2419 providing separate annual limitations for certain projects;
2420 revising requirements and procedures for the Office of Tourism,
2421 Trade, and Economic Development in granting tax credits under
2422 the program; including extremely-low-income persons as eligible
2423 recipients of assistance; conforming cross-references; amending
2424 s. 253.034, F.S.; providing for the disposition of state lands
2425 for affordable housing; amending s. 253.0341, F.S.; authorizing
2426 local governments to request state lands be declared surplus for
2427 the purpose of affordable housing; providing for use of lands
2428 that are declared surplus; amending s. 295.16, F.S.; expanding
2429 the disabled veteran exemption from certain license and permit
2430 fees relating to dwelling improvements; amending s. 380.06,
2431 F.S.; providing a greater substantial deviation threshold for
2432 the provision of affordable housing in a development of regional
2433 impact; conforming cross-references; amending s. 380.0651, F.S.;
2434 providing a statewide guidelines and standards bonus for the
2435 provision of workforce housing; amending s. 420.0004, F.S.;
2436 defining the term "extremely-low-income persons"; conforming
2437 cross-references; repealing s. 420.37, F.S., relating to
2438 additional powers of the Florida Housing Finance Corporation;
2439 repealing s. 420.530, F.S., relating to the State Farm Worker
2440 Housing Pilot Loan Program; amending s. 420.503, F.S.; revising
2441 the definition of the term "farmworker" under the Florida
2442 Housing Finance Corporation Act; providing rulemaking authority;
2443 amending s. 420.5061, F.S.; conforming a cross-reference;
2444 amending s. 420.507, F.S.; revising and expanding the powers of
2445 the Florida Housing Finance Corporation relating to mortgage
2446 loan interest rates, loans, loan relief, uses of loan funds,
2447 subsidiary business entities, and data reporting; providing
2448 rulemaking authority; amending s. 420.5087, F.S.; increasing the

2449 population criteria for the State Apartment Incentive Loan
2450 Program; revising criteria for loans; conforming cross-
2451 references; amending s. 420.5088, F.S.; expanding the scope of
2452 the Florida Homeownership Assistance Program; revising loan
2453 requirements; deleting a provision reserving program funds for
2454 certain borrowers; creating the Community Workforce Housing
2455 Innovation Program; providing the Florida Housing Finance
2456 Corporation with certain powers and responsibilities relating to
2457 the program; requiring the program to target certain entities;
2458 providing application requirements; providing incentives for
2459 program applicants; amending s. 420.9071, F.S.; conforming a
2460 cross-reference; amending s. 420.9072, F.S.; conforming cross-
2461 references; amending s. 420.9075, F.S.; requiring local housing
2462 assistance plans to define essential service personnel for the
2463 county or eligible municipality and to contain a strategy for
2464 the recruitment and retention of such personnel; providing for
2465 provision of funds for homeownership for extremely-low-income,
2466 very-low-income, or low-income persons; amending s. 420.9076,
2467 F.S.; conforming a cross-reference; amending s. 420.9079, F.S.;
2468 revising the maximum appropriation the Florida Housing Finance
2469 Corporation may request each state fiscal year; conforming a
2470 cross-reference; amending s. 1001.42, F.S.; authorizing school
2471 districts to make specified lands available for affordable
2472 housing for teachers and other instructional personnel; amending
2473 s. 1001.43, F.S.; authorizing district school boards to provide
2474 affordable housing for teachers and other instructional
2475 personnel; amending s. 1013.15, F.S.; authorizing the board to
2476 convey certain property to school and instructional personnel;
2477 amending s. 1013.64, F.S.; prohibiting the use of PECO funds for
2478 the construction of affordable housing; authorizing local
2479 governments to provide density bonus incentives to landowners

2480 who donate fee simple interest in real property to the local
2481 government for the purpose of assisting the local government in
2482 providing affordable housing; providing definitions and
2483 requirements governing such donations and density bonuses;
2484 requiring the Department of Community Affairs to establish a
2485 Home Retrofit Hardening Program and establishing requirements
2486 for the program; requiring the Department of Community Affairs
2487 to establish a Disaster Recovery Assistance Program and
2488 establishing requirements for the program; authorizing the
2489 Florida Housing Finance Corporation to provide funds to eligible
2490 entities for affordable housing recovery in areas of the state
2491 sustaining hurricane damage due to hurricanes during 2004 and
2492 2005; providing legislative findings and emergency rulemaking
2493 authority; providing appropriations; providing effective dates.

SECTION-BY-SECTION BREAKDOWN
of STRIKE-ALL to HB 7077 CS

Section 1. FTC exec.director is reclassified as SES.

Sections 2-7. M.P.O. exec.directors are classified as SES and eligible for FRS benefits.

Section 8. Charter County Transit Surtax is changed to the "County Transportation Surtax" **and** once-a-year bonding restriction on local governments is deleted.

Section 9. Creates local-option rental car surcharge of $2 per day. Requires approval by local referendum. Exempts persons who rent a car because their personal vehicle is in the mechanics' shop.

Section 10. Fixed-guideway "fix" for FDOT

Section 11. Small ports' dredging project match is changed to a minimum 25%, rather than a flat 50%.

Section 12. Requires proper placement of license plates – no lower than 12 inches from the ground and no higher than 60 inches – and in the proper position (not diagonal or upside-down.).

Sections 13-15: Adjusts penalties for running through toll booths and expressways without paying tolls.

Secretary 16: Prohibits spraying or smearing foreign substance on license plates to obscure the numbers so that the toll plaza cameras cannot obtain a clear photograph. Entities will sell these substances are subject to investigation and sanctions by the state Attorney General.

Section 17. Provides for refinancing of two existing bond issues and authorizes the issuance of a new, third bond issue funded with $5m in annual recurring state revenues (motor vehicle registration fees). Authorizes FDOT to approve ports project list.

Section 18. Two aviation-funding issues: lowers local match for certain federal grants and extends until 2012 the ability of airports to use state capital grants for security-related improvements.

Section 19. Relocates FDOT recycled materials section and adds gypsum to the materials that can be used in FDOT demonstration projects.

Section 20. "Safe Routes to Schools;" slight rewrite to reflect new federal law.

Section 21. Deletes prohibition against local governments being able to bond their fuel tax revenues only once a year.

Section 22. Allows owner of 200-acre parcel in the Pasco Heights Road & Bridge District to "opt out" of the district so that the property can instead become part of the Meadow Pointe Community Development District.

Sections 23-25. Various surety and performance bond changes. The minimum contract needing surety bond is raised from $150K to $250K. Multi-year maintenance contracts can provide annual surety bonds instead. Contracts for projects in excess of $250M, which may have difficulty obtaining a traditional surety, may waive that requirement in lieu of bank letters of credit other types of financial guarantees, with FDOT's approval.

Section 26. Allows the Turnpike and other tolling agencies to enter into agreements with private or other public entities to market their transponders and to allow transponders to be used to pay for parking. Directs the Turnpike and other tolling agencies wishing to further expand transponder uses to conduct feasibility studies; legislative approval required before transponder uses are expanded.

Section 27. Turnpike budget roll-forward correction.

Section 28. Raises Turnpike bond cap from $4.5 million total of bonds ever issued, to $6 million in bonds outstanding.

Section 29. M.P.O.technical cleanup.

Section 30. Allows federal transit funds to count as local match for TRIP projects.

Section 31. Creates Transportation Concurrency Incentive Program for developers to potentially earn future credits if they build roads or other transportation facilities. Requires agreement between developer and the local governmental entity for new local roads, and agreement between developer, local governmental entity, and FDOT if new road would be part of the State Highway System.

Section 32. Short-term, emergency SIB loans authorized by FDOT under certain conditions.

Sections 33-35. South Florida RTA changes. Key change is deletion of Broward, Miami-Dade, and Palm Beach counties' contributions to the RTA if a state-authorized, locally imposed new revenue source is available and earmarked to the RTA.

Sections 36-52. Tampa Bay Commuter Transit Authority is changed to the "Tampa Bay Regional Transportation Authority. Citrus County becomes the 8th member of the group. Voting membership is comprised of 10 private citizens: one each from the counties, one appointed by the governor, and one appointed by the Chairman's Coordinating Council. The authority's responsibility is extended to include all types of transportation facilities.

Sections 53-55. Specifies that subsequent appointees to the Northwest Florida Transportation Corridor Authority shall not be elected officials. Makes the authority responsible for the proposed new bridge over Choctawhatchee Bay.

Section 56. The MDX board membership would be reduced from 13 persons to 7: one county commissioner appointed by the commission chairperson; one mayor appointed by the Miami-Dade League of Cities; three private citizens appointed by the Governor; and two private citizens appointed by the County Commission. Also, MDX would be prohibited from hiring an outside lobbyist, although its members and staff could lobby.

Section 57. Specifies MDX noticing requirements before raising or levying tolls. Also, clarifies that the public-private partnership procedures in Part I of chapter 348, F.S., apply to all expressway authorities, not just MDX.

Section 58. Further clarification on the public-private partnership applicability.

Section 59. Allows the OOCEA to reduce surety bond requirements for small or minority-owned contractors that meet certain conditions.

Section 60. Creates the Osceola Expressway Authority.

Section 61. Directs FTC study of M.P.O. planning efforts. The study is due to the Governor and the Legislature by 1/15/07.

Section 62. Allows transportation improvements to Red Road that do not alter the road's historic and cultural character.

Section 63. Brickell Avenue extension.

Section 64. July 1, 2006, effective date.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: State Infrastructure Council
2 Representative(s) Glorioso offered the following:
3
4
5 **Amendment #1 (with title amendment)**
6 Remove everything after the enacting clause and insert:
7
8 Section 1. Paragraph (h) of subsection (2) of section
9 20.23, Florida Statutes, is amended to read:
10 20.23 Department of Transportation.--There is created a
11 Department of Transportation which shall be a decentralized
12 agency.
13 (2)
14 (h) The commission shall appoint an executive director and
15 assistant executive director, who shall serve under the
16 direction, supervision, and control of the commission. The
17 executive director, with the consent of the commission, shall
18 employ such staff as are necessary to perform adequately the
19 functions of the commission, within budgetary limitations. All
20 employees of the commission are exempt from part II of chapter
21 110 and shall serve at the pleasure of the commission. The
22 salaries and benefits of all employees of the commission, except

23 for the executive director, shall be set in accordance with the
24 Selected Exempt Service; ~~provided,~~ however, ~~that~~ the salary and
25 benefits of the executive director shall be set in accordance
26 with the Senior Management Service. The commission shall have
27 complete authority for fixing the salary of the executive
28 director and assistant executive director.
29 Section 2. Subsection (14) of section 112.061, Florida
30 Statutes, is amended to read:
31 112.061 Per diem and travel expenses of public officers,
32 employees, and authorized persons.--
33 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
34 SCHOOL BOARDS, AND SPECIAL DISTRICTS.--
35 (a) Rates that exceed the maximum travel reimbursement
36 rates for nonstate travelers specified in paragraph (6)(a) for
37 per diem, in paragraph (6)(b) for subsistence, and in
38 subparagraph (7)(d)1. for mileage may be established by:
39 1. The governing body of a county by the enactment of an
40 ordinance or resolution;
41 2. A county constitutional officer, pursuant to s. 1(d),
42 Art. VIII of the State Constitution, by the establishment of
43 written policy;
44 3. The governing body of a district school board by the
45 adoption of rules; ~~or~~
46 4. The governing body of a special district, as defined in
47 s. 189.403(1), except those special districts that are subject
48 to s. 166.021(10), by the enactment of a resolution; or
49 5. Any metropolitan planning organization created pursuant
50 to s. 339.175, or any separate legal or administrative entity
51 created pursuant to s. 339.175 of which a metropolitan planning
52 organization is a member, by enactment of a resolution.

53 (b) Rates established pursuant to paragraph (a) must apply
54 uniformly to all travel by the county, county constitutional
55 officer and entity governed by that officer, district school
56 board, ~~or~~ special district, or metropolitan planning
57 organization.
58 (c) Except as otherwise provided in this subsection,
59 counties, county constitutional officers and entities governed
60 by those officers, district school boards, and special
61 districts, other than those subject to s. 166.021(10), remain
62 subject to the requirements of this section.
63 Section 3. Paragraph (a) of subsection (42) and paragraph
64 (b) of subsection (52) of section 121.021, Florida Statutes, are
65 amended to read:
66 121.021 Definitions.--The following words and phrases as
67 used in this chapter have the respective meanings set forth
68 unless a different meaning is plainly required by the context:
69 (42)(a) "Local agency employer" means the board of county
70 commissioners or other legislative governing body of a county,
71 however styled, including that of a consolidated or metropolitan
72 government; a clerk of the circuit court, sheriff, property
73 appraiser, tax collector, or supervisor of elections, provided
74 such officer is elected or has been appointed to fill a vacancy
75 in an elective office; a community college board of trustees or
76 district school board; or the governing body of any city,
77 metropolitan planning organization created pursuant to s.
78 339.175, or any separate legal or administrative entity created
79 pursuant to s. 339.175, or special district of the state which
80 participates in the system for the benefit of certain of its
81 employees.
82 (52) "Regularly established position" is defined as
83 follows:

84 (b) In a local agency (district school board, county
85 agency, community college, city, metropolitan planning
86 organization, or special district), the term means a regularly
87 established position which will be in existence for a period
88 beyond 6 consecutive months, except as provided by rule.
89 Section 4. Paragraph (b) of subsection (2) of section
90 121.051, Florida Statutes, is amended to read:
91 121.051 Participation in the system.--
92 (2) OPTIONAL PARTICIPATION.--
93 (b)1. The governing body of any municipality, metropolitan
94 planning organization, or special district in the state may
95 elect to participate in the system upon proper application to
96 the administrator and may cover all or any of its units as
97 approved by the Secretary of Health and Human Services and the
98 administrator. The department shall adopt rules establishing
99 provisions for the submission of documents necessary for such
100 application. Prior to being approved for participation in the
101 Florida Retirement System, the governing body of any such
102 municipality, metropolitan planning organization, or special
103 district that has a local retirement system shall submit to the
104 administrator a certified financial statement showing the
105 condition of the local retirement system as of a date within 3
106 months prior to the proposed effective date of membership in the
107 Florida Retirement System. The statement must be certified by a
108 recognized accounting firm that is independent of the local
109 retirement system. All required documents necessary for
110 extending Florida Retirement System coverage must be received by
111 the department for consideration at least 15 days prior to the
112 proposed effective date of coverage. If the municipality,
113 metropolitan planning organization, or special district does not

114 comply with this requirement, the department may require that
115 the effective date of coverage be changed.
116 2. Any city, metropolitan planning organization, or
117 special district that has an existing retirement system covering
118 the employees in the units that are to be brought under the
119 Florida Retirement System may participate only after holding a
120 referendum in which all employees in the affected units have the
121 right to participate. Only those employees electing coverage
122 under the Florida Retirement System by affirmative vote in said
123 referendum shall be eligible for coverage under this chapter,
124 and those not participating or electing not to be covered by the
125 Florida Retirement System shall remain in their present systems
126 and shall not be eligible for coverage under this chapter. After
127 the referendum is held, all future employees shall be compulsory
128 members of the Florida Retirement System.
129 3. The governing body of any city, metropolitan planning
130 organization, or special district complying with subparagraph 1.
131 may elect to provide, or not provide, benefits based on past
132 service of officers and employees as described in s. 121.081(1).
133 However, if such employer elects to provide past service
134 benefits, such benefits must be provided for all officers and
135 employees of its covered group.
136 4. Once this election is made and approved it may not be
137 revoked, except pursuant to subparagraphs 5. and 6., and all
138 present officers and employees electing coverage under this
139 chapter and all future officers and employees shall be
140 compulsory members of the Florida Retirement System.
141 5. Subject to the conditions set forth in subparagraph 6.,
142 the governing body of any hospital licensed under chapter 395
143 which is governed by the board of a special district as defined
144 in s. 189.403(1) or by the board of trustees of a public health

145 trust created under s. 154.07, hereinafter referred to as
146 "hospital district," and which participates in the system, may
147 elect to cease participation in the system with regard to future
148 employees in accordance with the following procedure:
149 a. No more than 30 days and at least 7 days before
150 adopting a resolution to partially withdraw from the Florida
151 Retirement System and establish an alternative retirement plan
152 for future employees, a public hearing must be held on the
153 proposed withdrawal and proposed alternative plan.
154 b. From 7 to 15 days before such hearing, notice of intent
155 to withdraw, specifying the time and place of the hearing, must
156 be provided in writing to employees of the hospital district
157 proposing partial withdrawal and must be published in a
158 newspaper of general circulation in the area affected, as
159 provided by ss. 50.011-50.031. Proof of publication of such
160 notice shall be submitted to the Department of Management
161 Services.
162 c. The governing body of any hospital district seeking to
163 partially withdraw from the system must, before such hearing,
164 have an actuarial report prepared and certified by an enrolled
165 actuary, as defined in s. 112.625(3), illustrating the cost to
166 the hospital district of providing, through the retirement plan
167 that the hospital district is to adopt, benefits for new
168 employees comparable to those provided under the Florida
169 Retirement System.
170 d. Upon meeting all applicable requirements of this
171 subparagraph, and subject to the conditions set forth in
172 subparagraph 6., partial withdrawal from the system and adoption
173 of the alternative retirement plan may be accomplished by
174 resolution duly adopted by the hospital district board. The
175 hospital district board must provide written notice of such

176 withdrawal to the division by mailing a copy of the resolution
177 to the division, postmarked no later than December 15, 1995. The
178 withdrawal shall take effect January 1, 1996.
179 6. Following the adoption of a resolution under sub-
180 subparagraph 5.d., all employees of the withdrawing hospital
181 district who were participants in the Florida Retirement System
182 prior to January 1, 1996, shall remain as participants in the
183 system for as long as they are employees of the hospital
184 district, and all rights, duties, and obligations between the
185 hospital district, the system, and the employees shall remain in
186 full force and effect. Any employee who is hired or appointed on
187 or after January 1, 1996, may not participate in the Florida
188 Retirement System, and the withdrawing hospital district shall
189 have no obligation to the system with respect to such employees.
190 Section 5. Paragraph (l) is added to subsection (1) of
191 section 121.055, Florida Statutes, to read:
192 121.055 Senior Management Service Class.--There is hereby
193 established a separate class of membership within the Florida
194 Retirement System to be known as the "Senior Management Service
195 Class," which shall become effective February 1, 1987.
196 (1)
197 <u>(l) For each metropolitan planning organization that has</u>
198 <u>opted to become part of the Florida Retirement System,</u>
199 <u>participation in the Senior Management Service Class shall be</u>
200 <u>compulsory for the executive director or staff director of that</u>
201 <u>metropolitan planning organization or similar entity created</u>
202 <u>pursuant to s. 339.175.</u>
203 Section 6. Paragraphs (a) and (c) of subsection (2) of
204 section 121.061, Florida Statutes, are amended to read:
205 121.061 Funding.--

206 (2)(a) Should any employer other than a state employer
207 fail to make the retirement and social security contributions,
208 both member and employer contributions, required by this
209 chapter, then, upon request by the administrator, the Department
210 of Revenue or the Department of Financial Services, as the case
211 may be, shall deduct the amount owed by the employer from any
212 funds to be distributed by it to the county, city, metropolitan
213 planning organization, special district, or consolidated form of
214 government. The amounts so deducted shall be transferred to the
215 administrator for further distribution to the trust funds in
216 accordance with this chapter.
217 (c) The governing body of each county, city, metropolitan
218 planning organization, special district, or consolidated form of
219 government participating under this chapter or the
220 administrator, acting individually or jointly, is hereby
221 authorized to file and maintain an action in the courts of the
222 state to require any employer to remit any retirement or social
223 security member contributions or employer matching payments due
224 the retirement or social security trust funds under the
225 provisions of this chapter.
226 Section 7. Paragraphs (a), (b), and (e) of subsection (1)
227 of section 121.081, Florida Statutes, are amended to read:
228 121.081 Past service; prior service;
229 contributions.--Conditions under which past service or prior
230 service may be claimed and credited are:
231 (1)(a) Past service, as defined in s. 121.021(18), may be
232 claimed as creditable service by officers or employees of a
233 city, metropolitan planning organization, or special district
234 that become a covered group under this system. The governing
235 body of a covered group in compliance with s. 121.051(2)(b) may
236 elect to provide benefits with respect to past service earned

237 prior to January 1, 1975, in accordance with this chapter, and
238 the cost for such past service shall be established by applying
239 the following formula: The member contribution for both regular
240 and special risk members shall be 4 percent of the gross annual
241 salary for each year of past service claimed, plus 4-percent
242 employer matching contribution, plus 4 percent interest thereon
243 compounded annually, figured on each year of past service, with
244 interest compounded from date of annual salary earned until July
245 1, 1975, and 6.5 percent interest compounded annually thereafter
246 until date of payment. Once the total cost for a member has been
247 figured to date, then after July 1, 1975, 6.5 percent compounded
248 interest shall be added each June 30 thereafter on any unpaid
249 balance until the cost of such past service liability is paid in
250 full. The following formula shall be used in calculating past
251 service earned prior to January 1, 1975: (Annual gross salary
252 multiplied by 8 percent) multiplied by the 4 percent or 6.5
253 percent compound interest table factor, as may be applicable.
254 The resulting product equals cost to date for each particular
255 year of past service.
256 (b) Past service earned after January 1, 1975, may be
257 claimed by officers or employees of a city<u>, metropolitan</u>
258 <u>planning organization,</u> or special district that becomes a
259 covered group under this system. The governing body of a covered
260 group may elect to provide benefits with respect to past service
261 earned after January 1, 1975, in accordance with this chapter,
262 and the cost for such past service shall be established by
263 applying the following formula: The employer shall contribute an
264 amount equal to the contribution rate in effect at the time the
265 service was earned, multiplied by the employee's gross salary
266 for each year of past service claimed, plus 6.5 percent interest
267 thereon, compounded annually, figured on each year of past

268 service, with interest compounded from date of annual salary
269 earned until date of payment.
270 (e) Past service, as defined in s. 121.021(18), may be
271 claimed as creditable service by a member of the Florida
272 Retirement System who formerly was an officer or employee of a
273 city, metropolitan planning organization, or special district,
274 notwithstanding the status or form of the retirement system, if
275 any, of that city, metropolitan planning organization, or
276 special district and irrespective of whether officers or
277 employees of that city, metropolitan planning organization, or
278 special district now or hereafter become a covered group under
279 the Florida Retirement System. Such member may claim creditable
280 service and be entitled to the benefits accruing to the regular
281 class of members as provided for the past service claimed under
282 this paragraph by paying into the retirement trust fund an
283 amount equal to the total actuarial cost of providing the
284 additional benefit resulting from such past-service credit,
285 discounted by the applicable actuarial factors to date of
286 retirement.
287 Section 8. Subsection (1) and paragraph (e) of subsection
288 (2) of section 212.055, Florida Statutes, are amended, and a new
289 subsection (8) is added that section, to read:
290 212.055 Discretionary sales surtaxes; legislative intent;
291 authorization and use of proceeds.--It is the legislative intent
292 that any authorization for imposition of a discretionary sales
293 surtax shall be published in the Florida Statutes as a
294 subsection of this section, irrespective of the duration of the
295 levy. Each enactment shall specify the types of counties
296 authorized to levy; the rate or rates which may be imposed; the
297 maximum length of time the surtax may be imposed, if any; the
298 procedure which must be followed to secure voter approval, if

299 required; the purpose for which the proceeds may be expended;
300 and such other requirements as the Legislature may provide.
301 Taxable transactions and administrative procedures shall be as
302 provided in s. 212.054.
303 (1) CHARTER COUNTY TRANSPORTATION ~~TRANSIT~~ SYSTEM SURTAX.--
304 (a) Each charter county which adopted a charter prior to
305 January 1, 1984, and each county the government of which is
306 consolidated with that of one or more municipalities, may levy a
307 discretionary sales surtax, subject to approval by a majority
308 vote of the electorate of the county or by a charter amendment
309 approved by a majority vote of the electorate of the county.
310 (b) The rate shall be up to 1 percent.
311 (c) The proposal to adopt a discretionary sales surtax as
312 provided in this subsection and to create a trust fund within
313 the county accounts shall be placed on the ballot in accordance
314 with law at a time to be set at the discretion of the governing
315 body or pursuant to initiative petition, if provided for in the
316 county's charter.
317 (d) Proceeds from the surtax shall be applied to as many
318 or as few of the uses enumerated below in whatever combination
319 the county commission deems appropriate:
320 1. Deposited by the county in the trust fund and shall be
321 used for the purposes of development, construction, equipment,
322 maintenance, operation, supportive services, including a
323 countywide bus system, and related costs of a fixed guideway
324 rapid transit system;
325 2. Remitted by the governing body of the county to an
326 expressway or transportation authority created by law to be
327 used, at the discretion of such authority, for the development,
328 construction, operation, or maintenance of roads or bridges in
329 the county, for the operation and maintenance of a bus system,

330 for the payment of principal and interest on existing bonds
331 issued for the construction of such roads or bridges, and, upon
332 approval by the county commission, such proceeds may be pledged
333 for bonds issued to refinance existing bonds or new bonds issued
334 for the construction of such roads or bridges;
335 3. Used by the charter county for the development,
336 construction, operation, and maintenance of roads and bridges in
337 the county; for the expansion, operation, and maintenance of bus
338 and fixed guideway systems; and for the payment of principal and
339 interest on bonds issued for the construction of fixed guideway
340 rapid transit systems, bus systems, roads, or bridges; and such
341 proceeds may be pledged by the governing body of the county for
342 bonds issued to refinance existing bonds or new bonds issued for
343 the construction of such fixed guideway rapid transit systems,
344 bus systems, roads, or bridges and no more than 25 percent used
345 for nontransit uses; ~~and~~
346 4. Used by the charter county for the planning,
347 development, construction, operation, and maintenance of roads
348 and bridges in the county; for the planning, development,
349 expansion, operation, and maintenance of bus and fixed guideway
350 systems; and for the payment of principal and interest on bonds
351 issued for the construction of fixed guideway rapid transit
352 systems, bus systems, roads, or bridges; and such proceeds may
353 be pledged by the governing body of the county for bonds issued
354 to refinance existing bonds or new bonds issued for the
355 construction of such fixed guideway rapid transit systems, bus
356 systems, roads, or bridges. Pursuant to an interlocal agreement
357 entered into pursuant to chapter 163, the governing body of the
358 charter county may distribute proceeds from the tax to a
359 municipality, or an expressway or transportation authority

360 created by law to be expended for the purpose authorized by this
361 paragraph;~~.~~
362 5. Used by the charter county to fund regionally
363 significant transportation projects that are identified in a
364 regional transportation plan developed in accordance with s.
365 339.155(5) or to provide matching funds for the Transportation
366 Regional Incentive Program in accordance with s. 339.2819 or the
367 New Starts Transit Program, as provided in s. 341.051; and
368 6. Used by the charter county to fund projects identified
369 in a capital improvements element of a comprehensive plan that
370 has been determined to be in compliance with part II of chapter
371 163 or to implement a long-term concurrency management system
372 adopted by a local government in accordance with s. 163.3177(3)
373 or (9).
374 7. Used by the charter county to fund projects that are
375 part of the State Intermodal System.
376 (2)
377 (e) School districts, counties, and municipalities
378 receiving proceeds under the provisions of this subsection may
379 pledge such proceeds for the purpose of servicing new bond
380 indebtedness incurred pursuant to law. Local governments may use
381 the services of the Division of Bond Finance of the State Board
382 of Administration pursuant to the State Bond Act to issue any
383 bonds through the provisions of this subsection. ~~In no case may~~
384 ~~a jurisdiction issue bonds pursuant to this subsection more~~
385 ~~frequently than once per year.~~ Counties and municipalities may
386 join together for the issuance of bonds authorized by this
387 subsection.
388 (8) COUNTY TRANSPORTATION SYSTEM SURTAX.--
389 (a) The governing authority of a county that is not
390 authorized to levy a discretionary sales surtax pursuant to

391 subsection (1) may levy a discretionary sales surtax pursuant to
392 ordinance enacted by a majority of the members of the county
393 governing authority and subject to approval by a majority vote
394 of the electorate of the county.
395 (b) The rate shall be up to 1 percent.
396 (c) If the proposal to adopt a discretionary sales surtax
397 is to be adopted by a referendum as provided in this subsection,
398 such proposal shall be placed on the ballot in accordance with
399 law at a time to be set at the discretion of the governing body
400 of the county.
401 (d) Proceeds from the surtax shall be distributed to the
402 county and to each municipality within the county in which the
403 surtax is collected according to:
404 1. A separate interlocal agreement between the county
405 governing body and the governing body of any municipality within
406 the county; or
407 2. If there is no interlocal agreement between the county
408 governing body and the governing body of any municipality within
409 the county, an apportionment factor for each eligible local
410 government as specified in this subparagraph.
411 a. The apportionment factor for an eligible county shall
412 be composed of two equally weighted portions as follows:
413 (I) Each eligible county's population in the
414 unincorporated areas of the county as a percentage of the total
415 county population as determined pursuant to s. 186.901.
416 (II) Each eligible county's percentage of centerline miles
417 derived from the combined total number of centerline miles owned
418 and maintained by the county and each municipality within the
419 county as annually reported in the City/County Mileage Report
420 promulgated by the Transportation Statistics Office within the
421 Department of Transportation.

422 b. The apportionment factor for an eligible municipality
423 shall be composed of two equally weighted portions as follows:
424 (I) Each eligible municipality's population as a
425 percentage of the total county population as determined pursuant
426 to s. 186.901.
427 (II) Each eligible municipality's percentage of centerline
428 miles derived from the combined total number of centerline miles
429 owned and maintained by the county and each municipality within
430 the county as annually reported in the City/County Mileage
431 Report promulgated by the Transportation Statistics Office
432 within the Department of Transportation.
433 (e) Proceeds from the surtax shall be applied to as many
434 or as few of the uses enumerated below in whatever combination
435 the governing body of the municipality or the county considers
436 appropriate:
437 1. Deposited by the governing body of the municipality or
438 the county in the trust fund and used for the purposes of
439 development, construction, equipment, maintenance, operation,
440 supportive services, including a bus system, and related costs
441 of a fixed guideway rapid transit system;
442 2. Remitted by the governing body of the municipality or
443 the county to an expressway or transportation authority created
444 by law to be used, at the discretion of such authority, for the
445 development, construction, operation, or maintenance of roads,
446 bicycle and pedestrian facilities, or bridges in the county or
447 municipality, for the operation and maintenance of a bus system,
448 for the payment of principal and interest on existing bonds
449 issued for the construction of such roads, bicycle or pedestrian
450 facilities, or bridges, and, upon approval by the governing body
451 of the municipality or county, pledged for bonds issued to

452 refinance existing bonds or new bonds issued for the
453 construction of such roads or bridges;
454 3. Used by the governing body of the municipality or
455 county for the planning, development, construction, operation,
456 and maintenance of roads, bicycle and pedestrian facilities, or
457 bridges in the municipality or county; for the planning,
458 development, expansion, operation, and maintenance of bus and
459 fixed guideway systems; and for the payment of principal and
460 interest on bonds issued for the construction of fixed guideway
461 rapid transit systems, bus systems, roads, bicycle and
462 pedestrian facilities, or bridges; and, upon approval by the
463 governing body of the municipality or county, pledged by the
464 governing body of the municipality or county for bonds issued to
465 refinance existing bonds or new bonds issued for the
466 construction of such fixed guideway rapid transit systems, bus
467 systems, roads, bicycle and pedestrian facilities, or bridges;
468 4. Used by the county or municipality to fund regionally
469 significant transportation projects that are identified in a
470 regional transportation plan developed in accordance with s.
471 339.155(5) or to provide matching funds for the Transportation
472 Regional Incentive Program in accordance with s. 339.2819 or the
473 New Starts Transit Program as provided in s. 341.051; and
474 5. Used by the county or municipality to fund projects
475 identified in a capital improvements element of a comprehensive
476 plan that has been determined to be in compliance with part II
477 of chapter 163 or to implement a long-term concurrency
478 management system adopted by a local government in accordance
479 with s. 163.3177(3) or (9).
480 6. Used by the county or municipality to fund projects
481 that are part of the State Intermodal System.
482

483 Section 9. Section 212.0606, Florida Statutes, is amended
484 to read:
485 212.0606 Rental car surcharge.--
486 (1) A surcharge of $2 ~~$2.00~~ per day or any part of a day
487 is imposed upon the lease or rental of a motor vehicle licensed
488 for hire and designed to carry fewer ~~less~~ than nine passengers,
489 regardless of whether such motor vehicle is licensed in Florida.
490 The surcharge applies to only the first 30 days of the term of
491 any lease or rental and~~. The surcharge~~ is subject to all
492 applicable taxes imposed by this chapter.
493 (2)(a) Notwithstanding s. ~~the provisions of section~~
494 212.20, and less costs of administration, 80 percent of the
495 proceeds of the ~~this~~ surcharge imposed under subsection (1)
496 shall be deposited in the State Transportation Trust Fund, 15.75
497 percent of the proceeds of this surcharge shall be deposited in
498 the Tourism Promotional Trust Fund created in s. 288.122, and
499 4.25 percent of the proceeds of this surcharge shall be
500 deposited in the Florida International Trade and Promotion Trust
501 Fund. As used in ~~For the purposes of~~ this subsection, "proceeds"
502 of the surcharge means all funds collected and received by the
503 department under subsection (1) ~~this section~~, including interest
504 and penalties on delinquent surcharges. The department shall
505 provide the Department of Transportation rental car surcharge
506 revenue information for the previous state fiscal year by
507 September 1 of each year.
508 (b) Notwithstanding any other provision of law, in fiscal
509 year 2007-2008 and each year thereafter, the proceeds deposited
510 in the State Transportation Trust Fund shall be allocated on an
511 annual basis in the Department of Transportation's work program
512 to each department district, except the Turnpike District. The
513 amount allocated for each district shall be based upon the

514 amount of proceeds attributed to the counties within each
515 respective district.
516 (3)(a) In addition to the surcharge imposed under
517 subsection (1), a county may impose by countywide referendum a
518 local surcharge of $2 per day or any part of a day upon the
519 lease or rental of a motor vehicle licensed for hire and
520 designed to carry fewer than nine passengers, regardless of
521 whether such motor vehicle is licensed in this state. The local
522 surcharge may be applied to only the first 30 days of the term
523 of any lease or rental. The local surcharge shall not apply to
524 the lease or rental of a motor vehicle by a person for the
525 period of time required to have a motor vehicle owned by the
526 person undergo maintenance or repair. The person must provide a
527 receipt for the cost of the maintenance or repair services and
528 documentation that the person owns the motor vehicle undergoing
529 maintenance or repair. The local surcharge is subject to all
530 applicable taxes imposed by this chapter.
531 (b) If the ordinance authorizing the imposition of the
532 local surcharge is approved by such referendum, a certified copy
533 of the ordinance shall be furnished by the county to the
534 department within 10 days after such approval, but no later than
535 November 16 prior to the effective date. The notice must specify
536 the time period during which the local surcharge will be in
537 effect and must include a copy of the ordinance and such other
538 information as the department may require by rule. Failure to
539 timely provide such notification to the department shall result
540 in the delay of the effective date for a period of 1 year. The
541 effective date for any county to impose the local surcharge
542 shall be January 1 following the year in which the ordinance was
543 approved by referendum. A local surcharge may not terminate on a
544 date other than December 31.

545 (c) Any local surcharge proceeds collected by a dealer
546 that fails to report surcharge collections by county as required
547 by paragraph (4)(b) shall be deposited into the Solid Waste
548 Management Trust Fund and then transferred to the Local Option
549 Fuel Tax Trust Fund as separate from the county surcharge
550 collection accounts. The department shall distribute funds in
551 this account, less the cost of administration, using a
552 distribution factor determined for each county that levies a
553 local surcharge, based upon the county's latest official
554 population determined pursuant to s. 186.901 and multiplied by
555 the amount of funds in the account and available for
556 distribution.
557 (d) Notwithstanding s. 212.20, and less the costs of
558 administration, the proceeds of the local surcharge imposed
559 under paragraph (a) shall be transferred to the Local Option
560 Fuel Tax Trust Fund for the purposes allowed under s. 206.60 and
561 distributed monthly by the department under s. 336.025(3)(a)1.
562 or s. 336.025(4)(a). As used in this subsection, "proceeds" of
563 the local surcharge means all funds collected and received by
564 the department under this subsection, including interest and
565 penalties on delinquent local surcharges.
566 (4) ~~(3)~~(a) Except as provided in this section, the
567 department shall administer, collect, and enforce the surcharge
568 and local surcharge as provided in this chapter.
569 (b) The department shall require dealers to report
570 surcharge collections according to the county to which the
571 surcharge and local surcharge was attributed. For purposes of
572 this section, the surcharge and local surcharge shall be
573 attributed to the county where the rental agreement was entered
574 into.

