

Chapter 90-136

Committee Substitute for Senate Bill No. 1316

AN ACT relating to the transportation needs of Florida; providing legislative intent; creating s. 338.001, F.S.; creating the Florida Intrastate Highway System Plan; amending s. 334.03, F.S.; providing funding allocations; redefining the term "controlled access facility," "limited access facility," and "State Highway System"; defining the term "Florida Intrastate Highway System"; amending s. 334.046, F.S.; including the development and implementation of the Florida Intrastate Highway System within the program objectives of the Department of Transportation; amending ss. 288.063, 479.01, F.S.; correcting cross-references; amending s. 338.221, F.S.; redefining the terms "turnpike system," "turnpike improvement," "economically feasible," and "turnpike project"; defining the term "statement of environmental feasibility"; amending s. 338.222, F.S.; prohibiting governmental entities, other than the department, from operating turnpike projects; providing for contracts between local governmental entities and the department; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; providing for legislative approval at a certain point; amending s. 338.227, F.S.; providing reference to legislative approval with respect to turnpike revenue bonds; providing a limitation on the use of revenues and bond proceeds by the Department of Transportation with respect to the Florida Turnpike Law; encouraging minority business participation; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing of the Department of General Services; defining the term "minority business enterprises"; creating s. 338.2275, F.S.; providing for Legislative intent with respect to the Western Beltway turnpike project; providing for approved turnpike projects; providing a list of approved projects; providing for economic feasibility; amending s. 348.243, F.S.; providing an additional power of the Broward County Expressway Authority; amending s. 338.228, F.S.; revising language with respect to certain bonds not being considered debts or pledges of credit by the state; amending s. 338.231, F.S.; revising language with respect to turnpike tolls; amending s. 215.82, F.S.; including a cross-reference with respect to bond validation; amending s. 338.251, F.S.; revising language with respect to the fund; prohibiting advancements under certain circumstances; providing for the deposit of certain funds into the Toll Facilities Revolving Trust Fund; creating s. 338.25, F.S.; providing for Central Florida Beltway mitigation; providing legislative intent; providing a procedure for environmental mitigation required as a result of construction of the beltway; amending s. 372.074, F.S.; establishing a Fish and Wildlife Habitat Trust Fund within the Game and Fresh Water Fish Commission; providing for the acquisition and management of lands for the conservation of fish and wildlife; providing that title to such lands be

vested with the Board of Trustees of the Internal Improvement Trust Fund; renaming chapter 338, F.S., as Florida Intrastate Highway System and Toll Facilities; creating the Florida Expressway