575 (c) Dealers who collect a ~~the~~ rental car surcharge shall
576 report to the department all surcharge and local surcharge
577 revenues attributed to the county where the rental agreement was
578 entered into on a timely filed return for each required
579 reporting period. The provisions of this chapter which apply to
580 interest and penalties on delinquent taxes shall apply to the
581 surcharge and local surcharge. The surcharge and local surcharge
582 shall not be included in the calculation of estimated taxes
583 pursuant to s. 212.11. The dealer's credit provided in s. 212.12
584 shall not apply to any amount collected under this section.
585 (5) ~~(4)~~ The surcharge and any local surcharge imposed by
586 this section do ~~does~~ not apply to a motor vehicle provided at no
587 charge to a person whose motor vehicle is being repaired,
588 adjusted, or serviced by the entity providing the replacement
589 motor vehicle.
590 Section 10. Subsection (1) of section 215.615, Florida
591 Statutes, is amended to read:
592 215.615 Fixed-guideway transportation systems funding.--
593 (1) The issuance of revenue bonds by the Division of Bond
594 Finance, on behalf of the Department of Transportation, pursuant
595 to s. 11, Art. VII of the State Constitution, is authorized,
596 pursuant to the State Bond Act, to finance or refinance fixed
597 capital expenditures for fixed-guideway transportation systems,
598 as defined in s. 341.031, including facilities appurtenant
599 thereto, costs of issuance, and other amounts relating to such
600 financing or refinancing. ~~Such revenue bonds shall be matched on~~
601 ~~a 50-50 basis with funds from sources other than revenues of the~~
602 ~~Department of Transportation, in a manner acceptable to the~~
603 ~~Department of Transportation.~~ The Division of Bond Finance is
604 authorized to consider innovative financing techniques
605 ~~technologies~~ which may include, but are not limited to,

606 innovative bidding and structures of potential financings
607 ~~findings~~ that may result in negotiated transactions. The
608 following conditions apply to the issuance of revenue bonds for
609 fixed-guideway transportation systems:
610 (a) The department and any participating commuter rail
611 authority or regional transportation authority established under
612 chapter 343, local governments, or local governments
613 collectively by interlocal agreement having jurisdiction of a
614 fixed-guideway transportation system may enter into an
615 interlocal agreement to promote the efficient and cost-effective
616 financing or refinancing of fixed-guideway transportation system
617 projects by revenue bonds issued pursuant to this subsection.
618 The terms of such interlocal agreements shall include provisions
619 for the Department of Transportation to request the issuance of
620 the bonds on behalf of the parties; shall provide that after
621 reimbursement pursuant to interlocal agreement, the department's
622 share may be up to 50 percent of the eligible project cost,
623 which may include a share of annual ~~each party to the agreement~~
624 ~~is contractually liable for an equal share of funding an amount~~
625 ~~equal to the~~ debt service requirements of such bonds; and shall
626 include any other terms, provisions, or covenants necessary to
627 the making of and full performance under such interlocal
628 agreement. Repayments made to the department under any
629 interlocal agreement are not pledged to the repayment of bonds
630 issued hereunder, and failure of the local governmental
631 authority to make such payment shall not affect the obligation
632 of the department to pay debt service on the bonds.
633 (b) Revenue bonds issued pursuant to this subsection shall
634 not constitute a general obligation of, or a pledge of the full
635 faith and credit of, the State of Florida. Bonds issued pursuant
636 to this section shall be payable from funds available pursuant

637 to s. 206.46(3), subject to annual appropriation. The amount of
638 revenues available for debt service shall never exceed a maximum
639 of 2 percent of all state revenues deposited into the State
640 Transportation Trust Fund.
641 (c) The projects to be financed or refinanced with the
642 proceeds of the revenue bonds issued hereunder are designated as
643 state fixed capital outlay projects for purposes of s. 11(d),
644 Art. VII of the State Constitution, and the specific projects to
645 be financed or refinanced shall be determined by the Department
646 of Transportation in accordance with state law and
647 appropriations from the State Transportation Trust Fund. Each
648 project to be financed with the proceeds of the bonds issued
649 pursuant to this subsection must first be approved by the
650 Legislature by an act of general law.
651 (d) Any complaint for validation of bonds issued pursuant
652 to this section shall be filed in the circuit court of the
653 county where the seat of state government is situated, the
654 notice required to be published by s. 75.06 shall be published
655 only in the county where the complaint is filed, and the
656 complaint and order of the circuit court shall be served only on
657 the state attorney of the circuit in which the action is
658 pending.
659 (e) The state does hereby covenant with holders of such
660 revenue bonds or other instruments of indebtedness issued
661 hereunder, that it will not repeal or impair or amend these
662 provisions in any manner that will materially and adversely
663 affect the rights of such holders as long as bonds authorized by
664 this subsection are outstanding.
665 (f) This subsection supersedes any inconsistent provisions
666 in existing law.
667

668 Notwithstanding this subsection, the lien of revenue bonds
669 issued pursuant to this subsection on moneys deposited into the
670 State Transportation Trust Fund shall be subordinate to the lien
671 on such moneys of bonds issued under ss. 215.605, 320.20, and
672 215.616, and any pledge of such moneys to pay operating and
673 maintenance expenses under s. 206.46(5) and chapter 348, as may
674 be amended.
675 Section 11. Subsection (1) of section 311.22, Florida
676 Statutes, is amended to read:
677 311.22 Additional authorization for funding certain
678 dredging projects.--
679 (1) The Florida Seaport Transportation and Economic
680 Development Council shall establish a program to fund dredging
681 projects in counties having a population of fewer than 300,000
682 according to the last official census. Funds made available
683 under this program may be used to fund approved projects for the
684 dredging or deepening of channels, turning basins, or harbors on
685 a 50-50 matching basis with any port authority, as such term is
686 defined in s. 315.02(2), which complies with the permitting
687 requirements in part IV of chapter 373 and the local financial
688 management and reporting provisions of part III of chapter 218.
689 <u>Funding for such projects shall require a minimum 25 percent</u>
690 <u>match of funds received for new channels or turning basins</u>
691 <u>pursuant to this section.</u>
692 Section 12. Subsection (1) of section 316.605, Florida
693 Statutes, is amended to read:
694 316.605 Licensing of vehicles.--
695 (1) Every vehicle, at all times while driven, stopped, or
696 parked upon any highways, roads, or streets of this state, shall
697 be licensed in the name of the owner thereof in accordance with
698 the laws of this state unless such vehicle is not required by

699 the laws of this state to be licensed in this state and shall,
700 except as otherwise provided in s. 320.0706 for front-end
701 registration license plates on truck tractors and s. 320.086(5)
702 which exempts display of license plates on described former
703 military vehicles, display the license plate or both of the
704 license plates assigned to it by the state, one on the rear and,
705 if two, the other on the front of the vehicle, each to be
706 securely fastened to the vehicle outside the main body of the
707 vehicle <u>not higher than 60 inches and not lower than 12 inches</u>
708 <u>from the ground and</u> in such manner as to prevent the plates from
709 swinging, and all letters, numerals, printing, writing, and
710 other identification marks upon the plates regarding the word
711 "Florida," the registration decal, and the alphanumeric
712 designation shall be clear and distinct and free from
713 defacement, mutilation, grease, and other obscuring matter, so
714 that they will be plainly visible and legible at all times 100
715 feet from the rear or front. <u>Vehicle license plates shall be</u>
716 <u>affixed and displayed in such a manner that the letters and</u>
717 <u>numerals shall be read from left to right parallel to the</u>
718 <u>ground. No vehicle license plate may be displayed in an inverted</u>
719 <u>or reversed position or in such a manner that the letters and</u>
720 <u>numbers and their proper sequence are not readily identifiable.</u>
721 Nothing shall be placed upon the face of a Florida plate except
722 as permitted by law or by rule or regulation of a governmental
723 agency. No license plates other than those furnished by the
724 state shall be used. However, if the vehicle is not required to
725 be licensed in this state, the license plates on such vehicle
726 issued by another state, by a territory, possession, or district
727 of the United States, or by a foreign country, substantially
728 complying with the provisions hereof, shall be considered as
729 complying with this chapter. A violation of this subsection is a

730 noncriminal traffic infraction, punishable as a nonmoving
731 violation as provided in chapter 318.
732 Section 13. Paragraph (b) of subsection (3) of section
733 316.650, Florida Statutes, is amended to read:
734 316.650 Traffic citations.--
735 (3)
736 (b) If a traffic citation is issued pursuant to s.
737 316.1001, a traffic enforcement officer may deposit the original
738 and one copy of such traffic citation or, in the case of a
739 traffic enforcement agency that has an automated citation
740 system, may provide an electronic facsimile with a court having
741 jurisdiction over the alleged offense or with its traffic
742 violations bureau within 45 days after the date of issuance of
743 the citation to the violator. <u>If the person cited for the</u>
744 <u>violation of s. 316.1001 makes the election provided by s.</u>
745 <u>318.14(12) and pays the fine imposed by the toll authority plus</u>
746 <u>the amount of the unpaid toll that is shown on the traffic</u>
747 <u>citation directly to the governmental entity that issued the</u>
748 <u>citation in accordance with s. 318.14(12), the traffic citation</u>
749 <u>will not be submitted to the court, the disposition will be</u>
750 <u>reported to the department by the governmental entity that</u>
751 <u>issued the citation, and no points will be assessed against the</u>
752 <u>person's driver's license.</u>
753 Section 14. Subsection (12) of section 318.14, Florida
754 Statutes, is amended to read:
755 318.14 Noncriminal traffic infractions; exception;
756 procedures.--
757 (12) Any person cited for a violation of s. 316.1001 may,
758 in lieu of making an election as set forth in subsection (4) or
759 s. 318.18(7), elect to pay <u>a</u> ~~his or her~~ fine <u>of $25, or such</u>
760 <u>other amount as imposed by the toll authority, plus the amount</u>

761 of the unpaid toll that is shown on the traffic citation
762 directly to the governmental entity that issued the citation~~,~~
763 within 30 days after the date of issuance of the citation. Any
764 person cited for a violation of s. 316.1001 who does not elect
765 to pay the fine imposed by the toll authority plus the amount of
766 the unpaid toll that is shown on the traffic citation directly
767 to the governmental entity that issued the citation as described
768 in this subsection ~~section~~ shall have an additional 45 days
769 after the date of the issuance of the citation in which to
770 request a court hearing or to pay the civil penalty and
771 delinquent fee, if applicable, as provided in s. 318.18(7),
772 either by mail or in person, in accordance with subsection (4).
773 Section 15. Subsection (7) of section 318.18, Florida
774 Statutes, is amended to read:
775 318.18 Amount of civil penalties.--The penalties required
776 for a noncriminal disposition pursuant to s. 318.14 are as
777 follows:
778 (7) Mandatory one hundred dollar fine ~~dollars~~ for each ~~a~~
779 violation of s. 316.1001 plus the amount of the unpaid toll
780 shown on the traffic citation for each citation issued. The
781 clerk of the court shall forward $25 of the $100 fine received
782 plus the amount of the unpaid toll that is shown on the citation
783 to the governmental entity that issued the citation. However,
784 if a plea arrangement is reached prior to the date set for a
785 scheduled evidentiary hearing, there shall be a mandatory fine
786 assessed per citation of not less than $50 and not more than
787 $100, plus the amount of the unpaid toll for each citation
788 issued. The clerk of the court shall forward $25 of the fine
789 imposed, plus the amount of the unpaid toll that is shown on the
790 citation, to the governmental entity that issued the citation.
791 The court shall have specific authority to consolidate issued

792 citations for the same defendant for the purpose of sentencing
793 and aggregate jurisdiction. In addition, the department shall
794 suspend for 60 days the driver's license of a person who is
795 convicted of 10 violations of s. 316.1001 within a 36-month
796 period. ~~However, a person may elect to pay $30 to the clerk of~~
797 ~~the court, in which case adjudication is withheld, and no points~~
798 ~~are assessed under s. 322.27. Upon receipt of the fine, the~~
799 ~~clerk of the court must retain $5 for administrative purposes~~
800 ~~and must forward the $25 to the governmental entity that issued~~
801 ~~the citation.~~ Any funds received by a governmental entity for
802 this violation may be used for any lawful purpose related to the
803 operation or maintenance of a toll facility.
804 Section 16. Section 320.061, Florida Statutes, is amended
805 to read:
806 320.061 Unlawful to alter motor vehicle registration
807 certificates, license plates, mobile home stickers, or
808 validation stickers or to obscure license plates; penalty.--
809 (1) No person shall alter the original appearance of any
810 registration license plate, mobile home sticker, validation
811 sticker, or vehicle registration certificate issued for and
812 assigned to any motor vehicle or mobile home, whether by
813 mutilation, alteration, defacement, or change of color or in any
814 other manner. Any person who violates ~~the provisions of~~ this
815 subsection commits ~~section is guilty of~~ a misdemeanor of the
816 second degree, punishable as provided in s. 775.082 or s.
817 775.083.
818 (2)(a) No person shall apply or attach any substance,
819 reflective matter, illuminated device, spray, coating, covering,
820 or other material onto or around any license plate that
821 interferes with the legibility, angular visibility, or
822 detectability of any feature or detail on the license plate or

823 interferes with the ability to photograph or otherwise record
824 any feature or detail on the license plate. The advertising,
825 sale, distribution, purchase, or use of any product made for the
826 purpose of interfering with the legibility, angular visibility,
827 or detectability of any feature or detail on a license plate or
828 interfering with the ability to photograph or otherwise record
829 any feature or detail on a license plate is prohibited. Any
830 person who violates this paragraph commits a misdemeanor of the
831 second degree, punishable as provided in s. 775.082 or s.
832 775.083.
833 (b) If a state or local law enforcement officer having
834 jurisdiction observes that a cover or other device is
835 obstructing the visibility or electronic image recording of a
836 license plate, the officer shall issue a uniform traffic
837 citation and shall confiscate the cover or other device that
838 obstructs the visibility or electronic image recording of the
839 plate. If a state or local law enforcement officer having
840 jurisdiction observes that a license plate has been physically
841 treated with a substance, reflective matter, spray, coating, or
842 other material that is obstructing the visibility or electronic
843 image recording of the plate, the officer shall issue a uniform
844 traffic citation and shall confiscate the plate. The department
845 shall revoke the registration of any plate that has been found
846 by a court to have been physically altered with any chemical or
847 reflective substance or coating that obstructs the visibility or
848 electronic image recording of the plate.
849 (c) The Attorney General may file suit against any
850 individual or entity offering or marketing the sale of,
851 including via the Internet, any product advertised as having the
852 capacity to obstruct the visibility or electronic image
853 recording of a license plate. In addition to injunctive and

854 monetary relief, punitive damages, and attorney's fees, the suit
855 shall also seek a full accounting of the records of all sales to
856 residents of or entities within this state.
857 Section 17. Subsections (3) and (4) of section 320.20,
858 Florida Statutes, are amended, a new subsection (5) is added to
859 that section, and subsection (6) of that section is renumbered,
860 to read:
861 320.20 Disposition of license tax moneys.--The revenue
862 derived from the registration of motor vehicles, including any
863 delinquent fees and excluding those revenues collected and
864 distributed under the provisions of s. 320.081, must be
865 distributed monthly, as collected, as follows:
866 (3) Notwithstanding any other provision of law except
867 subsections (1) and (2), on July 1, 1996, and annually
868 thereafter, $15 million shall be deposited in the State
869 Transportation Trust Fund solely for the purposes of funding the
870 Florida Seaport Transportation and Economic Development Program
871 as provided for in chapter 311. Such revenues shall be
872 distributed on a 50-50 matching basis to any port listed in s.
873 311.09(1) to be used for funding projects as described in s.
874 311.07(3)(b). Such revenues may be assigned, pledged, or set
875 aside as a trust for the payment of principal or interest on
876 bonds, tax anticipation certificates, or any other form of
877 indebtedness issued by an individual port or appropriate local
878 government having jurisdiction thereof, or collectively by
879 interlocal agreement among any of the ports, or used to purchase
880 credit support to permit such borrowings. However, such debt
881 shall not constitute a general obligation of the State of
882 Florida. The state does hereby covenant with holders of such
883 revenue bonds or other instruments of indebtedness issued
884 hereunder that it will not repeal or impair or amend in any

885 manner which will materially and adversely affect the rights of
886 such holders so long as bonds authorized by this section are
887 outstanding. Any revenues which are not pledged to the repayment
888 of bonds as authorized by this section may be utilized for
889 purposes authorized under the Florida Seaport Transportation and
890 Economic Development Program. This revenue source is in addition
891 to any amounts provided for and appropriated in accordance with
892 s. 311.07. The Florida Seaport Transportation and Economic
893 Development Council shall submit to the Department of
894 Transportation a list of recommended ~~approve distribution of~~
895 ~~funds to ports for~~ projects which have been identified ~~approved~~
896 pursuant to s. 311.09(5)-(9). The ~~council and the~~ Department of
897 Transportation shall approve the final distribution of funds and
898 include the selected projects for funding in the Tentative Work
899 Program developed pursuant to s. 339.135. The council and the
900 Department of Transportation are authorized to perform such acts
901 as are required to facilitate and implement the provisions of
902 this subsection. To better enable the ports to cooperate to
903 their mutual advantage, the governing body of each port may
904 exercise powers provided to municipalities or counties in s.
905 163.01(7)(d) subject to the provisions of chapter 311 and
906 special acts, if any, pertaining to a port. The use of funds
907 provided pursuant to this subsection are limited to eligible
908 projects listed in this subsection. Income derived from a
909 project completed with the use of program funds, beyond
910 operating costs and debt service, shall be restricted to further
911 port capital improvements consistent with maritime purposes and
912 for no other purpose. Use of such income for nonmaritime
913 purposes is prohibited. The provisions of s. 311.07(4) do not
914 apply to any funds received pursuant to this subsection. The
915 revenues available under this subsection shall not be pledged to

916 the payment of any bonds other than the Florida Ports Financing
917 Commission Series 1996 and Series 1999 Bonds currently
918 outstanding; provided, however, such revenues may be pledged to
919 secure payment of refunding bonds to refinance the Florida Ports
920 Financing Commission Series 1996 and Series 1999 Bonds. ~~No~~
921 ~~refunding bonds secured by revenues available under this~~
922 ~~subsection may be issued with a final maturity later than the~~
923 ~~final maturity of the Florida Ports Financing Commission Series~~
924 ~~1996 and Series 1999 Bonds or which provide for higher debt~~
925 ~~service in any year than is currently payable on such bonds.~~
926 Any revenue bonds or other indebtedness issued after July 1,
927 2000, <u>including</u> ~~other than~~ refunding bonds shall be issued by
928 the Division of Bond Finance at the request of the Department of
929 Transportation pursuant to the State Bond Act.
930 (4) Notwithstanding any other provision of law except
931 subsections (1), (2), and (3), on July 1, 1999, and annually
932 thereafter, $10 million shall be deposited in the State
933 Transportation Trust Fund solely for the purposes of funding the
934 Florida Seaport Transportation and Economic Development Program
935 as provided in chapter 311 and for funding seaport intermodal
936 access projects of statewide significance as provided in s.
937 341.053. Such revenues shall be distributed to any port listed
938 in s. 311.09(1), to be used for funding projects as follows:
939 (a) For any seaport intermodal access projects that are
940 identified in the 19971998 Tentative Work Program of the
941 Department of Transportation, up to the amounts needed to offset
942 the funding requirements of this section.
943 (b) For seaport intermodal access projects as described in
944 s. 341.053(5) that are identified in the 5-year Florida Seaport
945 Mission Plan as provided in s. 311.09(3). Funding for such
946 projects shall be on a matching basis as mutually determined by

947 the Florida Seaport Transportation and Economic Development
948 Council and the Department of Transportation, provided a minimum
949 of 25 percent of total project funds shall come from any port
950 funds, local funds, private funds, or specifically earmarked
951 federal funds.
952 (c) On a 50-50 matching basis for projects as described in
953 s. 311.07(3)(b).
954 (d) For seaport intermodal access projects that involve the
955 dredging or deepening of channels, turning basins, or harbors;
956 or the rehabilitation of wharves, docks, or similar structures.
957 Funding for such projects shall require a 25 percent match of
958 the funds received pursuant to this subsection. Matching funds
959 shall come from any port funds, federal funds, local funds, or
960 private funds.
961
962 Such revenues may be assigned, pledged, or set aside as a trust
963 for the payment of principal or interest on bonds, tax
964 anticipation certificates, or any other form of indebtedness
965 issued by an individual port or appropriate local government
966 having jurisdiction thereof, or collectively by interlocal
967 agreement among any of the ports, or used to purchase credit
968 support to permit such borrowings. However, such debt shall not
969 constitute a general obligation of the state. This state does
970 hereby covenant with holders of such revenue bonds or other
971 instruments of indebtedness issued hereunder that it will not
972 repeal or impair or amend this subsection in any manner which
973 will materially and adversely affect the rights of holders so
974 long as bonds authorized by this subsection are outstanding. Any
975 revenues that are not pledged to the repayment of bonds as
976 authorized by this section may be utilized for purposes
977 authorized under the Florida Seaport Transportation and Economic

978 Development Program. This revenue source is in addition to any
979 amounts provided for and appropriated in accordance with s.
980 311.07 and subsection (3). The Florida Seaport Transportation
981 and Economic Development Council shall submit to the Department
982 of Transportation a list of recommended ~~approve distribution of~~
983 ~~funds to ports for~~ projects that have been identified ~~approved~~
984 pursuant to s. 311.09(5)-(9), or for seaport intermodal access
985 projects identified in the 5-year Florida Seaport Mission Plan
986 as provided in s. 311.09(3) ~~and mutually agreed upon by the~~
987 ~~FSTED Council and the Department of Transportation~~. The
988 Department of Transportation shall approve the final
989 distribution of funds and include the selected projects for
990 funding in the Tentative Work Program developed pursuant to s.
991 339.135. All contracts for actual construction of projects
992 authorized by this subsection must include a provision
993 encouraging employment of participants in the welfare transition
994 program. The goal for employment of participants in the welfare
995 transition program is 25 percent of all new employees employed
996 specifically for the project, unless the Department of
997 Transportation and the Florida Seaport Transportation and
998 Economic Development Council demonstrate that such a requirement
999 would severely hamper the successful completion of the project.
1000 In such an instance, Workforce Florida, Inc., shall establish an
1001 appropriate percentage of employees that must be participants in
1002 the welfare transition program. The council and the Department
1003 of Transportation are authorized to perform such acts as are
1004 required to facilitate and implement the provisions of this
1005 subsection. To better enable the ports to cooperate to their
1006 mutual advantage, the governing body of each port may exercise
1007 powers provided to municipalities or counties in s. 163.01(7)(d)
1008 subject to the provisions of chapter 311 and special acts, if

1009 any, pertaining to a port. The use of funds provided pursuant to
1010 this subsection is limited to eligible projects listed in this
1011 subsection. The provisions of s. 311.07(4) do not apply to any
1012 funds received pursuant to this subsection. The revenues
1013 available under this subsection shall not be pledged to the
1014 payment of any bonds other than the Florida Ports Financing
1015 Commission Series 1996 and Series 1999 Bonds currently
1016 outstanding; provided, however, such revenues may be pledged to
1017 secure payment of refunding bonds to refinance the Florida Ports
1018 Financing Commission Series 1996 and Series 1999 Bonds. ~~No~~
1019 ~~refunding bonds secured by revenues available under this~~
1020 ~~subsection may be issued with a final maturity later than the~~
1021 ~~final maturity of the Florida Ports Financing Commission Series~~
1022 ~~1996 and Series 1999 Bonds or which provide for higher debt~~
1023 ~~service in any year than is currently payable on such bonds.~~ Any
1024 revenue bonds or other indebtedness issued after July 1, 2000,
1025 including ~~other than~~ refunding bonds shall be issued by the
1026 Division of Bond Finance at the request of the Department of
1027 Transportation pursuant to the State Bond Act.
1028 (5) Notwithstanding any other provision of law except
1029 subsections (1), (2), (3), and (4) on July 1, 2006, and annually
1030 thereafter, $5 million shall be deposited in the State
1031 Transportation Trust Fund solely for the purposes of funding the
1032 Florida Seaport Transportation and Economic Development Program
1033 as provided in chapter 311 and for funding seaport intermodal
1034 access projects of statewide significance as provided in s.
1035 341.053. Such revenues shall be distributed to any port listed
1036 in s. 311.09(1), to be used for funding projects as follows: (a)
1037 For any seaport intermodal access projects that are identified
1038 in the Tentative Work Program of the Department of
1039 Transportation for fiscal years 2006-07 to 2010-11, up to the

1040 amounts needed to offset the funding requirements of this
1041 section.
1042 (b) For seaport intermodal access projects as described in
1043 s. 341.053(5) that are identified in the 5-year Florida Seaport
1044 Mission Plan as provided in s. 311.09(3). Funding for such
1045 projects shall require at least a 25 percent match of the funds
1046 received pursuant to this subsection. Matching funds shall come
1047 from any port funds, federal funds, local funds, or private
1048 funds.
1049 (c) On a 50-50 matching basis for seaport projects as
1050 described in s. 311.07(3)(b).
1051 (d) For seaport intermodal access projects that involve the
1052 dredging or deepening of channels, turning basins or harbors; or
1053 the rehabilitation of wharves, docks, or similar structures.
1054 Funding for such projects shall require at least a 25 percent
1055 match of the funds received pursuant to this subsection.
1056 Matching funds shall come from any port funds, federal funds,
1057 local funds, or private funds.
1058
1059 Such revenues may be assigned, pledged, or set aside as a
1060 trust for the payment of principal or interest on bonds, tax
1061 anticipation certificates, or any other form of indebtedness
1062 issued by the Division of Bond Finance at the request of the
1063 Department of Transportation pursuant to the State Bond Act.
1064 However, such debt shall not constitute a general obligation
1065 of the state. This state does hereby covenant with holders of
1066 such revenue bonds or other instruments of indebtedness issued
1067 hereunder that it will not repeal or impair or amend this
1068 subsection in any manner which will materially and adversely
1069 affect the rights of holders so long as bonds authorized by
1070 this subsection are outstanding. Any revenues that are not

1071 pledged to the repayment of bonds as authorized by this
1072 section may be utilized for purposes authorized under the
1073 Florida Seaport Transportation and Economic Development
1074 Program. This revenue source is in addition to any amounts
1075 provided for and appropriated in accordance with s. 311.07 and
1076 subsections (3) and (4). The Florida Seaport Transportation
1077 and Economic Development Council shall submit to the
1078 Department of Transportation a list of recommended projects
1079 that have been identified pursuant to s. 311.09(5)-(9); or for
1080 seaport intermodal access projects identified in the 5year
1081 Florida Seaport Mission Plan as provided in s. 311.09(3). The
1082 Department of Transportation shall approve the final
1083 distribution of funds and include the selected projects for
1084 funding in the Tentative Work Program developed pursuant to s.
1085 339.135. The council and the Department of Transportation are
1086 authorized to perform such acts as are required to facilitate
1087 and implement the provisions of this subsection. To better
1088 enable the ports to cooperate to their mutual advantage, the
1089 governing body of each port may exercise powers provided to
1090 municipalities or counties in s. 163.01(7)(d) subject to the
1091 provisions of chapter 311 and special acts, if any, pertaining
1092 to a port. The use of funds provided pursuant to this
1093 subsection is limited to eligible projects listed in this
1094 subsection. The provisions of s. 311.07(4) do not apply to any
1095 funds received pursuant to this subsection.
1096 (6) ~~(5)~~(a) Except as provided in paragraph (c), the
1097 remainder of such revenues must be deposited in the State
1098 Transportation Trust Fund.
1099 (b) The Chief Financial Officer each month shall deposit in
1100 the State Transportation Trust Fund an amount, drawn from other
1101 funds in the State Treasury which are not immediately needed or

1102 are otherwise in excess of the amount necessary to meet the
1103 requirements of the State Treasury, which when added to such
1104 remaining revenues each month will equal one-twelfth of the
1105 amount of the anticipated annual revenues to be deposited in the
1106 State Transportation Trust Fund under paragraph (a) as estimated
1107 by the most recent revenue estimating conference held pursuant
1108 to s. 216.136(3). The transfers required hereunder may be
1109 suspended by action of the Legislative Budget Commission in the
1110 event of a significant shortfall of state revenues.
1111 (c) In any month in which the remaining revenues derived
1112 from the registration of motor vehicles exceed one-twelfth of
1113 those anticipated annual remaining revenues as determined by the
1114 revenue estimating conference, the excess shall be credited to
1115 those state funds in the State Treasury from which the amount
1116 was originally drawn, up to the amount which was deposited in
1117 the State Transportation Trust Fund under paragraph (b). A final
1118 adjustment must be made in the last months of a fiscal year so
1119 that the total revenue deposited in the State Transportation
1120 Trust Fund each year equals the amount derived from the
1121 registration of motor vehicles, less the amount distributed
1122 under subsection (1). For the purposes of this paragraph and
1123 paragraph (b), the term "remaining revenues" means all revenues
1124 deposited into the State Transportation Trust Fund under
1125 paragraph (a) and subsections (2) and (3). In order that
1126 interest earnings continue to accrue to the General Revenue
1127 Fund, the Department of Transportation may not invest an amount
1128 equal to the cumulative amount of funds deposited in the State
1129 Transportation Trust Fund under paragraph (b) less funds
1130 credited under this paragraph as computed on a monthly basis.
1131 The amounts to be credited under this and the preceding
1132 paragraph must be calculated and certified to the Chief

1133 Financial Officer by the Executive Office of the Governor.
1134 Section 18. Paragraph (c) of subsection (6) and subsection
1135 (8) of section 332.007, Florida Statutes, are amended to read:
1136 332.007 Administration and financing of aviation and
1137 airport programs and projects; state plan.--
1138 (6) Subject to the availability of appropriated funds, the
1139 department may participate in the capital cost of eligible
1140 public airport and aviation development projects in accordance
1141 with the following rates, unless otherwise provided in the
1142 General Appropriations Act or the substantive bill implementing
1143 the General Appropriations Act:
1144 (c) When federal funds are not available, the department
1145 may fund up to 80 percent of master planning and eligible
1146 aviation development projects at publicly owned, publicly
1147 operated airports. <u>If federal funds are available but</u>
1148 <u>insufficient to meet the maximum authorized federal share, the</u>
1149 <u>department may fund up to 80 percent of the nonfederal share of</u>
1150 <u>such projects.</u> Such funding is limited to airports that have no
1151 scheduled commercial service.
1152 (8) Notwithstanding any other provision of law to the
1153 contrary, the department is authorized to provide operational
1154 and maintenance assistance to publicly owned public-use
1155 airports. Such assistance shall be to comply with enhanced
1156 federal security requirements or to address related economic
1157 impacts from the events of September 11, 2001. For projects in
1158 the current adopted work program, or projects added using the
1159 available budget of the department, airports may request the
1160 department change the project purpose in accordance with this
1161 provision notwithstanding the provisions of s. 339.135(7). For
1162 purposes of this subsection, the department may fund up to 100
1163 percent of eligible project costs that are not funded by the

1164 Federal Government. Prior to releasing any funds under this
1165 section, the department shall review and approve the expenditure
1166 plans submitted by the airport. The department shall inform the
1167 Legislature of any change that it approves under this
1168 subsection. This subsection shall expire on June 30, 2012 ~~2007~~.
1169 Section 19. Section 336.044, Florida Statutes, is
1170 renumbered as section 334.70, Florida Statutes, and amended to
1171 read:
1172 334.70~~336.044~~ Use of recyclable materials in
1173 construction.--
1174 (1) It is the intent of the Legislature that the
1175 Department of Transportation continue to expand its current use
1176 of recovered materials in its construction programs.
1177 (2) The Legislature declares it to be in the public
1178 interest to find alternative ways to use certain recyclable
1179 materials that currently are part of the solid waste stream and
1180 that contribute to problems of declining space in landfills. To
1181 determine the feasibility of using certain recyclable materials
1182 for paving materials, the department may undertake demonstration
1183 projects using the following materials in road construction:
1184 (a) Ground rubber from automobile tires in road
1185 resurfacing or subbase materials for roads.~~;~~
1186 (b) Ash residue from coal combustion byproducts for
1187 concrete and ash residue from waste incineration facilities and
1188 oil combustion byproducts for subbase material.~~;~~
1189 (c) Recycled mixed-plastic material for guardrail posts or
1190 right-of-way fence posts.~~;~~
1191 (d) Construction steel, including reinforcing rods and I-
1192 beams, manufactured from scrap metals disposed of in the state.~~;~~
1193 ~~and~~
1194 (e) Glass~~,~~ and glass aggregates.

1195 (f) Gypsum.
1196 (3) The department shall review and revise existing bid
1197 procedures and specifications for the purchase or use of
1198 products and materials to eliminate any procedures and
1199 specifications that explicitly discriminate against products and
1200 materials with recycled content, except where such procedures
1201 and specifications are necessary to protect the health, safety,
1202 and welfare of the people of this state.
1203 (4) The department shall review and revise its bid
1204 procedures and specifications on a continuing basis to encourage
1205 the use of products and materials with recycled content and
1206 shall, in developing new procedures and specifications,
1207 encourage the use of products and materials with recycled
1208 content.
1209 (5) All agencies shall cooperate with the department in
1210 carrying out the provisions of this section.
1211 Section 20. Section 335.066, Florida Statutes, is amended
1212 to read:
1213 335.066 Safe Routes ~~Paths~~ to Schools Program.--
1214 (1) There is established in the Department of
1215 Transportation the Safe Routes ~~Paths~~ to Schools Program to
1216 consider the planning, ~~and~~ construction, education and promotion
1217 of bicycle and pedestrian ways to provide safe transportation
1218 for children from neighborhoods to schools, parks, and the
1219 state's greenways and trails system.
1220 (2) As a part of the Safe Routes ~~Paths~~ to Schools Program,
1221 the department may establish a grant program to fund local,
1222 regional, and state bicycle and pedestrian projects that support
1223 the program. The department may establish a clearinghouse for
1224 information and grant dissemination and shall provide for a
1225 state coordinator position as required by the federal law to

1226 receive program funding. Where possible, these federal dollars
1227 shall be added to other state resources to improve
1228 transportation options for school-aged youth.
1229 (3) The department may adopt appropriate rules pursuant to
1230 ss. 120.536(1) and 120.54 for the administration of the Safe
1231 Routes ~~Paths~~ to Schools Program.
1232 Section 21. Paragraph (c) of subsection (1) of section
1233 336.025, Florida Statutes, is amended to read:
1234 336.025 County transportation system; levy of local option
1235 fuel tax on motor fuel and diesel fuel.--
1236 (1)
1237 (c) Local governments may use the services of the Division
1238 of Bond Finance of the State Board of Administration pursuant to
1239 the State Bond Act to issue any bonds through the provisions of
1240 this section and may pledge the revenues from local option fuel
1241 taxes to secure the payment of the bonds. ~~In no case may a~~
1242 ~~jurisdiction issue bonds pursuant to this section more~~
1243 ~~frequently than once per year.~~ Counties and municipalities may
1244 join together for the issuance of bonds issued pursuant to this
1245 section.
1246 Section 22. Section 336.68, Florida Statutes, is created
1247 to read:
1248 336.68 Special road and bridge district boundaries;
1249 property owner rights and options.--
1250 (1) The owner of real property located within both the
1251 boundaries of a community development district created under
1252 chapter 190 and within the boundaries of a special road and
1253 bridge district created by the alternative method of
1254 establishing special road and bridge districts previously
1255 authorized under former ss. 336.61-336.65, s. 336.66, and former
1256 336.67, also referred to as chapter 72-385, Laws of Florida,

1257 shall have the option to select the community development
1258 district to be the provider of the road and drainage
1259 improvements to the property of the owner. Having made the
1260 selection, the property owner shall further have the right to
1261 withdraw the property from the boundaries of the special road
1262 and bridge district under the procedures set forth in this
1263 section.
1264 (2) To be eligible for withdrawal, the subject property
1265 shall not have received improvements or benefits from the
1266 special road and bridge district; there shall be no outstanding
1267 bonded indebtedness of the special road and bridge district for
1268 which the property is subject to ad valorem tax levies; and the
1269 withdrawal of the property shall not create an enclave bounded
1270 on all sides by the other property within the boundaries of the
1271 district when the property owner withdraws the property from the
1272 boundaries of the district.
1273 (3) The election by a property owner to withdraw property
1274 from the boundaries of a district under this section shall be
1275 accomplished by filing a certificate in the official records of
1276 the county in which the property located. The certificate shall
1277 identify the name and mailing address of the owner, the legal
1278 description of the property, the name of the district from which
1279 the property is being withdrawn, and the general location of the
1280 property within district. The certificate shall further state
1281 that the property has not received benefits from the district
1282 from which the property is to be withdrawn; that there is no
1283 bonded indebtedness owed by the district; and that the property
1284 being withdrawn will not become an enclave within the district
1285 boundaries.
1286 (4) The property owner shall provide copies of the
1287 recorded certificate to the governing body of the district from

1288 which the property is being withdrawn within days 10 days after
1289 the date that the certificate is recorded. If the district does
1290 not record an objection to the withdrawal of the property in the
1291 public records within 30 days after the recording of the
1292 certificate, identifying the criteria herein that has not been
1293 met, the withdrawal shall be final, and the property shall be
1294 permanently withdrawn from the boundaries of the district.
1295 Section 23. Paragraph (a) of subsection (3) of section
1296 337.11, Florida Statutes, is amended to read:
1297 337.11 Contracting authority of department; bids;
1298 emergency repairs, supplemental agreements, and change orders;
1299 combined design and construction contracts; progress payments;
1300 records; requirements of vehicle registration.--
1301 (3)(a) On all construction contracts of $250,000 or less,
1302 and any construction contract of less than $500,000 for which
1303 the department has waived prequalification under s. 337.14, the
1304 department shall advertise for bids in a newspaper having
1305 general circulation in the county where the proposed work is
1306 located. Publication shall be at least once a week for no less
1307 than 2 consecutive weeks, and the first publication shall be no
1308 less than 14 days prior to the date on which bids are to be
1309 received.
1310 Section 24. Subsection (1) of section 337.14, Florida
1311 Statutes, is amended to read:
1312 337.14 Application for qualification; certificate of
1313 qualification; restrictions; request for hearing.--
1314 (1) Any person desiring to bid for the performance of any
1315 construction contract in excess of $250,000 which the department
1316 proposes to let must first be certified by the department as
1317 qualified pursuant to this section and rules of the department.
1318 The rules of the department shall address the qualification of

1319 persons to bid on construction contracts in excess of $250,000
1320 and shall include requirements with respect to the equipment,
1321 past record, experience, financial resources, and organizational
1322 personnel of the applicant necessary to perform the specific
1323 class of work for which the person seeks certification. The
1324 department is authorized to limit the dollar amount of any
1325 contract upon which a person is qualified to bid or the
1326 aggregate total dollar volume of contracts such person is
1327 allowed to have under contract at any one time. Each applicant
1328 seeking qualification to bid on construction contracts in excess
1329 of $250,000 shall furnish the department a statement under oath,
1330 on such forms as the department may prescribe, setting forth
1331 detailed information as required on the application. Each
1332 application for certification shall be accompanied by the latest
1333 annual financial statement of the applicant completed within the
1334 last 12 months. If the annual financial statement shows the
1335 financial condition of the applicant more than 4 months prior to
1336 the date on which the application is received by the department,
1337 then an interim financial statement must also be submitted. The
1338 interim financial statement must cover the period from the end
1339 date of the annual statement and must show the financial
1340 condition of the applicant no more than 4 months prior to the
1341 date on which the application is received by the department.
1342 Each required annual or interim financial statement must be
1343 audited and accompanied by the opinion of a certified public
1344 accountant or a public accountant approved by the department.
1345 The information required by this subsection is confidential and
1346 exempt from the provisions of s. 119.07(1). The department
1347 shall act upon the application for qualification within 30 days
1348 after the department determines that the application is
1349 complete. <u>The department may waive the requirements of this</u>

1350 subsection for projects having a contract price of $500,000 or
1351 less if the department determines that the project is of a
1352 noncritical nature and noncompliance with the subsection will
1353 not endanger public health, safety, or property.
1354 Section 25. Paragraph (a) of subsection (1) of section
1355 337.18, Florida Statutes, is amended to read:
1356 337.18 Surety bonds for construction or maintenance
1357 contracts; requirement with respect to contract award; bond
1358 requirements; defaults; damage assessments.--
1359 (1)(a) A surety bond shall be required of the successful
1360 bidder in an amount equal to the awarded contract price.
1361 However, the department may choose, in its discretion and
1362 applicable only to multiyear maintenance contracts, to allow for
1363 incremental annual contract bonds that cumulatively total the
1364 full, awarded, multiyear contract price. For a project for which
1365 the contract price is $250,000 ~~$150,000~~ or less, the department
1366 may waive the requirement for all or a portion of a surety bond
1367 if it determines the project is of a noncritical nature and
1368 nonperformance will not endanger public health, safety, or
1369 property. If the secretary or his designee determines that it is
1370 in the best interests of the department to do so and that a
1371 reduced bonding requirement for a project will not endanger
1372 public health, safety, or property, the department may waive the
1373 requirement of a surety bond in an amount equal to the awarded
1374 contract price for a project having a contract price of $250
1375 million or more, and, in its place, may set a surety bond amount
1376 that is a portion of the total contract price and provide an
1377 alternate means of security for the balance of the contract
1378 amount which is not covered by the surety bond or provide for
1379 incremental surety bonding and provide an alternate means of
1380 security for the balance of the contract amount which is not

1381 covered by the surety bond. Such alternative means of security
1382 may include letters of credit, United States bonds and notes,
1383 parent company guaranties, and cash collateral. The department
1384 may require alternate means of security if a surety bond is
1385 waived. The surety on such bond shall be a surety company
1386 authorized to do business in the state. All bonds shall be
1387 payable to the department and conditioned for the prompt,
1388 faithful, and efficient performance of the contract according to
1389 plans and specifications and within the time period specified,
1390 and for the prompt payment of all persons defined in s. 713.01
1391 furnishing labor, material, equipment, and supplies for work
1392 provided in the contract; however, whenever an improvement,
1393 demolition, or removal contract price is $25,000 or less, the
1394 security may, in the discretion of the bidder, be in the form of
1395 a cashier's check, bank money order of any state or national
1396 bank, certified check, or postal money order. The department
1397 shall adopt rules to implement this subsection. Such rules shall
1398 include provisions under which the department shall refuse to
1399 accept bonds on contracts when a surety wrongfully fails or
1400 refuses to settle or provide a defense for claims or actions
1401 arising under a contract for which the surety previously
1402 furnished a bond.
1403 Section 26. Subsection (3) is added to section 338.161,
1404 Florida Statutes, to read:
1405 338.161 Authority of department or toll agencies to
1406 advertise and promote electronic toll collection; expanded uses
1407 of electronic toll collection system; studies authorized.--
1408 (3)(a) The department or any toll agency created by
1409 statute may incur expenses to advertise or promote its
1410 electronic toll collection system to consumers on or off the
1411 turnpike or toll system.

1412 (b) If the department or any toll agency created by
1413 statute finds that it can increase nontoll revenues or add
1414 convenience or other value for its customers, the department or
1415 toll agency may enter into agreements with any private or public
1416 entity allowing the use of its electronic toll collection system
1417 to pay parking fees for vehicles equipped with transponders or a
1418 similar device. The department or toll agency may initiate
1419 feasibility studies of additional future uses of its electronic
1420 toll collection system and make recommendations to the
1421 Legislature to authorize such uses.
1422 Section 27. Paragraph (b) of subsection (3) of section
1423 338.2216, Florida Statutes, is amended to read:
1424 338.2216 Florida Turnpike Enterprise; powers and
1425 authority.--
1426 (3)
1427 (b) Notwithstanding the provisions of s. 216.301 to the
1428 contrary and in accordance with s. 216.351, the Executive Office
1429 of the Governor shall, on July 1 of each year, certify forward
1430 all unexpended funds appropriated or provided pursuant to this
1431 section for the turnpike enterprise. Of the unexpended funds
1432 certified forward, any unencumbered amounts shall be carried
1433 forward. Such funds carried forward shall not exceed 5 percent
1434 of the original approved ~~total~~ operating budget, as defined in
1435 s. 216.181(1), of the turnpike enterprise. Funds carried forward
1436 pursuant to this section may be used for any lawful purpose,
1437 including, but not limited to, promotional and market
1438 activities, technology, and training. Any certified forward
1439 funds remaining undisbursed on September 30 ~~December 31~~ of each
1440 year shall be carried forward.
1441 Section 28. Subsection (1) of section 338.2275, Florida
1442 Statutes, is amended to read:

1443 338.2275 Approved turnpike projects.--
1444 (1) Legislative approval of the department's tentative
1445 work program that contains the turnpike project constitutes
1446 approval to issue bonds as required by s. 11(f), Art. VII of the
1447 State Constitution. No more than $6 billion of bonds may be
1448 outstanding to fund approved turnpike projects. ~~Turnpike~~
1449 ~~projects approved to be included in future tentative work~~
1450 ~~programs include, but are not limited to, projects contained in~~
1451 ~~the 2003-2004 tentative work program. A maximum of $4.5 billion~~
1452 ~~of bonds may be issued to fund approved turnpike projects.~~
1453 Section 29. Paragraph (b) of subsection (1), paragraphs
1454 (a) and (b) of subsection (2), paragraphs (a) and (b) of
1455 subsection (3), and subsections (5) and (12) of section 339.175,
1456 Florida Statutes, is amended, and paragraph (e) is added to
1457 subsection (1) of that section, to read:
1458 339.175 Metropolitan planning organization.--It is the
1459 intent of the Legislature to encourage and promote the safe and
1460 efficient management, operation, and development of surface
1461 transportation systems that will serve the mobility needs of
1462 people and freight within and through urbanized areas of this
1463 state while minimizing transportation-related fuel consumption
1464 and air pollution. To accomplish these objectives, metropolitan
1465 planning organizations, referred to in this section as M.P.O.'s,
1466 shall develop, in cooperation with the state and public transit
1467 operators, transportation plans and programs for metropolitan
1468 areas. The plans and programs for each metropolitan area must
1469 provide for the development and integrated management and
1470 operation of transportation systems and facilities, including
1471 pedestrian walkways and bicycle transportation facilities that
1472 will function as an intermodal transportation system for the
1473 metropolitan area, based upon the prevailing principles provided

1474 in s. 334.046(1). The process for developing such plans and
1475 programs shall provide for consideration of all modes of
1476 transportation and shall be continuing, cooperative, and
1477 comprehensive, to the degree appropriate, based on the
1478 complexity of the transportation problems to be addressed. To
1479 ensure that the process is integrated with the statewide
1480 planning process, M.P.O.'s shall develop plans and programs that
1481 identify transportation facilities that should function as an
1482 integrated metropolitan transportation system, giving emphasis
1483 to facilities that serve important national, state, and regional
1484 transportation functions. For the purposes of this section,
1485 those facilities include the facilities on the Strategic
1486 Intermodal System designated under s. 339.63 and facilities for
1487 which projects have been identified pursuant to s. 339.2819(4).
1488 (1) DESIGNATION.--
1489 (b) Each M.P.O. required to be designated by Title 23
1490 U.S.C. shall be created and operated under the provisions of
1491 this section pursuant to an interlocal agreement entered into
1492 pursuant to s. 163.01. The signatories to the interlocal
1493 agreement shall be the department and the governmental entities
1494 designated by the Governor for membership on the M.P.O. Each
1495 M.P.O. shall be considered separate from the state or the
1496 governing body of a local government which is represented on the
1497 governing board of the M.P.O. or which is a signatory to the
1498 interlocal agreement creating the M.P.O. and shall have such
1499 powers and privileges that are provided pursuant to s. 163.01.
1500 If there is a conflict between this section and s. 163.01, this
1501 section prevails.
1502 (e) The governing body of the M.P.O. shall designate at
1503 least a chair, vice chair, and agency clerk. The chair and vice
1504 chair shall be selected from among the member delegates

1505 comprising the governing board. The agency clerk shall be
1506 charged with the responsibility of preparing meeting minutes and
1507 maintaining agency records. The clerk shall be a member of the
1508 M.P.O. governing board, an employee of the M.P.O., or other
1509 natural person.
1510
1511 Each M.P.O. required under this section must be fully operative
1512 no later than 6 months following its designation.
1513 (2) VOTING MEMBERSHIP.--
1514 (a) The voting membership of an M.P.O. shall consist of
1515 not fewer than 5 or more than 19 apportioned members, the exact
1516 number to be determined on an equitable geographic-population
1517 ratio basis by the Governor, based on an agreement among the
1518 affected units of general-purpose local government as required
1519 by federal rules and regulations. The Governor, in accordance
1520 with 23 U.S.C. s. 134, may also provide for M.P.O. members who
1521 represent municipalities to alternate with representatives from
1522 other municipalities within the metropolitan planning area that
1523 do not have members on the M.P.O. County commission members
1524 shall compose not less than one-third of the M.P.O. membership,
1525 except for an M.P.O. with more than 15 members located in a
1526 county with a 5-member ~~five-member~~ county commission or an
1527 M.P.O. with 19 members located in a county with no more than 6
1528 county commissioners, in which case county commission members
1529 may compose less than one-third percent of the M.P.O.
1530 membership, but all county commissioners must be members. All
1531 voting members shall be elected officials of general-purpose
1532 local governments, except that an M.P.O. may include, as part of
1533 its apportioned voting members, a member of a statutorily
1534 authorized planning board, an official of an agency that
1535 operates or administers a major mode of transportation, or an

1536 official of the Florida Space Authority. As used in this
1537 section, elected officials of a general-purpose local government
1538 shall exclude constitutional officers, including sheriffs, tax
1539 collectors, supervisors of elections, property appraisers,
1540 clerks of the court, and similar types of officials. County
1541 commissioners ~~The county commission~~ shall compose not less than
1542 20 percent of the M.P.O. membership if an official of an agency
1543 that operates or administers a major mode of transportation has
1544 been appointed to an M.P.O.
1545 (b) In metropolitan areas in which authorities or other
1546 agencies have been or may be created by law to perform
1547 transportation functions and are performing transportation
1548 functions that are not under the jurisdiction of a general-
1549 purpose ~~general purpose~~ local government represented on the
1550 M.P.O., they shall be provided voting membership on the M.P.O.
1551 In all other M.P.O.'s where transportation authorities or
1552 agencies are to be represented by elected officials from
1553 general-purpose ~~general purpose~~ local governments, the M.P.O.
1554 shall establish a process by which the collective interests of
1555 such authorities or other agencies are expressed and conveyed.
1556 (3) APPORTIONMENT.--
1557 (a) The Governor shall, with the agreement of the affected
1558 units of general-purpose local government as required by federal
1559 rules and regulations, apportion the membership on the
1560 applicable M.P.O. among the various governmental entities within
1561 the area. At the request of a majority of the affected units of
1562 general-purpose local government comprising an M.P.O., the
1563 Governor and a majority of units of general-purpose local
1564 governments serving on an M.P.O. shall cooperatively agree upon
1565 and prescribe who may serve as an alternate member, and ~~shall~~
1566 ~~prescribe~~ a method for appointing alternate members who may vote

1567 at any M.P.O. meeting that an alternate member attends in place
1568 of a regular member. The methodology shall be set forth as a
1569 part of the interlocal agreement describing the M.P.O.'s
1570 membership or in the M.P.O.'s operating procedures and by-laws.
1571 ~~An appointed alternate member must be an elected official~~
1572 ~~serving the same governmental entity or a general-purpose local~~
1573 ~~government with jurisdiction within all or part of the area that~~
1574 ~~the regular member serves.~~ The governmental entity so designated
1575 shall appoint the appropriate number of members to the M.P.O.
1576 from eligible officials. Representatives of the department shall
1577 serve as nonvoting members of the M.P.O. governing board.
1578 Nonvoting advisers may be appointed by the M.P.O. as deemed
1579 necessary; however, to the maximum extent feasible, each M.P.O.
1580 shall seek to appoint nonvoting representatives of various
1581 multimodal forms of transportation not otherwise represented by
1582 voting members of the M.P.O. An M.P.O. shall appoint nonvoting
1583 advisers representing major military installations upon the
1584 request of the major military installations and subject to the
1585 agreement of the M.P.O. All nonvoting advisers may attend and
1586 participate fully in governing board meetings but shall not have
1587 a vote and shall not be members of the governing board. The
1588 Governor shall review the composition of the M.P.O. membership
1589 in conjunction with the decennial census as prepared by the
1590 United States Department of Commerce, Bureau of the Census, and
1591 reapportion it as necessary to comply with subsection (2).
1592 (b) Except for members who represent municipalities on the
1593 basis of alternating with representatives from other
1594 municipalities that do not have members on the M.P.O. as
1595 provided in paragraph (2)(a), the members of an M.P.O. shall
1596 serve 4-year terms. Members who represent municipalities on the
1597 basis of alternating with representatives from other

1598 municipalities that do not have members on the M.P.O. as
1599 provided in paragraph (2)(a) may serve terms of up to 4 years as
1600 further provided in the interlocal agreement described in
1601 paragraph (1)(b). The membership of a member who is a public
1602 official automatically terminates upon the member's leaving his
1603 or her elective or appointive office for any reason, or may be
1604 terminated by a majority vote of the total membership of the
1605 entity's governing board ~~a county or city governing entity~~
1606 represented by the member. A vacancy shall be filled by the
1607 original appointing entity. A member may be reappointed for one
1608 or more additional 4-year terms.
1609 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
1610 privileges, and authority of an M.P.O. are those specified in
1611 this section or incorporated in an interlocal agreement
1612 authorized under s. 163.01. Each M.P.O. shall perform all acts
1613 required by federal or state laws or rules, now and subsequently
1614 applicable, which are necessary to qualify for federal aid. It
1615 is the intent of this section that each M.P.O. shall be involved
1616 in the planning and programming of transportation facilities,
1617 including, but not limited to, airports, intercity and high-
1618 speed rail lines, seaports, and intermodal facilities, to the
1619 extent permitted by state or federal law.
1620 (a) Each M.P.O. shall, in cooperation with the department,
1621 develop:
1622 1. A long-range transportation plan pursuant to the
1623 requirements of subsection (6);
1624 2. An annually updated transportation improvement program
1625 pursuant to the requirements of subsection (7); and
1626 3. An annual unified planning work program pursuant to the
1627 requirements of subsection (8).

1628 (b) In developing the long-range transportation plan and
1629 the transportation improvement program required under paragraph
1630 (a), each M.P.O. shall provide for consideration of projects and
1631 strategies that will:
1632 1. Support the economic vitality of the metropolitan area,
1633 especially by enabling global competitiveness, productivity, and
1634 efficiency;
1635 2. Increase the safety and security of the transportation
1636 system for motorized and nonmotorized users;
1637 3. Increase the accessibility and mobility options
1638 available to people and for freight;
1639 4. Protect and enhance the environment, promote energy
1640 conservation, and improve quality of life;
1641 5. Enhance the integration and connectivity of the
1642 transportation system, across and between modes, for people and
1643 freight;
1644 6. Promote efficient system management and operation; and
1645 7. Emphasize the preservation of the existing
1646 transportation system.
1647 (c) In order to provide recommendations to the department
1648 and local governmental entities regarding transportation plans
1649 and programs, each M.P.O. shall:
1650 1. Prepare a congestion management system for the
1651 metropolitan area and cooperate with the department in the
1652 development of all other transportation management systems
1653 required by state or federal law;
1654 2. Assist the department in mapping transportation
1655 planning boundaries required by state or federal law;
1656 3. Assist the department in performing its duties relating
1657 to access management, functional classification of roads, and
1658 data collection;

1659 4. Execute all agreements or certifications necessary to
1660 comply with applicable state or federal law;
1661 5. Represent all the jurisdictional areas within the
1662 metropolitan area in the formulation of transportation plans and
1663 programs required by this section; and
1664 6. Perform all other duties required by state or federal
1665 law.
1666 (d) Each M.P.O. shall appoint a technical advisory
1667 committee that includes planners; engineers; representatives of
1668 local aviation authorities, port authorities, and public transit
1669 authorities or representatives of aviation departments, seaport
1670 departments, and public transit departments of municipal or
1671 county governments, as applicable; the school superintendent of
1672 each county within the jurisdiction of the M.P.O. or the
1673 superintendent's designee; and other appropriate representatives
1674 of affected local governments. In addition to any other duties
1675 assigned to it by the M.P.O. or by state or federal law, the
1676 technical advisory committee is responsible for considering safe
1677 access to schools in its review of transportation project
1678 priorities, long-range transportation plans, and transportation
1679 improvement programs, and shall advise the M.P.O. on such
1680 matters. In addition, the technical advisory committee shall
1681 coordinate its actions with local school boards and other local
1682 programs and organizations within the metropolitan area which
1683 participate in school safety activities, such as locally
1684 established community traffic safety teams. Local school boards
1685 must provide the appropriate M.P.O. with information concerning
1686 future school sites and in the coordination of transportation
1687 service.
1688 (e)1. Each M.P.O. shall appoint a citizens' advisory
1689 committee, the members of which serve at the pleasure of the

1690 M.P.O. The membership on the citizens' advisory committee must
1691 reflect a broad cross section of local residents with an
1692 interest in the development of an efficient, safe, and cost-
1693 effective transportation system. Minorities, the elderly, and
1694 the handicapped must be adequately represented.
1695 2. Notwithstanding the provisions of subparagraph 1., an
1696 M.P.O. may, with the approval of the department and the
1697 applicable federal governmental agency, adopt an alternative
1698 program or mechanism to ensure citizen involvement in the
1699 transportation planning process.
1700 (f) The department shall allocate to each M.P.O., for the
1701 purpose of accomplishing its transportation planning and
1702 programming duties, an appropriate amount of federal
1703 transportation planning funds.
1704 (g) Each M.P.O. shall have an executive or staff director
1705 who reports directly to the M.P.O. governing board for all
1706 matters regarding the administration and operation of the
1707 M.P.O., and any additional personnel as deemed necessary. The
1708 executive director and any additional personnel may be employed
1709 either by an M.P.O. or by another governmental entity, such as a
1710 county, city, or regional planning council, which has a staff
1711 services agreement signed and in effect between the M.P.O. and
1712 that governmental entity. Each M.P.O. may ~~employ personnel or~~
1713 ~~may~~ enter into contracts with local or state agencies, private
1714 planning firms, ~~or~~ private engineering firms, or other public or
1715 private entities to accomplish its transportation planning and
1716 programming duties and administrative functions required by
1717 state or federal law.
1718 (h) Each M.P.O. shall provide training opportunities for
1719 local elected officials and others who serve on an M.P.O. in
1720 order to enhance their knowledge, effectiveness and

1721 participation in the urbanized area transportation planning
1722 process. The training opportunities may be conducted by an
1723 individual M.P.O. or through statewide and federal training
1724 programs and initiatives that are specifically designed to meet
1725 the needs of M.P.O. board members.
1726 (i) ~~(h)~~ A chair's coordinating committee is created,
1727 composed of the M.P.O.'s serving Hernando, Hillsborough,
1728 Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The
1729 committee must, at a minimum:
1730 1. Coordinate transportation projects deemed to be
1731 regionally significant by the committee.
1732 2. Review the impact of regionally significant land use
1733 decisions on the region.
1734 3. Review all proposed regionally significant
1735 transportation projects in the respective transportation
1736 improvement programs which affect more than one of the M.P.O.'s
1737 represented on the committee.
1738 4. Institute a conflict resolution process to address any
1739 conflict that may arise in the planning and programming of such
1740 regionally significant projects.
1741 (j) ~~(i)~~1. The Legislature finds that the state's rapid
1742 growth in recent decades has caused many urbanized areas subject
1743 to M.P.O. jurisdiction to become contiguous to each other. As a
1744 result, various transportation projects may cross from the
1745 jurisdiction of one M.P.O. into the jurisdiction of another
1746 M.P.O. To more fully accomplish the purposes for which M.P.O.'s
1747 have been mandated, M.P.O.'s shall develop coordination
1748 mechanisms with one another to expand and improve transportation
1749 within the state. The appropriate method of coordination
1750 between M.P.O.'s shall vary depending upon the project involved
1751 and given local and regional needs. Consequently, it is

1752 appropriate to set forth a flexible methodology that can be used
1753 by M.P.O.'s to coordinate with other M.P.O.'s and appropriate
1754 political subdivisions as circumstances demand.
1755 2. Any M.P.O. may join with any other M.P.O. or any
1756 individual political subdivision to coordinate activities or to
1757 achieve any federal or state transportation planning or
1758 development goals or purposes consistent with federal or state
1759 law. When an M.P.O. determines that it is appropriate to join
1760 with another M.P.O. or any political subdivision to coordinate
1761 activities, the M.P.O. or political subdivision shall enter into
1762 an interlocal agreement pursuant to s. 163.01, which, at a
1763 minimum, creates a separate legal or administrative entity to
1764 coordinate the transportation planning or development activities
1765 required to achieve the goal or purpose; provides ~~provide~~ the
1766 purpose for which the entity is created; provides ~~provide~~ the
1767 duration of the agreement and the entity~~,~~ and specifies ~~specify~~
1768 how the agreement may be terminated, modified, or rescinded;
1769 describes ~~describe~~ the precise organization of the entity,
1770 including who has voting rights on the governing board, whether
1771 alternative voting members are provided for, how voting members
1772 are appointed, and what the relative voting strength is for each
1773 constituent M.P.O. or political subdivision; provides ~~provide~~
1774 the manner in which the parties to the agreement will provide
1775 for the financial support of the entity and payment of costs and
1776 expenses of the entity; provides ~~provide~~ the manner in which
1777 funds may be paid to and disbursed from the entity; and provides
1778 ~~provide~~ how members of the entity will resolve disagreements
1779 regarding interpretation of the interlocal agreement or disputes
1780 relating to the operation of the entity. Such interlocal
1781 agreement shall become effective upon its recordation in the
1782 official public records of each county in which a member of the

1783 entity created by the interlocal agreement has a voting member.
1784 This paragraph does not require any M.P.O.'s to merge, combine,
1785 or otherwise join together as a single M.P.O.
1786 (12) VOTING REQUIREMENTS.--Each long-range transportation
1787 plan required pursuant to subsection (6), each annually updated
1788 Transportation Improvement Program required under subsection
1789 (7), and each amendment that affects projects in the first 3
1790 years of such plans and programs must be approved by each M.P.O.
1791 by a supermajority of a majority plus one on a recorded roll
1792 call vote or hand-counted vote of the membership present.
1793 Section 30. Subsection (2) of section 339.2819, Florida
1794 Statutes, is amended to read:
1795 339.2819 Transportation Regional Incentive Program.--
1796 (2) The percentage of matching funds provided from the
1797 Transportation Regional Incentive Program shall be 50 percent of
1798 project costs~~, or up to 50 percent of the nonfederal share of~~
1799 ~~the eligible project cost for a public transportation facility~~
1800 ~~project~~.
1801 Section 31. Section 339.282, Florida Statutes, is created
1802 to read:
1803 339.282 Transportation Concurrency Incentives.-- The
1804 Legislature finds that allowing private-sector entities to
1805 finance, construct, and improve public transportation facilities
1806 can provide significant benefits to the citizens of this state
1807 by facilitating transportation of the general public without the
1808 need for additional public tax revenues. In order to encourage
1809 the more efficient and proactive provision of transportation
1810 improvements by the private sector, if a developer or property
1811 owner voluntarily contributes right-of-way and physically
1812 constructs or expands a state transportation facility or segment
1813 and such construction or expansion improves traffic flow,

1814 capacity or safety, the voluntary contribution may be applied as
1815 a credit for that property owner or developer against any future
1816 transportation concurrency requirements pursuant to chapter 163,
1817 provided such contributions and credits are set forth in a
1818 legally binding agreement executed by the property owner or
1819 developer, the local government within whose jurisdiction the
1820 facility is located, and the department. If the developer or
1821 property owner voluntarily contributes right-of-way and
1822 physically constructs or expands a local government
1823 transportation facility or segment and such construction or
1824 expansion meets the above requirements and in a legally binding
1825 agreement between the property owner developer and the
1826 applicable local government, the contribution to the local
1827 government collector and arterial system may be applied as a
1828 credit against any future transportation concurrency
1829 requirements pursuant to chapter 163.
1830 Section 32. Subsections (2), (4), and (7) of section
1831 339.55, Florida Statutes, are amended to read:
1832 339.55 State-funded infrastructure bank.--
1833 (2) The bank may lend capital costs or provide credit
1834 enhancements for:
1835 (a) A transportation facility project that is on the State
1836 Highway System or that provides for increased mobility on the
1837 state's transportation system or provides intermodal
1838 connectivity with airports, seaports, rail facilities, and other
1839 transportation terminals, pursuant to s. 341.053, for the
1840 movement of people and goods.
1841 (b) Projects of the Transportation Regional Incentive
1842 Program which are identified pursuant to s. 339.2819(4).
1843 (c) Emergency loans for damages incurred to public-use
1844 commercial deepwater seaports, public-use airports, and other

1845 public use transit and intermodal facilities that are within an
1846 area that is part of an official state declaration of emergency
1847 pursuant to Chapter 252 and all other applicable laws. Such
1848 loans: may not exceed 24 months in duration except in extreme
1849 circumstances where the Secretary of the Department may grant up
1850 to 36 months; require application from the recipient to the
1851 Department that includes documentation of damage claims filed
1852 with the Federal Emergency Management Administration or an
1853 applicable insurance carrier; and are subject to approval by the
1854 Secretary. Such Loans must be repaid upon receipt by the
1855 recipient of eligible program funding for damages in accordance
1856 with the claims filed above, but no later than the duration of
1857 the loan.

1858 (4) Loans from the bank may bear interest at or below
1859 market interest rates, as determined by the department.
1860 Repayment of any loan from the bank shall commence not later
1861 than 5 years after the project has been completed or, in the
1862 case of a highway project, the facility has opened to traffic,
1863 whichever is later, and shall be repaid in no more than 30
1864 years, except for loans in paragraph (2) (c), which shall be
1865 repaid in no less than 36 months.

1866 (7) The department may consider, but is not limited to,
1867 the following criteria for evaluation of projects for assistance
1868 from the bank:

1869 (a) The credit worthiness of the project.

1870 (b) A demonstration that the project will encourage,
1871 enhance, or create economic benefits.

1872 (c) The likelihood that assistance would enable the
1873 project to proceed at an earlier date than would otherwise be
1874 possible.

1875 (d) The extent to which assistance would foster innovative
1876 public-private partnerships and attract private debt or equity
1877 investment.
1878 (e) The extent to which the project would use new
1879 technologies, including intelligent transportation systems,
1880 which would enhance the efficient operation of the project.
1881 (f) The extent to which the project would maintain or
1882 protect the environment.
1883 (g) A demonstration that the project includes
1884 transportation benefits for improving intermodalism, cargo and
1885 freight movement, and safety.
1886 (h) The amount of the proposed assistance as a percentage
1887 of the overall project costs with emphasis on local and private
1888 participation.
1889 (i) The extent to which the project will provide for
1890 connectivity between the State Highway System and airports,
1891 seaports, rail facilities, and other transportation terminals
1892 and intermodal options pursuant to s. 341.053 for the increased
1893 accessibility and movement of people and goods.
1894 (j) The extent to which damage from a disaster that
1895 results in a declaration of emergency has impacted a public
1896 transportation facility's ability to maintain its previous level
1897 of service and remain accessible to the public, or provided a
1898 major impact to the cash flow or revenue generation ability of
1899 the public use facility.
1900 Section 33. Paragraph (b) of subsection (1) of section
1901 343.54, Florida Statutes, is amended to read:
1902 343.54 Powers and duties.--
1903 (1)
1904 (b) It is the express intention of this part that the
1905 authority be authorized to plan, develop, own, purchase, lease,

1906 or otherwise acquire, demolish, construct, improve, relocate,
1907 equip, repair, maintain, operate, and manage a transit system
1908 and transit facilities; to establish and determine the policies
1909 necessary for the best interest of the operation and promotion
1910 of a transit system; and to adopt rules necessary to govern the
1911 operation of a transit ~~commuter rail~~ system and transit ~~commuter~~
1912 ~~rail~~ facilities. It is the intent of the Legislature that the
1913 South Florida Regional Transportation Authority shall have
1914 overall authority to coordinate, develop, and operate a regional
1915 transportation system within the area served.
1916 Section 34. Subsection (4) is added to section 343.55,
1917 Florida Statutes, to read:
1918 343.55 Issuance of revenue bonds.--
1919 (4) The state pledges to and agrees with any person, firm,
1920 corporation, or federal or state agency subscribing to or
1921 acquiring the bonds to be issued by the authority for the
1922 purposes of the South Florida Regional Transportation Authority
1923 Act that the state will not limit or alter the rights vested in
1924 the authority under this section until all bonds at any time
1925 issued and secured by revenues remitted to the authority
1926 pursuant to s. 343.58, together with the interest thereon, are
1927 fully paid and discharged, insofar as the same affects the
1928 rights of the holders of bonds issued under this section.
1929 Section 35. Section 343.58, Florida Statutes, is amended
1930 to read:
1931 343.58 County funding for the South Florida Regional
1932 Transportation Authority.--
1933 (1) Each county served by the South Florida Regional
1934 Transportation Authority must dedicate and transfer not less
1935 than $2.67 million to the authority annually. The recurring
1936 annual $2.67 million must be dedicated by the governing body of

1937 each county prior to October 31 of each fiscal year ~~by August 1,~~
1938 ~~2003~~. ~~Notwithstanding ss. 206.41 and 206.87, such dedicated~~
1939 ~~funding may come from each county's share of the ninth-cent fuel~~
1940 ~~tax, the local-option fuel tax, or any other source of local gas~~
1941 ~~taxes or other nonfederal funds available to the counties. In~~
1942 ~~addition, the Legislature authorizes the levy of an annual~~
1943 ~~license tax in the amount of $2 for the registration or renewal~~
1944 ~~of registration of each vehicle taxed under s. 320.08 and~~
1945 ~~registered in the area served by the South Florida Regional~~
1946 ~~Transportation Authority. The annual license tax shall take~~
1947 ~~effect in any county served by the authority upon approval by~~
1948 ~~the residents in a county served by the authority. The annual~~
1949 ~~license tax shall be levied and the Department of Highway Safety~~
1950 ~~and Motor Vehicles shall remit the proceeds each month from the~~
1951 ~~tax to the South Florida Regional Transportation Authority.~~
1952 (2) At least $45 million of a state-authorized, local-
1953 option recurring funding source available to Broward, Miami-
1954 Dade, and Palm Beach Counties shall be directed to the authority
1955 to fund its capital, operating, and maintenance expenses. The
1956 funding source shall be dedicated to the authority only if
1957 Broward, Miami-Dade, and Palm Beach Counties each impose the
1958 local-option funding source.
1959 (3) ~~(2)~~ In addition, each county shall continue to annually
1960 fund the operations of the South Florida Regional Transportation
1961 Authority in an amount not less than $4.2 ~~$1.565~~ million.
1962 Revenue raised ~~Such funds~~ pursuant to this subsection shall also
1963 be considered a dedicated funding source.
1964 (4) The current funding obligations under subsections (1)
1965 and (3) shall cease upon commencement of the collection of
1966 funding from the funding source under subsection (2). Should the
1967 funding under subsection (2) be discontinued for any reason, the

1968 funding obligations under subsections (1) and (3) shall resume
1969 when collection from the funding source under subsection (2)
1970 ceases. Payment by the counties will be on a pro rata basis the
1971 first year following cessation of the funding under subsection
1972 (2). The authority shall refund a pro rata share of the payments
1973 for the current fiscal year made pursuant to the current funding
1974 obligations under subsections (1) and (3) as soon as reasonably
1975 practicable after it begins to receive funds under subsection
1976 (2).
1977 (5) If, by December 31, 2015 ~~2009~~, the South Florida
1978 Regional Transportation Authority has not received federal
1979 matching funds based upon the dedication of funds under
1980 subsection (1), subsection (1) shall be repealed.
1981 Section 36. Section 343.71, Florida Statutes, is amended
1982 to read:
1983 343.71 Short title.--This part may be cited as the "Tampa
1984 Bay Regional Transportation ~~Commuter Transit~~ Authority Act."
1985 Section 37. Section 343.72, Florida Statutes, is amended
1986 to read:
1987 343.72 Definitions.--
1988 (1) As used in this part, unless the context clearly
1989 indicates otherwise, the term:
1990 (a) ~~(1)~~ "Authority" means the Tampa Bay Regional
1991 Transportation ~~Commuter Transit~~ Authority, the body politic and
1992 corporate and agency of the state created by this part.
1993 (b) ~~(2)~~ "Board" means the governing body of the authority.
1994 (c) "Bonds" means the notes, bonds, refunding bonds, or
1995 other evidences of indebtedness or obligations, in either
1996 temporary or definitive form, which the authority is authorized
1997 to issue under this part.

1998 (d) "Commuter ferry" means a complete ferry system of
1999 boats, docks, and stations necessary to effectuate the movement
2000 of people by water to or from feeder transit services, commuter
2001 railroads, bus services, or fixed-guideway systems.
2002 (e) "Commuter rail facilities" means property and avenues
2003 of access required for the commuter rail or fixed-guideway
2004 systems.
2005 (f) ~~(3)~~ "Commuter railroad" means a complete system of
2006 tracks, guideways, stations, and rolling stock necessary to
2007 effectuate medium-distance to long-distance passenger rail
2008 service to, from, or within the surrounding regional
2009 municipalities.
2010 (g) "Department" means the Florida Department of
2011 Transportation.
2012 (h) "Feeder transit services" means fixed-guideway or bus
2013 service to transport passengers to rail or ferry stations.
2014 (i) "Lease-purchase agreement" means the lease-purchase
2015 agreements that the authority is authorized under this part to
2016 enter into with the department.
2017 (j) "Limited access expressway" or "expressway" means a
2018 street or highway especially designed for through traffic and
2019 over, from, or to which a person does not have the right of
2020 easement, use, or access except in accordance with the rules
2021 adopted and established by the authority for the use of such
2022 facility. Such a highway or street may be a parkway, from which
2023 trucks, buses, and other commercial vehicles are excluded, or it
2024 may be a freeway open to use by all customary forms of street
2025 and highway traffic.
2026 ~~(4) "Commuter rail facilities" means property and avenues~~
2027 ~~of access required for the commuter rail or fixed-guideway~~
2028 ~~systems.~~

2029 (k) ~~(5)~~ "Member" means the individuals constituting the
2030 authority ~~board~~.
2031 (l) "State Board of Administration" means the body
2032 corporate existing under the provisions of s. 9, Art. XII of the
2033 State Constitution, or any successor thereto.
2034 (2) Terms importing singular number include the plural
2035 number in each case and vice versa, and terms importing persons
2036 include firms and corporations.
2037 ~~(6) "Feeder transit services" means fixed guideway or bus~~
2038 ~~service to transport passengers to rail or ferry stations.~~
2039 ~~(7) "Commuter ferry" means a complete ferry system of~~
2040 ~~boats, docks, and stations necessary to effectuate the movement~~
2041 ~~of people by water to or from feeder transit services, commuter~~
2042 ~~railroads, bus or fixed guideway systems.~~
2043 Section 38. Section 343.73, Florida Statutes, is amended
2044 to read:
2045 343.73 Tampa Bay Regional Transportation ~~Commuter Transit~~
2046 Authority.--
2047 (1) There is created and established a body politic and
2048 corporate, an agency of the state, to be known as the Tampa Bay
2049 Regional Transportation ~~Commuter Transit~~ Authority, hereinafter
2050 referred to as the authority.
2051 (2) The board shall consist of the following voting
2052 members:
2053 (a) ~~The metropolitan planning organizations of Hernando,~~
2054 ~~Hillsborough, Pasco, Pinellas, Manatee, Sarasota, and Polk~~
2055 ~~Counties shall each elect a member as its representative on the~~
2056 ~~board. The member must be an elected official and a member of~~
2057 ~~the respective metropolitan planning organization when elected~~
2058 ~~and for the full extent of his or her term on the board.~~

2059 ~~(b)~~ The county commissions of Citrus, Hernando,
2060 Hillsborough, Pasco, Pinellas, Manatee, Sarasota, and Polk
2061 Counties ~~those counties~~ shall each appoint a citizen member to
2062 the board who is not a county commissioner but who is a resident
2063 and a qualified elector of that county. Insofar as is
2064 practicable, the citizen member shall represent the business and
2065 civic interests of the community.
2066 ~~(c) The Secretary of Transportation shall appoint as a~~
2067 ~~member of the board the district secretary, or his or her~~
2068 ~~designee, for each district within the seven counties served by~~
2069 ~~the authority.~~
2070 ~~(d) The local transit authority in each of the seven~~
2071 ~~counties shall elect one member who shall serve as an ex officio~~
2072 ~~nonvoting member of the board.~~
2073 (b) ~~(e)~~ The Governor shall appoint one member to the board
2074 who is a resident and a qualified elector in the area served by
2075 the authority.
2076 (c) The Chairs Coordinating Council shall appoint one
2077 member to the board who is a resident and a qualified elector in
2078 the area served by the authority.
2079 (3)(a) The local transit authority in each of the eight
2080 counties shall elect one member who shall serve as an ex
2081 officio, nonvoting member of the board.
2082 (b) The Secretary of Transportation shall appoint as a
2083 member of the board the district secretary, or his or her
2084 designee, for each district within the eight counties served by
2085 the authority, as ex officio nonvoting members of the authority
2086 (4) The terms of the appointees ~~county commissioners~~ on
2087 the governing board of the authority shall be 2 years. All other
2088 members on the governing board of the authority shall serve

2089 staggered 4-year terms. Each member shall hold office until his
2090 or her successor has been appointed.
2091 (5) ~~(4)~~ A vacancy during a term shall be filled by the
2092 respective appointing authority within 90 days in the same
2093 manner as the original appointment and only for the balance of
2094 the unexpired term.
2095 (6) ~~(5)~~ The members of the authority shall serve without
2096 ~~not be entitled to~~ compensation, but shall be entitled to
2097 receive from the authority their ~~reimbursed for~~ travel expenses
2098 and per diem actually incurred in connection with the business
2099 of the authority ~~their duties~~ as provided in s. 112.061 ~~by law~~.
2100 (7) ~~(6)~~ Members of the authority shall be required to
2101 comply with the applicable financial disclosure requirements of
2102 ss. 112.3145, 112.3148, and 112.3149.
2103 (8) The authority may employ an executive director, an
2104 executive secretary, its own counsel and legal staff, technical
2105 experts, engineers, and such employees, permanent or temporary,
2106 as it may require. The authority shall determine the
2107 qualifications and fix the compensation of such persons, firms,
2108 or corporations and may employ a fiscal agent or agents;
2109 however, the authority shall solicit sealed proposals from at
2110 least three persons, firms, or corporations for the performance
2111 of any services as fiscal agents. The authority may delegate, as
2112 it shall deem necessary, its power to one or more of its agents
2113 or employees to carry out the purposes of this part, subject
2114 always to the supervision and control of the authority.
2115 (9) The authority may establish technical advisory
2116 committees to provide guidance and advice on regional
2117 transportation issues. The authority shall establish the size,
2118 composition, and focus of any technical advisory committee
2119 created. Persons appointed to a technical advisory committee

2120 shall serve without compensation but shall be entitled to per
2121 diem or travel expenses, as provided in s. 112.061.
2122 Section 39. Section 343.74, Florida Statutes, is
2123 renumbered as section 343.735, Florida Statutes, and amended to
2124 read:
2125 343.735~~343.74~~ Powers and duties.--
2126 (1) The express purposes of the authority are to improve
2127 mobility and expand transportation options in the Tampa Bay
2128 region.
2129 (2)(a) The authority ~~created by s. 343.73~~ has the right to
2130 own, operate, maintain, and manage a commuter rail system and
2131 commuter ferry system in Citrus, Hernando, Hillsborough, Pasco,
2132 Pinellas, Manatee, Sarasota, and Polk Counties.
2133 ~~(b) It is the express intention of this part that~~ The
2134 authority is ~~be~~ authorized to plan, develop, own, purchase,
2135 lease, or otherwise acquire, demolish, construct, improve,
2136 relocate, equip, repair, maintain, operate, and manage a
2137 commuter rail system, commuter rail facilities, or commuter
2138 ferry system; to establish and determine such policies as may be
2139 necessary for the best interest of the operation and promotion
2140 of a commuter rail system and commuter ferry system; and to
2141 adopt such rules as may be necessary to govern the operation of
2142 a commuter rail system, commuter rail facilities, and a commuter
2143 ferry system.
2144 (b) The authority also is authorized to construct any
2145 feeder roads, reliever roads, connector roads, bypasses, or
2146 appurtenant facilities that are intended to improve mobility in
2147 the Tampa Bay region. These projects also may also include all
2148 necessary approaches, roads, bridges, and avenues of access that
2149 are desirable and proper with the concurrence, where applicable,
2150 of the department if the project is to be part of the State

2151 Highway System. Any transportation facilities constructed by the
2152 authority may be tolled.
2153 (3)(a) The authority shall develop and adopt a regional
2154 transportation master plan no later than July 1, 2008. The goals
2155 and objectives of the master plan are to identify areas of the
2156 Tampa Bay region where mobility, traffic safety, and efficient
2157 hurricane evacuation needs to be improved; identify areas of the
2158 region where multimodal transportation systems would be most
2159 beneficial for mobility and economic development; develop
2160 methods of building partnerships with local governments,
2161 expressway authorities, other local, state, and federal
2162 entities, the private-sector business community, and the public
2163 in support of regional transportation improvements; identify
2164 projects that will accomplish these goals and objectives; and
2165 identify the costs of the proposed projects and revenue sources
2166 that could be used to pay those costs. The master plan shall
2167 incorporate updates to previous plans the authority has
2168 completed on regional commuter rail and ferry service.
2169 (b) After its adoption, the master plan shall be updated
2170 annually before July 1.
2171 (c) The authority shall present the original master plan
2172 and updates to the governing bodies of the counties within the
2173 eight-county region and to the legislative delegation members
2174 representing those counties within 90 days after adoption.
2175 (4) The authority may undertake projects or other
2176 improvements in the master plan in phases as particular projects
2177 or segments become feasible, as determined by the authority. In
2178 carrying out its purposes and powers, the authority may request
2179 funding and technical assistance from the department and
2180 appropriate federal and local agencies, including, but not
2181 limited to, state infrastructure bank loans, advances from the

2182 Toll Facilities Revolving Trust Fund, and funding and technical
2183 assistance from any other source.
2184 (5) ~~(2)~~ The authority is granted and may exercise all
2185 powers necessary, appurtenant, convenient, or incidental to the
2186 carrying out of the aforesaid purposes, including, but not
2187 limited to, the following rights and powers:
2188 (a) To sue and be sued, implead and be impleaded, complain
2189 and defend in all courts in its own name.
2190 (b) To adopt and use a corporate seal.
2191 (c) To have the power of eminent domain, including the
2192 procedural powers granted under chapters 73 and 74.
2193 (d) To acquire by donation or otherwise, purchase, hold,
2194 construct, maintain, improve, operate, own, lease as a lessee,
2195 and use any franchise or property, real, personal, or mixed,
2196 tangible or intangible, or any option thereof in its own name or
2197 in conjunction with others, or any interest therein, necessary
2198 or desirable for carrying out the purposes of the authority.
2199 (e) To sell, convey, exchange, lease as a lessor,
2200 transfer, or otherwise dispose of any real or personal property,
2201 or interest therein, acquired by the authority, including air
2202 rights.
2203 (f) To fix, alter, establish, and collect rates, fares,
2204 fees, rentals, tolls, and other charges for the services and use
2205 of any commuter rail system or facilities, ~~or~~ any commuter ferry
2206 system, or feeder roads, bridges, or other transportation
2207 facilities owned or operated by the authority. These rates,
2208 fares, fees, rentals, tolls, and other charges shall always be
2209 sufficient to comply with any covenants made with the holders of
2210 any bonds issued pursuant to this part; however, such right and
2211 power may be assigned or delegated by the authority to the
2212 department. The authority may not impose tolls or other charges

2213 on existing highways and other transportation facilities within
2214 the eight-county Tampa Bay region.
2215 (g) To borrow money and to make and issue negotiable
2216 notes, bonds, refunding bonds, and other evidences of
2217 indebtedness or obligations, either in temporary or definitive
2218 form, hereinafter in this chapter sometimes called "revenue
2219 bonds" of the authority, for the purpose of financing all or
2220 part of the mobility improvements within the Tampa Bay region,
2221 as well as the appurtenant facilities, including all rail
2222 stations, approaches, streets, roads, bridges, and avenues of
2223 access authorized by this part, the bonds to mature not
2224 exceeding 40 years after the date of the issuance thereof, and
2225 to secure the payment of such bonds or any part thereof by a
2226 pledge of any or all of its revenues, rates, fees, rentals, or
2227 other charges.
2228 (h) ~~(g)~~ To develop and provide feeder transit services to
2229 rail and commuter ferry stations.
2230 (i) ~~(h)~~ To adopt bylaws for the regulation of the affairs
2231 and the conduct of the business of the authority. The bylaws
2232 shall provide for quorum and voting requirements, maintenance of
2233 minutes and other official records, and preparation and adoption
2234 of an annual budget.
2235 (j) ~~(i)~~ To lease, rent, or contract for the operation or
2236 management of any part of a commuter rail system, commuter rail
2237 facility, ~~or~~ commuter ferry system including feeder transit
2238 services and concessions, or any other transportation facility.
2239 In awarding any contracts, the authority shall consider, but is
2240 not limited to, the following:
2241 1. The qualifications of each applicant.
2242 2. The level of service.
2243 3. The efficiency, cost, and anticipated revenue.

2244 4. The construction, operation, and management plan.
2245 5. The financial ability to provide reliable service.
2246 6. The impact on other transportation modes, including the
2247 ability to interface with other transportation modes and
2248 facilities.
2249 (k) ~~(j)~~ To enforce collection of rates, fees, tolls, and
2250 charges, and to establish and enforce fines and penalties for
2251 violations of any rules.
2252 (l) ~~(k)~~ To advertise and promote commuter rail systems,
2253 commuter ferry systems, facilities, other transportation
2254 facilities, and the general activities of the authority.
2255 ~~(l) To employ an executive director, attorney, staff, and~~
2256 ~~consultants.~~
2257 (m) To cooperate with other governmental entities and to
2258 contract with other governmental agencies, including the
2259 Department of Transportation, the Federal Government, counties,
2260 municipalities, and seaport, ~~and~~ airport, expressway, bridge,
2261 and transit authorities.
2262 (n) To enter into joint development agreements,
2263 partnerships, and other agreements with public and private
2264 entities respecting ownership and revenue participation in order
2265 to facilitate financing and constructing any project or portions
2266 thereof..
2267 (o) To accept grants and other funds from other
2268 governmental sources and to accept private donations.
2269 (p) To purchase directly from local, national, or
2270 international insurance companies liability insurance that the
2271 authority is contractually and legally obligated to provide, the
2272 requirements of s. 287.022(1) notwithstanding.
2273 (q) To enter into and make lease-purchase agreements with
2274 the department for terms not exceeding 40 years or until any

2275 bonds secured by a pledge of rentals thereunder, and any
2276 refundings thereof, are fully paid as to both principal and
2277 interest, whichever is longer.
2278 (r) To make contracts of every name and nature, including,
2279 but not limited to, partnerships providing for participation in
2280 ownership and revenues, and to execute all instruments necessary
2281 or convenient for the carrying on of its business.
2282 (s) To do all acts and things necessary or convenient for
2283 the conduct of its business and the general welfare of the
2284 authority in order to carry out the powers granted to it by this
2285 part or any other law.
2286 ~~(3) The authority shall develop and adopt a plan for the~~
2287 ~~development of the Tampa Bay Commuter Rail or Commuter Ferry~~
2288 ~~Service. Such plan shall address the authority's plan for the~~
2289 ~~development of public and private revenue sources, funding of~~
2290 ~~operating and capital costs, the service to be provided and the~~
2291 ~~extent to which counties within the authority are to be served.~~
2292 ~~The plan shall be reviewed and updated annually. Such plan shall~~
2293 ~~be consistent, to the maximum extent feasible, with the approved~~
2294 ~~local government comprehensive plan of the units of local~~
2295 ~~government served by the authority.~~
2296 (6) ~~(4)~~ The authority shall institute procedures to ensure
2297 that jobs created as a result of state funding pursuant to this
2298 section shall be subject to equal opportunity hiring practices
2299 as provided for in s. 110.112.
2300 (7) ~~(5)~~ The authority shall comply with all statutory
2301 requirements of general application which relate to the filing
2302 of any report or documentation required by law, including the
2303 requirements of ss. 189.4085, 189.415, 189.417, and 189.418.
2304 (8) The authority does not have power at any time or in
2305 any manner to pledge the credit or taxing power of the state or

2306 any political subdivision or agency thereof, nor shall any of
2307 the authority's obligations be deemed to be obligations of the
2308 state or of any political subdivision or agency thereof, nor
2309 shall the state or any political subdivision or agency thereof,
2310 except the authority, be liable for the payment of the principal
2311 of or interest on such obligations.
2312 Section 40. Section 343.75, Florida Statutes, is
2313 renumbered as section 343.741, Florida Statutes, and amended to
2314 read:
2315 (Substantial rewording of section. See s. 343.75, F.S.,
2316 for present text.)
2317 343.741 Bond financing authority.--
2318 (1) Pursuant to s. 11(f), Art. VII of the State
2319 Constitution, the Legislature approves bond financing by the
2320 Tampa Bay Regional Transportation Authority for construction of
2321 or improvements to commuter rail systems, commuter ferry
2322 systems, highways, bridges, toll collection facilities,
2323 interchanges to the system, and any other transportation
2324 facility appurtenant, necessary, or incidental to the system.
2325 Subject to terms and conditions of applicable revenue bond
2326 resolutions and covenants, such costs may be financed in whole
2327 or in part by revenue bonds issued pursuant to paragraph (2)(a)
2328 or (b), whether currently issued or issued in the future or by a
2329 combination of such bonds.
2330 (2)(a) Bonds may be issued on behalf of the authority
2331 pursuant to the State Bond Act.
2332 (b) Alternatively, the authority may issue its own bonds
2333 pursuant to this part at such times and in such principal amount
2334 as, in the opinion of the authority, is necessary to provide
2335 sufficient moneys for achieving its purposes; however, such
2336 bonds may not pledge the full faith and credit of the state.

2337 Bonds issued by the authority pursuant to this paragraph or
2338 paragraph (a), whether on original issuance or on refunding,
2339 shall be authorized by resolution of the members thereof, may be
2340 either term or serial bonds, and shall bear such date or dates,
2341 mature at such time or times, not exceeding 40 years after their
2342 respective dates, bear interest at such rate or rates, be
2343 payable semiannually, be in such denominations, be in such form,
2344 either coupon or fully registered, carry such registration,
2345 exchangeability, and interchangeability privileges, be payable
2346 in such medium of payment and at such place or places, be
2347 subject to such terms of redemption, and be entitled to such
2348 priorities on the revenues, rates, fees, rentals, or other
2349 charges or receipts of the authority, including revenues from
2350 lease-purchase agreements, as such resolution or any resolution
2351 subsequent thereto may provide. The bonds shall be executed
2352 either by manual or facsimile signature by such officers as the
2353 authority shall determine, however, such bonds shall bear at
2354 least one signature that is manually executed thereon, and the
2355 coupons attached to such bonds shall bear the facsimile
2356 signature or signatures of such officer or officers as shall be
2357 designated by the authority and have the seal of the authority
2358 affixed, imprinted, reproduced, or lithographed thereon, all as
2359 may be prescribed in such resolution or resolutions.
2360 (c) Bonds issued pursuant to paragraph (a) or paragraph
2361 (b) shall be sold at public sale in the manner provided by the
2362 State Bond Act. However, if the authority, by official action at
2363 a public meeting, determines that a negotiated sale of such
2364 bonds is in the best interest of the authority, the authority
2365 may negotiate the sale of such bonds with the underwriter
2366 designated by the authority and the Division of Bond Finance
2367 within the State Board of Administration with respect to bonds

2368 issued pursuant to paragraph (a) or solely by the authority with
2369 respect to bonds issued pursuant to paragraph (b). The
2370 authority's determination to negotiate the sale of such bonds
2371 may be based, in part, upon the written advice of the
2372 authority's financial adviser. Pending the preparation of
2373 definitive bonds, interim certificates may be issued to the
2374 purchaser or purchasers of such bonds and may contain such terms
2375 and conditions as the authority may determine.
2376 (d) The authority may issue bonds pursuant to paragraph
2377 (b) to refund any bonds previously issued regardless of whether
2378 the bonds being refunded were issued by the authority pursuant
2379 to this chapter or on behalf of the authority pursuant to the
2380 State Bond Act.
2381 (3) Any such resolution or resolutions authorizing any
2382 bonds hereunder may contain provisions that are part of the
2383 contract with the holders of such bonds, as to:
2384 (a) The pledging of all or any part of the revenues,
2385 rates, fees, rentals, or other charges or receipts of the
2386 authority, derived by the authority.
2387 (b) The completion, improvement, operation, extension,
2388 maintenance, repair, or lease of, or lease-purchase agreement
2389 relating to, the system and the duties of the authority and
2390 others, including the department, with reference thereto.
2391 (c) Limitations on the purposes to which the proceeds of
2392 the bonds, then or thereafter to be issued, or of any loan or
2393 grant by the United States or the state may be applied.
2394 (d) The fixing, charging, establishing, and collecting of
2395 rates, fees, rentals, or other charges for use of the services
2396 and facilities constructed by the authority.

2397 (e) The setting aside of reserves or sinking funds or
2398 repair and replacement funds and the regulation and disposition
2399 thereof.
2400 (f) Limitations on the issuance of additional bonds.
2401 (g) The terms and provisions of any lease-purchase
2402 agreement, deed of trust, or indenture securing the bonds or
2403 under which the same may be issued.
2404 (h) Any other or additional agreements with the holders of
2405 the bonds which the authority may deem desirable and proper.
2406 (4) The authority may employ fiscal agents as provided by
2407 this part or the State Board of Administration may, upon request
2408 of the authority, act as fiscal agent for the authority in the
2409 issuance of any bonds that are issued pursuant to this part, and
2410 the State Board of Administration may, upon request of the
2411 authority, take over the management, control, administration,
2412 custody, and payment of any or all debt services or funds or
2413 assets now or hereafter available for any bonds issued pursuant
2414 to this part. The authority may enter into any deeds of trust,
2415 indentures, or other agreements with its fiscal agent, or with
2416 any bank or trust company within or without the state, as
2417 security for such bonds and may, under such agreements, sign and
2418 pledge all or any of the revenues, rates, fees, rentals, or
2419 other charges or receipts of the authority. Such deed of trust,
2420 indenture, or other agreement may contain such provisions as are
2421 customary in such instruments or as the authority authorizes,
2422 including, but without limitation, provisions as to:
2423 (a) The completion, improvement, operation, extension,
2424 maintenance, repair, and lease of, or lease-purchase agreement
2425 relating to, commuter rail, commuter ferry, highway, bridge, and
2426 related transportation facilities and appurtenances and the

2427 duties of the authority and others, including the department,
2428 with reference thereto.
2429 (b) The application of funds and the safeguarding of funds
2430 on hand or on deposit.
2431 (c) The rights and remedies of the trustee and the holders
2432 of the bonds.
2433 (d) The terms and provisions of the bonds or the
2434 resolutions authorizing the issuance of the bonds.
2435 (5) Any of the bonds issued pursuant to this part are, and
2436 are hereby declared to be, negotiable instruments and have all
2437 the qualities and incidents of negotiable instruments under the
2438 law merchant and the negotiable instruments law of the state.
2439 (6) Notwithstanding any of the provisions of this part,
2440 each project, building, or facility that has been financed by
2441 the issuance of bonds or other evidence of indebtedness under
2442 this part and any refinancing thereof are hereby approved as
2443 provided for in s. 11(f), Art. VII of the State Constitution.
2444 Section 41. Section 343.76, Florida Statutes, is
2445 renumbered as section 343.743, Florida Statutes, and amended to
2446 read:
2447 343.743~~343.76~~ Bonds not debts or pledges of credit of
2448 state.--Revenue bonds issued under the provisions of this part
2449 are not debts of the state or pledges of the faith and credit of
2450 the state. Such bonds are payable exclusively from revenues
2451 pledged for their payment. All such bonds shall contain a
2452 statement on their face that the state is not obligated to pay
2453 the same or the interest thereon, except from the revenues
2454 pledged for their payment, and that the faith and credit of the
2455 state is not pledged to the payment of the principal or interest
2456 of such bonds. The issuance of revenue bonds under the
2457 provisions of this part does not directly, indirectly, or

2458 contingently obligate the state to levy or to pledge any form of
2459 taxation whatsoever, or to make any appropriation for their
2460 payment. No state funds shall be used to pay the principal or
2461 interest of any bonds issued to finance or refinance any portion
2462 of the authority's transportation projects ~~Tampa Bay rail or~~
2463 ~~ferry system~~, and all such bonds shall contain a statement on
2464 their face to this effect.
2465 Section 42. Section 343.77, Florida Statutes, is
2466 renumbered as section 343.745, Florida Statutes, and amended to
2467 read:
2468 (Substantial rewording of section. See s. 343.77, F.S.,
2469 for present text.)
2470 343.745 Covenant of the state.--The state does hereby
2471 pledge to, and agrees with, any person, firm or corporation, or
2472 federal or state agency subscribing to or acquiring the bonds to
2473 be issued by the authority for the purposes of this part that
2474 the state will not limit or alter the rights hereby vested in
2475 the authority and the department until all bonds at any time
2476 issued, together with the interest thereon, are fully paid and
2477 discharged insofar as the same affects the rights of the holders
2478 of bonds issued hereunder. The state does further pledge to, and
2479 agree with, the United States that, if any federal agency
2480 constructs or contributes any funds for the completion,
2481 extension, or improvement of the system or any part or portion
2482 thereof, the state will not alter or limit the rights and powers
2483 of the authority and the department in any manner which would be
2484 inconsistent with the continued maintenance and operation of the
2485 system or the completion, extension, or improvement thereof or
2486 which would be inconsistent with the due performance of any
2487 agreements between the authority and any such federal agency.
2488 The authority and the department shall continue to have and may

2489 exercise all powers herein granted so long as necessary or
2490 desirable for the carrying out of the purposes of this part and
2491 the purposes of the United States in the completion, extension,
2492 or improvement of the system or any part or portion thereof.
2493 Section 43. Section 343.747, Florida Statutes, is created
2494 to read:
2495 343.747 Remedies of the bondholders.--
2496 (1) The rights and the remedies in this section conferred
2497 upon or granted to the bondholders are in addition to and not in
2498 limitation of any rights and remedies lawfully granted to such
2499 bondholders by the resolution or resolutions providing for the
2500 issuance of bonds or by a lease-purchase agreement, deed of
2501 trust, indenture, or other agreement under which the bonds may
2502 be issued or secured. If the authority defaults in the payment
2503 of the principal of or interest on any of the bonds issued
2504 pursuant to the provisions of this part after such principal of
2505 or interest on the bonds becomes due, whether at maturity or
2506 upon call for redemption, or the department defaults in any
2507 payments under, or covenants made in, any lease-purchase
2508 agreement between the authority and the department, and such
2509 default continues for a period of 30 days, or if the authority
2510 or the department fails or refuses to comply with the provisions
2511 of this part or any agreement made with, or for the benefit of,
2512 the holders of the bonds, the holders of 25 percent in aggregate
2513 principal amount of the bonds then outstanding may appoint a
2514 trustee to represent such bondholders for the purposes hereof,
2515 if such holders of 25 percent in aggregate principal amount of
2516 the bonds then outstanding shall first give notice of their
2517 intention to appoint a trustee to the authority and to the
2518 department. Such notice shall be deemed to have been given if
2519 given in writing, deposited in a securely sealed postpaid

2520 wrapper, mailed at a regularly maintained United States post
2521 office box or station, and addressed, respectively, to the chair
2522 of the authority and to the secretary of the department at the
2523 principal office of the department.
2524 (2) Such trustee and any trustee under any deed of trust,
2525 indenture, or other agreement may, and upon written request of
2526 the holders of 25 percent or such other percentages as are
2527 specified in any deed of trust, indenture, or other agreement
2528 aforesaid in principal amount of the bonds then outstanding
2529 shall, in any court of competent jurisdiction, in his, her, or
2530 its own name:
2531 (a) By mandamus or other suit, action, or proceeding at
2532 law or in equity, enforce all rights of the bondholders,
2533 including the right to require the authority to fix, establish,
2534 maintain, collect, and charge rates, fees, rentals, and other
2535 charges adequate to carry out any agreement as to or pledge of
2536 the revenues or receipts of the authority, to carry out any
2537 other covenants and agreements with or for the benefit of the
2538 bondholders, and to perform its and their duties under this
2539 part.
2540 (b) By mandamus or other suit, action, or proceeding at
2541 law or in equity, enforce all rights of the bondholders under or
2542 pursuant to any lease-purchase agreement between the authority
2543 and the department, including the right to require the
2544 department to make all rental payments required to be made by it
2545 under the provisions of any such lease-purchase agreement and to
2546 require the department to carry out any other covenants and
2547 agreements with or for the benefit of the bondholders and to
2548 perform its and their duties under this part.
2549 (c) Bring suit upon the bonds.

2550 (d) By action or suit in equity, require the authority or
2551 the department to account as if it were the trustee of an
2552 express trust for the bondholders.
2553 (e) By action or suit in equity, enjoin any acts or things
2554 that may be unlawful or in violation of the rights of the
2555 bondholders.
2556 (3) Any trustee, when appointed as aforesaid or acting
2557 under a deed of trust, indenture, or other agreement, and
2558 whether or not all bonds have been declared due and payable, may
2559 appoint a receiver who may enter upon and take possession of the
2560 system or the facilities or any part or parts thereof, the
2561 rates, fees, rentals, or other revenues, charges, or receipts
2562 from which are or may be applicable to the payment of the bonds
2563 so in default, and, subject to and in compliance with the
2564 provisions of any lease-purchase agreement between the authority
2565 and the department, operate and maintain the same for and on
2566 behalf of and in the name of the authority, the department, and
2567 the bondholders, and collect and receive all rates, fees,
2568 rentals, and other charges or receipts or revenues arising
2569 therefrom in the same manner as the authority or the department
2570 might do, and shall deposit all such moneys in a separate
2571 account and apply such moneys in such manner as the court shall
2572 direct. In any suit, action, or proceeding by the trustee, the
2573 fees, counsel fees, and expenses of the trustee and the
2574 receiver, if any, and all costs and disbursements allowed by the
2575 court shall be a first charge on any rates, fees, rentals, or
2576 other charges, revenues, or receipts derived from the system or
2577 the facilities or services or any part or parts thereof,
2578 including payments under any such lease-purchase agreement as
2579 aforesaid, which rates, fees, rentals, or other charges,
2580 revenues, or receipts may be applicable to the payment of the

2581 bonds so in default. Such trustee, in addition to the foregoing,
2582 possesses all of the powers necessary for the exercise of any
2583 functions specifically set forth herein or incident to the
2584 representation of the bondholders in the enforcement and
2585 protection of their rights.
2586 (4) This section or any other section of this part does
2587 not authorize any receiver appointed pursuant hereto for the
2588 purpose, subject to and in compliance with the provisions of any
2589 lease-purchase agreement between the authority and the
2590 department, of operating and maintaining the system or any
2591 facilities or part or parts thereof to sell, assign, mortgage,
2592 or otherwise dispose of any of the assets of whatever kind and
2593 character belonging to the authority. It is the intention of
2594 this part to limit the powers of such receiver, subject to and
2595 in compliance with the provisions of any lease-purchase
2596 agreement between the authority and the department, to the
2597 operation and maintenance of the system or any facility or part
2598 or parts thereof, as the court may direct, in the name and for
2599 and on behalf of the authority, the department, and the
2600 bondholders. In any suit, action, or proceeding at law or in
2601 equity, a holder of bonds on the authority, a trustee, or any
2602 court may not compel or direct a receiver to sell, assign,
2603 mortgage, or otherwise dispose of any assets of whatever kind or
2604 character belonging to the authority. A receiver also may not be
2605 authorized to sell, assign, mortgage, or otherwise dispose of
2606 any assets of whatever kind or character belonging to the
2607 authority in any suit, action, or proceeding at law or in
2608 equity.
2609 Section 44. Section 343.749, Florida Statutes, is created
2610 to read:

2611 343.749 Pledges enforceable by bondholders.--It is the
2612 express intention of this part that any pledge to the authority
2613 by the department of rates, fees, revenues, or other funds as
2614 rentals, or any covenants or agreements relative thereto, is
2615 enforceable in any court of competent jurisdiction against the
2616 authority or directly against the department by any holder of
2617 bonds issued by the authority.
2618 Section 45. Section 343.751, Florida Statutes, is created
2619 to read:
2620 343.751 Lease-purchase agreement.--
2621 (1) In order to effectuate the purposes of this part and
2622 as authorized by this part, the authority may enter into a
2623 lease-purchase agreement with the department relating to and
2624 covering authority projects within the eight-county Tampa Bay
2625 region.
2626 (2) Such lease-purchase agreement shall provide for the
2627 leasing of the system by the authority, as lessor, to the
2628 department, as lessee, shall prescribe the term of such lease
2629 and the rentals to be paid thereunder, and shall provide that,
2630 upon the completion of the faithful performance thereunder and
2631 the termination of such lease-purchase agreement, title in fee
2632 simple absolute to the system as then constituted shall be
2633 transferred in accordance with law by the authority to the state
2634 and the authority shall deliver to the department such deeds and
2635 conveyances as shall be necessary or convenient to vest title in
2636 fee simple absolute in the state.
2637 (3) Such lease-purchase agreement may include such other
2638 provisions, agreements, and covenants as the authority and the
2639 department deem advisable or required, including, but not
2640 limited to, provisions as to the bonds to be issued for the
2641 purposes of this part, the completion, extension, improvement,

2642 operation, and maintenance of the system and the expenses and
2643 the cost of operation of the authority, the charging and
2644 collection of tolls, rates, fees, and other charges for the use
2645 of the services and facilities thereof, and the application of
2646 federal or state grants or aid which may be made or given to
2647 assist the authority in the completion, extension, improvement,
2648 operation, and maintenance of the system.
2649 (4) The department as lessee under such lease-purchase
2650 agreement may pay as rentals thereunder any rates, fees,
2651 charges, funds, moneys, receipts, or income accruing to the
2652 department from the operation of the system and may also pay as
2653 rentals any appropriations received by the department pursuant
2654 to any act of the Legislature heretofore or hereafter enacted;
2655 however, nothing in this section or in such lease-purchase
2656 agreement is intended to require, nor shall this part or such
2657 lease-purchase agreement require, the making or continuance of
2658 such appropriations, nor shall any holder of bonds issued
2659 pursuant to this part ever have any right to compel the making
2660 or continuance of such appropriations.
2661 (5) The department shall have power to covenant in any
2662 lease-purchase agreement that it will pay all or any part of the
2663 cost of the operation, maintenance, repair, renewal, and
2664 replacement of facilities, and any part of the cost of
2665 completing facilities to the extent that the proceeds of bonds
2666 issued are insufficient, from sources other than the revenues
2667 derived from the operation of the system.
2668 Section 46. Section 343.753, Florida Statutes, is created
2669 to read:
2670 343.753 Department may be appointed agent of authority for
2671 construction.--The department may be appointed by the authority
2672 as its agent for the purpose of constructing and completing

2673 transportation projects, and improvements and extensions
2674 thereto, in the authority's master plan. In such event, the
2675 authority shall provide the department with complete copies of
2676 all documents, agreements, resolutions, contracts, and
2677 instruments relating thereto; shall request the department to do
2678 such construction work, including the planning, surveying, and
2679 actual construction of the completion, extensions, and
2680 improvements to the system; and shall transfer to the credit of
2681 an account of the department in the treasury of the state the
2682 necessary funds therefor. The department shall proceed with such
2683 construction and use the funds for such purpose in the same
2684 manner that it is now authorized to use the funds otherwise
2685 provided by law for its use in construction of commuter rail,
2686 commuter ferry, roads, bridges, and related transportation
2687 facilities.
2688 Section 47. Section 343.761, Florida Statutes, is created
2689 to read:
2690 343.761 Acquisition of lands and property.--
2691 (1) For the purposes of this part, the Tampa Bay Regional
2692 Transportation Authority may acquire private or public property
2693 and property rights, including rights of access, air, view, and
2694 light, by gift, devise, purchase, or condemnation by eminent
2695 domain proceedings, as the authority may deem necessary for any
2696 purpose of this part, including, but not limited to, any lands
2697 reasonably necessary for securing applicable permits, areas
2698 necessary for management of access, borrow pits, drainage
2699 ditches, water retention areas, rest areas, replacement access
2700 for landowners whose access is impaired due to the construction
2701 of a facility, and replacement rights-of-way for relocated rail
2702 and utility facilities; for existing, proposed, or anticipated
2703 transportation facilities within the eight-county Tampa Bay

2704 region identified by the authority; or for the purposes of
2705 screening, relocation, removal, or disposal of junkyards and
2706 scrap metal processing facilities. The authority may condemn any
2707 material and property necessary for such purposes.
2708 (2) The right of eminent domain herein conferred shall be
2709 exercised by the authority in the manner provided by law.
2710 (3) When the authority acquires property for a
2711 transportation facility within the eight-county Tampa Bay
2712 region, the authority is not subject to any liability imposed by
2713 chapter 376 or chapter 403 for preexisting soil or groundwater
2714 contamination due solely to its ownership. This section does not
2715 affect the rights or liabilities of any past or future owners of
2716 the acquired property, nor does it affect the liability of any
2717 governmental entity for the results of its actions which create
2718 or exacerbate a pollution source. The authority and the
2719 Department of Environmental Protection may enter into
2720 interagency agreements for the performance, funding, and
2721 reimbursement of the investigative and remedial acts necessary
2722 for property acquired by the authority.
2723 Section 48. Section 343.771, Florida Statutes, is created
2724 to read:
2725 343.771 Cooperation with other units, boards, agencies,
2726 and individuals.--Express authority and power is hereby given
2727 and granted to any county, municipality, drainage district, road
2728 and bridge district, school district, or any other political
2729 subdivision, board, commission, or individual in or of the state
2730 to make and enter into contracts, leases, conveyances,
2731 partnerships, or other agreements with the authority within the
2732 provisions and purposes of this part. The authority may make and
2733 enter into contracts, leases, conveyances, partnerships, and
2734 other agreements with any political subdivision, agency, or

2735 instrumentality of the state and any and all federal agencies,
2736 corporations, and individuals for the purpose of carrying out
2737 the provisions of this part.
2738 Section 49. Section 343.773, Florida Statutes, is created
2739 to read:
2740 343.773 Public-private partnerships.--
2741 (1) The authority may receive or solicit proposals and
2742 enter into agreements with private entities or consortia thereof
2743 for the building, operation, ownership, or financing of
2744 transportation facilities within the jurisdiction of the
2745 authority. Before approval, the authority must determine that a
2746 proposed project:
2747 (a) Is in the public's best interest.
2748 (b) Would not require state funds to be used unless the
2749 project is on or provides increased mobility on the State
2750 Highway System.
2751 (c) Would have adequate safeguards to ensure that
2752 additional costs or service disruptions would not be realized by
2753 the traveling public and citizens of the state in the event of
2754 default or the cancellation of the agreement by the authority.
2755 (2) The authority shall ensure that all reasonable costs
2756 to the state related to transportation facilities that are not
2757 part of the State Highway System are borne by the private
2758 entity. The authority also shall ensure that all reasonable
2759 costs to the state and substantially affected local governments
2760 and utilities related to the private transportation facility are
2761 borne by the private entity for transportation facilities that
2762 are owned by private entities. For projects on the State Highway
2763 System, the department may use state resources to participate in
2764 funding and financing the project as provided for under the
2765 department's enabling legislation.

2766 (3) The authority may request proposals for public-private
2767 transportation projects or, if it receives an unsolicited
2768 proposal, the authority must publish a notice in the Florida
2769 Administrative Weekly and a newspaper of general circulation in
2770 the county in which the proposed project is located at least
2771 once a week for 2 weeks stating that it has received the
2772 proposal and will accept, for 60 days after the initial date of
2773 publication, other proposals for the same project purpose. A
2774 copy of the notice must be mailed to each local government in
2775 the affected areas. After the public notification period has
2776 expired, the authority shall rank the proposals in order of
2777 preference. In ranking the proposals, the authority shall
2778 consider professional qualifications, general business terms,
2779 innovative engineering or cost-reduction terms, finance plans,
2780 and the need for state funds to deliver the proposal. If the
2781 authority is not satisfied with the results of the negotiations,
2782 it may, at its sole discretion, terminate negotiations with the
2783 proposer. If these negotiations are unsuccessful, the authority
2784 may go to the second and lower-ranked firms, in order, using the
2785 same procedure. If only one proposal is received, the authority
2786 may negotiate in good faith and, if it is not satisfied with the
2787 results, it may, at its sole discretion, terminate negotiations
2788 with the proposer. Notwithstanding this subsection, the
2789 authority may, at its discretion, reject all proposals at any
2790 point in the process up to completion of a contract with the
2791 proposer.
2792 (4) Agreements entered into pursuant to this section may
2793 authorize the public-private entity to impose tolls or fares for
2794 the use of the facility. However, the amount and use of toll or
2795 fare revenues shall be regulated by the authority to avoid
2796 unreasonable costs to users of the facility.

2797 (5) Each public-private transportation facility
2798 constructed pursuant to this section shall comply with all
2799 requirements of federal, state, and local laws; state, regional,
2800 and local comprehensive plans; the authority's rules, policies,
2801 procedures, and standards for transportation facilities; and any
2802 other conditions that the authority determines to be in the
2803 public's best interest.
2804 (6) The authority may exercise any of its powers,
2805 including eminent domain, to facilitate the development and
2806 construction of transportation projects pursuant to this
2807 section. The authority may pay all or part of the cost of
2808 operating and maintaining the facility or may provide services
2809 to the private entity for which it receives full or partial
2810 reimbursement for services rendered.
2811 (7) Except as provided in this section, this section is
2812 not intended to amend existing law by granting additional powers
2813 to or imposing further restrictions on the governmental entities
2814 with regard to regulating and entering into cooperative
2815 arrangements with the private sector for the planning,
2816 construction, and operation of transportation facilities.
2817 (8) The authority may adopt rules pursuant to ss.
2818 120.536(1) and 120.54 to implement this section and shall, by
2819 rule, establish an application fee for the submission of
2820 unsolicited proposals under this section. The fee must be
2821 sufficient to pay the costs of evaluating the proposals.
2822 Section 50. Section 343.781, Florida Statutes, is created
2823 to read:
2824 343.781 Exemption from taxation.--The effectuation of the
2825 authorized purposes of the authority created under this part is
2826 for the benefit of the people of this state, for the increase of
2827 their commerce and prosperity, and for the improvement of their

2828 health and living conditions and, because the authority performs
2829 essential governmental functions in effectuating such purposes,
2830 the authority is not required to pay any taxes or assessments of
2831 any kind or nature whatsoever upon any property acquired or used
2832 by it for such purposes, or upon any rates, fees, rentals,
2833 receipts, income, or charges at any time received by it. The
2834 bonds issued by the authority, their transfer, and the income
2835 therefrom, including any profits made on the sale thereof, shall
2836 at all times be free from taxation of any kind by the state or
2837 by any political subdivision, taxing agency, or instrumentality
2838 thereof. The exemption granted by this section does not apply to
2839 any tax imposed by chapter 220 on interest, income, or profits
2840 on debt obligations owned by corporations.
2841 Section 51. Section 343.783, Florida Statutes, is created
2842 to read:
2843 343.783 Eligibility for investments and security.--Any
2844 bonds or other obligations issued pursuant to this part shall be
2845 and constitute legal investments for banks, savings banks,
2846 trustees, executors, administrators, and all other fiduciaries
2847 and for all state, municipal, and other public funds and shall
2848 also be and constitute securities eligible for deposit as
2849 security for all state, municipal, or other public funds,
2850 notwithstanding the provisions of any other law to the contrary.
2851 Section 52. Section 343.791, Florida Statutes, is created
2852 to read:
2853 343.791 Complete and additional statutory authority.--
2854 (1) The powers conferred by this part are supplemental to
2855 the existing powers of the board and the department. This part
2856 does not repeal any of the provisions of any other law, general,
2857 special, or local, but supersedes such other laws in the
2858 exercise of the powers provided in this part and provides a

2859 complete method for the exercise of the powers granted in this
2860 part. The extension and improvement of the system, and the
2861 issuance of bonds hereunder to finance all or part of the cost
2862 thereof, may be accomplished upon compliance with the provisions
2863 of this part without regard to or necessity for compliance with
2864 the provisions, limitations, or restrictions contained in any
2865 other general, special, or local law, including, but not limited
2866 to, s. 215.821. An approval of any bonds issued under this part
2867 by the qualified electors or qualified electors who are
2868 freeholders in the state or in any other political subdivision
2869 of the state is not required for the issuance of such bonds
2870 pursuant to this part.
2871 (2) This part does not repeal, rescind, or modify any
2872 other law relating to the State Board of Administration, the
2873 Department of Transportation, or the Division of Bond Finance
2874 within the State Board of Administration; however, this part
2875 supersedes such other laws as are inconsistent with its
2876 provisions, including, but not limited to, s. 215.821.
2877 (3) This part does not preclude the department from
2878 acquiring, holding, constructing, improving, maintaining,
2879 operating, or owning tolled or nontolled facilities funded and
2880 constructed from nonauthority sources that are part of the State
2881 Highway System within the geographical boundaries of the Tampa
2882 Bay Regional Transportation Authority.
2883 Section 53. Paragraph (a) of subsection (2) of section
2884 343.81, Florida Statutes, is amended to read:
2885 343.81 Northwest Florida Transportation Corridor
2886 Authority.--
2887 (2)(a) The governing body of the authority shall consist
2888 of eight voting members, one each from Escambia, Santa Rosa,
2889 Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla Counties,

2890 appointed by the Governor to a 4-year term. The appointees shall
2891 be residents of their respective counties and may not hold an
2892 elected office. Upon the effective date of his or her
2893 appointment, or as soon thereafter as practicable, each
2894 appointed member of the authority shall enter upon his or her
2895 duties. Each appointed member shall hold office until his or her
2896 successor has been appointed and has qualified. A vacancy
2897 occurring during a term shall be filled only for the balance of
2898 the unexpired term. Any member of the authority shall be
2899 eligible for reappointment. Members of the authority may be
2900 removed from office by the Governor for misconduct, malfeasance,
2901 misfeasance, or nonfeasance in office.
2902 Section 54. The revisions in this act to s. 343.81,
2903 Florida Statutes, prohibiting the appointment of a person
2904 holding an elected office to the Northwest Florida
2905 Transportation Corridor Authority shall not prohibit any member
2906 appointed prior to the effective date of this act from
2907 completing their current term and the prohibition shall only
2908 apply to members appointed after the effective date of this act.
2909 Section 55. Subsection (1) and subsection (2) of section
2910 343.82, Florida Statutes, are amended to read:
2911 343.82 Purposes and powers.--
2912 (1) The primary purpose of the authority is to improve
2913 mobility on the U.S. 98 corridor in Northwest Florida to enhance
2914 traveler safety, identify and develop hurricane evacuation
2915 routes, promote economic development along the corridor, and
2916 implement transportation projects to alleviate current or
2917 anticipated traffic congestion.
2918 (2)(a) The authority is authorized to construct any feeder
2919 roads, reliever roads, connector roads, bypasses, or appurtenant
2920 facilities that are intended to improve mobility along the U.S.

2921 98 corridor. The transportation improvement projects may also
2922 include all necessary approaches, roads, bridges, and avenues of
2923 access that are desirable and proper with the concurrence, where
2924 applicable, of the department if the project is to be part of
2925 the State Highway System or the respective county or municipal
2926 governing boards. Any transportation facilities constructed by
2927 the authority may be tolled.
2928 (b) Notwithstanding any special act to the contrary, the
2929 authority shall plan for and study the feasibility of
2930 constructing, operating, and maintaining a bridge or bridges
2931 spanning Choctawhatchee Bay or Santa Rosa Sound, or both, and
2932 access roads to such bridge or bridges, including studying the
2933 environmental and economic feasibility of such bridge or
2934 bridges and access roads, and such other transportation
2935 facilities that become part of such bridge system. The authority
2936 may construct, operate, and maintain the bridge system if the
2937 authority determines that the bridge system project is feasible
2938 and consistent with the authority's primary purpose and master
2939 plan.
2940 Section 56. Paragraph (d) of subsection (2) and paragraph
2941 (a) of subsection (4) of section 348.0003, Florida Statutes, are
2942 amended to read:
2943 348.0003 Expressway authority; formation; membership.--
2944 (2) The governing body of an authority shall consist of
2945 not fewer than five nor more than nine voting members. The
2946 district secretary of the affected department district shall
2947 serve as a nonvoting member of the governing body of each
2948 authority located within the district. Each member of the
2949 governing body must at all times during his or her term of
2950 office be a permanent resident of the county which he or she is
2951 appointed to represent.

2952 (d) Notwithstanding any provision to the contrary in this
2953 subsection, in any county as defined in s. 125.011(1), the
2954 governing body of an authority shall consist of seven voting ~~up~~
2955 ~~to 13~~ members and two nonvoting members, and the following
2956 provisions of this paragraph shall apply specifically to such
2957 authority. One ~~Except for the district secretary of the~~
2958 ~~department, the members must be residents of the county. Seven~~
2959 voting member ~~members~~ shall be a county commissioner appointed
2960 by the chair of the governing body of the county. One voting
2961 member shall be a mayor of a municipality within the county at
2962 all times while serving on the authority and shall be appointed
2963 by the Miami-Dade County League of Cities. ~~At the discretion of~~
2964 ~~the governing body of the county, up to two of the members~~
2965 ~~appointed by the governing body of the county may be elected~~
2966 ~~officials residing in the county.~~ Five citizens of Miami-Dade
2967 County or of its municipalities shall be appointed as voting
2968 members of the authority, of which three shall be appointed by
2969 the Governor and two shall be appointed by the county
2970 commission. These citizen appointees shall not be elected or
2971 appointed officials or employees of the county or of a
2972 municipality within the county. ~~One member shall be~~ The district
2973 secretary of the department serving in the district that
2974 contains such county shall be a nonvoting member of the
2975 authority. One member shall be the chair of the Miami-Dade
2976 legislative delegation, or another member of the delegation
2977 appointed by the chair, and shall be a nonvoting member of the
2978 authority. ~~This member shall be an ex officio voting member of~~
2979 ~~the authority. If the governing board of an authority includes~~
2980 ~~any member originally appointed by the governing body of the~~
2981 ~~county as a nonvoting member, when the term of such member~~
2982 ~~expires, that member shall be replaced by a member appointed by~~

2983 ~~the Governor until the governing body of the authority is~~
2984 ~~composed of seven members appointed by the governing body of the~~
2985 ~~county and five members appointed by the Governor.~~ The
2986 qualifications, terms of office, and obligations and rights of
2987 members of the authority shall be determined by resolution or
2988 ordinance of the governing body of the county in a manner that
2989 is consistent with subsections (3) and (4).
2990 (4)(a) An authority may employ an executive secretary, an
2991 executive director, its own counsel and legal staff, technical
2992 experts, and such engineers and employees, permanent or
2993 temporary, as it may require and shall determine the
2994 qualifications and fix the compensation of such persons, firms,
2995 or corporations. An authority may employ a fiscal agent or
2996 agents; however, the authority must solicit sealed proposals
2997 from at least three persons, firms, or corporations for the
2998 performance of any services as fiscal agents. An authority may
2999 delegate to one or more of its agents or employees such of its
3000 power as it deems necessary to carry out the purposes of the
3001 Florida Expressway Authority Act, subject always to the
3002 supervision and control of the authority. Notwithstanding any
3003 provision in law, however, an expressway authority located in a
3004 county as defined in s. 125.011(1), may not contract with any
3005 lobbyist, as defined in s. 11.045(1)(f), to represent the
3006 authority and its interests. This does not preclude full-time
3007 employees of the authority from lobbying on the authority's
3008 behalf. Members of an authority may be removed from office by
3009 the Governor for misconduct, malfeasance, misfeasance, or
3010 nonfeasance in office.
3011 Section 57. Paragraph (f) of subsection (2) and subsection
3012 (9) of section 348.0004, Florida Statutes, are amended to read:
3013 348.0004 Purposes and powers.--

3014 (2) Each authority may exercise all powers necessary,
3015 appurtenant, convenient, or incidental to the carrying out of
3016 its purposes, including, but not limited to, the following
3017 rights and powers:
3018 (f)1. To fix, alter, charge, establish, and collect tolls,
3019 rates, fees, rentals, and other charges for the services and
3020 facilities system, which tolls, rates, fees, rentals, and other
3021 charges must always be sufficient to comply with any covenants
3022 made with the holders of any bonds issued pursuant to the
3023 Florida Expressway Authority Act. However, such right and power
3024 may be assigned or delegated by the authority to the department.
3025 Notwithstanding s. 338.165 or any other provision of law to the
3026 contrary, in any county as defined in s. 125.011(1), to the
3027 extent surplus revenues exist, they may be used for purposes
3028 enumerated in subsection (7), provided the expenditures are
3029 consistent with the metropolitan planning organization's adopted
3030 long-range plan. Notwithstanding any other provision of law to
3031 the contrary, but subject to any contractual requirements
3032 contained in documents securing any outstanding indebtedness
3033 payable from tolls, in any county as defined in s. 125.011(1),
3034 the board of county commissioners may, by ordinance adopted on
3035 or before September 30, 1999, alter or abolish existing tolls
3036 and currently approved increases thereto if the board provides a
3037 local source of funding to the county expressway system for
3038 transportation in an amount sufficient to replace revenues
3039 necessary to meet bond obligations secured by such tolls and
3040 increases.
3041 2. Prior to raising tolls, whether paid by cash or
3042 electronic toll collection, an expressway authority in any
3043 county as defined in s. 125.011(1) shall publish a notice of the
3044 intent to raise tolls in a newspaper of general circulation, as

3045 defined in s. 97.021(18), in the county. The notice shall
3046 provide the amount of increase to be implemented for cash
3047 payment, electronic payment, or both, as applicable. The notice
3048 also shall provide a postal address, an electronic mail or
3049 Internet address, and a local telephone number for the purpose
3050 of receiving public comment on the issue of the toll increase.
3051 The notice shall be published two times, at least 7 days apart,
3052 with the first publication occurring not more than 90 days prior
3053 to the proposed effective date of the toll increase and the
3054 second publication occurring not fewer than 60 days prior to the
3055 proposed effective date of the toll increase. The provisions of
3056 this subparagraph shall not apply to any change in the toll rate
3057 for the use of any portion of the expressway system that has
3058 been approved by this authority prior to July 1, 2006.
3059 (9) The Legislature declares that there is a public need
3060 for rapid construction of safe and efficient transportation
3061 facilities for travel within the state and that it is in the
3062 public's interest to provide for public-private partnership
3063 agreements to effectuate the construction of additional safe,
3064 convenient, and economical transportation facilities.
3065 (a) Notwithstanding any other provision of the Florida
3066 Expressway Authority Act, any expressway authority,
3067 transportation authority, bridge authority, or toll authority
3068 established under this part or any other statute may receive or
3069 solicit proposals and enter into agreements with private
3070 entities, or consortia thereof, for the building, operation,
3071 ownership, or financing of ~~expressway~~ authority transportation
3072 facilities or new transportation facilities within the
3073 jurisdiction of the ~~expressway~~ authority. An ~~expressway~~
3074 authority is authorized to adopt rules to implement this
3075 subsection and shall, by rule, establish an application fee for

3076 the submission of unsolicited proposals under this subsection.
3077 The fee must be sufficient to pay the costs of evaluating the
3078 proposals. An ~~expressway~~ authority may engage private
3079 consultants to assist in the evaluation. Before approval, an
3080 ~~expressway~~ authority must determine that a proposed project:
3081 1. Is in the public's best interest.
3082 2. Would not require state funds to be used unless the
3083 project is on or provides increased mobility on the State
3084 Highway System.
3085 3. Would have adequate safeguards to ensure that no
3086 additional costs or service disruptions would be realized by the
3087 traveling public and residents ~~citizens~~ of the state in the
3088 event of default or the cancellation of the agreement by the
3089 ~~expressway~~ authority.
3090 (b) An ~~expressway~~ authority shall ensure that all
3091 reasonable costs to the state which are~~,~~ related to
3092 transportation facilities that are not part of the State Highway
3093 System~~,~~ are borne by the private entity. An ~~expressway~~ authority
3094 shall also ensure that all reasonable costs to the state and
3095 substantially affected local governments and utilities related
3096 to the private transportation facility are borne by the private
3097 entity for transportation facilities that are owned by private
3098 entities. For projects on the State Highway System, the
3099 department may use state resources to participate in funding and
3100 financing the project as provided for under the department's
3101 enabling legislation.
3102 (c) The ~~expressway~~ authority may request proposals for
3103 public-private transportation projects or, if it receives an
3104 unsolicited proposal, it must publish a notice in the Florida
3105 Administrative Weekly and a newspaper of general circulation in
3106 the county in which it is located at least once a week for 2

3107 weeks~~,~~ stating that it has received the proposal and will
3108 accept, for 60 days after the initial date of publication, other
3109 proposals for the same project purpose. A copy of the notice
3110 must be mailed to each local government in the affected areas.
3111 After the public notification period has expired, the ~~expressway~~
3112 authority shall rank the proposals in order of preference. In
3113 ranking the proposals, the ~~expressway~~ authority shall consider
3114 professional qualifications, general business terms, innovative
3115 engineering or cost-reduction terms, finance plans, and the need
3116 for state funds to deliver the proposal. If the ~~expressway~~
3117 authority is not satisfied with the results of the negotiations,
3118 it may, at its sole discretion, terminate negotiations with the
3119 proposer. If these negotiations are unsuccessful, the ~~expressway~~
3120 authority may go to the second and lower-ranked firms, in order,
3121 using the same procedure. If only one proposal is received, the
3122 ~~expressway~~ authority may negotiate in good faith, and if it is
3123 not satisfied with the results, it may, at its sole discretion,
3124 terminate negotiations with the proposer. Notwithstanding this
3125 paragraph, the ~~expressway~~ authority may, at its discretion,
3126 reject all proposals at any point in the process up to
3127 completion of a contract with the proposer.
3128 (d) The department may lend funds from the Toll Facilities
3129 Revolving Trust Fund, as outlined in s. 338.251, to public-
3130 private partnerships. To be eligible a private entity must
3131 comply with s. 338.251 and must provide an indication from a
3132 nationally recognized rating agency that the senior bonds for
3133 the project will be investment grade or must provide credit
3134 support~~,~~ such as a letter of credit or other means acceptable to
3135 the department, to ensure that the loans will be fully repaid.
3136 (e) Agreements entered into pursuant to this subsection
3137 may authorize the public-private entity to impose tolls or fares

3138 for the use of the facility. However, the amount and use of toll
3139 or fare revenues shall be regulated by the ~~expressway~~ authority
3140 to avoid unreasonable costs to users of the facility.
3141 (f) Each public-private transportation facility
3142 constructed pursuant to this subsection shall comply with all
3143 requirements of federal, state, and local laws; state, regional,
3144 and local comprehensive plans; the ~~expressway~~ authority's rules,
3145 policies, procedures, and standards for transportation
3146 facilities; and any other conditions that the ~~expressway~~
3147 authority determines to be in the public's best interest.
3148 (g) An ~~expressway~~ authority may exercise any power
3149 possessed by it, including eminent domain, to facilitate the
3150 development and construction of transportation projects pursuant
3151 to this subsection. An ~~expressway~~ authority may pay all or part
3152 of the cost of operating and maintaining the facility or may
3153 provide services to the private entity for which it receives
3154 full or partial reimbursement for services rendered.
3155 (h) Except as herein provided, this subsection is not
3156 intended to amend existing laws by granting additional powers to
3157 or further restricting the governmental entities from regulating
3158 and entering into cooperative arrangements with the private
3159 sector for the planning, construction, and operation of
3160 transportation facilities. <u>Use of the powers granted in this</u>
3161 <u>subsection may not subject a statutorily created expressway</u>
3162 <u>authority, transportation authority, bridge authority, or toll</u>
3163 <u>authority, other than one statutorily created under this part,</u>
3164 <u>to any of the requirements of this part other than those</u>
3165 <u>contained in this subsection.</u>
3166 Section 58. Section 348.0012, Florida Statutes, is amended
3167 to read:

3168 348.0012 Exemptions from applicability.--The Florida
3169 Expressway Authority Act does not apply:
3170 (1) In a county in which an expressway authority has been
3171 created pursuant to parts II-IX of this chapter, except as
3172 expressly provided in this part; or
3173 (2) To a transportation authority created pursuant to
3174 chapter 349.
3175 Section 59. Subsection (6) is added to section 348.754,
3176 Florida Statutes, to read:
3177 348.754 Purposes and powers.--
3178 (6)(a) Notwithstanding s. 255.05, the Orlando-Orange
3179 County Expressway Authority may waive payment and performance
3180 bonds on construction contracts for the construction of a public
3181 building, for the prosecution and completion of a public work,
3182 or for repairs on a public building or public work that has a
3183 cost of $500,000 or less and when the project is awarded
3184 pursuant to an economic development program for the
3185 encouragement of local small businesses that has been adopted by
3186 the governing body of the Orlando-Orange County Expressway
3187 Authority pursuant to a resolution or policy.
3188 (b) The authority's adopted criteria for participation in
3189 the economic development program for local small businesses
3190 requires that a participant:
3191 1. Be an independent business.
3192 2. Be principally domiciled in the Orange County Standard
3193 Metropolitan Statistical Area.
3194 3. Employ 25 or fewer full-time employees.
3195 4. Have gross annual sales averaging $3 million or less
3196 over the immediately preceding 3 calendar years with regard to
3197 any construction element of the program.

3198 5. Be accepted as a participant in the Orlando-Orange
3199 County Expressway Authority's microcontracts program or such
3200 other small business program as may be hereinafter enacted by
3201 the Orlando-Orange County Expressway Authority.
3202 6. Participate in an educational curriculum or technical
3203 assistance program for business development that will assist the
3204 small business in becoming eligible for bonding.
3205 (c) The authority's adopted procedures for waiving payment
3206 and performance bonds on projects with values not less than
3207 $200,000 and not exceeding $500,000 shall provide that payment
3208 and performance bonds may only be waived on projects that have
3209 been set aside to be competitively bid on by participants in an
3210 economic development program for local small businesses. The
3211 authority's executive director or his or her designee shall
3212 determine whether specific construction projects are suitable
3213 for:
3214 1. Bidding under the authority's microcontracts program by
3215 registered local small businesses; and
3216 2. Waiver of the payment and performance bond.
3217
3218 The decision of the authority's executive director or deputy
3219 executive director to waive the payment and performance bond
3220 shall be based upon his or her investigation and conclusion that
3221 there exists sufficient competition so that the authority
3222 receives a fair price and does not undertake any unusual risk
3223 with respect to such project.
3224 (d) For any contract for which a payment and performance
3225 bond has been waived pursuant to the authority set forth in this
3226 section, the Orlando-Orange County Expressway Authority shall
3227 pay all persons defined in s. 713.01 who furnish labor,
3228 services, or materials for the prosecution of the work provided

3229 for in the contract to the same extent and upon the same
3230 conditions that a surety on the payment bond under s. 255.05
3231 would have been obligated to pay such persons if the payment and
3232 performance bond had not been waived. The authority shall record
3233 notice of this obligation in the manner and location that surety
3234 bonds are recorded. The notice shall include the information
3235 describing the contract that s. 255.05(1) requires be stated on
3236 the front page of the bond. Notwithstanding that s. 255.05(9)
3237 generally applies when a performance and payment bond is
3238 required, s. 255.05(9) shall apply under this subsection to any
3239 contract on which performance or payment bonds are waived and
3240 any claim to payment under this subsection shall be treated as a
3241 contract claim pursuant to s. 255.05(9).
3242 (e) A small business that has been the successful bidder
3243 on six projects for which the payment and performance bond was
3244 waived by the authority pursuant to paragraph (a) shall be
3245 ineligible to bid on additional projects for which the payment
3246 and performance bond is to be waived. The local small business
3247 may continue to participate in other elements of the economic
3248 development program for local small businesses as long as it is
3249 eligible.
3250 (f) The authority shall conduct bond eligibility training
3251 for businesses qualifying for bond waiver under this subsection
3252 to encourage and promote bond eligibility for such businesses.
3253 (g) The authority shall prepare a biennial report on the
3254 activities undertaken pursuant to this subsection to be
3255 submitted to the Orange County legislative delegation. The
3256 initial report shall be due December 31, 2008.
3257 Section 60. Part X of chapter 348, Florida Statutes, is
3258 redesignated as part XI, and a new part X, consisting of
3259 sections 348.9801, 348.9802, 348.9803, 348.9804, 348.9805,

3260 348.9806, 348.9808, 348.9809, 348.9811, 348.9812, 348.9813,
3261 348.9814, 348.9815, 348.9816, and 348.9817, is added to that
3262 chapter to read:

3263 PART X

3264 Osceola County Expressway Authority

3265 348.9801 Short title.--This part may be cited as the
3266 "Osceola County Expressway Authority Law."

3267 348.9802 Definitions.--The following terms, whenever used
3268 or referred to in this part, shall have the following meanings,
3269 except in those instances where the context clearly indicates
3270 otherwise:

3271 (1) "Agency of the state" means and includes the state and
3272 any department of, or corporation, agency, or instrumentality
3273 heretofore or hereafter created, designated, or established by,
3274 the state.

3275 (2) "Authority" means the body politic and corporate and
3276 agency of the state created by this part.

3277 (3) "Bonds" means and includes the notes, bonds, refunding
3278 bonds, or other evidences of indebtedness or obligations, in
3279 either temporary or definitive form, which the authority is
3280 authorized to issue pursuant to this part.

3281 (4) "County" means Osceola County.

3282 (5) "Department" means the Department of Transportation.

3283 (6) "Expressway" is the same as limited access expressway.

3284 (7) "Federal agency" means and includes the United States,
3285 the President of the United States, and any department of or
3286 corporation, agency, or instrumentality heretofore or hereafter
3287 created, designated, or established by the United States.

3288 (8) "Lease-purchase agreement" means the lease-purchase
3289 agreements which the authority is authorized pursuant to this
3290 part to enter into with the department.

3291 (9) "Limited access expressway" means a street or highway
3292 especially designed for through traffic and over, from, or to
3293 which no person shall have the right of easement, use, or access
3294 except in accordance with the rules and regulations promulgated
3295 and established by the authority for the use of such facility.
3296 Such highways or streets may be parkways from which trucks,
3297 buses, and other commercial vehicles shall be excluded or they
3298 may be freeways open to use by all customary forms of street and
3299 highway traffic.
3300 (10) "Members" means the governing body of the authority,
3301 and the term "member" means one of the individuals constituting
3302 such governing body.
3303 (11) "Osceola County gasoline tax funds" means all of the
3304 80-percent surplus gasoline tax funds accruing in each year to
3305 the department for use in Osceola County under the provisions of
3306 s. 9, Art. XII of the State Constitution after deduction only of
3307 any amounts of said gasoline tax funds heretofore pledged by the
3308 department or the county for outstanding obligations.
3309 (12) "Osceola County Expressway System" means any and all
3310 expressways and appurtenant facilities thereto, including, but
3311 not limited to, all approaches, roads, bridges, and avenues of
3312 access for said expressways, whether tolled or nontolled, that
3313 are either built by the authority or whose ownership is
3314 transferred to the authority by other governmental or private
3315 entities.
3316 (13) "State Board of Administration" means the body
3317 corporate existing under the provisions of s. 9, Art. XII of the
3318 State Constitution or any successor thereto.
3319 348.9803 Osceola County Expressway Authority.--
3320 (1) There is hereby created and established a body politic
3321 and corporate, an agency of the state, to be known as the

3322 Osceola County Expressway Authority, hereinafter referred to as
3323 "authority."
3324 (2)(a) The governing body of the authority shall consist
3325 of six members. Three members shall be citizens of Osceola
3326 County, who shall be appointed by the governing body of the
3327 county. Two members shall be citizens of Osceola County
3328 appointed by the Governor. The term of each appointed member
3329 shall be for 4 years. However, the members appointed by the
3330 Governor for the first time shall serve a term of 2 years. Each
3331 appointed member shall hold office until his or her successor
3332 has been appointed and has qualified. A vacancy occurring during
3333 a term shall be filled only for the balance of the unexpired
3334 term. Each appointed member of the authority shall be a person
3335 of outstanding reputation for integrity, responsibility, and
3336 business ability, but no person who is an officer or employee of
3337 any city or of Osceola County in any other capacity shall be an
3338 appointed member of the authority. A member of the authority
3339 shall be eligible for reappointment.
3340 (b) Members of the authority may be removed from office by
3341 the Governor for misconduct, malfeasance, or nonfeasance in
3342 office.
3343 (c) The district secretary of the department serving in
3344 the district that includes Osceola County shall serve as an ex
3345 officio, nonvoting member.
3346 (3)(a) The authority shall elect one of its members as
3347 chair of the authority. The authority shall also elect a
3348 secretary and a treasurer who may or may not be members of the
3349 authority. The chair, secretary, and treasurer shall hold such
3350 offices at the will of the authority.
3351 (b) Four members of the authority shall constitute a
3352 quorum, and the vote of three members shall be necessary for any

3353 action taken by the authority. No vacancy in the authority shall
3354 impair the right of a quorum of the authority to exercise all of
3355 the rights and perform all of the duties of the authority.
3356 (4)(a) The authority may employ an executive secretary, an
3357 executive director, its own counsel and legal staff, technical
3358 experts, such engineers, and such employees, permanent or
3359 temporary, as it may require; may determine the qualifications
3360 and fix the compensation of such persons, firms, or
3361 corporations; and may employ a fiscal agent or agents. However,
3362 the authority shall solicit sealed proposals from at least three
3363 persons, firms, or corporations for the performance of any
3364 services as fiscal agents. The authority may delegate to one or
3365 more of its agents or employees such of its power as it shall
3366 deem necessary to carry out the purposes of this part, subject
3367 always to the supervision and control of the authority.
3368 (b) Members of the authority shall be entitled to receive
3369 from the authority their travel and other necessary expenses
3370 incurred in connection with the business of the authority as
3371 provided in s. 112.061, but they shall draw no salaries or other
3372 compensation.
3373 348.9804 Purposes and powers.--
3374 (1)(a) The authority created and established by the
3375 provisions of this part is hereby granted and shall have the
3376 right to acquire, hold, construct, improve, maintain, operate,
3377 own, and lease in the capacity of lessor the Osceola County
3378 Expressway System, hereinafter referred to as "system."
3379 (b) It is the express intention of this part that the
3380 authority, in the construction of the Osceola County Expressway
3381 System, shall be authorized to construct any extensions,
3382 additions, or improvements to the system or appurtenant
3383 facilities, including all necessary approaches, roads, bridges,

3384 and avenues of access with such changes, modifications, or
3385 revisions of the project as shall be deemed desirable and
3386 proper. No project shall become part of the State Highway System
3387 without the concurrence of the department.
3388 (2) The authority is hereby granted and shall have and may
3389 exercise all powers necessary, appurtenant, convenient, or
3390 incidental to the carrying out of its purposes, including, but
3391 not limited to, the following rights and powers:
3392 (a) To sue and be sued, implead and be impleaded, and
3393 complain and defend in all courts.
3394 (b) To adopt, use, and alter at will a corporate seal.
3395 (c) To acquire by donation or otherwise, purchase, hold,
3396 lease as lessee, and use any franchise or property, real,
3397 personal, or mixed, tangible or intangible, or any options
3398 thereof, in its own name or in conjunction with others, or
3399 interest therein, necessary or desirable for carrying out the
3400 purposes of the authority, and to sell, lease as lessor,
3401 transfer, and dispose of any property or interest therein at any
3402 time acquired by it.
3403 (d) To enter into and make leases for terms not exceeding
3404 40 years as either lessee or lessor in order to carry out the
3405 right to lease as set forth in this part.
3406 (e) To enter into and make lease-purchase agreements with
3407 the department for terms not exceeding 40 years or until any
3408 bonds secured by a pledge of rentals thereunder and any
3409 refundings thereof are fully paid as to both principal and
3410 interest, whichever is longer.
3411 (f) To fix, alter, charge, establish, and collect rates,
3412 fees, rentals, and other charges for the services and facilities
3413 of the Osceola County Expressway System, which rates, fees,
3414 rentals, and other charges shall always be sufficient to comply

3415 with any covenants made with the holders of any bonds issued
3416 pursuant to this part; however, such right and power may be
3417 assigned or delegated by the authority to the department.
3418 (g) To borrow money and make and issue negotiable notes,
3419 bonds, refunding bonds, and other evidences of indebtedness or
3420 obligations, either in temporary or definitive form, in this
3421 part sometimes called "bonds" of the authority, for the purpose
3422 of financing all or part of the improvement or extension of the
3423 Osceola County Expressway System and appurtenant facilities,
3424 including all approaches, streets, roads, bridges, and avenues
3425 of access for the Osceola County Expressway System and for any
3426 other purpose authorized by this part, said bonds to mature in
3427 not exceeding 40 years after the date of the issuance thereof,
3428 and to secure the payment of such bonds or any part thereof by a
3429 pledge of any or all of its revenues, rates, fees, rentals, or
3430 other charges, including all or any portion of the Osceola
3431 County gasoline tax funds received by the authority pursuant to
3432 the terms of any lease-purchase agreement between the authority
3433 and the department; and, in general, to provide for the security
3434 of the bonds and the rights and remedies of the holders thereof.
3435 However, no portion of the Osceola County gasoline tax funds
3436 shall be pledged for the construction of any project for which a
3437 toll is to be charged unless the anticipated tolls are
3438 reasonably estimated by the board of county commissioners, at
3439 the date of its resolution pledging said funds, to be sufficient
3440 to cover the principal and interest of such obligations during
3441 the period when said pledge of funds shall be in effect.
3442 1. The authority shall reimburse Osceola County for any
3443 sums expended from said gasoline tax funds used for the payment
3444 of such obligations. Any gasoline tax funds so disbursed shall
3445 be repaid when the authority deems it practicable, together with

3446 interest at the highest rate applicable to any obligations of
3447 the authority.
3448 2. If the authority determines to fund or refund any bonds
3449 theretofore issued by the authority or by the board of county
3450 commissioners as aforesaid prior to the maturity thereof, the
3451 proceeds of the funding or refunding bonds shall, pending the
3452 prior redemption of the bonds to be funded or refunded, be
3453 invested in direct obligations of the United States. It is the
3454 express intention of this part that such outstanding bonds may
3455 be funded or refunded by the issuance of bonds pursuant to this
3456 part.
3457 (h) To make contracts of every name and nature, including,
3458 but not limited to, partnerships providing for participation in
3459 ownership and revenues, and to execute all instruments necessary
3460 or convenient for the carrying on of its business.
3461 (i) Without limitation of the foregoing, to borrow money
3462 and accept grants from and to enter into contracts, leases, or
3463 other transactions with any federal agency, the state, any
3464 agency of the state, Osceola County, or with any other public
3465 body of the state.
3466 (j) To have the power of eminent domain, including the
3467 procedural powers granted under chapters 73 and 74.
3468 (k) To pledge, hypothecate, or otherwise encumber all or
3469 any part of the revenues, rates, fees, rentals, or other charges
3470 or receipts of the authority, including all or any portion of
3471 the Osceola County gasoline tax funds received by the authority
3472 pursuant to the terms of any lease-purchase agreement between
3473 the authority and the department, as security for all or any of
3474 the obligations of the authority.
3475 (l) To enter into partnership and other agreements
3476 respecting ownership and revenue participation in order to

3477 facilitate financing and constructing any project or portions
3478 thereof.
3479 (m) To participate in developer agreements or to receive
3480 developer contributions.
3481 (n) To contract with Osceola County for the operation of a
3482 toll facility within the county.
3483 (o) To do all acts and things necessary or convenient for
3484 the conduct of its business and the general welfare of the
3485 authority in order to carry out the powers granted to it by this
3486 part or any other law.
3487 (p) With the consent of the county within whose
3488 jurisdiction the following activities occur, to construct,
3489 operate, and maintain roads, bridges, avenues of access,
3490 thoroughfares, and boulevards outside the jurisdictional
3491 boundaries of Osceola County together with the right to
3492 construct, repair, replace, operate, install, and maintain
3493 electronic toll payment systems thereon with all necessary and
3494 incidental powers to accomplish the foregoing.
3495 (3) The authority shall have no power at any time or in
3496 any manner to pledge the credit or taxing power of the state or
3497 any political subdivision or agency thereof, including Osceola
3498 County, nor shall any of the authority's obligations be deemed
3499 to be obligations of the state or of any political subdivision
3500 or agency thereof, nor shall the state or any political
3501 subdivision or agency thereof, except the authority, be liable
3502 for the payment of the principal of or interest on such
3503 obligations.
3504 (4) Anything in this part to the contrary notwithstanding,
3505 acquisition of right-of-way for a project of the authority which
3506 is within the boundaries of any municipality in Osceola County
3507 shall not be started unless and until the route of said project

3508 within said municipality has been given prior approval by the
3509 governing body of said municipality.
3510 (5) Anything in this part to the contrary notwithstanding,
3511 acquisition of right-of-way for a project of the authority which
3512 is within the unincorporated area of Osceola County shall not be
3513 started unless and until the route of said project within the
3514 unincorporated area has been given prior approval by the
3515 governing body of Osceola County.
3516 (6) The authority shall have no power other than by
3517 consent of Osceola County or any affected city to enter into any
3518 agreement which would legally prohibit the construction of any
3519 road by Osceola County or by any municipality within Osceola
3520 County.
3521 (7) This part does not preclude the department from
3522 acquiring, holding, constructing, improving, maintaining,
3523 operating, or owning tolled or nontolled facilities funded and
3524 constructed from nonauthority revenue sources that are part of
3525 the State Highway System within the geographical boundaries of
3526 the Osceola County Expressway Authority.
3527 348.9805 Authority for bond financing of
3528 improvements.--Pursuant to s. 11(f), Art. VII of the State
3529 Constitution, the Legislature hereby approves for bond financing
3530 by the Osceola County Expressway Authority improvements to toll
3531 collection facilities, interchanges to the legislatively
3532 approved expressway system, and any other facility appurtenant,
3533 necessary, or incidental to the approved system. Subject to
3534 terms and conditions of applicable revenue bond resolutions and
3535 covenants, such costs may be financed in whole or in part by
3536 revenue bonds issued pursuant to s. 348.9806(1)(a) or (b)
3537 whether currently issued or issued in the future, or by a
3538 combination of such bonds.

3539 348.9806 Bonds of the authority.--
3540 (1)(a) Bonds may be issued on behalf of the authority
3541 pursuant to the State Bond Act.
3542 (b) Alternatively, the authority may issue its own bonds
3543 pursuant to this part at such times and in such principal amount
3544 as, in the opinion of the authority, is necessary to provide
3545 sufficient moneys for achieving its purposes; however, such
3546 bonds may not pledge the full faith and credit of the state.
3547 Bonds issued by the authority pursuant to this paragraph or
3548 paragraph (a), whether on original issuance or on refunding,
3549 shall be authorized by resolution of the members thereof, may be
3550 either term or serial bonds, and shall bear such date or dates,
3551 mature at such time or times, not exceeding 40 years after their
3552 respective dates, bear interest at such rate or rates, payable
3553 semiannually, be in such denominations, be in such form, either
3554 coupon or fully registered, carry such registration,
3555 exchangeability, and interchangeability privileges, be payable
3556 in such medium of payment and at such place or places, be
3557 subject to such terms of redemption, and be entitled to such
3558 priorities on the revenues, rates, fees, rentals, or other
3559 charges or receipts of the authority including the Osceola
3560 County gasoline tax funds received by the authority pursuant to
3561 the terms of any lease-purchase agreement between the authority
3562 and the department, as such resolution or any resolution
3563 subsequent thereto may provide. The bonds shall be executed
3564 either by manual or facsimile signature by such officers as the
3565 authority shall determine, provided that such bonds shall bear
3566 at least one signature which is manually executed thereon, and
3567 the coupons attached to such bonds shall bear the facsimile
3568 signature or signatures of such officer or officers as shall be
3569 designated by the authority and shall have the seal of the

3570 authority affixed, imprinted, reproduced, or lithographed
3571 thereon, all as may be prescribed in such resolution or
3572 resolutions.
3573 (c) Bonds issued pursuant to paragraph (a) or paragraph
3574 (b) shall be sold at public sale in the same manner provided by
3575 the State Bond Act. However, if the authority shall, by official
3576 action at a public meeting, determine that a negotiated sale of
3577 such bonds is in the best interest of the authority, the
3578 authority may negotiate the sale of such bonds with the
3579 underwriter designated by the authority and the Division of Bond
3580 Finance of the State Board of Administration with respect to
3581 bonds issued pursuant to paragraph (a) or solely the authority
3582 with respect to bonds issued pursuant to paragraph (b). The
3583 authority's determination to negotiate the sale of such bonds
3584 may be based, in part, upon the written advice of the
3585 authority's financial adviser. Pending the preparation of
3586 definitive bonds, interim certificates may be issued to the
3587 purchaser or purchasers of such bonds and may contain such terms
3588 and conditions as the authority may determine.
3589 (d) The authority may issue bonds pursuant to paragraph
3590 (b) to refund any bonds previously issued regardless of whether
3591 the bonds being refunded were issued by the authority pursuant
3592 to this chapter or on behalf of the authority pursuant to the
3593 State Bond Act.
3594 (2) The authority may employ fiscal agents as provided by
3595 this part or the State Board of Administration may, upon request
3596 of the authority, act as fiscal agent for the authority in the
3597 issuance of any bonds which may be issued pursuant to this part.
3598 The State Board of Administration may, upon request of the
3599 authority, take over the management, control, administration,
3600 custody, and payment of any or all debt services or funds or

3601 assets now or hereafter available for any bonds issued pursuant
3602 to this part. The authority may enter into any deeds of trust,
3603 indentures, or other agreements with its fiscal agent or with
3604 any bank or trust company within or without the state as
3605 security for such bonds and may, under such agreements, sign and
3606 pledge all or any of the revenues, rates, fees, rentals, or
3607 other charges or receipts of the authority, including all or any
3608 portion of the Osceola County gasoline tax funds received by the
3609 authority pursuant to the terms of any lease-purchase agreement
3610 between the authority and the department, thereunder. Such deed
3611 of trust, indenture, or other agreement may contain such
3612 provisions as are customary in such instruments or as the
3613 authority may authorize.
3614 (3) Any of the bonds issued pursuant to this part are, and
3615 are hereby declared to be, negotiable instruments and shall have
3616 all the qualities and incidents of negotiable instruments under
3617 the law merchant and the negotiable instruments law of the
3618 state.
3619 (4) Notwithstanding any of the provisions of this part,
3620 each project, building, or facility which has been financed by
3621 the issuance of bonds or other evidence of indebtedness under
3622 this part and any refinancing thereof is hereby approved as
3623 provided for in s. 11(f), Art. VII of the State Constitution.
3624 348.9808 Lease-purchase agreement.--
3625 (1) In order to effectuate the purposes of this part and
3626 as authorized by this part, the authority may enter into a
3627 lease-purchase agreement with the department relating to and
3628 covering the Osceola County Expressway System.
3629 (2) Such lease-purchase agreement shall provide for the
3630 leasing of the Osceola County Expressway System by the authority
3631 as lessor to the department as lessee, shall prescribe the term

3632 of such lease and the rentals to be paid thereunder, and shall
3633 provide that, upon the completion of the faithful performance
3634 thereunder and the termination of such lease-purchase agreement,
3635 title in fee simple absolute to the Osceola County Expressway
3636 System as then constituted shall be transferred in accordance
3637 with law by the authority to the state and the authority shall
3638 deliver to the department such deeds and conveyances as shall be
3639 necessary or convenient to vest title in fee simple absolute in
3640 the state.
3641 348.9809 Department may be appointed agent of authority
3642 for construction.--The authority may appoint the department as
3643 its agent for the purpose of constructing improvements and
3644 extensions to the Osceola County Expressway System and for the
3645 completion thereof. In such event, the authority shall provide
3646 the department with complete copies of all documents,
3647 agreements, resolutions, contracts, and instruments relating
3648 thereto; shall request the department to do such construction
3649 work, including the planning, surveying, and actual construction
3650 of the completion, extensions, and improvements of the Osceola
3651 County Expressway System; and shall transfer to the credit of an
3652 account of the department in the treasury of the state the
3653 necessary funds therefor, and the department shall thereupon be
3654 authorized, empowered, and directed to proceed with such
3655 construction and to use the funds for such purpose in the same
3656 manner that it is now authorized to use the funds otherwise
3657 provided by law for its use in construction of roads and
3658 bridges.
3659 348.9811 Acquisition of lands and property.--
3660 (1) For the purposes of this part, the Osceola County
3661 Expressway Authority may acquire private or public property and
3662 property rights, including rights of access, air, view, and

3663 light, by gift, devise, purchase, or condemnation by eminent
3664 domain proceedings as the authority may deem necessary for any
3665 of the purposes of this part, including, but not limited to, any
3666 lands reasonably necessary for securing applicable permits,
3667 areas necessary for management of access, borrow pits, drainage
3668 ditches, water retention areas, rest areas, replacement access
3669 for landowners whose access is impaired due to the construction
3670 of a facility, and replacement rights-of-way for relocated rail
3671 and utility facilities; for existing, proposed, or anticipated
3672 transportation facilities on the Osceola County Expressway
3673 System or in a transportation corridor designated by the
3674 authority; or for the purposes of screening, relocation,
3675 removal, or disposal of junkyards and scrap metal processing
3676 facilities. The authority shall also have the power to condemn
3677 any material and property necessary for such purposes.
3678 (2) The right of eminent domain conferred in this part
3679 shall be exercised by the authority in the manner provided by
3680 law.
3681 (3) When the authority acquires property for a
3682 transportation facility or in a transportation corridor, it is
3683 not subject to any liability imposed by chapter 376 or chapter
3684 403 for preexisting soil or groundwater contamination due solely
3685 to its ownership. This section does not affect the rights or
3686 liabilities of any past or future owners of the acquired
3687 property, nor does it affect the liability of any governmental
3688 entity for the results of its actions which create or exacerbate
3689 a pollution source. The authority and the Department of
3690 Environmental Protection may enter into interagency agreements
3691 for the performance, funding, and reimbursement of the
3692 investigative and remedial acts necessary for property acquired
3693 by the authority.

3694 348.9812 Cooperation with other units, boards, agencies,
3695 and individuals.--Express authority and power is hereby given
3696 and granted to any county, municipality, drainage district, road
3697 and bridge district, school district, or any other political
3698 subdivision, board, commission, or individual in or of the state
3699 to make and enter into with the authority contracts, leases,
3700 conveyances, partnerships, or other agreements within the
3701 provisions and purposes of this part. The authority is hereby
3702 expressly authorized to make and enter into contracts, leases,
3703 conveyances, partnerships, and other agreements with any
3704 political subdivision, agency, or instrumentality of the state
3705 and any and all federal agencies, corporations, and individuals
3706 for the purpose of carrying out the provisions of this part.
3707 348.9813 Covenant of the state.--The state does hereby
3708 pledge to and agrees with any person, firm, or corporation or
3709 federal or state agency subscribing to or acquiring the bonds to
3710 be issued by the authority for the purposes of this part that
3711 the state will not limit or alter the rights hereby vested in
3712 the authority and the department until all bonds at any time
3713 issued, together with the interest thereon, are fully paid and
3714 discharged insofar as the same affects the rights of the holders
3715 of bonds issued hereunder. The state does further pledge to and
3716 agree with the United States that in the event any federal
3717 agency shall construct or contribute any funds for the
3718 completion, extension, or improvement of the Osceola County
3719 Expressway System, or any part or portion thereof, the state
3720 will not alter or limit the rights and powers of the authority
3721 and the department in any manner which would be inconsistent
3722 with the continued maintenance and operation of the Osceola
3723 County Expressway System or the completion, extension, or
3724 improvement thereof or which would be inconsistent with the due

3725 performance of any agreements between the authority and any such
3726 federal agency. The authority and the department shall continue
3727 to have and may exercise all powers herein granted so long as
3728 the same shall be necessary or desirable for the carrying out of
3729 the purposes of this part and the purposes of the United States
3730 in the completion, extension, or improvement of the Osceola
3731 County Expressway System or any part or portion thereof.
3732 348.9814 Exemption from taxation.--The effectuation of the
3733 authorized purposes of the authority created under this part is,
3734 shall, and will be in all respects for the benefit of the people
3735 of the state, for the increase of their commerce and prosperity,
3736 and for the improvement of their health and living conditions
3737 and, since the authority will be performing essential
3738 governmental functions in effectuating such purposes, the
3739 authority shall not be required to pay any taxes or assessments
3740 of any kind or nature whatsoever upon any property acquired or
3741 used by it for such purposes or upon any rates, fees, rentals,
3742 receipts, income, or charges at any time received by it and the
3743 bonds issued by the authority, their transfer, and the income
3744 therefrom, including any profits made on the sale thereof, shall
3745 at all times be free from taxation of any kind by the state or
3746 by any political subdivision or taxing agency or instrumentality
3747 thereof. The exemption granted by this section shall not be
3748 applicable to any tax imposed by chapter 220 on interest,
3749 income, or profits on debt obligations owned by corporations.
3750 348.9815 Eligibility for investments and security.--Any
3751 bonds or other obligations issued pursuant to this part shall be
3752 and constitute legal investments for banks, savings banks,
3753 trustees, executors, administrators, and all other fiduciaries
3754 and for all state, municipal, and other public funds and shall
3755 also be and constitute securities eligible for deposit as

3756 security for all state, municipal, or other public funds,
3757 notwithstanding the provisions of any other law or laws to the
3758 contrary.
3759 348.9816 Pledges enforceable by bondholders.--It is the
3760 express intention of this part that any pledge by the department
3761 of rates, fees, revenues, Osceola County gasoline tax funds, or
3762 other funds, as rentals, to the authority, or any covenants or
3763 agreements relative thereto, may be enforceable in any court of
3764 competent jurisdiction against the authority by any holder of
3765 bonds issued by the authority.
3766 348.9817 This part complete and additional authority.--
3767 (1) The powers conferred by this part shall be in addition
3768 and supplemental to the existing powers of the board and the
3769 department, and this part shall not be construed as repealing
3770 any of the provisions of any other law, general, special, or
3771 local, but to supersede such other laws in the exercise of the
3772 powers provided in this part and to provide a complete method
3773 for the exercise of the powers granted in this part. The
3774 extension and improvement of the Osceola County Expressway
3775 System and the issuance of bonds hereunder to finance all or
3776 part of the cost thereof may be accomplished upon compliance
3777 with the provisions of this part without regard to or necessity
3778 for compliance with the provisions, limitations, or restrictions
3779 contained in any other general, special, or local law,
3780 including, but not limited to, s. 215.821. No approval of any
3781 bonds issued under this part by the qualified electors or
3782 qualified electors who are freeholders in the state or in
3783 Osceola County or in any other political subdivision of the
3784 state shall be required for the issuance of such bonds pursuant
3785 to this part.

3786 (2) This part shall not be deemed to repeal, rescind, or
3787 modify the Osceola County Charter. This part shall not be deemed
3788 to repeal, rescind, or modify any other law relating to the
3789 State Board of Administration, the Department of Transportation,
3790 or the Division of Bond Finance of the State Board of
3791 Administration but shall be deemed to and shall supersede such
3792 other laws as are inconsistent with the provisions of this part,
3793 including, but not limited to, s. 215.821.
3794 Section 61. The Florida Transportation Commission shall
3795 conduct a study and prepare a report of the progress made by
3796 M.P.O.'s to establish improved coordinated transportation
3797 planning processes. The report shall, at a minimum, address the
3798 efforts and progress of each M.P.O. to include representatives
3799 of the various modes of transportation into the metropolitan
3800 planning process; the efforts and progress of M.P.O.'s located
3801 within urbanized areas consisting of more than one M.P.O., or
3802 M.P.O.'s located in urbanized areas that are contiguous to
3803 M.P.O.'s serving different urbanized areas, to implement
3804 coordinated long-range transportation plans covering the
3805 combined metropolitan planning area; the extent to which these
3806 long-range plans serve as the basis for the transportation
3807 improvement program of each M.P.O.; and an assessment of the
3808 effectiveness of processes to prioritize regionally-significant
3809 projects and implement regional public involvement activities.
3810 The report shall be submitted to the Governor, the President of
3811 the Senate, and the Speaker of the House of Representatives no
3812 later than January 15, 2007.
3813 Section 62. Section 2. of chapter 89-383, Laws of Florida,
3814 is amended to read:
3815 Section 2. Red Road is hereby designated as a state
3816 historic highway. No public funds shall be expended for:

3817 (1) The removal of any healthy tree which is not a safety
3818 hazard.
3819 (2) Any alteration of the physical dimensions or location
3820 of Red Road, the median strip thereof, the land adjacent
3821 thereto, or any part of the original composition of the
3822 entranceway, including the towers, the walls, and the lampposts.
3823 (3) Any construction on or along Red Road of any new
3824 structure, or any building, clearing, filling, or excavating on
3825 or along Red Road except for routine maintenance or alterations,
3826 modifications, or improvements to it and the adjacent right-of-
3827 way made for the purpose of enhancing life safety for vehicular
3828 or pedestrian use of Red Road if the number of traffic lanes is
3829 not altered ~~work which is essential to the health, safety, or~~
3830 ~~welfare of the environment~~.
3831 Section 63. Brickell Avenue designation; signs, mailing
3832 addresses, listings, and markers.—
3833 (1) Notwithstanding ss. 267.062 and 334.071, Florida
3834 Statutes, that portion of SE 2nd Avenue from the Miami River
3835 Bridge north to SE 2nd Street is designated as "Brickell Avenue."
3836 (2) The City of Miami is authorized and directed to
3837 change street signs and markers, mailing addresses, and 911
3838 emergency telephone number system listings to reflect the
3839 designation.
3840 (3) The City of Miami is authorized and
3841 directed to erect the appropriate signs and markers upon
3842 Brickell Avenue as described in subsection (1).
3843 Section 64. This act shall take effect July 1, 2006.
3844
3845 ========== T I T L E A M E N D M E N T ==========
3846 Remove the entire title and insert:
3847

3848 A bill to be entitled
3849 An act relating to transportation; amending s. 20.23, F.S.;
3850 providing that the salary and benefits of the executive director
3851 of the Florida Transportation Commission shall be set in
3852 accordance with the Senior Management Service; amending s.
3853 112.061, F.S.; authorizing metropolitan planning organizations
3854 and certain separate entities to establish per diem and travel
3855 reimbursement rates; providing criteria for the rates; amending
3856 s. 121.021, F.S.; revising the definition of "local agency
3857 employer" to include metropolitan planning organizations and
3858 certain separate entities for purposes of the Florida Retirement
3859 System Act; revising the definition of "regularly established
3860 position" to include positions in metropolitan planning
3861 organizations; amending s. 121.051, F.S.; providing for
3862 metropolitan planning organizations to participate in the
3863 Florida Retirement System; amending s. 121.055, F.S.; requiring
3864 certain metropolitan planning organization and similar entity
3865 staff positions to be in the Senior Management Service Class of
3866 the Florida Retirement System; amending s. 121.061, F.S.;
3867 providing for enforcement of certain employer funding
3868 contributions required under the Florida Retirement System;
3869 authorizing deductions of amounts owed from certain funds
3870 distributed to a metropolitan planning organization; authorizing
3871 the governing body of a metropolitan planning organization to
3872 file and maintain an action in court to require an employer to
3873 remit retirement or social security member contributions or
3874 employer matching payments; amending s. 121.081, F.S.; providing
3875 for metropolitan planning organization officers and staff to
3876 claim past service for retirement benefits; amending s. 212.055,
3877 F.S.; renaming the Charter County Transit System Surtax as the
3878 County Transportation System Surtax; authorizing all counties to

3879 levy a discretionary sales surtax upon approval by the governing
3880 body and the electorate of the county; providing for
3881 distribution to the county and municipalities by interlocal
3882 agreement or a certain apportionment formula; providing for
3883 distribution of the surtax by certain charter counties;
3884 providing for application to certain counties in which the
3885 surtax currently exists; providing for application to existing
3886 agreements; revising authorized uses of the surtax to include
3887 bicycle and pedestrian facilities, certain transportation
3888 projects and transit programs, certain capital improvements, and
3889 concurrency management; deleting once-a-year limitation on
3890 bonding local sales taxes and surtaxes by local governments;
3891 amending s. 212.0606, F.S.; providing for the imposition by
3892 countywide referendum of an additional surcharge on the lease or
3893 rental of a motor vehicle; providing procedures and requirements
3894 for imposing the surcharge; providing for time of effect of the
3895 surcharge; providing for a distribution and use of funds
3896 collected from the surcharge; providing procedures for
3897 collection; providing for exceptions; amending s. 215.615, F.S.;
3898 revising Department of Transportation's requirement to share a
3899 certain percent of the costs of fixed-guideway systems to
3900 provide that it may be up to a certain percent; amending s.
3901 311.22, F.S.; revising match requirement for certain Florida
3902 seaports for dredging funds; amending s. 316.605, F.S.;
3903 providing height and placement requirements for vehicle license
3904 plates; prohibiting display that obscures identification of the
3905 letters and numbers on a license plate; providing penalties;
3906 amending s. 316.650, F.S.; revising procedures for disposition
3907 of citations issued for failure to pay toll; providing that the
3908 citation will not be submitted to the court and no points will
3909 be assessed on the driver's license if the person cited elects

3910 to make payment directly to the governmental entity that issued
3911 the citation; providing for reporting of the citation by the
3912 governmental entity to the Department of Highway Safety and
3913 Motor Vehicles; amending s. 318.14, F.S.; providing for the
3914 amount required to be paid under certain procedures for
3915 disposition of a citation issued for failure to pay toll;
3916 providing for the person cited to request a court hearing;
3917 amending s. 318.18, F.S.; revising penalties for failure to pay
3918 a prescribed toll; providing for disposition of amounts received
3919 by the clerk of court; revising procedures for withholding of
3920 adjudication; providing for suspension of a driver's license
3921 under certain circumstances; amending s. 320.061, F.S.;
3922 prohibiting interfering with the legibility, angular visibility,
3923 or detectability of any feature or detail on a license plate or
3924 interfering with the ability to photograph or otherwise record
3925 any feature or detail on a license plate; prohibiting
3926 advertising, sale, distribution, purchase, or use of any product
3927 made for such purpose; providing penalties; providing for a law
3928 enforcement officer to issue a citation and confiscate a cover
3929 or other device obstructing the visibility or electronic image
3930 recording of a plate or to confiscate a license plate physically
3931 treated with a substance or material that is obstructing the
3932 visibility or electronic image recording of the plate; requiring
3933 the Department of Highway Safety and Motor Vehicles to revoke
3934 the registration of a plate so altered; providing for the
3935 Attorney General to file suit against any entity offering or
3936 marketing a product advertised as having the capacity to
3937 obstruct the visibility or electronic image recording of a
3938 license plate; amending s.320.20, F.S.; deleting obsolete
3939 language; allowing the Florida Ports Financing Commission to
3940 refinance existing port bond issues; creating authority for the

3941 commission to issue new bonds for specified port projects;
3942 specifying source of debt service for new bonds; amending s.
3943 332.007, F.S.; authorizing the Department of Transportation to
3944 provide funds for certain general aviation projects under
3945 certain circumstances; extending timeframe that the department
3946 is authorized to provide operational and maintenance assistance
3947 to certain airports and may redirect the use of certain funds to
3948 security-related or economic-impact projects related to the
3949 events of September 11, 2001; renumbering and amending s.
3950 336.044, F.S., relating to Department of Transportation use of
3951 recovered materials in construction programs; adding gypsum to
3952 the list of materials authorized for use in certain
3953 demonstration projects; amending s. 335.066, F.S.; renaming the
3954 Safe Paths to Schools program the "Safe Routes to Schools
3955 Program;" specifying new requirements; amending s. 336.025,
3956 F.S.; deleting prohibition against local governments issuing
3957 bonds only once a year; creating s. 336.68, F.S; providing
3958 criteria and procedures for the owner of property within a
3959 described road and bridge district to sever inclusion within the
3960 district; amending s. 337.11, F.S.; providing that certain
3961 construction projects be advertised for bids in local
3962 newspapers; amending s. 337.14, F.S.; authorizing the department
3963 to waive specified prequalification requirements for certain
3964 transportation projects under certain conditions; amending s.
3965 337.18, F.S.; revising surety bond requirements for construction
3966 or maintenance contracts; providing for incremental annual
3967 surety bonds for multiyear maintenance contracts under certain
3968 conditions; revising the threshold for transportation projects
3969 eligible for a waiver of surety bond requirements; authorizing
3970 the department to provide for phased surety bond coverage or an
3971 alternate means of security for a portion of the contract amount

3972 in lieu of the surety bond; amending s. 338.161, F.S.; providing
3973 for the Department of Transportation and certain toll agencies
3974 to enter into agreements with public or private entities for
3975 additional uses of electronic toll collection products and
3976 services; requiring feasibility studies by the department or a
3977 toll agency prior to legislative consideration of additional
3978 uses of electronic toll devices; amending s. 338.2216, F.S.;
3979 changing the carry forward date on certain undisbursed Florida
3980 Turnpike Enterprise funds; revising the maximum amount that may
3981 be carried forward; amending s. 338.2275, F.S.; raising the
3982 limit on outstanding bonds to fund turnpike projects; amending
3983 s. 339.175, F.S.; specifying that a metropolitan planning
3984 organization is a separate legal entity independent of entities
3985 represented on the M.P.O. and signatories to the agreement
3986 creating the M.P.O.; providing for selection of certain
3987 officers; revising requirements for voting membership;
3988 specifying certain constitutional officers are not elected
3989 officials of a general-purpose local government for voting
3990 membership purposes; revising provisions for a process for
3991 appointing alternate members; revising provisions for nonvoting
3992 advisers; revising provisions for employment of staff by an
3993 M.P.O.; providing for training of certain persons who serve on
3994 an M.P.O. for certain purposes; revising voting requirements for
3995 approval of certain plans, programs, and amendments; amending s.
3996 339.2819, F.S.; revising limitations on matching funds from the
3997 Transportation Regional Incentive Program; deleting a provision
3998 that provides for matching funds based on the nonfederal share
3999 of certain transportation facility project costs; creating s.
4000 339.282, F.S.; creating a transportation concurrency incentive
4001 program; specifying requirements; amending s. 335.55, F.S.;
4002 providing for use of State Infrastructure Bank loans for certain

4003 damaged transportation facilities in areas of a declared
4004 disaster; specifying requirements; amending s. 343.54, F.S.;
4005 revising language relating to powers and duties of the South
4006 Florida Regional Transportation Authority; deleting the term
4007 "commuter rail"; amending s. 343.55, F.S.; providing pledge to
4008 bondholders that the state will not alter certain rights vested
4009 in the authority that affect the rights of bondholders while
4010 bonds are outstanding; amending s. 343.58, F.S.; revising
4011 provisions for funding of the authority; requiring counties
4012 served by the authority to annually transfer certain funds
4013 before a certain date; removing provisions for sources of that
4014 funding; removing authorization for a vehicle registration tax;
4015 providing for a certain funding source for capital, operating,
4016 and maintenance expenses; revising county funding amounts to
4017 fund operations; providing for cessation of specified county
4018 funding contributions and providing for certain refunding of the
4019 contributions under certain circumstances; revising timeframe
4020 for repeal of specified funding provisions under certain
4021 circumstances; amending s. 343.71, F.S.; revising the short
4022 title of the part; amending s. 343.72, F.S.; revising and adding
4023 definitions; amending s. 343.73, F.S.; changing the name of the
4024 Tampa Bay Commuter Transit Authority to the "Tampa Bay Regional
4025 Transportation Authority"; revising membership provisions;
4026 adding Citrus County to the authority's jurisdictional boundary
4027 providing for employees and advisory committees; renumbering and
4028 amending s. 343.74, F.S.; specifying purposes of the authority;
4029 revising rights, powers and duties; authorizing the authority to
4030 construct, operate, and maintain transportation facilities;
4031 authorizing the authority to collect tolls on its transportation
4032 facilities; requiring the authority to develop and adopt a
4033 regional transportation master plan; providing for content,

4034 updates, and use of the plan; authorizing the authority to
4035 request funding and technical assistance; revising provisions
4036 for certain charges collected by the authority; authorizing the
4037 authority to borrow money, enter into partnerships and other
4038 agreements, enter into and make lease-purchase agreements, and
4039 make contracts for certain purposes; removing a requirement to
4040 adopt a certain plan; specifying that the authority does not
4041 have power to pledge the credit or taxing power of the state;
4042 renumbering and amending s. 343.75, F.S.; providing legislative
4043 approval of bond financing by the authority for its projects;
4044 providing for issuance of the bonds by the authority or the
4045 Division of Bond Finance; providing for contract with
4046 bondholders; authorizing the authority to employ fiscal agents;
4047 authorizing the State Board of Administration to act as fiscal
4048 agent; renumbering and amending s. 343.76, F.S.; revising
4049 provisions that specify that the authority's bonds are not debts
4050 of the State; renumbering and amending s. 343.77, F.S.; revising
4051 the state's covenant with bondholders; creating s. 343.747,
4052 F.S.; providing certain rights and remedies for bondholders;
4053 creating s. 343.749, F.S.; providing for enforcement by
4054 bondholders of pledges to the authority from the department;
4055 creating s. 343.751, F.S.; providing for lease-purchase
4056 agreements between the authority and the department; creating s.
4057 343.753, F.S.; providing for the department to act as an agent
4058 for the authority for the purposes of constructing and
4059 completing the authority's projects; creating s. 343.761, F.S.;
4060 providing for the authority to purchase property and property
4061 rights; creating s. 343.771, F.S.; providing for the authority
4062 to enter into cooperative agreements with other entities and
4063 persons; creating s. 343.773, F.S; providing for the authority
4064 to enter into certain public-private agreements under certain

4065 conditions; providing procedures for proposals for public-
4066 private transportation projects; providing criteria for the
4067 constructed facilities; authorizing the authority to use certain
4068 powers to facilitate project development and construction;
4069 providing intent relating to governmental entities; authorizing
4070 the authority to adopt certain rules and establish an
4071 application fee fees; creating s. 343.781, F.S.; exempting the
4072 authority from certain taxation; creating s. 348.783, F.S.;
4073 specifying that bonds or other obligations issued by the
4074 authority are legal investments constituting securities for
4075 certain purposes; creating s.343.791, F.S.; providing for
4076 application and effect of specified provisions; amending s.
4077 343.81, F.S.; prohibiting elected officials from serving on the
4078 Northwest Florida Transportation Corridor Authority; providing
4079 for application of the prohibition to apply to persons appointed
4080 to serve on the authority after a certain date; amending s.
4081 343.82, F.S.; directing the authority to plan for and study the
4082 feasibility of constructing, operating, and maintaining a bridge
4083 or bridges, and appurtenant structures, spanning Choctawhatchee
4084 Bay or Santa Rosa Sound; authorizing the authority to construct,
4085 operate, and maintain said bridges and structures; amending s.
4086 348.0003, F.S.; revising the membership of expressway authority
4087 governing boards in certain counties; prohibiting certain
4088 expressway authorities from contracting for outside lobbyist
4089 services; amending s. 348.0004, F.S.; providing for public
4090 notice of a proposed toll increase by certain expressway
4091 authorities; authorizing a transportation authority, bridge
4092 authority, or toll authority to receive or solicit proposals and
4093 enter into agreements with private entities for certain
4094 transportation facility purposes; providing for application of
4095 specified provisions to use of certain additional powers by

4096 certain authorities; amending s. 348.0012, F.S.; revising
4097 provisions for certain exemptions from the Florida Expressway
4098 Authority Act; amending s. 348.754, F.S.; authorizing the
4099 Orlando-Orange County Expressway Authority to waive payment and
4100 performance bonds on certain construction contracts if the
4101 contract is awarded pursuant to an economic development program
4102 for the encouragement of local small businesses; providing
4103 criteria for participation in the program; providing criteria
4104 for the bond waiver; providing for certain determinations by the
4105 authority's executive director or a designee as to the
4106 suitability of a project; providing for certain payment
4107 obligations if a payment and performance bond is waived;
4108 requiring the authority to record notice of the obligation;
4109 limiting eligibility to bid on the projects; providing for the
4110 authority to conduct bond eligibility training for certain
4111 businesses; requiring the authority to submit biennial reports
4112 to the Orange County legislative delegation; redesignating part
4113 X of chapter 348, F.S.; creating part X of chapter 348, F.S.;
4114 creating the "Osceola County Expressway Authority Law";
4115 providing definitions; creating the authority as an agency of
4116 the state; providing for membership, terms, organization,
4117 personnel, and administration; providing purposes and powers for
4118 construction, expansion, maintenance, improvement, and operation
4119 of the Osceola County Expressway System; providing for the
4120 authority to acquire property, enter into and make lease-
4121 purchase agreements with the department, establish and collect
4122 certain charges, borrow money and accept grants, issue bonds and
4123 provide for bondholder security; providing for use of certain
4124 funds to pay obligations; providing for repayment of certain
4125 funds used by the authority; requiring consent of local and
4126 county governments for certain actions by the authority;

4127 providing for application of specified provisions to certain
4128 department projects within the geographical boundaries of the
4129 authority; providing for bond financing by the authority;
4130 providing for issuance of bonds; authorizing the authority to
4131 employ fiscal agents; authorizing the State Board of
4132 Administration to act as fiscal agent for the authority;
4133 providing for lease of the system to the Department of
4134 Transportation under a lease-purchase agreement; providing for
4135 the authority to appoint the department as its agent for certain
4136 construction purposes; authorizing the authority to acquire
4137 property; limiting liability of the authority for contamination
4138 existing on an acquired property; providing for remedial acts
4139 necessary due to such contamination; authorizing agreements
4140 between the authority and other entities; providing a pledge of
4141 the state to bondholders; exempting the authority from taxation;
4142 specifying that bonds or other obligations issued by the
4143 authority are legal investments constituting securities for
4144 certain purposes; providing for enforcement by bondholders of
4145 pledges to the authority from the department; providing for
4146 application and construction of the part; directing the Florida
4147 Transportation Commission to conduct a study of certain
4148 metropolitan planning organization activities and to submit a
4149 report based on its study to the Governor and the Legislature;
4150 amending ch.89-383, Laws of Florida; providing for certain
4151 alterations to and along Red Road in Miami-Dade County for
4152 transportation safety purposes; designating a portion of SE 2nd
4153 Avenue within the City of Miami as Brickell Avenue; providing an
4154 effective date.

SECTION-BY-SECTION BREAKDOWN
of STRIKE-ALL to HB 7079 CS

Section 1. Amends retention of records by a motor carrier, to provide that records must be maintained for four years.

Section 2. Grants DHSMV statutory rulemaking authority regarding settlement or compromise of taxes, penalties or interest. Specifies that the motor carrier has the right to be represented and record all procedures at the motor carrier's expense. Authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities.

Section 3. Effective July 1, 2008. Limits the liability for State agencies, Water Management Districts, counties, cities, municipal governments, and officers and employees thereof, which provide off-highway recreational areas and trails on publicly owned land.

Section 4. Effective July 1, 2008. Provides restrictions, safety course requirements, equipment requirements, prohibitions and penalties for the operation of off-highway vehicles on public lands.

Section 5. Modifies the definition of the term saddle mount to include full mount.

Section 6. Allows a citation for a violation of payment of a toll facility to be issued by mail to a registered lessee of a motor vehicle.

Section 7. Exempts owners of leased vehicles from the responsibilities of disabled parking violations.

Section 8. Riding on the Exterior of Vehicles:

- Prohibits minor children under the age of 18 from riding in the back of a truck on limited access highways unless the child is properly restrained in secure seating in the back of the truck. Does not apply in medical emergencies and a county governing body may vote to exempt themselves from this requirement.

Section 9. Effective January 1, 2007, motorcycles registered to persons who have not attained 21 years of age must display a license plate that is unique in design and color.

Section 10. Allows "ATV's" to be operated by licensed drivers during the daytime on unpaved roads where the posted speed limit is less than 35 miles per hour and requires proof of ownership by the operator.

Section 11. Allows local governments to enact more restrictive golf cart ordinances than the State for unlicensed drivers and requires appropriate signs informing the public of the ordinance and its enforcement.

Section 12. Requires a person selling "motorized scooters" and "miniature motorcycles" to inform the customer of this law and display a notice at their place of business and in their advertisements, that these vehicles are not legal to operate on public roads or sidewalks.

Section 13. Provides a taillamp exemption for dump trucks.

Section 14. Provide updates to federal regulations regarding commercial motor vehicle rules and regulations, brings the intrastate hours-of-service requirements into compliance with federal tolerance allowances, conforms state utility and agricultural transportation law with federal law, and revises the requirements for a CDL vision exemption.

Section 15. Allows FDOT to issue overweight permits for implements of husbandry greater than 130 inches and not more than 170 inches. Allows the operation of certain forestry equipment on public roads and conforms current definitions of "automobile towaway and driveaway operations" and "saddle mount" to federal definitions.

Section 16. Excludes drivers exceeding the speed posted speed limit by 30 miles per hour or more from paying a fine and attending traffic school in lieu of a court appearance.

Section 17. Increases the fines from $250 to $500 for a second offense in a twelve month period of exceeding the posted speed limit by 30 miles per hour or more and increases the penalties for failing to secure loads. Provides for a $4 surcharge for all criminal and non-criminal traffic violations. Revenue from the surcharge will fund the State Agency Law Enforcement Radio System.

Section 18. Requires a mandatory hearing for drivers exceeding the speed posted speed limit by 30 miles per hour or more.

Section 19. Provides for the distribution of proceeds from the $4 State Agency Law Enforcement Radio System surcharge.

Section 20. Includes the words "marked and outfitted as a pursuit vehicle" so that only pursuit vehicles would have to be issued a title branded as a police vehicle.

Section 21. Effective July 1, 2008, motorcycle and moped owners must present proof of a valid motorcycle driver's license endorsement before an original registration is issued.

Section 22. Exempts the owner of a leased vehicle from being included in certain outstanding traffic fine lists and from the responsibility of paying outstanding traffic fines.

Section 23. Exempts the owner of a leased vehicle from penalties for not displaying a valid license plate and validation sticker, for not displaying a valid mobile home sticker on a mobile home and from delinquency fees related to an invalid registration certificate.

Section 24. Revises the display of license plates on dump trucks to allow for better visibility. Clarifies the height and positioning to be no more than 60 inches from the ground to the top of the plate and not to be displayed sideways or upside down.

Section 25. Authorizes the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

Section 26. Creates legislative license plates for presiding officers.

Section 27. Creates the "Operation Iraqi Freedom" and the "Operation Enduring Freedom" license plates for veterans of these operations.

Section 28. Requires only independent motor vehicle dealers who have been in business for less than 15 years to complete continuing education, exempts any applicant for a new franchised motor vehicle dealer who has held a valid franchised motor vehicle dealer license continuously for the past 2 years and remains in good standing with DHSMV. Also, DHSMV may deny revoke or suspend any license

for failure to register a mobile home salesperson with DHSMV.

Section 29. Authorizes DHSMV to enter into tax and penalty payment agreements related to the International Registration Plan.

Section 30. Defines the term "Mobile Home Salesperson" and includes duties and responsibilities. Clarifies persons who are not classified as a "Mobile Home Salesperson." Requires mobile home salespersons that are registered by licensees to register a physical address with DHSMV within 30 days of the hire date, to notify DHSMV a change in address within 20 days of the change and quarterly to notify DHSMV of the termination of separation or employment.

Section 31. Clarifies how the Mobile Home and Recreational Vehicle Protection Trust Fund may be used to satisfy judgments or claims and modifies conditions required to file a claim against the trust fund.

Section 32. Revises the definition of "driver license", defines "identification card", "temporary driver license", and "temporary identification card".

Section 33. Requires a person who is between 16 and 18 years old to have no moving traffic convictions before applying for a driver's license unless they have elected to attend a driving school.

Section 34. Revises the age requirements for the issuance of ID cards from 12 years old to 5, revises the criteria related to the proof of nonimmigrant classification of an applicant for an identification card, and reduces the maximum period that certain ID cards are valid to 1 year.

Section 35.	Revises the criteria related to the proof of nonimmigrant classification of an applicant for a driver's license and reduces the maximum period that driver's licenses are valid to 1 year.
Section 36.	Effective July 1, 2008, revises the safety course requirements for first-time applicants for licensure to operate a motorcycle.
Section 37.	Clarifies periodic driver license examination requirements.
Section 38.	Clarifies the procedures, language and content related to suspension of license and right to review for driving with unlawful breath alcohol or blood-alcohol levels.
Section 39.	Increases the driver license points from 4 to 6 for exceeding the posted speed limit by 30 miles per hour or more and increases the driver license points for a red light violation resulting in a crash to 6 points.
Section 40.	The bill takes effect October 1, 2006, except as otherwise provided.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6
7 Section 1. Section 207.008, Florida Statutes, is amended
8 to read:
9 207.008 Retention of records by motor carrier.--Each
10 registered motor carrier shall maintain and keep pertinent
11 records and papers as may be required by the department for the
12 reasonable administration of this chapter and shall preserve the
13 records upon which each quarterly tax return is based for 4
14 years after the due date or filing date of the return, whichever
15 is later ~~such records as long as required by s. 213.35~~.
16 Section 2. Section 207.021, Florida Statutes, is amended
17 to read:
18 207.021 Informal conferences; settlement or compromise of
19 taxes, penalties, or interest.--~~The department may settle or~~
20 ~~compromise, pursuant to s. 213.21, penalties or interest imposed~~
21 ~~under this chapter.~~

22 (1)(a) The department may adopt rules pursuant to ss.
23 120.536(1) and 120.54 for establishing informal conferences to
24 resolve disputes arising from the assessment of taxes,
25 penalties, or interest or the denial of refunds.
26 (b) During any proceeding arising under this section, the
27 motor carrier has the right to be represented at and record all
28 proceedings at the motor carrier's expense.
29 (2)(a) The executive director of the department or his or
30 her designee is authorized to enter into closing agreements with
31 any taxpayer settling or compromising the taxpayer's liability
32 for any tax, interest, or penalty assessed under this chapter.
33 The agreement shall be in writing and must be in the form of a
34 closing agreement approved by the department and signed by the
35 executive director or his or her designee. The agreement shall
36 be final and conclusive except upon a showing of material fraud
37 or misrepresentation of material fact. No additional assessment
38 may be made by the department against the taxpayer for the tax,
39 interest, or penalty specified in the closing agreement for the
40 time specified in the closing agreement, and the taxpayer shall
41 not be entitled to institute any judicial or administrative
42 proceeding to recover any tax, interest, or penalty paid
43 pursuant to the closing agreement. The executive director or his
44 or her designee is authorized to approve any such closing
45 agreement.
46 (b) Notwithstanding the provisions of paragraph (a), for
47 the purpose of settling and compromising the liability of any
48 taxpayer for tax or interest on the grounds of doubt as to
49 liability based on the taxpayer's reasonable reliance on a
50 written determination issued by the department, the department

51 may compromise the amount of such tax or interest resulting from
52 such reasonable reliance.
53 (3) A taxpayer's liability for any tax or interest
54 specified in this chapter may be compromised by the department
55 upon the grounds of doubt as to liability for or the ability to
56 collect such tax or interest. Doubt as to the liability of a
57 taxpayer for tax and interest exists if the taxpayer
58 demonstrates that he or she reasonably relied on a written
59 determination of the department.
60 (4) A taxpayer's liability for any tax or interest under
61 this chapter shall be settled or compromised in whole or in part
62 whenever or to the extent allowable under the International Fuel
63 Tax Agreement Articles of Agreement.
64 (5) A taxpayer's liability for penalties under this
65 chapter may be settled or compromised if it is determined by the
66 department that the noncompliance is due to reasonable cause and
67 not to willful negligence, willful neglect, or fraud.
68 (6) The department is authorized to enter into agreements
69 for scheduling payments of taxes, penalties, and interest due to
70 the department as a result of audit assessments issued under
71 this chapter.
72 Section 3. Effective July 1, 2008, section 261.10, Florida
73 Statutes, is amended to read:
74 261.10 Criteria for recreation areas and trails;
75 limitation on liability.--
76 (1) Publicly owned or operated off-highway vehicle
77 recreation areas and trails shall be designated and maintained
78 for recreational travel by off-highway vehicles. These areas and
79 trails need not be generally suitable or maintained for normal
80 travel by conventional two-wheel-drive vehicles and should not

81 be designated as recreational footpaths. State off-highway
82 vehicle recreation areas and trails must be selected and managed
83 in accordance with this chapter.
84 (2) State agencies, water management districts, counties,
85 and municipalities, and officers and employees thereof, which
86 provide off-highway recreation areas and trails on publicly
87 owned land shall not be liable for damage to personal property
88 or personal injury or death to any person resulting from
89 participation in the inherently dangerous risks of off-highway
90 vehicle recreation. This subsection does not limit liability
91 that would otherwise exist for an act of gross negligence by the
92 state agency, water management district, county, or
93 municipality, or officer or employee, that is the proximate
94 cause of the damage, injury, or death. Nothing in this
95 subsection creates a duty of care or basis of liability for
96 death, personal injury, or damage to personal property, nor
97 shall anything in this subsection be deemed to be a waiver of
98 sovereign immunity under any circumstances.
99 Section 4. Effective July 1, 2008, section 261.20, Florida
100 Statutes, is created to read:
101 261.20 Operations of off-highway vehicles on public lands;
102 restrictions; safety courses; required equipment; prohibited
103 acts; penalties.--
104 (1) This section applies only to the operation of off-
105 highway vehicles on public lands.
106 (2) Any person operating an off-highway vehicle as
107 permitted in this section who has not attained 16 years of age
108 must be supervised by an adult while operating the off-highway
109 vehicle.

110 (3) Effective July 1, 2008, while operating an off-highway
111 vehicle, a person who has not attained 16 years of age must have
112 in his or her possession a certificate evidencing the
113 satisfactory completion of an approved off-highway vehicle
114 safety course in this state or another jurisdiction. A
115 nonresident, who has not attained 16 years of age, who is in
116 this state temporarily for a period not to exceed 30 days is
117 exempt from this subsection. Nothing contained in this chapter
118 shall prohibit an agency from requiring additional safety-
119 education courses for all operators.
120 (4)(a) The department shall approve all off-highway
121 vehicle public safety-education programs required by this
122 chapter as a condition for operating on public lands.
123 (b) An off-highway vehicle must be equipped with a spark
124 arrester that is approved by the United States Department of
125 Agriculture Forest Service, a braking system, and a muffler, all
126 in operating condition.
127 (c) On and after July 1, 2008, off-highway vehicles, when
128 operating pursuant to this chapter, shall be equipped with a
129 silencer or other device which limits sound emissions. Exhaust
130 noise must not exceed 96 decibels in the A-weighting scale for
131 vehicles manufactured after January 1, 1986, or 99 decibels in
132 the A-weighting scale for vehicles manufactured before January
133 1, 1986, when measured from a distance of 20 inches using test
134 procedures established by the Society of Automotive Engineers
135 under Standard J-1287. Off-highway vehicle manufacturers or
136 their agents prior to the sale to the general public in this
137 state of any new off-highway vehicle model manufactured after
138 January 1, 2008, shall provide to the department revolutions-

139 per-minute data needed to conduct the J-1287 test, where
140 applicable.
141 (d) An off-highway vehicle that is operated between sunset
142 and sunrise, or when visibility is reduced because of rain,
143 smoke, or smog, must display a lighted headlamp and taillamp
144 unless the use of such lights is prohibited by other laws, such
145 as a prohibition on the use of lights when hunting at night.
146 (e) An off-highway vehicle that is used in certain
147 organized and sanctioned competitive events being held on a
148 closed course may be exempted by departmental rule from any
149 equipment requirement in this subsection.
150 (5) It is a violation of this section:
151 (a) To carry a passenger on an off-highway vehicle, unless
152 the machine is specifically designed by the manufacturer to
153 carry an operator and a single passenger.
154 (b) To operate an off-highway vehicle while under the
155 influence of alcohol, a controlled substance, or any
156 prescription or over-the-counter drug that impairs vision or
157 motor condition.
158 (c) For a person who has not attained 16 years of age, to
159 operate an off-highway vehicle without wearing eye protection,
160 over-the-ankle boots, and a safety helmet that is approved by
161 the United States Department of Transportation or Snell Memorial
162 Foundation, when under the age of sixteen.
163 (d) To operate an off-highway vehicle in a careless or
164 reckless manner that endangers or causes injury or damage to
165 another person or property.
166 (6) Any person who violates this section commits a
167 noncriminal infraction and is subject to a fine of not less than
168 $100, and may have his or her privilege to operate an ATV on

169 public lands revoked. However, a person who commits such acts
170 with intent to defraud, or who commits a second or subsequent
171 violation, is subject to a fine of not less than $500, and may
172 have his or her privilege to operate an ATV on public lands
173 revoked.
174 (7) Public land managing agencies, through the course of
175 their management activities, are exempt from the provisions of
176 subsection (5)(a).
177 Section 5. Subsection (43) of section 316.003, Florida
178 Statutes, is amended to read:
179 316.003 Definitions.--The following words and phrases,
180 when used in this chapter, shall have the meanings respectively
181 ascribed to them in this section, except where the context
182 otherwise requires:
183 (43) SADDLE MOUNT; FULL MOUNT.--An arrangement whereby the
184 front wheels of one vehicle rest in a secured position upon
185 another vehicle. All of the wheels of the towing vehicle are
186 upon the ground and only the rear wheels of the towed vehicle
187 rest upon the ground. Such combinations may include one full
188 mount, whereby a smaller transport vehicle is placed completely
189 on the last towed vehicle.
190 Section 6. Paragraphs (b) and (c) of subsection (2) of
191 section 316.1001, Florida Statutes, is amended to read:
192 316.1001 Payment of toll on toll facilities required;
193 penalties.--
194 (2)
195 (b) A citation issued under this subsection may be issued
196 by mailing the citation by first class mail, or by certified
197 mail, return receipt requested, to the address of the registered
198 owner of the motor vehicle involved in the violation or, if a

199 leased motor vehicle is involved in the violation and is
200 registered in the name of the lessee, to the address of the
201 registered lessee of such motor vehicle. Mailing the citation to
202 this address constitutes notification. In the case of joint
203 ownership of a motor vehicle, the traffic citation must be
204 mailed to the first name appearing on the registration, unless
205 the first name appearing on the registration is a business
206 organization, in which case the second name appearing on the
207 registration may be used. In the case of a motor vehicle jointly
208 leased and registered in the names of the joint lessees, the
209 traffic citation must be mailed to the first name appearing on
210 the registration, unless the first name appearing on the
211 registration is a business organization, in which case the
212 second name appearing on the registration may be used. A
213 citation issued under this paragraph must be mailed to the
214 registered owner of the motor vehicle involved in the violation
215 or, if a leased motor vehicle is involved in the violation and
216 is registered in the name of the lessee, to the registered
217 lessee of such vehicle, within 14 days after the date of
218 issuance of the violation. In addition to the citation,
219 notification ~~must be sent to the registered owner of the motor~~
220 ~~vehicle involved in the violation~~ specifying remedies available
221 under ss. 318.14(12) and 318.18(7) must be sent to the
222 registered owner of the vehicle involved in the violation or, if
223 a leased motor vehicle is involved in the violation and is
224 registered in the name of the lessee, to the registered lessee
225 of such motor vehicle.
226 (c) The owner of the motor vehicle involved in the
227 violation is responsible and liable for payment of a citation
228 issued for failure to pay a toll, unless the owner can establish

229 the motor vehicle was, at the time of the violation, in the
230 care, custody, or control of another person. In order to
231 establish such facts, the owner of the motor vehicle is
232 required, within 14 days after the date of issuance of the
233 citation, to furnish to the appropriate governmental entity an
234 affidavit setting forth:
235 1. The name, address, date of birth, and, if known, the
236 driver license number of the person who leased, rented, or
237 otherwise had the care, custody, or control of the motor vehicle
238 at the time of the alleged violation; or
239 2. If stolen, the police report indicating that the
240 vehicle was stolen at the time of the alleged violation.
241
242 Upon receipt of an affidavit the person designated as having
243 care, custody, and control of the motor vehicle at the time of
244 the violation may be issued a citation for failure to pay a
245 required toll. The affidavit shall be admissible in a proceeding
246 pursuant to this section for the purpose of providing that the
247 person identified in the affidavit was in actual care, custody,
248 or control of the motor vehicle. <u>The owner of a leased vehicle</u>
249 <u>for which a citation is issued for failure to pay a toll is not</u>
250 <u>responsible for payment of the citation and is not required to</u>
251 <u>submit an affidavit as specified in this subsection, if the</u>
252 <u>motor vehicle involved in the violation is registered in the</u>
253 <u>name of the lessee of such motor vehicle.</u>
254 Section 7. Paragraph (b) of subsection (1) of section
255 316.1955, Florida Statutes, is amended to read:
256 316.1955 Enforcement of parking requirements for persons
257 who have disabilities.--

258 (1) It is unlawful for any person to stop, stand, or park
259 a vehicle within, or to obstruct, any such specially designated
260 and marked parking space provided in accordance with s.
261 553.5041, unless the vehicle displays a disabled parking permit
262 issued under s. 316.1958 or s. 320.0848 or a license plate
263 issued under s. 320.084, s. 320.0842, s. 320.0843, or s.
264 320.0845, and the vehicle is transporting the person to whom the
265 displayed permit is issued. The violation may not be dismissed
266 for failure of the marking on the parking space to comply with
267 s. 553.5041 if the space is in general compliance and is clearly
268 distinguishable as a designated accessible parking space for
269 people who have disabilities. Only a warning may be issued for
270 unlawfully parking in a space designated for persons with
271 disabilities if there is no above-grade sign as provided in s.
272 553.5041.
273 (b) The officer or specialist shall charge the operator or
274 other person in charge of the vehicle in violation with a
275 noncriminal traffic infraction, punishable as provided in s.
276 316.008(4) or s. 318.18(6). <u>The owner of a leased vehicle shall</u>
277 <u>not be responsible for a violation of this section, if the</u>
278 <u>vehicle is registered in the name of the lessee.</u>
279 Section 8. Section 316.2015, Florida Statutes, is amended
280 to read:
281 316.2015 Unlawful for person to ride on exterior of
282 vehicle.--
283 (1) It is unlawful for any operator of a passenger vehicle
284 to permit any person to ride on the bumper, radiator, fender,
285 hood, top, trunk, or running board of such vehicle when operated
286 upon any street or highway which is maintained by the state,
287 county or municipality. ~~However, the operator of any vehicle~~

288 ~~shall not be in violation of this section when such operator~~
289 ~~permits any person to occupy seats securely affixed to the~~
290 ~~exterior of such vehicle.~~ Any person who violates ~~the provisions~~
291 ~~of~~ this subsection shall be cited for a moving violation,
292 punishable as provided in chapter 318.
293 (2)(a) No person shall ride on any vehicle upon any
294 portion thereof not designed or intended for the use of
295 passengers. This paragraph does not apply to an employee of a
296 fire department, an employee of a governmentally operated solid
297 waste disposal department or a waste disposal service operating
298 pursuant to a contract with a governmental entity, or to a
299 volunteer firefighter when the employee or firefighter is
300 engaged in the necessary discharge of a duty and does not apply
301 to a person who is being transported in response to an emergency
302 by a public agency or pursuant to the direction or authority of
303 a public agency. This provision shall not apply to an employee
304 engaged in the necessary discharge of a duty or to a person or
305 persons who have attained 18 years of age riding within truck
306 bodies in space intended for merchandise. Any person who
307 violates the provisions of this subsection shall be cited for a
308 nonmoving violation, punishable as provided in chapter 318.
309 (b) It is unlawful for any operator of a pickup truck or
310 flatbed truck to permit a minor child who has not attained 18
311 years of age to ride upon limited access facilities of the state
312 within the open body of a pickup truck or flatbed truck unless
313 the minor is restrained within the open body in the back of a
314 truck which has been modified to include secure seating and
315 safety restraints that would prevent the minor from being
316 thrown, falling, or jumping from the truck. This paragraph does
317 not apply in a medical emergency if the child is accompanied

318 within the truck by an adult. This paragraph does not apply in
319 a county if the governing body of the county, by majority vote,
320 following a duly noticed public hearing, votes to exempt the
321 county from this paragraph.
322 (c) Any person who violates ~~the provisions of~~ this
323 subsection shall be cited for a nonmoving violation, punishable
324 as provided in chapter 318.
325 (3) This section shall not apply to a performer engaged in
326 a professional exhibition or person participating in an
327 exhibition or parade, or any such person preparing to
328 participate in such exhibitions or parades.
329 Section 9. Effective January 1, 2007, subsection (6) of
330 section 316.211, Florida Statutes, is renumbered as subsection
331 (7), and a new subsection (6) is added to that section, to read:
332 316.211 Equipment for motorcycle and moped riders.--
333 (6) Motorcycles registered to persons who have not
334 attained 21 years of age shall display a license plate that is
335 unique in design and color.
336 (7) ~~(6)~~ A violation of this section is a noncriminal
337 traffic infraction, punishable as a nonmoving violation as
338 provided in chapter 318.
339 Section 10. Section 316.2123, Florida Statutes, is created
340 to read:
341 316.2123 Operation of an ATV on certain roadways.--The
342 operation of an ATV as defined in s. 317.0003 upon the public
343 roads or streets of this state is prohibited, except that an ATV
344 may be operated during the daytime on an unpaved roadway where
345 the posted speed limit is less than 35 miles per hour by a
346 licensed driver or by a minor under the supervision of a
347 licensed driver. When operating on an unpaved roadway the ATV

348 must be equipped with working headlamps and taillamps. The
349 operator must provide proof of ownership pursuant to chapter 317
350 upon request by a law enforcement officer. A county or
351 municipality may adopt an ordinance that prohibits the operation
352 of an ATV on unpaved public roads or streets notwithstanding the
353 authorization of this section. Notice of such an ordinance shall
354 be given to the public by appropriate signage on the roads or
355 streets affected by the local ordinance.
356 Section 11. Subsection (3) is added to section 316.2125,
357 Florida Statutes, to read:
358 316.2125 Operation of golf carts within a retirement
359 community.--
360 (3) A local governmental entity may enact an ordinance
361 regarding golf cart operation and equipment which is more
362 restrictive than those enumerated in this section. Upon
363 enactment of any such ordinance, the local governmental entity
364 shall post appropriate signs or otherwise inform the residents
365 that such an ordinance exists and that it shall be enforced
366 within the local government's jurisdictional territory. An
367 ordinance referred to in this section must apply only to an
368 unlicensed driver.
369 Section 12. Section 316.2128, Florida Statutes, is created
370 to read:
371 316.2128 Motorized scooters and miniature motorcycles;
372 disclosure requirements for sales.--A person who engages in the
373 business or serves in the capacity of, or acts as, a commercial
374 seller of motorized scooters as defined in s. 316.003(82) or
375 miniature motorcycles in this state must comply with this
376 section. Each such person shall prominently display at his or
377 her place of business a notice that such vehicles are not legal

378 to operate on public roads or sidewalks and may not be
379 registered as motor vehicles. The required notice must also
380 appear in all forms of advertising offering motorized scooters
381 or miniature motorcycles for sale. The notice and a copy of this
382 section must also be provided to a consumer prior to the
383 consumer's purchasing or becoming obligated to purchase a
384 motorized scooter or a miniature motorcycle. For purposes of
385 this section, miniature motorcycle means any vehicle that has a
386 seat or saddle for the use of the rider and is designed to
387 travel on not more than three wheels in contact with the ground
388 and, because of its small size, design, or lack of required
389 safety equipment or other noncompliance with federal
390 regulations, is not eligible for a manufacturer's certificate of
391 origin and for registration as a motorcycle pursuant to chapter
392 320. Any person selling or offering a motorized scooter or a
393 miniature motorcycle for sale in violation of this subsection
394 commits an unfair and deceptive trade practice as defined in
395 part II of chapter 501. This section does not apply to
396 motorcycles as defined in chapter 316 or to off-highway vehicles
397 as defined in chapter 317.
398 Section 13. Subsection (2) of section 316.221, Florida
399 Statutes, is amended to read:
400 316.221 Taillamps.--
401 (2) Either a taillamp or a separate lamp shall be so
402 constructed and placed as to illuminate with a white light the
403 rear registration plate and render it clearly legible from a
404 distance of 50 feet to the rear. Any taillamp or taillamps,
405 together with any separate lamp or lamps for illuminating the
406 rear registration plate, shall be so wired as to be lighted
407 whenever the headlamps or auxiliary driving lamps are lighted.

408 Dump trucks and vehicles with dump bodies are exempt from the
409 requirements of this subsection.
410 Section 14. Paragraph (b) of subsection (1), paragraphs
411 (b), (c), (d), (f), and (i) of subsection (2), and subsection
412 (3) of section 316.302, Florida Statutes, are amended to read:
413 316.302 Commercial motor vehicles; safety regulations;
414 transporters and shippers of hazardous materials; enforcement.--
415 (1)
416 (b) Except as otherwise provided in this section, all
417 owners or drivers of commercial motor vehicles that are engaged
418 in intrastate commerce are subject to the rules and regulations
419 contained in 49 C.F.R. parts 382, 385, and 390-397, with the
420 exception of 49 C.F.R. s. 390.5 as it relates to the definition
421 of bus, as such rules and regulations existed on October 1, 2005
422 ~~2004~~.
423 (2)
424 (b) Except as provided in 49 C.F.R. s. 395.1, a person who
425 operates a commercial motor vehicle solely in intrastate
426 commerce not transporting any hazardous material in amounts that
427 require placarding pursuant to 49 C.F.R. part 172 may not drive:
428 1. More than 12 hours following 10 consecutive hours off
429 duty; or
430 2. For any period after the end of the 16th hour after
431 coming on duty following 10 consecutive hours off duty ~~is exempt~~
432 ~~from 49 C.F.R. s. 395.3(a) and (b) and may, after 8 hours' rest,~~
433 ~~and following the required initial motor vehicle inspection, be~~
434 ~~permitted to drive any part of the first 15 on-duty hours in any~~
435 ~~24-hour period, but may not be permitted to operate a commercial~~
436 ~~motor vehicle after that until the requirement of another 8~~
437 ~~hours' rest has been fulfilled~~.

438

439 The provisions of this paragraph do not apply to drivers of
440 utility service vehicles as defined in 49 C.F.R. s. 395.2 ~~public~~
441 ~~utility vehicles or authorized emergency vehicles during periods~~
442 ~~of severe weather or other emergencies~~.
443 (c) Except as provided in 49 C.F.R. s. 395.1, a person who
444 operates a commercial motor vehicle solely in intrastate
445 commerce not transporting any hazardous material in amounts that
446 require placarding pursuant to 49 C.F.R. part 172 may not drive
447 after having been on duty more than 70 hours in any period of 7
448 consecutive days or more than 80 hours in any period of 8
449 consecutive days if the motor carrier operates every day of the
450 week. Thirty-four ~~be on duty more than 72 hours in any period of~~
451 ~~7 consecutive days, but carriers operating every day in a week~~
452 ~~may permit drivers to remain on duty for a total of not more~~
453 ~~than 84 hours in any period of 8 consecutive days; however, 24~~
454 consecutive hours off duty shall constitute the end of any such
455 period of 7 or 8 consecutive days. This weekly limit does not
456 apply to a person who operates a commercial motor vehicle solely
457 within this state while transporting, during harvest periods,
458 any unprocessed agricultural products or unprocessed food or
459 fiber that is ~~are~~ subject to seasonal harvesting from place of
460 harvest to the first place of processing or storage or from
461 place of harvest directly to market or while transporting
462 livestock, livestock feed, or farm supplies directly related to
463 growing or harvesting agricultural products. Upon request of the
464 Department of Transportation, motor carriers shall furnish time
465 records or other written verification to that department so that
466 the Department of Transportation can determine compliance with
467 this subsection. These time records must be furnished to the

468 Department of Transportation within 2 ~~10~~ days after receipt of
469 that department's request. Falsification of such information is
470 subject to a civil penalty not to exceed $100. The provisions of
471 this paragraph do not apply to drivers of ~~public~~ utility service
472 vehicles as defined in 49 C.F.R. s. 395.2 ~~or authorized~~
473 ~~emergency vehicles during periods of severe weather or other~~
474 ~~emergencies~~.
475 (d) A person who operates a commercial motor vehicle
476 solely in intrastate commerce not transporting any hazardous
477 material in amounts that require placarding pursuant to 49
478 C.F.R. part 172 within a 150 ~~200~~ air-mile radius of the location
479 where the vehicle is based need not comply with 49 C.F.R. s.
480 395.8, provided the requirements of 49 C.F.R. s.
481 395.1(e)(1)(iii) and (v) are met. If a driver is not released
482 from duty within 12 hours after the driver arrives for duty, the
483 motor carrier must maintain documentation of the driver's
484 driving times throughout the duty period ~~except that time~~
485 ~~records shall be maintained as prescribed in 49 C.F.R. s.~~
486 ~~395.1(e)(5)~~.
487 (f) A person who operates a commercial motor vehicle
488 having a declared gross vehicle weight of less than 26,001
489 ~~26,000~~ pounds solely in intrastate commerce and who is not
490 transporting hazardous materials in amounts that require
491 placarding pursuant to 49 C.F.R. part 172, or who is
492 transporting petroleum products as defined in s. 376.301, is
493 exempt from subsection (1). However, such person must comply
494 with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss.
495 396.3(a)(1) and 396.9.
496 (i) A person ~~who was a regularly employed driver of a~~
497 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving

498 record shows no traffic convictions, pursuant to s. 322.61,
499 during the 2-year period immediately preceding the application
500 for the commercial driver's license, ~~and~~ who is otherwise
501 qualified as a driver under 49 C.F.R. part 391, and who operates
502 a commercial vehicle in intrastate commerce only~~,~~ shall be
503 exempt from the requirements of 49 C.F.R. part 391, subpart E,
504 s. 391.41(b)(10). However, such operators are still subject to
505 the requirements of ss. 322.12 and 322.121. As proof of
506 eligibility, such driver shall have in his or her possession a
507 physical examination form dated within the past 24 months.
508 (3) A person who has not attained ~~under the age of~~ 18
509 years of age may not operate a commercial motor vehicle, except
510 that a person who has not attained ~~under the age of~~ 18 years of
511 age may operate a commercial motor vehicle which has a gross
512 vehicle weight of less than 26,001 ~~26,000~~ pounds while
513 transporting agricultural products, including horticultural or
514 forestry products, from farm or harvest place to storage or
515 market.
516 Section 15. Subsections (5) and (10) of section 316.515,
517 Florida Statutes, are amended to read:
518 316.515 Maximum width, height, length.--
519 (5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
520 FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.--
521 (a) Notwithstanding any other provisions of law, straight
522 trucks, agricultural tractors, and cotton module movers, not
523 exceeding 50 feet in length, or any combination of up to and
524 including three implements of husbandry including the towing
525 power unit, and any single agricultural trailer with a load
526 thereon or any agricultural implements attached to a towing
527 power unit not exceeding 130 inches in width, or a self-

528 propelled agricultural implement or an agricultural tractor not
529 exceeding 130 inches in width, is authorized for the purpose of
530 transporting peanuts, grains, soybeans, cotton, hay, straw, or
531 other perishable farm products from their point of production to
532 the first point of change of custody or of long-term storage,
533 and for the purpose of returning to such point of production, or
534 for the purpose of moving such tractors, movers, and implements
535 from one point of agricultural production to another, by a
536 person engaged in the production of any such product or custom
537 hauler, if such vehicle or combination of vehicles otherwise
538 complies with this section. The Department of Transportation may
539 issue overwidth permits for implements of husbandry greater than
540 130 inches, but not more than 170 inches, in width. ~~Such~~
541 ~~vehicles shall be operated in accordance with all safety~~
542 ~~requirements prescribed by law and Department of Transportation~~
543 ~~rules.~~ The Department of Transportation may issue overlength
544 permits for cotton module movers greater than 50 feet but not
545 more than 55 feet in overall length. Such vehicles shall be
546 operated in accordance with all safety requirements prescribed
547 by law and Department of Transportation rules.
548 (b) Notwithstanding any other provisions of law, equipment
549 not exceeding 136 inches in width and not capable of speeds
550 exceeding 20 miles per hour that is used exclusively for the
551 purpose of harvesting forestry products is authorized for the
552 purpose of transporting the equipment from one point of harvest
553 to another point of harvest, not to exceed 10 miles, by a person
554 engaged in the harvesting of forestry products. Such vehicles
555 shall be operated during daylight hours only in accordance with
556 all safety requirements prescribed by s. 316.2295(5) and (6).

557 (10) AUTOMOBILE TOWAWAY AND DRIVEAWAY OPERATIONS.--An
558 automobile towaway or driveaway operation transporting new or
559 used trucks may use what is known to the trade as "saddle
560 mounts," if the overall length does not exceed 97 ~~75~~ feet and no
561 more than three saddle mounts are towed. Such combinations may
562 include one full mount. Saddle mount combinations must also
563 comply with the applicable safety regulations in 49 C.F.R. s.
564 393.71.
565 Section 16. Subsection (9) of section 318.14, Florida
566 Statutes, is amended to read:
567 318.14 Noncriminal traffic infractions; exception;
568 procedures.--
569 (9) Any person who does not hold a commercial driver's
570 license and who is cited for an infraction under this section
571 other than a violation of s. 316.183(2), s. 316.187, or s.
572 316.189, when the driver exceeds the posted limit by 30 miles
573 per hour or more, or s. 320.0605, s. 320.07(3)(a) or (b), s.
574 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a
575 court appearance, elect to attend in the location of his or her
576 choice within this state a basic driver improvement course
577 approved by the Department of Highway Safety and Motor Vehicles.
578 In such a case, adjudication must be withheld; points, as
579 provided by s. 322.27, may not be assessed; and the civil
580 penalty that is imposed by s. 318.18(3) must be reduced by 18
581 percent; however, a person may not make an election under this
582 subsection if the person has made an election under this
583 subsection in the preceding 12 months. A person may make no more
584 than five elections under this subsection. The requirement for
585 community service under s. 318.18(8) is not waived by a plea of

586 nolo contendere or by the withholding of adjudication of guilt
587 by a court.
588 Section 17. Section 318.18, Florida Statutes, is amended
589 to read:
590 318.18 Amount of ~~civil~~ penalties.--The penalties required
591 for a noncriminal disposition pursuant to s. 318.14 <u>or a</u>
592 <u>criminal offense listed in s. 318.17</u> are as follows:
593 (1) Fifteen dollars for:
594 (a) All infractions of pedestrian regulations.
595 (b) All infractions of s. 316.2065, unless otherwise
596 specified.
597 (c) Other violations of chapter 316 by persons 14 years of
598 age or under who are operating bicycles, regardless of the
599 noncriminal traffic infraction's classification.
600 (2) Thirty dollars for all nonmoving traffic violations
601 and:
602 (a) For all violations of s. 322.19.
603 (b) For all violations of ss. 320.0605, 320.07(1),
604 322.065, and 322.15(1). Any person who is cited for a violation
605 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
606 320.07(4).
607 1. If a person who is cited for a violation of s. 320.0605
608 or s. 320.07 can show proof of having a valid registration at
609 the time of arrest, the clerk of the court may dismiss the case
610 and may assess a dismissal fee of up to $7.50. A person who
611 finds it impossible or impractical to obtain a valid
612 registration certificate must submit an affidavit detailing the
613 reasons for the impossibility or impracticality. The reasons may
614 include, but are not limited to, the fact that the vehicle was
615 sold, stolen, or destroyed; that the state in which the vehicle

616 is registered does not issue a certificate of registration; or
617 that the vehicle is owned by another person.
618 2. If a person who is cited for a violation of s. 322.03,
619 s. 322.065, or s. 322.15 can show a driver's license issued to
620 him or her and valid at the time of arrest, the clerk of the
621 court may dismiss the case and may assess a dismissal fee of up
622 to $7.50.
623 3. If a person who is cited for a violation of s. 316.646
624 can show proof of security as required by s. 627.733, issued to
625 the person and valid at the time of arrest, the clerk of the
626 court may dismiss the case and may assess a dismissal fee of up
627 to $7.50. A person who finds it impossible or impractical to
628 obtain proof of security must submit an affidavit detailing the
629 reasons for the impracticality. The reasons may include, but are
630 not limited to, the fact that the vehicle has since been sold,
631 stolen, or destroyed; that the owner or registrant of the
632 vehicle is not required by s. 627.733 to maintain personal
633 injury protection insurance; or that the vehicle is owned by
634 another person.
635 (c) For all violations of ss. 316.2935 and 316.610.
636 However, for a violation of s. 316.2935 or s. 316.610, if the
637 person committing the violation corrects the defect and obtains
638 proof of such timely repair by an affidavit of compliance
639 executed by the law enforcement agency within 30 days from the
640 date upon which the traffic citation was issued, and pays $4 to
641 the law enforcement agency, thereby completing the affidavit of
642 compliance, then upon presentation of said affidavit by the
643 defendant to the clerk within the 30-day time period set forth
644 under s. 318.14(4), the fine must be reduced to $7.50, which the
645 clerk of the court shall retain.

646 (d) For all violations of s. 316.126(1)(b), unless
647 otherwise specified.
648 (3)(a) Except as otherwise provided in this section, $60
649 for all moving violations not requiring a mandatory appearance.
650 (b) For moving violations involving unlawful speed, the
651 fines are as follows:
652
653 For speed exceeding the limit by: ..... Fine:
654 1-5 m.p.h. ..... Warning
655 6-9 m.p.h. ..... $ 25
656 10-14 m.p.h. $100
657 15-19 m.p.h. $125
658 20-29 m.p.h. $150
659 30 m.p.h. and above. $250
660 (c) Notwithstanding paragraph (b), a person cited for
661 exceeding the speed limit by up to 5 m.p.h. in a legally posted
662 school zone will be fined $50. A person exceeding the speed
663 limit in a school zone shall pay a fine double the amount listed
664 in paragraph (b).
665 (d) A person cited for exceeding the speed limit in a
666 posted construction zone shall pay a fine double the amount
667 listed in paragraph (b). The fine shall be doubled for
668 construction zone violations only if construction personnel are
669 present or operating equipment on the road or immediately
670 adjacent to the road under construction.
671 (e) If a violation of s. 316.1301 or s. 316.1303 results
672 in an injury to the pedestrian or damage to the property of the
673 pedestrian, an additional fine of up to $250 shall be paid. This
674 amount must be distributed pursuant to s. 318.21.

675 (f) A person cited for exceeding the speed limit within a
676 zone posted for any electronic or manual toll collection
677 facility shall pay a fine double the amount listed in paragraph
678 (b). However, no person cited for exceeding the speed limit in
679 any toll collection zone shall be subject to a doubled fine
680 unless the governmental entity or authority controlling the toll
681 collection zone first installs a traffic control device
682 providing warning that speeding fines are doubled. Any such
683 traffic control device must meet the requirements of the uniform
684 system of traffic control devices.
685 (g) A person cited for a second or subsequent violation of
686 exceeding the speed limit by 30 miles per hour and above within
687 a 12-month period shall pay a fine double the amount listed in
688 paragraph (b). For purposes of this paragraph, the term
689 "conviction" means a finding of guilt, with or without
690 adjudication of guilt, as a result of a jury verdict, nonjury
691 trial, or entry of a plea of guilty or nolo contendere,
692 notwithstanding s. 318.14(11).
693 (4) The penalty imposed under s. 316.545 shall be
694 determined by the officer in accordance with the provisions of
695 ss. 316.535 and 316.545.
696 (5)(a) One hundred dollars for a violation of s.
697 316.172(1)(a), failure to stop for a school bus. If, at a
698 hearing, the alleged offender is found to have committed this
699 offense, the court shall impose a minimum civil penalty of $100.
700 In addition to this penalty, for a second or subsequent offense
701 within a period of 5 years, the department shall suspend the
702 driver's license of the person for not less than 90 days and not
703 more than 6 months.

704 (b) Two hundred dollars for a violation of s.
705 316.172(1)(b), passing a school bus on the side that children
706 enter and exit when the school bus displays a stop signal. If,
707 at a hearing, the alleged offender is found to have committed
708 this offense, the court shall impose a minimum civil penalty of
709 $200. In addition to this penalty, for a second or subsequent
710 offense within a period of 5 years, the department shall suspend
711 the driver's license of the person for not less than 180 days
712 and not more than 1 year.
713 (6) One hundred dollars or the fine amount designated by
714 county ordinance, plus court costs for illegally parking, under
715 s. 316.1955, in a parking space provided for people who have
716 disabilities. However, this fine will be waived if a person
717 provides to the law enforcement agency that issued the citation
718 for such a violation proof that the person committing the
719 violation has a valid parking permit or license plate issued
720 pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845,
721 or s. 320.0848 or a signed affidavit that the owner of the
722 disabled parking permit or license plate was present at the time
723 the violation occurred, and that such a parking permit or
724 license plate was valid at the time the violation occurred. The
725 law enforcement officer, upon determining that all required
726 documentation has been submitted verifying that the required
727 parking permit or license plate was valid at the time of the
728 violation, must sign an affidavit of compliance. Upon provision
729 of the affidavit of compliance and payment of a dismissal fee of
730 up to $7.50 to the clerk of the circuit court, the clerk shall
731 dismiss the citation.
732 (7) One hundred dollars for a violation of s. 316.1001.
733 However, a person may elect to pay $30 to the clerk of the

734 court, in which case adjudication is withheld, and no points are
735 assessed under s. 322.27. Upon receipt of the fine, the clerk of
736 the court must retain $5 for administrative purposes and must
737 forward the $25 to the governmental entity that issued the
738 citation. Any funds received by a governmental entity for this
739 violation may be used for any lawful purpose related to the
740 operation or maintenance of a toll facility.
741 (8)(a) Any person who fails to comply with the court's
742 requirements or who fails to pay the civil penalties specified
743 in this section within the 30-day period provided for in s.
744 318.14 must pay an additional civil penalty of $12, $2.50 of
745 which must be remitted to the Department of Revenue for deposit
746 in the General Revenue Fund, and $9.50 of which must be remitted
747 to the Department of Revenue for deposit in the Highway Safety
748 Operating Trust Fund. The department shall contract with the
749 Florida Association of Court Clerks, Inc., to design, establish,
750 operate, upgrade, and maintain an automated statewide Uniform
751 Traffic Citation Accounting System to be operated by the clerks
752 of the court which shall include, but not be limited to, the
753 accounting for traffic infractions by type, a record of the
754 disposition of the citations, and an accounting system for the
755 fines assessed and the subsequent fine amounts paid to the
756 clerks of the court. On or before December 1, 2001, the clerks
757 of the court must provide the information required by this
758 chapter to be transmitted to the department by electronic
759 transmission pursuant to the contract.
760 (b) Any person who fails to comply with the court's
761 requirements as to civil penalties specified in this section due
762 to demonstrable financial hardship shall be authorized to
763 satisfy such civil penalties by public works or community

764 service. Each hour of such service shall be applied, at the rate
765 of the minimum wage, toward payment of the person's civil
766 penalties; provided, however, that if the person has a trade or
767 profession for which there is a community service need and
768 application, the rate for each hour of such service shall be the
769 average standard wage for such trade or profession. Any person
770 who fails to comply with the court's requirements as to such
771 civil penalties who does not demonstrate financial hardship may
772 also, at the discretion of the court, be authorized to satisfy
773 such civil penalties by public works or community service in the
774 same manner.
775 (c) If the noncriminal infraction has caused or resulted
776 in the death of another, the person who committed the infraction
777 may perform 120 community service hours under s. 316.027(4), in
778 addition to any other penalties.
779 (9) One hundred dollars for a violation of s. 316.1575.
780 (10) Twenty-five dollars for a violation of s. 316.2074.
781 (11)(a) In addition to the stated fine, court costs must
782 be paid in the following amounts and shall be deposited by the
783 clerk into the fine and forfeiture fund established pursuant to
784 s. 142.01:
785
786 For pedestrian infractions ..... $ 3.
787 For nonmoving traffic infractions ..... $ 16.
788 For moving traffic infractions ..... $ 30.
789 (b) In addition to the court cost required under paragraph
790 (a), up to $3 for each infraction shall be collected and
791 distributed by the clerk in those counties that have been
792 authorized to establish a criminal justice selection center or a

793 criminal justice access and assessment center pursuant to the
794 following special acts of the Legislature:
795 1. Chapter 87-423, Laws of Florida, for Brevard County.
796 2. Chapter 89-521, Laws of Florida, for Bay County.
797 3. Chapter 94-444, Laws of Florida, for Alachua County.
798 4. Chapter 97-333, Laws of Florida, for Pinellas County.
799
800 Funds collected by the clerk pursuant to this paragraph shall be
801 distributed to the centers authorized by those special acts.
802 (c) In addition to the court cost required under paragraph
803 (a), a $2.50 court cost must be paid for each infraction to be
804 distributed by the clerk to the county to help pay for criminal
805 justice education and training programs pursuant to s. 938.15.
806 Funds from the distribution to the county not directed by the
807 county to fund these centers or programs shall be retained by
808 the clerk and used for funding the court-related services of the
809 clerk.
810 (d) In addition to the court cost required under paragraph
811 (a), a $3 court cost must be paid for each infraction to be
812 distributed as provided in s. 938.01 and a $2 court cost as
813 provided in s. 938.15 when assessed by a municipality or county.
814 (12) Two ~~One~~ hundred dollars for a violation of s.
815 316.520(1) or (2). If, at a hearing, the alleged offender is
816 found to have committed this offense, the court shall impose a
817 minimum civil penalty of $200 ~~$100~~. For a second or subsequent
818 adjudication within a period of 5 years, the department shall
819 suspend the driver's license of the person for not less than 1
820 year ~~180 days~~ and not more than 2 years ~~1 year~~.
821 (13) In addition to any penalties imposed for noncriminal
822 traffic infractions pursuant to this chapter or imposed for

823 criminal violations listed in s. 318.17, a board of county
824 commissioners or any unit of local government which is
825 consolidated as provided by s. 9, Art. VIII of the State
826 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
827 Constitution of 1968:
828 (a) May impose by ordinance a surcharge of up to $15 for
829 any infraction or violation to fund state court facilities. The
830 court shall not waive this surcharge. Up to 25 percent of the
831 revenue from such surcharge may be used to support local law
832 libraries provided that the county or unit of local government
833 provides a level of service equal to that provided prior to July
834 1, 2004, which shall include the continuation of library
835 facilities located in or near the county courthouse or annexes.
836 (b) That imposed increased fees or service charges by
837 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the
838 purpose of securing payment of the principal and interest on
839 bonds issued by the county before July 1, 2003, to finance state
840 court facilities, may impose by ordinance a surcharge for any
841 infraction or violation for the exclusive purpose of securing
842 payment of the principal and interest on bonds issued by the
843 county before July 1, 2003, to fund state court facilities until
844 the date of stated maturity. The court shall not waive this
845 surcharge. Such surcharge may not exceed an amount per violation
846 calculated as the quotient of the maximum annual payment of the
847 principal and interest on the bonds as of July 1, 2003, divided
848 by the number of traffic citations for county fiscal year 2002-
849 2003 certified as paid by the clerk of the court of the county.
850 Such quotient shall be rounded up to the next highest dollar
851 amount. The bonds may be refunded only if savings will be
852 realized on payments of debt service and the refunding bonds are

853 scheduled to mature on the same date or before the bonds being
854 refunded.
855
856 A county may not impose both of the surcharges authorized under
857 paragraphs (a) and (b) concurrently. The clerk of court shall
858 report, no later than 30 days after the end of the quarter, the
859 amount of funds collected under this subsection during each
860 quarter of the fiscal year. The clerk shall submit the report,
861 in a format developed by the Office of State Courts
862 Administrator, to the chief judge of the circuit, the Governor,
863 the President of the Senate, and the Speaker of the House of
864 Representatives.
865 (14) In addition to any penalties imposed for noncriminal
866 traffic infractions under this chapter or imposed for criminal
867 violations listed in s. 318.17, any unit of local government
868 that is consolidated as provided by s. 9, Art. VIII of the State
869 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
870 State Constitution of 1968, and that is granted the authority in
871 the State Constitution to exercise all the powers of a municipal
872 corporation, and any unit of local government operating under a
873 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
874 VIII of the State Constitution of 1885, as preserved by s. 6(e),
875 Art. VIII of the State Constitution of 1968, that is granted the
876 authority in the State Constitution to exercise all the powers
877 conferred now or hereafter by general law upon municipalities,
878 may impose by ordinance a surcharge of up to $15 for any
879 infraction or violation. Revenue from the surcharge shall be
880 transferred to such unit of local government for the purpose of
881 replacing fine revenue deposited into the clerk's fine and
882 forfeiture fund under s. 142.01. The court may not waive this

883 surcharge. Proceeds from the imposition of the surcharge
884 authorized in this subsection shall not be used for the purpose
885 of securing payment of the principal and interest on bonds. This
886 subsection, and any surcharge imposed pursuant to this
887 subsection, shall stand repealed September 30, 2007.
888 (15) One hundred twenty-five dollars for a violation of s.
889 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
890 stop at a traffic signal. Sixty dollars shall be distributed as
891 provided in s. 318.21, and the remaining $65 shall be remitted
892 to the Department of Revenue for deposit into the Administrative
893 Trust Fund of the Department of Health.
894 (16) In addition to any penalties imposed, a surcharge of
895 $4 must be paid for all criminal offenses listed in s. 318.17
896 and for all noncriminal moving traffic violations under chapter
897 316. Revenue from the surcharge shall be remitted to the
898 Department of Revenue and deposited quarterly into the State
899 Agency Law Enforcement Radio System Trust Fund of the Department
900 of Management Services for the state agency law enforcement
901 radio system, as described in s. 282.1095.
902 Section 18. Section 318.19, Florida Statutes, is amended
903 to read:
904 318.19 Infractions requiring a mandatory hearing.--Any
905 person cited for the infractions listed in this section shall
906 not have the provisions of s. 318.14(2), (4), and (9) available
907 to him or her but must appear before the designated official at
908 the time and location of the scheduled hearing:
909 (1) Any infraction which results in a crash that causes
910 the death of another;
911 (2) Any infraction which results in a crash that causes
912 "serious bodily injury" of another as defined in s. 316.1933(1);

913 (3) Any infraction of s. 316.172(1)(b); ~~or~~
914 (4) Any infraction of s. 316.520(1) or (2); or
915 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
916 316.189 of exceeding the speed limit by 30 miles per hour or
917 more.
918 Section 19. Subsection (15) is added to section 318.21,
919 Florida Statutes, to read:
920 318.21 Disposition of civil penalties by county courts.--
921 All civil penalties received by a county court pursuant to the
922 provisions of this chapter shall be distributed and paid monthly
923 as follows:
924 (15) Notwithstanding subsections (1) and (2), the proceeds
925 from the surcharge imposed under to s. 318.18(16) shall be
926 distributed as provided in that subsection.
927 Section 20. Paragraph (c) of subsection (1) of section
928 319.14, Florida Statutes, is amended to read:
929 319.14 Sale of motor vehicles registered or used as
930 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
931 and nonconforming vehicles.--
932 (1)
933 (c) As used in this section:
934 1. "Police vehicle" means a motor vehicle owned or leased
935 by the state or a county or municipality, marked and outfitted
936 as a pursuit vehicle, and used in law enforcement.
937 2.a. "Short-term-lease vehicle" means a motor vehicle
938 leased without a driver and under a written agreement to one or
939 more persons from time to time for a period of less than 12
940 months.

941 b. "Long-term-lease vehicle" means a motor vehicle leased
942 without a driver and under a written agreement to one person for
943 a period of 12 months or longer.
944 c. "Lease vehicle" includes both short-term-lease vehicles
945 and long-term-lease vehicles.
946 3. "Rebuilt vehicle" means a motor vehicle or mobile home
947 built from salvage or junk, as defined in s. 319.30(1).
948 4. "Assembled from parts" means a motor vehicle or mobile
949 home assembled from parts or combined from parts of motor
950 vehicles or mobile homes, new or used. "Assembled from parts"
951 does not mean a motor vehicle defined as a "rebuilt vehicle" in
952 subparagraph 3., which has been declared a total loss pursuant
953 to s. 319.30.
954 5. "Kit car" means a motor vehicle assembled with a kit
955 supplied by a manufacturer to rebuild a wrecked or outdated
956 motor vehicle with a new body kit.
957 6. "Glider kit" means a vehicle assembled with a kit
958 supplied by a manufacturer to rebuild a wrecked or outdated
959 truck or truck tractor.
960 7. "Replica" means a complete new motor vehicle
961 manufactured to look like an old vehicle.
962 8. "Flood vehicle" means a motor vehicle or mobile home
963 that has been declared to be a total loss pursuant to s.
964 319.30(3)(a) resulting from damage caused by water.
965 9. "Nonconforming vehicle" means a motor vehicle which has
966 been purchased by a manufacturer pursuant to a settlement,
967 determination, or decision under chapter 681.
968 10. "Settlement" means an agreement entered into between a
969 manufacturer and a consumer that occurs after a dispute is
970 submitted to a program, or an informal dispute settlement

971 procedure established by a manufacturer or is approved for
972 arbitration before the New Motor Vehicle Arbitration Board as
973 defined in s. 681.102.
974 Section 21. Effective July 1, 2008, subsection (1) of
975 section 320.02, Florida Statutes, is amended to read:
976 320.02 Registration required; application for
977 registration; forms.--
978 (1) Except as otherwise provided in this chapter, every
979 owner or person in charge of a motor vehicle which is operated
980 or driven on the roads of this state shall register the vehicle
981 in this state. The owner or person in charge shall apply to the
982 department or to its authorized agent for registration of each
983 such vehicle on a form prescribed by the department. Prior to an
984 original registration of any motorcycle, motor-driven cycle, or
985 moped, the owner, if a natural person, shall present proof that
986 he or she has a valid motorcycle endorsement as required in
987 chapter 322. No registration is required for any motor vehicle
988 which is not operated on the roads of this state during the
989 registration period.
990 Section 22. Subsection (8) of section 320.03, Florida
991 Statutes, is amended to read:
992 320.03 Registration; duties of tax collectors;
993 International Registration Plan.--
994 (8) If the applicant's name appears on the list referred
995 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a
996 license plate or revalidation sticker may not be issued until
997 that person's name no longer appears on the list or until the
998 person presents a receipt from the clerk showing that the fines
999 outstanding have been paid. This subsection shall not apply to
1000 the owner of a leased vehicle, if the vehicle is registered in

1001 the name of the lessee of such vehicle. The tax collector and
1002 the clerk of the court are each entitled to receive monthly, as
1003 costs for implementing and administering this subsection, 10
1004 percent of the civil penalties and fines recovered from such
1005 persons. As used in this subsection, the term "civil penalties
1006 and fines" does not include a wrecker operator's lien as
1007 described in s. 713.78(13). If the tax collector has private tag
1008 agents, such tag agents are entitled to receive a pro rata share
1009 of the amount paid to the tax collector, based upon the
1010 percentage of license plates and revalidation stickers issued by
1011 the tag agent compared to the total issued within the county.
1012 The authority of any private agent to issue license plates shall
1013 be revoked, after notice and a hearing as provided in chapter
1014 120, if he or she issues any license plate or revalidation
1015 sticker contrary to the provisions of this subsection. This
1016 section applies only to the annual renewal in the owner's birth
1017 month of a motor vehicle registration and does not apply to the
1018 transfer of a registration of a motor vehicle sold by a motor
1019 vehicle dealer licensed under this chapter, except for the
1020 transfer of registrations which is inclusive of the annual
1021 renewals. This section does not affect the issuance of the title
1022 to a motor vehicle, notwithstanding s. 319.23(7)(b).
1023 Section 23. Paragraph (f) is added to subsection (3) and
1024 paragraph (c) is added to subsection (4) of section 320.07,
1025 Florida Statutes, to read:
1026 320.07 Expiration of registration; annual renewal
1027 required; penalties.--
1028 (3) The operation of any motor vehicle without having
1029 attached thereto a registration license plate and validation
1030 stickers, or the use of any mobile home without having attached

1031 thereto a mobile home sticker, for the current registration
1032 period shall subject the owner thereof, if he or she is present,
1033 or, if the owner is not present, the operator thereof to the
1034 following penalty provisions:
1035 (f) The owner of a leased motor vehicle shall not be
1036 responsible for any of the penalties specified in this
1037 subsection, if the motor vehicle is registered in the name of
1038 the lessee of such motor vehicle.
1039 (4)
1040 (c) The owner of a leased motor vehicle shall not be
1041 responsible for any delinquent fee specified in this subsection,
1042 if the motor vehicle is registered in the name of the lessee of
1043 such motor vehicle.
1044 Section 24. Section 320.0706, Florida Statutes, is amended
1045 to read:
1046 320.0706 Display of license plates on trucks.--The owner
1047 of any commercial truck of gross vehicle weight of 26,001 pounds
1048 or more shall display the registration license plate on both the
1049 front and rear of the truck in conformance with all the
1050 requirements of s. 316.605 that do not conflict with this
1051 section. To allow for better visibility, the owner of a dump
1052 truck may place the rear license plate on the gate so that the
1053 distance from the ground to the top of the license plate is no
1054 more than 60 inches. However, the owner of a truck tractor shall
1055 be required to display the registration license plate only on
1056 the front of such vehicle. Vehicle license plates shall be
1057 affixed and displayed in such a manner that the letters and
1058 numerals shall be read from left to right parallel to the
1059 ground. No vehicle license plate may be displayed in an inverted

1060 or reversed position or in such a manner that the letters and
1061 numbers and their proper sequence are not readily identifiable.
1062 Section 25. Subsection (48) of section 320.08058, Florida
1063 Statutes, is amended to read:
1064 320.08058 Specialty license plates.--
1065 (48) SPORTSMEN'S NATIONAL LAND TRUST LICENSE PLATES.--
1066 (a) The department shall develop a Sportsmen's National
1067 Land Trust license plate as provided in this section. The word
1068 "Florida" must appear at the top of the plate, and the words
1069 "Sportsmen's National Land Trust" must appear at the bottom of
1070 the plate.
1071 (b) The annual revenues from the sales of the license
1072 plate shall be distributed to the Sportsmen's National Land
1073 Trust. Such annual revenues must be used by the trust in the
1074 following manner:
1075 1. Fifty percent may be retained until ~~fifty percent of~~
1076 all startup costs for developing and establishing the plate have
1077 been recovered.
1078 2. Twenty-five percent must be used to fund programs and
1079 projects within the state that preserve open space and wildlife
1080 habitat, promote conservation, improve wildlife habitat, and
1081 establish open space for the perpetual use of the public.
1082 3. Twenty-five percent may be used for promotion,
1083 marketing, and administrative costs directly associated with
1084 operation of the trust.
1085 (c) When the provisions of subparagraph (b)1. are met,
1086 those annual revenues shall be used for the purposes of
1087 subparagraph (b)2.

1088 Section 26. Subsection (5) of section 320.0807, Florida
1089 Statutes, is renumbered as subsections (6) and a new subsection
1090 (5) is added to that section to read:
1091 320.0807 Special license plates for Governor and federal
1092 and state legislators.--
1093 (5) Upon application by any current or former President of
1094 the Senate and payment of the fees prescribed by s. 320.0805,
1095 the department is authorized to issue a license plate stamped in
1096 bold letters "Senate President" followed by the number assigned
1097 by the department or chosen by the applicant if the number is
1098 not already in use. Upon application by any current or former
1099 Speaker of the House of Representatives and payment of the fees
1100 prescribed by s. 320.0805, the department is authorized to issue
1101 a license plate stamped in bold letters "House Speaker" followed
1102 by the number assigned by the department or chosen by the
1103 applicant if the number is not already in use.
1104 Section 27. Subsection (4) is added to section 320.089,
1105 Florida Statutes, to read:
1106 320.089 Members of National Guard and active United States
1107 Armed Forces reservists; former prisoners of war; survivors of
1108 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
1109 Freedom and Operation Enduring Freedom veterans; special license
1110 plates; fee.--
1111 (4) Each owner or lessee of an automobile or truck for
1112 private use, truck weighing not more than 7,999 pounds, or
1113 recreational vehicle as specified in s. 320.08(9)(c) or (d),
1114 which automobile, truck, or recreational vehicle is not used for
1115 hire or commercial use, who is a resident of the state and a
1116 current or former member of the United States military who was
1117 deployed and served in Iraq during Operation Iraqi Freedom or in

1118 Afghanistan during Operation Enduring Freedom shall, upon
1119 application to the department, accompanied by proof of active
1120 membership or former active duty status during one of these
1121 operations, and upon payment of the license tax for the vehicle
1122 as provided in s. 320.08, be issued a license plate as provided
1123 by s. 320.06 upon which, in lieu of the registration license
1124 number prescribed by s. 320.06, shall be stamped the words
1125 "Operation Iraqi Freedom" or "Operation Enduring Freedom," as
1126 appropriate, followed by the registration license number of the
1127 plate.
1128 Section 28. Paragraphs (a) and (b) of subsection (4) and
1129 paragraph (b) of subsection (9) of section 320.27, Florida
1130 Statutes, are amended to read:
1131 320.27 Motor vehicle dealers.--
1132 (4) LICENSE CERTIFICATE.--
1133 (a) A license certificate shall be issued by the
1134 department in accordance with such application when the
1135 application is regular in form and in compliance with the
1136 provisions of this section. The license certificate may be in
1137 the form of a document or a computerized card as determined by
1138 the department. The actual cost of each original, additional, or
1139 replacement computerized card shall be borne by the licensee and
1140 is in addition to the fee for licensure. Such license, when so
1141 issued, entitles the licensee to carry on and conduct the
1142 business of a motor vehicle dealer. Each license issued to a
1143 franchise motor vehicle dealer expires annually on December 31
1144 unless revoked or suspended prior to that date. Each license
1145 issued to an independent or wholesale dealer or auction expires
1146 annually on April 30 unless revoked or suspended prior to that
1147 date. Not less than 60 days prior to the license expiration

1148 date, the department shall deliver or mail to each licensee the
1149 necessary renewal forms. Each independent dealer who has been in
1150 business for less than 15 years shall certify that the dealer
1151 ~~principal~~ (owner, partner, officer ~~of the corporation~~, or
1152 director of the licensee, or full-time employee of the licensee
1153 who holds a responsible management-level position) has completed
1154 8 hours of continuing education prior to filing the renewal
1155 forms with the department. Such certification shall be filed
1156 once every 2 years commencing with the 2006 renewal period. The
1157 continuing education shall include at least 2 hours of legal or
1158 legislative issues, 1 hour of department issues, and 5 hours of
1159 relevant motor vehicle industry topics. Continuing education
1160 shall be provided by dealer schools licensed under paragraph (b)
1161 either in a classroom setting or by correspondence. Such schools
1162 shall provide certificates of completion to the department and
1163 the customer which shall be filed with the license renewal form,
1164 and such schools may charge a fee for providing continuing
1165 education. Any licensee who does not file his or her application
1166 and fees and any other requisite documents, as required by law,
1167 with the department at least 30 days prior to the license
1168 expiration date shall cease to engage in business as a motor
1169 vehicle dealer on the license expiration date. A renewal filed
1170 with the department within 45 days after the expiration date
1171 shall be accompanied by a delinquent fee of $100. Thereafter, a
1172 new application is required, accompanied by the initial license
1173 fee. A license certificate duly issued by the department may be
1174 modified by endorsement to show a change in the name of the
1175 licensee, provided, as shown by affidavit of the licensee, the
1176 majority ownership interest of the licensee has not changed or
1177 the name of the person appearing as franchisee on the sales and

1178 service agreement has not changed. Modification of a license
1179 certificate to show any name change as herein provided shall not
1180 require initial licensure or reissuance of dealer tags; however,
1181 any dealer obtaining a name change shall transact all business
1182 in and be properly identified by that name. All documents
1183 relative to licensure shall reflect the new name. In the case of
1184 a franchise dealer, the name change shall be approved by the
1185 manufacturer, distributor, or importer. A licensee applying for
1186 a name change endorsement shall pay a fee of $25 which fee shall
1187 apply to the change in the name of a main location and all
1188 additional locations licensed under the provisions of subsection
1189 (5). Each initial license application received by the department
1190 shall be accompanied by verification that, within the preceding
1191 6 months, the applicant, or one or more of his or her designated
1192 employees, has attended a training and information seminar
1193 conducted by a licensed motor vehicle dealer training school.
1194 Any applicant for a new franchised motor vehicle dealer license
1195 who has held a valid franchised motor vehicle dealer license
1196 continuously for the past 2 years and who remains in good
1197 standing with the department is exempt from the prelicensing
1198 training requirement. Such seminar shall include, but is not
1199 limited to, statutory dealer requirements, which requirements
1200 include required bookkeeping and recordkeeping procedures,
1201 requirements for the collection of sales and use taxes, and such
1202 other information that in the opinion of the department will
1203 promote good business practices. No seminar may exceed 8 hours
1204 in length.
1205 (b) Each initial license application received by the
1206 department for licensure under subparagraph (1)(c)2. must be
1207 accompanied by verification that, within the preceding 6 months,

1208 the applicant (owner, partner, officer ~~of the corporation~~, or
1209 director of the applicant, or full-time employee of the
1210 applicant who holds a responsible management-level position) has
1211 successfully completed training conducted by a licensed motor
1212 vehicle dealer training school. Such training must include
1213 training in titling and registration of motor vehicles, laws
1214 relating to unfair and deceptive trade practices, laws relating
1215 to financing with regard to buy-here, pay-here operations, and
1216 such other information that in the opinion of the department
1217 will promote good business practices. Successful completion of
1218 this training shall be determined by examination administered at
1219 the end of the course and attendance of no less than 90 percent
1220 of the total hours required by such school. Any applicant who
1221 had held a valid motor vehicle dealer's license within the past
1222 2 years and who remains in good standing with the department is
1223 exempt from the requirements of this paragraph. ~~In the case of~~
1224 ~~nonresident applicants, the requirement to attend such training~~
1225 ~~shall be placed on any employee of the licensee who holds a~~
1226 ~~responsible management-level position and who is employed full-~~
1227 ~~time at the motor vehicle dealership.~~ The department shall have
1228 the authority to adopt any rule necessary for establishing the
1229 training curriculum; length of training, which shall not exceed
1230 8 hours for required department topics and shall not exceed an
1231 additional 24 hours for topics related to other regulatory
1232 agencies' instructor qualifications; and any other requirements
1233 under this section. The curriculum for other subjects shall be
1234 approved by any and all other regulatory agencies having
1235 jurisdiction over specific subject matters; however, the overall
1236 administration of the licensing of these dealer schools and
1237 their instructors shall remain with the department. Such schools

1238 are authorized to charge a fee. This privatized method for
1239 training applicants for dealer licensing pursuant to
1240 subparagraph (1)(c)2. is a pilot program that shall be evaluated
1241 by the department after it has been in operation for a period of
1242 2 years.
1243 (9) DENIAL, SUSPENSION, OR REVOCATION.--
1244 (b) The department may deny, suspend, or revoke any
1245 license issued hereunder or under the provisions of s. 320.77 or
1246 s. 320.771 upon proof that a licensee has committed, with
1247 sufficient frequency so as to establish a pattern of wrongdoing
1248 on the part of a licensee, violations of one or more of the
1249 following activities:
1250 1. Representation that a demonstrator is a new motor
1251 vehicle, or the attempt to sell or the sale of a demonstrator as
1252 a new motor vehicle without written notice to the purchaser that
1253 the vehicle is a demonstrator. For the purposes of this section,
1254 a "demonstrator," a "new motor vehicle," and a "used motor
1255 vehicle" shall be defined as under s. 320.60.
1256 2. Unjustifiable refusal to comply with a licensee's
1257 responsibility under the terms of the new motor vehicle warranty
1258 issued by its respective manufacturer, distributor, or importer.
1259 However, if such refusal is at the direction of the
1260 manufacturer, distributor, or importer, such refusal shall not
1261 be a ground under this section.
1262 3. Misrepresentation or false, deceptive, or misleading
1263 statements with regard to the sale or financing of motor
1264 vehicles which any motor vehicle dealer has, or causes to have,
1265 advertised, printed, displayed, published, distributed,
1266 broadcast, televised, or made in any manner with regard to the
1267 sale or financing of motor vehicles.

1268 4. Failure by any motor vehicle dealer to provide a
1269 customer or purchaser with an odometer disclosure statement and
1270 a copy of any bona fide written, executed sales contract or
1271 agreement of purchase connected with the purchase of the motor
1272 vehicle purchased by the customer or purchaser.
1273 5. Failure of any motor vehicle dealer to comply with the
1274 terms of any bona fide written, executed agreement, pursuant to
1275 the sale of a motor vehicle.
1276 6. Failure to apply for transfer of a title as prescribed
1277 in s. 319.23(6).
1278 7. Use of the dealer license identification number by any
1279 person other than the licensed dealer or his or her designee.
1280 8. Failure to continually meet the requirements of the
1281 licensure law.
1282 9. Representation to a customer or any advertisement to
1283 the public representing or suggesting that a motor vehicle is a
1284 new motor vehicle if such vehicle lawfully cannot be titled in
1285 the name of the customer or other member of the public by the
1286 seller using a manufacturer's statement of origin as permitted
1287 in s. 319.23(1).
1288 10. Requirement by any motor vehicle dealer that a
1289 customer or purchaser accept equipment on his or her motor
1290 vehicle which was not ordered by the customer or purchaser.
1291 11. Requirement by any motor vehicle dealer that any
1292 customer or purchaser finance a motor vehicle with a specific
1293 financial institution or company.
1294 12. Requirement by any motor vehicle dealer that the
1295 purchaser of a motor vehicle contract with the dealer for
1296 physical damage insurance.

1297 13. Perpetration of a fraud upon any person as a result of
1298 dealing in motor vehicles, including, without limitation, the
1299 misrepresentation to any person by the licensee of the
1300 licensee's relationship to any manufacturer, importer, or
1301 distributor.
1302 14. Violation of any of the provisions of s. 319.35 by any
1303 motor vehicle dealer.
1304 15. Sale by a motor vehicle dealer of a vehicle offered in
1305 trade by a customer prior to consummation of the sale, exchange,
1306 or transfer of a newly acquired vehicle to the customer, unless
1307 the customer provides written authorization for the sale of the
1308 trade-in vehicle prior to delivery of the newly acquired
1309 vehicle.
1310 16. Willful failure to comply with any administrative rule
1311 adopted by the department or the provisions of s. 320.131(8).
1312 17. Violation of chapter 319, this chapter, or ss.
1313 559.901-559.9221, which has to do with dealing in or repairing
1314 motor vehicles or mobile homes. Additionally, in the case of
1315 used motor vehicles, the willful violation of the federal law
1316 and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to
1317 the consumer sales window form.
1318 18. Failure to maintain evidence of notification to the
1319 owner or coowner of a vehicle regarding registration or titling
1320 fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.
1321 19. Failure to register a mobile home salesperson with the
1322 department as required by this chapter.
1323 Section 29. Subsection (5) is added to section 320.405,
1324 Florida Statutes, to read:
1325 320.405 International Registration Plan; inspection of
1326 records; hearings.--

1327 (5) The department is authorized to enter into agreements
1328 for scheduling payments of taxes and penalties due to the
1329 department as a result of audit assessments issued under this
1330 section.
1331 Section 30. Paragraph (c) is added to subsection (1) of
1332 section 320.77, Florida Statutes, subsections (8)-(15) are
1333 renumbered as subsections (9)-(16), respectively, and a new
1334 subsection (8) is added to that section, to read:
1335 320.77 License required of mobile home dealers.--
1336 (1) DEFINITIONS.--As used in this section:
1337 (c)1. "Mobile home salesperson" is a person, not otherwise
1338 expressly excluded by this section, who:
1339 a. Is employed as a salesperson by a mobile home dealer or
1340 who, under any form of contract, agreement, or arrangement with
1341 a dealer for commission, money, profit, or other thing of value
1342 sells, exchanges, buys, or offers for sale, negotiates, or
1343 attempts to negotiate a sale or exchange of an interest in a
1344 mobile home required to be titled under this chapter;
1345 b. Induces or attempts to induce any person to buy or
1346 exchange an interest in a mobile home required to be registered
1347 and receives or expects to receive a commission, money,
1348 brokerage fees, profit, or any other thing of value from either
1349 the seller or purchaser of the mobile home;
1350 c. Exercises managerial control over the business of a
1351 licensed mobile home dealer or supervises mobile home
1352 salespersons employed by a licensed mobile home dealer, whether
1353 compensated by salary or commission, including, but not limited
1354 to, any person employed by the mobile home dealer as a general
1355 manager, assistant general manager, or sales manager or any
1356 employee of a licensed mobile home dealer who negotiates with or

1357 induces a customer to enter into a security agreement or
1358 purchase agreement or purchase order for the sale of a mobile
1359 home on behalf of the licensed mobile home dealer.
1360 2. The term "mobile home salesperson" does not include any
1361 of the following:
1362 a. A representative of an insurance company or a finance
1363 company or a public official who, in the regular course of
1364 business, is required to dispose of or sell mobile homes under a
1365 contractual right or obligation of the employer or in the
1366 performance of an official duty or under the authority of any
1367 court of law, if the sale is for the purpose of saving the
1368 seller from any loss or pursuant to the authority of a court of
1369 competent jurisdiction.
1370 b. A persons who is licensed as a manufacturer,
1371 remanufacturer, transporter, distributor, or representative of
1372 mobile homes.
1373 c. A person who is licensed as a mobile home dealer under
1374 this chapter.
1375 d. A person not engaged in the purchase or sale of mobile
1376 homes as a business, but disposing of mobile homes acquired for
1377 his or her own use or for use in his or her business when the
1378 mobile homes have been so acquired and used in good faith and
1379 not for the purpose of avoiding the provisions of this chapter.
1380 (8) SALESPERSONS TO BE REGISTERED BY LICENSEES.--
1381 (a) Within 30 days after the date of hire, each licensee
1382 shall register with the department the name, local residence
1383 address, and home telephone number of each person employed by
1384 the licensee as a mobile home salesperson. A licensee may not
1385 provide a post office box in lieu of a physical residential
1386 address.

1387 (b) Each time a mobile home salesperson employed by a
1388 licensee changes his residence address, the salesperson shall
1389 notify the department within 20 days after such change.
1390 (c) Quarterly, each licensee is required to notify the
1391 department of the termination or separation from employment of
1392 each mobile home salesperson employed by the licensee. Each
1393 notification required in this subsection shall be on a form
1394 prescribed by the department.
1395 Section 31. Subsection (1), subsection (2), subsection
1396 (3), subsection (4), subsection (5), subsection (6), and
1397 subsection (7) of section 320.781, Florida Statutes, are amended
1398 to read:
1399 320.781 Mobile Home and Recreational Vehicle Protection
1400 Trust Fund.--
1401 (1) There is hereby established a Mobile Home and
1402 Recreational Vehicle Protection Trust Fund. The trust fund shall
1403 be administered and managed by the Department of Highway Safety
1404 and Motor Vehicles. The expenses incurred by the department in
1405 administering this section shall be paid only from
1406 appropriations made from the trust fund.
1407 (2) Beginning October 1, 1990, the department shall charge
1408 and collect an additional fee of $1 for each new mobile home and
1409 new recreational vehicle title transaction for which it charges
1410 a fee. This additional fee shall be deposited into the trust
1411 fund. The Department of Highway Safety and Motor Vehicles shall
1412 charge a fee of $40 per annual dealer and manufacturer license
1413 and license renewal, which shall be deposited into the trust
1414 fund. The sums deposited in the trust fund shall be used
1415 exclusively for carrying out the purposes of this section. These
1416 sums may be invested and reinvested by the Chief Financial

1417 Officer under the same limitations as apply to investment of
1418 other state funds, with all interest from these investments
1419 deposited to the credit of the trust fund.
1420 (3) The trust fund shall be used to satisfy any judgment
1421 or claim by any person, as provided by this section, against a
1422 mobile home or recreational vehicle dealer or broker for
1423 damages, restitution, or expenses, including reasonable
1424 attorney's fees, resulting from a cause of action directly
1425 related to the conditions of any written contract made by him or
1426 her in connection with the sale, exchange, or improvement of any
1427 mobile home or recreational vehicle, or for any violation of
1428 chapter 319 or this chapter.
1429 (4) The trust fund shall not be liable for any judgment,
1430 or part thereof, resulting from any tort claim except as
1431 expressly provided in subsection (3), nor for any punitive,
1432 exemplary, double, or treble damages. A person, the state, or
1433 any political subdivision thereof may recover against the mobile
1434 home or recreational vehicle dealer, broker, or surety, jointly
1435 and severally, for such damages, restitution, or expenses;
1436 provided, however, that in no event shall the trust fund or the
1437 surety be liable for an amount in excess of actual damages,
1438 restitution, or expenses.
1439 (5) Subject to the limitations and requirements of this
1440 section, the trust fund shall be used by the department to
1441 compensate persons who have unsatisfied judgments, or in certain
1442 limited circumstances unsatisfied claims, against a mobile home
1443 or recreational vehicle dealer or broker. The following
1444 conditions must exist to be eligible to file a claim against the
1445 trust fund: ~~in one of the following situations:~~

1446 (a) The claimant has obtained a final judgment which is
1447 unsatisfied against the mobile home or recreational vehicle
1448 dealer or broker or its surety jointly and severally, or
1449 against the mobile home dealer or broker only, if the court
1450 found that the surety was not liable due to prior payment
1451 of valid claims against the bond in an amount equal to, or
1452 greater than, the face amount of the applicable bond; or a
1453 claimant is prohibited from filing a claim in a lawsuit
1454 because a bankruptcy proceeding is pending by the dealer or
1455 broker; and the claimant has filed a claim in that
1456 bankruptcy proceeding; or the dealer or broker has closed
1457 his business and cannot be found or located within the
1458 jurisdiction of the State of Florida; and

1459 (b) ~~The claimant has obtained a judgment against the~~
1460 ~~surety of the mobile home or recreational vehicle dealer or~~
1461 ~~broker that is unsatisfied.~~ Either a claim has been made
1462 in a lawsuit against the surety and a judgment obtained is
1463 unsatisfied; or a claim has been made in a lawsuit against
1464 the surety which has been stayed or discharged in a
1465 bankruptcy proceeding; or a claimant is prohibited from
1466 filing a claim in a lawsuit because a bankruptcy proceeding
1467 is pending by surety or the surety is not liable due to the
1468 prior payment of valid claims against the bond in an amount
1469 equal to, or greater than, the face amount of the
1470 applicable bond. However, no claimant shall be entitled to
1471 recover against the trust fund if the claimant has
1472 recovered from the surety an amount that is equal to or
1473 greater than the total loss.

1474

1475 (c) ~~The claimant has alleged a claim against the~~
1476 ~~mobile home or recreational vehicle dealer or broker in a~~
1477 ~~lawsuit which has been stayed or discharged as a result of~~
1478 ~~the filing for reorganization or discharge in bankruptcy by~~
1479 ~~the dealer or broker, and judgment against the surety is~~
1480 ~~not possible because of the bankruptcy or liquidation of~~
1481 ~~the surety, or because the surety has been found by a court~~
1482 ~~of competent jurisdiction not to be liable due to prior~~
1483 ~~payment of valid claims against the bond in an amount equal~~
1484 ~~to, or greater than, the face amount of the applicable~~
1485 ~~bond.~~
1486 (6) In order to recover from the trust fund, the person
1487 must file an application and verified claim with the department.
1488 (a) If the claimant has obtained a judgment which is
1489 unsatisfied against the mobile home or recreational vehicle
1490 dealer or broker or its surety as set forth in this section, the
1491 verified claim must specify the following:
1492 1.a. That the judgment against the mobile home or
1493 recreational vehicle dealer or broker and its surety has been
1494 entered; or
1495 b. That the judgment against the mobile home or
1496 recreational vehicle dealer or broker contains a specific
1497 finding that the surety has no liability, that execution has
1498 been returned unsatisfied, and that a judgment lien has been
1499 perfected;
1500 2. The amount of actual damages broken down by category as
1501 awarded by the court or jury in the cause which resulted in the
1502 unsatisfied judgment, and the amount of attorney's fees set
1503 forth in the unsatisfied judgment;

1504 3. The amount of payment or other consideration received,
1505 if any, from the mobile home or recreational vehicle dealer or
1506 broker or its surety;
1507 4. The amount that may be realized, if any, from the sale
1508 of real or personal property or other assets of the judgment
1509 debtor liable to be sold or applied in satisfaction of the
1510 judgment and the balance remaining due on the judgment after
1511 application of the amount which has been realized and a
1512 certification that the claimant has made a good faith effort to
1513 collect the judgment; ~~and~~
1514 5. An assignment by claimant of rights, title or interest
1515 in the unsatisfied judgment and judgment lien to the department,
1516 and;
1517 6.~~5~~. Such other information as the department requires.
1518 (b) If the claimant has alleged a claim as set forth in
1519 paragraph (5)(a)~~(c)~~ and for the reasons set forth therein has
1520 not been able to secure a judgment, the verified claim must
1521 contain the following:
1522 1. A true copy of the pleadings in the lawsuit which was
1523 stayed or discharged by the bankruptcy court and the order of
1524 the bankruptcy court staying those proceedings, or a true copy
1525 of the claim which was filed in the bankruptcy court proceeding;
1526 2. Allegations of the acts or omissions by the mobile home
1527 or recreational vehicle dealer or broker setting forth the
1528 specific acts or omissions complained of which resulted in
1529 actual damage to the person, along with the actual dollar amount
1530 necessary to reimburse or compensate the person for costs or
1531 expenses resulting from the acts or omissions of which the
1532 person complained;

1533 3. True copies of all purchase agreements, notices,
1534 service or repair orders or papers or documents of any kind
1535 whatsoever which the person received in connection with the
1536 purchase, exchange, or lease-purchase of the mobile home or
1537 recreational vehicle from which the person's cause of action
1538 arises; ~~and~~
1539 4. An assignment by claimant of rights, title or interest
1540 in the claim to the department, and;
1541 5.~~4.~~ Such other information as the department requires.
1542 (c) The department may require such proof as it deems
1543 necessary to document the matters set forth in the claim.
1544 (7) Within 90 days after receipt of the application and
1545 verified claim, the department shall issue its determination on
1546 the claim. Such determination shall not be subject to the
1547 provisions of chapter 120, but shall be reviewable only by writ
1548 of certiorari in the circuit court in the county in which the
1549 claimant resides in the manner and within the time provided by
1550 the Florida Rules of Appellate Procedure. The claim must be paid
1551 within 45 days after the determination, or, if judicial review
1552 is sought, within 45 days after the review becomes final. A
1553 person may not be paid an amount from the fund in excess of
1554 $25,000 per mobile home or recreational vehicle, which would
1555 include any damages, restitution, payments received as the
1556 result of a claim against the surety bond, or expenses,
1557 including reasonable attorney's fees. Prior to payment, the
1558 person must execute an assignment to the department of all the
1559 person's rights and title to, and interest in, the unsatisfied
1560 judgment and judgment lien or the claim against the dealer or
1561 broker and its surety.

1562 (8) The department, in its discretion and where feasible,
1563 may try to recover from the mobile home or recreational vehicle
1564 dealer or broker, or the judgment debtor or its surety, all sums
1565 paid to persons from the trust fund. Any sums recovered shall be
1566 deposited to the credit of the trust fund. The department shall
1567 be awarded a reasonable attorney's fee for all actions taken to
1568 recover any sums paid to persons from the trust fund pursuant to
1569 this section.

1570 (9) This section does not apply to any claim, and a person
1571 may not recover against the trust fund as the result of any
1572 claim, against a mobile home or recreational vehicle dealer or
1573 broker resulting from a cause of action directly related to the
1574 sale, lease-purchase, exchange, brokerage, or installation of a
1575 mobile home or recreational vehicle prior to July 1, 2006
1576 ~~October 1, 1990~~.

1577 (10) Neither the department, nor the trust fund shall be
1578 liable to any person for recovery if the trust fund does not
1579 have the moneys necessary to pay amounts claimed. If the trust
1580 fund does not have sufficient assets to pay the claimant, it
1581 shall log the time and date of its determination for payment to
1582 a claimant. If moneys become available, the department shall pay
1583 the claimant whose unpaid claim is the earliest by time and date
1584 of determination.

1585 (11) It is unlawful for any person or his or her agent to
1586 file any notice, statement, or other document required under
1587 this section which is false or contains any material
1588 misstatement of fact. Any person who violates this subsection is
1589 guilty of a misdemeanor of the second degree, punishable as
1590 provided in s. 775.082 or s. 775.083.

1591 Section 32. Subsection (16) of section 322.01, Florida
1592 Statutes, is amended, subsections (24)-(40) are renumbered as
1593 subsections (25)-(41), respectively, subsections (41) and (42)
1594 are renumbered as subsections (44) and (45), respectively, and
1595 new subsections (24), (42), and (43) are added to that section,
1596 to read:
1597 322.01 Definitions.--As used in this chapter:
1598 (16) "Driver's license" means a certificate that ~~which~~,
1599 subject to all other requirements of law, authorizes an
1600 individual to drive a motor vehicle and that denotes an
1601 operator's license as defined in 49 U.S.C. s. 30301.
1602 (24) "Identification card" means a personal identification
1603 card issued by the department that conforms to the definition in
1604 18 U.S.C. s. 1028(D).
1605 (42) "Temporary driver's license" means a certificate
1606 issued by the department that, subject to all other requirements
1607 of law, authorizes an individual to drive a motor vehicle,
1608 denotes an operator's license as defined in 49 U.S.C. s. 30301,
1609 and denotes that the holder is not a permanent resident of the
1610 United States but is permitted to stay in the United States for
1611 a short duration of time specified on the license.
1612 (43) "Temporary identification card" means a personal
1613 identification card issued by the department that conforms to
1614 the definition in 18 U.S.C. s. 1028(D) and denotes that the
1615 holder is not a permanent resident of the United States but is
1616 permitted to stay in the United States for a short duration of
1617 time specified on the card.
1618 Section 33. Subsection (2) of section 322.05, Florida
1619 Statutes, is amended to read:

1620 322.05 Persons not to be licensed.--The department may not
1621 issue a license:
1622 (2) To a person who is at least 16 years of age but is
1623 less than 18 years of age unless the person meets the
1624 requirements of s. 322.091 and holds a valid:
1625 (a) Learner's driver's license for at least 12 months,
1626 with no moving traffic convictions, before applying for a
1627 license;
1628 (b) Learner's driver's license for at least 12 months and
1629 who has a moving traffic conviction but elects to attend a
1630 traffic driving school for which adjudication must be withheld
1631 pursuant to s. 318.14; or
1632 (c) License that was issued in another state or in a
1633 foreign jurisdiction and that would not be subject to suspension
1634 or revocation under the laws of this state.
1635 Section 34. Subsection (1) of section 322.051, Florida
1636 Statutes, is amended to read:
1637 322.051 Identification cards.--
1638 (1) Any person who is 5 ~~12~~ years of age or older, or any
1639 person who has a disability, regardless of age, who applies for
1640 a disabled parking permit under s. 320.0848, may be issued an
1641 identification card by the department upon completion of an
1642 application and payment of an application fee.
1643 (a) Each such application shall include the following
1644 information regarding the applicant:
1645 1. Full name (first, middle or maiden, and last), gender,
1646 social security card number, county of residence and mailing
1647 address, country of birth, and a brief description.
1648 2. Proof of birth date satisfactory to the department.

1649 3. Proof of identity satisfactory to the department. Such
1650 proof must include one of the following documents issued to the
1651 applicant:
1652 a. A driver's license record or identification card record
1653 from another jurisdiction that required the applicant to submit
1654 a document for identification which is substantially similar to
1655 a document required under sub-subparagraph b., sub-subparagraph
1656 c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph
1657 f., or sub-subparagraph g.;
1658 b. A certified copy of a United States birth certificate;
1659 c. A United States passport;
1660 d. A naturalization certificate issued by the United
1661 States Department of Homeland Security;
1662 e. An alien registration receipt card (green card);
1663 f. An employment authorization card issued by the United
1664 States Department of Homeland Security; or
1665 g. Proof of nonimmigrant classification provided by the
1666 United States Department of Homeland Security, for an original
1667 identification card. In order to prove such nonimmigrant
1668 classification, applicants may produce but are not limited to
1669 the following documents:
1670 (I) A notice of hearing from an immigration court
1671 scheduling a hearing on any proceeding.
1672 (II) A notice from the Board of Immigration Appeals
1673 acknowledging pendency of an appeal.
1674 (III) Notice of the approval of an application for
1675 adjustment of status issued by the United States Bureau of
1676 Citizenship and Immigration Services.
1677 (IV) Any official documentation confirming the filing of a
1678 petition for asylum <u>or refugee</u> status or any other relief issued

1679 by the United States Bureau of Citizenship and Immigration
1680 Services.
1681 (V) Notice of action transferring any pending matter from
1682 another jurisdiction to Florida, issued by the United States
1683 Bureau of Citizenship and Immigration Services.
1684 (VI) Order of an immigration judge or immigration officer
1685 granting any relief that authorizes the alien to live and work
1686 in the United States including, but not limited to asylum.
1687 (VII) Evidence that an application is pending for
1688 adjustment of status to that of an alien lawfully admitted for
1689 permanent residence in the United States or conditional
1690 permanent resident status in the United States, provided that a
1691 visa number is available with a current priority date for
1692 processing by the United States Citizenship and Immigration
1693 Services.
1694
1695 Presentation of any of the documents described in sub-
1696 subparagraph f. or sub-subparagraph g. entitles the applicant to
1697 an identification card for a period not to exceed the expiration
1698 date of the document presented or 1 year ~~2 years~~, whichever
1699 first occurs.
1700 (b) An application for an identification card must be
1701 signed and verified by the applicant in a format designated by
1702 the department before a person authorized to administer oaths.
1703 The fee for an identification card is $3, including payment for
1704 the color photograph or digital image of the applicant.
1705 (c) Each such applicant may include fingerprints and any
1706 other unique biometric means of identity.
1707 Section 35. Paragraph (c) of subsection (2) of section
1708 322.08, Florida Statutes, is amended to read:

1709 322.08 Application for license.--
1710 (2) Each such application shall include the following
1711 information regarding the applicant:
1712 (c) Proof of identity satisfactory to the department. Such
1713 proof must include one of the following documents issued to the
1714 applicant:
1715 1. A driver's license record or identification card record
1716 from another jurisdiction that required the applicant to submit
1717 a document for identification which is substantially similar to
1718 a document required under subparagraph 2., subparagraph 3.,
1719 subparagraph 4., subparagraph 5., subparagraph 6., or
1720 subparagraph 7.;
1721 2. A certified copy of a United States birth certificate;
1722 3. A United States passport;
1723 4. A naturalization certificate issued by the United
1724 States Department of Homeland Security;
1725 5. An alien registration receipt card (green card);
1726 6. An employment authorization card issued by the United
1727 States Department of Homeland Security; or
1728 7. Proof of nonimmigrant classification provided by the
1729 United States Department of Homeland Security, for an original
1730 driver's license. In order to prove nonimmigrant classification,
1731 an applicant may produce the following documents, including, but
1732 not limited to:
1733 a. A notice of hearing from an immigration court
1734 scheduling a hearing on any proceeding.
1735 b. A notice from the Board of Immigration Appeals
1736 acknowledging pendency of an appeal.

1737 c. A notice of the approval of an application for
1738 adjustment of status issued by the United States Immigration and
1739 Naturalization Service.
1740 d. Any official documentation confirming the filing of a
1741 petition for asylum or refugee status or any other relief issued
1742 by the United States Immigration and Naturalization Service.
1743 e. A notice of action transferring any pending matter from
1744 another jurisdiction to this state issued by the United States
1745 Immigration and Naturalization Service.
1746 f. An order of an immigration judge or immigration officer
1747 granting any relief that authorizes the alien to live and work
1748 in the United States, including, but not limited to, asylum.
1749 g. Evidence that an application is pending for adjustment
1750 of status to that of an alien lawfully admitted for permanent
1751 residence in the United States or conditional permanent resident
1752 status in the United States, provided that a visa number is
1753 available with a current priority date for processing by the
1754 United States Citizenship and Immigration Services.
1755
1756 Presentation of any of the documents in subparagraph 6. or
1757 subparagraph 7. entitles the applicant to a driver's license or
1758 temporary permit for a period not to exceed the expiration date
1759 of the document presented or 1 year ~~2 years~~, whichever occurs
1760 first.
1761 Section 36. Effective July 1, 2008, paragraph (a) of
1762 subsection (5) of section 322.12, Florida Statutes, is amended
1763 to read:
1764 322.12 Examination of applicants.--
1765 (5)(a) The department shall formulate a separate
1766 examination for applicants for licenses to operate motorcycles.

1767 Any applicant for a driver's license who wishes to operate a
1768 motorcycle, and who is otherwise qualified, must successfully
1769 complete such an examination, which is in addition to the
1770 examination administered under subsection (3). The examination
1771 must test the applicant's knowledge of the operation of a
1772 motorcycle and of any traffic laws specifically relating thereto
1773 and must include an actual demonstration of his or her ability
1774 to exercise ordinary and reasonable control in the operation of
1775 a motorcycle. Any applicant who fails to pass the initial
1776 knowledge examination will incur a $5 fee for each subsequent
1777 examination, to be deposited into the Highway Safety Operating
1778 Trust Fund. Any applicant who fails to pass the initial skills
1779 examination will incur a $10 fee for each subsequent
1780 examination, to be deposited into the Highway Safety Operating
1781 Trust Fund. In the formulation of the examination, the
1782 department shall consider the use of the Motorcycle Operator
1783 Skills Test and the Motorcycle in Traffic Test offered by the
1784 Motorcycle Safety Foundation. The department shall indicate on
1785 the license of any person who successfully completes the
1786 examination that the licensee is authorized to operate a
1787 motorcycle. If the applicant wishes to be licensed to operate a
1788 motorcycle only, he or she need not take the skill or road test
1789 required under subsection (3) for the operation of a motor
1790 vehicle, and the department shall indicate such a limitation on
1791 his or her license as a restriction. Every first-time applicant
1792 for licensure to operate a motorcycle ~~who is under 21 years of~~
1793 ~~age~~ must provide proof of completion of a motorcycle safety
1794 course, as provided for in s. 322.0255, before the applicant may
1795 be licensed to operate a motorcycle.

1796 Section 37. Subsection (8) of section 322.121, Florida
1797 Statutes, is amended to read:
1798 322.121 Periodic reexamination of all drivers.--
1799 (8) In addition to any other examination authorized by
1800 this section, an applicant for a renewal of an endorsement
1801 issued under s. 322.57(1)(a), (b), (c), (d), ~~or~~ (e), or (f) may
1802 be required to complete successfully an examination of his or
1803 her knowledge regarding state and federal rules, regulations,
1804 and laws, governing the type of vehicle which he or she is
1805 seeking an endorsement to operate.
1806 Section 38. Subsections (1) through (5), paragraphs (a)
1807 and (b) of subsection (6), subsections (7) and (8), paragraph
1808 (b) of subsection (10), and subsections (13) and (14) of section
1809 322.2615, Florida Statutes, are amended to read:
1810 322.2615 Suspension of license; right to review.--
1811 (1)(a) A law enforcement officer or correctional officer
1812 shall, on behalf of the department, suspend the driving
1813 privilege of a person who is driving or in actual physical
1814 control of a motor vehicle with an ~~has been arrested by a law~~
1815 ~~enforcement officer for a violation of s. 316.193, relating to~~
1816 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1817 higher~~,~~ or of a person who has refused to submit to a ~~breath,~~
1818 urine~~, or blood~~ test or a test of his or her breath-alcohol or
1819 blood-alcohol level ~~authorized by s. 316.1932~~. The officer shall
1820 take the person's driver's license and issue the person a 10-day
1821 temporary permit if the person is otherwise eligible for the
1822 driving privilege and shall issue the person a notice of
1823 suspension. If a blood test has been administered, ~~the results~~
1824 ~~of which are not available to~~ the officer or ~~at the time of the~~
1825 ~~arrest,~~ the agency employing the officer shall transmit the ~~such~~

1826 results to the department within 5 days after receipt of the
1827 results. If the department then determines that the person ~~was~~
1828 ~~arrested for a violation of s. 316.193 and that the person~~ had a
1829 blood-alcohol level or breath-alcohol level of 0.08 or higher,
1830 the department shall suspend the person's driver's license
1831 pursuant to subsection (3).
1832 (b) The suspension under paragraph (a) shall be pursuant
1833 to, and the notice of suspension shall inform the driver of, the
1834 following:
1835 1.a. The driver refused to submit to a lawful breath,
1836 blood, or urine test and his or her driving privilege is
1837 suspended for a period of 1 year for a first refusal or for a
1838 period of 18 months if his or her driving privilege has been
1839 previously suspended as a result of a refusal to submit to such
1840 a test; or
1841 b. The driver <u>was driving or in actual physical control of</u>
1842 <u>a motor vehicle</u> ~~violated s. 316.193 by driving~~ with an unlawful
1843 blood-alcohol level or breath-alcohol level <u>of 0.08 or higher</u> ~~as~~
1844 ~~provided in that section~~ and his or her driving privilege is
1845 suspended for a period of 6 months for a first offense or for a
1846 period of 1 year if his or her driving privilege has been
1847 previously suspended <u>under this section</u> ~~for a violation of s.~~
1848 ~~316.193~~.
1849 2. The suspension period shall commence on the date of
1850 ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~
1851 ~~later~~.
1852 3. The driver may request a formal or informal review of
1853 the suspension by the department within 10 days after the date
1854 of ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~
1855 ~~later~~.

1856 4. The temporary permit issued at the time of suspension
1857 ~~arrest~~ will expire at midnight of the 10th day following the
1858 date of ~~arrest or~~ issuance of the notice of suspension~~,~~
1859 ~~whichever is later~~.
1860 5. The driver may submit to the department any materials
1861 relevant to the suspension ~~arrest~~.
1862 (2) Except as provided in paragraph (1)(a), the law
1863 enforcement officer shall forward to the department, within 5
1864 days after issuing ~~the date of the arrest, a copy of~~ the notice
1865 of suspension, the person's driver's license and ~~of the person~~
1866 ~~arrested, and a report of the arrest, including~~ an affidavit
1867 stating the officer's grounds for belief that the person was
1868 driving or in actual physical control of a motor vehicle while
1869 under the influence of alcoholic beverages or chemical or
1870 controlled substances ~~arrested was in violation of s. 316.193~~;
1871 the results of any breath or blood test or an affidavit stating
1872 that a breath, blood, or urine test was requested by a law
1873 enforcement officer or correctional officer and that the person
1874 ~~arrested~~ refused to submit; ~~a copy of the citation issued to the~~
1875 ~~person arrested; and~~ the officer's description of the person's
1876 field sobriety test, if any; a copy of the crash report, if any;
1877 and the notice of suspension. The failure of the officer to
1878 submit materials within the 5-day period specified in this
1879 subsection and in subsection (1) shall not affect the
1880 department's ability to consider any evidence submitted at or
1881 prior to the hearing. The officer may also submit a copy of a
1882 videotape of the field sobriety test or the attempt to
1883 administer such test. Materials submitted to the department by a
1884 law enforcement agency or correctional agency shall be
1885 considered self-authenticating and shall be in the record for

1886 consideration by the hearing officer. Notwithstanding s.
1887 316.066(4), the crash report shall be considered by the hearing
1888 officer.
1889 (3) If the department determines that the license ~~of the~~
1890 ~~person arrested~~ should be suspended pursuant to this section and
1891 if the notice of suspension has not already been served upon the
1892 person by a law enforcement officer or correctional officer as
1893 provided in subsection (1), the department shall issue a notice
1894 of suspension and, unless the notice is mailed pursuant to s.
1895 322.251, a temporary permit which expires 10 days after the date
1896 of issuance if the driver is otherwise eligible.
1897 (4) If the person whose license is suspended ~~arrested~~
1898 requests an informal review pursuant to subparagraph (1)(b)3.,
1899 the department shall conduct the informal review by a hearing
1900 officer employed by the department. Such informal review hearing
1901 shall consist solely of an examination by the department of the
1902 materials submitted by a law enforcement officer or correctional
1903 officer and by the person whose license is suspended ~~arrested~~,
1904 and the presence of an officer or witness is not required.
1905 (5) After completion of the informal review, notice of the
1906 department's decision sustaining, amending, or invalidating the
1907 suspension of the person's driver's license ~~of the person~~
1908 ~~arrested~~ must be provided to such person. Such notice must be
1909 mailed to the person at the last known address shown on the
1910 department's records, or to the address provided in the law
1911 enforcement officer's report if such address differs from the
1912 address of record, within 21 days after the expiration of the
1913 temporary permit issued pursuant to subsection (1) or subsection
1914 (3).

1915 (6)(a) If the person whose license is suspended ~~arrested~~
1916 requests a formal review, the department must schedule a hearing
1917 to be held within 30 days after such request is received by the
1918 department and must notify the person of the date, time, and
1919 place of the hearing.
1920 (b) Such formal review hearing shall be held before a
1921 hearing officer employed by the department, and the hearing
1922 officer shall be authorized to administer oaths, examine
1923 witnesses and take testimony, receive relevant evidence, issue
1924 subpoenas for the officers and witnesses identified in documents
1925 provided in subsection (2), regulate the course and conduct of
1926 the hearing, question witnesses, and make a ruling on the
1927 suspension. The ~~department and the person arrested may subpoena~~
1928 ~~witnesses, and the~~ party requesting the presence of a witness
1929 shall be responsible for the payment of any witness fees and for
1930 notifying in writing the state attorney's office in the
1931 appropriate circuit of the issuance of the subpoena. If the
1932 person who requests a formal review hearing fails to appear and
1933 the hearing officer finds such failure to be without just cause,
1934 the right to a formal hearing is waived and the suspension shall
1935 be sustained.
1936 (7) In a formal review hearing under subsection (6) or an
1937 informal review hearing under subsection (4), the hearing
1938 officer shall determine by a preponderance of the evidence
1939 whether sufficient cause exists to sustain, amend, or invalidate
1940 the suspension. The scope of the review shall be limited to the
1941 following issues:
1942 (a) If the license was suspended for driving with an
1943 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1944 higher ~~in violation of s. 316.193~~:

1945 1. Whether the ~~arresting~~ law enforcement officer had
1946 probable cause to believe that the person whose license is
1947 suspended was driving or in actual physical control of a motor
1948 vehicle in this state while under the influence of alcoholic
1949 beverages or chemical or controlled substances.
1950 ~~2. Whether the person was placed under lawful arrest for a~~
1951 ~~violation of s. 316.193.~~
1952 2.~~3.~~ Whether the person whose license is suspended had an
1953 unlawful blood-alcohol level or breath-alcohol level of 0.08 or
1954 higher as provided in s. 316.193.
1955 (b) If the license was suspended for refusal to submit to
1956 a breath, blood, or urine test:
1957 1. Whether the ~~arresting~~ law enforcement officer had
1958 probable cause to believe that the person whose license is
1959 suspended was driving or in actual physical control of a motor
1960 vehicle in this state while under the influence of alcoholic
1961 beverages or chemical or controlled substances.
1962 ~~2. Whether the person was placed under lawful arrest for a~~
1963 ~~violation of s. 316.193.~~
1964 2.~~3.~~ Whether the person whose license is suspended refused
1965 to submit to any such test after being requested to do so by a
1966 law enforcement officer or correctional officer.
1967 3.~~4.~~ Whether the person whose license is suspended was
1968 told that if he or she refused to submit to such test his or her
1969 privilege to operate a motor vehicle would be suspended for a
1970 period of 1 year or, in the case of a second or subsequent
1971 refusal, for a period of 18 months.
1972 (8) Based on the determination of the hearing officer
1973 pursuant to subsection (7) for both informal hearings under

1974 subsection (4) and formal hearings under subsection (6), the
1975 department shall:
1976 (a) Sustain the suspension of the person's driving
1977 privilege for a period of 1 year for a first refusal, or for a
1978 period of 18 months if the driving privilege of such person has
1979 been previously suspended as a result of a refusal to submit to
1980 such tests, if the ~~arrested~~ person refused to submit to a lawful
1981 breath, blood, or urine test. The suspension period commences on
1982 the date of ~~the arrest or~~ issuance of the notice of suspension~~,~~
1983 ~~whichever is later~~.
1984 (b) Sustain the suspension of the person's driving
1985 privilege for a period of 6 months for a blood-alcohol level or
1986 breath-alcohol level of 0.08 or higher ~~violation of s. 316.193~~,
1987 or for a period of 1 year if the driving privilege of such
1988 person has been previously suspended under this section as a
1989 result of driving with an unlawful blood-alcohol level or
1990 breath-alcohol level ~~a violation of s. 316.193~~. The suspension
1991 period commences on the date of ~~the arrest or~~ issuance of the
1992 notice of suspension~~, whichever is later~~.
1993 (10) A person whose driver's license is suspended under
1994 subsection (1) or subsection (3) may apply for issuance of a
1995 license for business or employment purposes only if the person
1996 is otherwise eligible for the driving privilege pursuant to s.
1997 322.271.
1998 (b) If the suspension of the person's driver's license ~~of~~
1999 ~~the person arrested for a violation of s. 316.193,~~ relating to
2000 an unlawful blood-alcohol level or breath-alcohol level of 0.08
2001 or higher~~,~~ is sustained, the person is not eligible to receive a
2002 license for business or employment purposes only pursuant to s.
2003 322.271 until 30 days have elapsed after the expiration of the

2004 last temporary permit issued. If the driver is not issued a 10-
2005 day permit pursuant to this section or s. 322.64 because he or
2006 she is ineligible for the permit and the suspension ~~for a~~
2007 ~~violation of s. 316.193,~~ relating to an unlawful blood-alcohol
2008 level or breath-alcohol level of 0.08 or higher~~,~~ is not
2009 invalidated by the department, the driver is not eligible to
2010 receive a business or employment license pursuant to s. 322.271
2011 until 30 days have elapsed from the date of the suspension
2012 ~~arrest~~.

2013 (13) A person may appeal any decision of the department
2014 sustaining a suspension of his or her driver's license by a
2015 petition for writ of certiorari to the circuit court in the
2016 county wherein such person resides or wherein a formal or
2017 informal review was conducted pursuant to s. 322.31. However, an
2018 appeal shall not stay the suspension. A law enforcement agency
2019 may appeal any decision of the department invalidating a
2020 suspension by a petition for writ of certiorari to the circuit
2021 court in the county where a formal or informal review was
2022 conducted. This subsection shall not be construed to provide for
2023 a de novo appeal.

2024 (14)(a) The decision of the department under this section
2025 or any circuit court review thereof may not be considered in any
2026 trial for a violation of s. 316.193, and a written statement
2027 submitted by a person in his or her request for departmental
2028 review under this section may not be admitted into evidence
2029 against him or her in any such trial.

2030 (b) The disposition of any related criminal proceedings
2031 does not affect a suspension for refusal to submit to a blood,
2032 breath, or urine test~~, authorized by s. 316.1932 or s. 316.1933,~~
2033 imposed under this section.

2034 Section 39. Paragraph (d) of subsection (3) of section
2035 322.27, Florida Statutes, is amended, and paragraph (j) is added
2036 to that subsection, to read:
2037 322.27 Authority of department to suspend or revoke
2038 license.--
2039 (3) There is established a point system for evaluation of
2040 convictions of violations of motor vehicle laws or ordinances,
2041 and violations of applicable provisions of s. 403.413(6)(b) when
2042 such violations involve the use of motor vehicles, for the
2043 determination of the continuing qualification of any person to
2044 operate a motor vehicle. The department is authorized to suspend
2045 the license of any person upon showing of its records or other
2046 good and sufficient evidence that the licensee has been
2047 convicted of violation of motor vehicle laws or ordinances, or
2048 applicable provisions of s. 403.413(6)(b), amounting to 12 or
2049 more points as determined by the point system. The suspension
2050 shall be for a period of not more than 1 year.
2051 (d) The point system shall have as its basic element a
2052 graduated scale of points assigning relative values to
2053 convictions of the following violations:
2054 1. Reckless driving, willful and wanton--4 points.
2055 2. Leaving the scene of a crash resulting in property
2056 damage of more than $50--6 points.
2057 3. Unlawful speed resulting in a crash--6 points.
2058 4. Passing a stopped school bus--4 points.
2059 5. Unlawful speed:
2060 a. Not in excess of 15 miles per hour of lawful or posted
2061 speed--3 points.
2062 b. In excess of 15 miles per hour <u>but not in excess of 30</u>
2063 <u>miles per hour</u> of lawful or posted speed--4 points.

2064 c. In excess of 30 miles per hour of lawful or posted
2065 speed--6 points.
2066 6.a. A violation of a traffic control signal device as
2067 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
2068 b. A violation of a traffic control signal device as
2069 provided in s. 316.074(1) or s. 316.075(1)(c)1. resulting in a
2070 crash--6 points.
2071 7. All other moving violations (including parking on a
2072 highway outside the limits of a municipality)--3 points.
2073 However, no points shall be imposed for a violation of s.
2074 316.0741 or s. 316.2065(12).
2075 8. Any moving violation covered above, excluding unlawful
2076 speed, resulting in a crash--4 points.
2077 9. Any conviction under s. 403.413(6)(b)--3 points.
2078 10. Any conviction under s. 316.0775(2)--4 points.
2079 (j) For purposes of sub-subparagraph (d)5.c., the term
2080 "conviction" means a finding of guilt, with or without
2081 adjudication of guilt, as a result of a jury verdict, nonjury
2082 trial, or entry of a plea of guilty or nolo contendere,
2083 notwithstanding s. 318.14(11).
2084 Section 40. Except as otherwise expressly provided in this
2085 act, this act shall take effect October 1, 2006.
2086
2087
2088 ========== T I T L E A M E N D M E N T ==========
2089 Remove the entire title and insert:
2090 An act relating to highway safety and motor vehicles; amending
2091 s. 207.008, F.S.; revising requirements for motor carriers to
2092 retain certain records as required by the Department of Highway
2093 Safety and Motor Vehicles for tax purposes; amending s. 207.021,

2094 F.S.; authorizing the department to adopt rules establishing
2095 informal conferences to resolve disputes with motor carriers
2096 arising from the assessment of taxes, penalties, or interest or
2097 the denial of refunds; specifying certain rights of the motor
2098 carrier; providing for closing agreements to settle or
2099 compromise the taxpayer's liability; providing conditions for
2100 settlement or compromise; authorizing installment payment to
2101 settle liability; amending s. 261.10, F.S.; providing a
2102 limitation on liability in off-highway vehicle recreation;
2103 creating s. 261.20, F.S.; authorizing operations of off-highway
2104 vehicles on public lands; providing restrictions; requiring
2105 safety courses; defining prohibited acts; providing penalties;
2106 amending s. 316.003, F.S.; revising the definitions of "motor
2107 vehicle," "motorcycle," and "motorized scooter"; defining
2108 "miniature motorcycle" and "full mount"; revising the definition
2109 of "saddle mount" to provide for a full mount; amending s.
2110 316.211, F.S.; requiring motorcycles registered to certain
2111 persons to display a license plate that is unique in design and
2112 color; providing penalties; creating s. 316.2123, F.S.;
2113 providing for all-terrain vehicle operation under certain
2114 conditions; requiring the operator to provide proof of ownership
2115 to a law enforcement officer; creating s. 316.2128, F.S.;
2116 prohibiting use of motorized scooters and miniature motorcycles
2117 on public roads and sidewalks; requiring the operator to possess
2118 proof of ownership; prohibiting causing or allowing a child or
2119 ward to operate a motorized scooter or miniature motorcycle on
2120 public roads or sidewalks or without proof of ownership;
2121 providing penalties; providing requirements for commercial sale
2122 of motorized scooters and miniature motorcycles; providing that
2123 a violation of the commercial sales requirements is an unfair

2124 and deceptive trade practice; amending s. 316.221, F.S.;
2125 providing an exemption from certain taillamp requirements for
2126 dump trucks and vehicles with dump bodies; amending s. 316.302,
2127 F.S.; updating reference to federal commercial motor vehicle
2128 regulations; revising hours-of-service requirements for certain
2129 intrastate motor carriers; revising conditions for an exemption
2130 from commercial driver license requirements; revising weight
2131 requirements for application of certain exceptions to specified
2132 federal regulations and to operation of certain commercial motor
2133 vehicles by persons of a certain age; amending s. 316.1001,
2134 F.S.; amending s. 316.1955, F.S.; amending s. 316.515, F.S.;
2135 authorizing certain uses of forestry equipment; providing width
2136 and speed limitations; requiring such vehicles to be operated in
2137 accordance with specified safety requirements; revising length
2138 and mount requirements for automobile towaway and driveaway
2139 operations; authorizing saddle mount combinations to include one
2140 full mount; amending s. 316.2015, F.S.; amending s. 316.2125,
2141 F.S.; amending s. 318.14, F.S.; providing exceptions to
2142 procedures for certain speed limit violations; removing the
2143 option for certain offenders to attend driver improvement
2144 school; amending s. 318.18, F.S.; revising penalty provisions to
2145 provide for certain criminal penalties; providing increased
2146 penalties for certain speed limit violations and violations of
2147 vehicle load requirements; defining "conviction" for specified
2148 purposes; imposing a surcharge to be paid for specified traffic-
2149 related criminal offenses and all moving traffic violations;
2150 providing for distribution of the proceeds of the surcharge to
2151 be used for the state agency law enforcement radio system;
2152 amending s. 318.19, F.S.; requiring mandatory hearings for
2153 certain speed limit violations; amending s. 318.21, F.S.;

2154 revising distribution provisions to provide for distribution of
2155 specified surcharge; amending s. 319.14, F.S.; revising
2156 definition of "police vehicle" for purpose of resale or
2157 exchange; amending s. 320.02, F.S.; requiring proof of required
2158 endorsement on a driver license as a condition for original
2159 registration of a motorcycle, motor-driven cycle, or moped;
2160 amending s. 320.03, F.S.; amending s. 320.07, F.S.; amending s.
2161 320.0706, F.S.; revising license display requirements for dump
2162 trucks; amending s. 320.08058, F.S.; amending s. 320.0807, F.S.;
2163 providing for license plates for legislative presiding officers;
2164 amending s. 320.089, F.S.; providing for Operation Iraqi Freedom
2165 and Operation Enduring Freedom license plates for qualified
2166 military personnel; amending s. 320.27, F.S.; revising motor
2167 vehicle dealer licensing requirements; revising the definition
2168 of "motor vehicle" to provide an exception for certain low-speed
2169 vehicles; revising conditions for license renewal for certain
2170 independent dealers; removing certain training provisions;
2171 correcting terminology; correcting a cross-reference; amending
2172 s. 320.405, F.S.; authorizing the department to enter into
2173 certain agreements to schedule payments to settle certain
2174 liabilities under the International Registration Plan; amending
2175 s. 320.77, F.S.; amending s. 320.77, F.S.; amending s. 320.781,
2176 F.S.;
2177 amending s. 322.01, F.S.; revising the definition of "driver's
2178 license"; defining "identification card," "temporary driver's
2179 license," and "temporary identification card"; amending s.
2180 322.05, F.S.; amending s. 322.051, F.S.; revising the age
2181 requirement for issuance of an identification card; revising
2182 criteria for proof of the identity and status of an applicant
2183 for an identification card; revising the period of issuance for

2184 certain temporary identification cards; amending s. 322.08,
2185 F.S.; revising criteria for proof of the identity and status of
2186 an applicant for a driver license; revising the period of
2187 issuance for certain temporary driver licenses or permits;
2188 amending s. 322.12, F.S.; requiring all first-time applicants
2189 for licensure to operate a motorcycle to provide proof of
2190 completion of a motorcycle safety course; amending s. 322.121,
2191 F.S.; revising periodic license examination requirements;
2192 providing for such testing of applicants for renewal of a
2193 license under provisions requiring an endorsement permitting
2194 the applicant to operate a tank vehicle transporting hazardous
2195 materials; amending s. 322.2615, F.S.; revising provisions for
2196 suspension of driver licenses and review of suspension by the
2197 department; revising criteria for notice of the suspension;
2198 providing that certain materials shall be considered self-
2199 authenticating and available to a hearing officer; revising
2200 authority of the hearing officer to subpoena and question
2201 witnesses; removing provision for the department and the person
2202 arrested to subpoena witnesses; providing for appeal by a law
2203 enforcement agency of a department decision invalidating a
2204 suspension; providing that the court review may not be used in
2205 a trial for driving under the influence; amending s. 322.27,
2206 F.S.; providing for an increase in driver license points
2207 assessed for certain speed limit violations and for traffic
2208 control signal device violations resulting in a crash; defining
2209 "conviction" for specified purposes; providing effective dates.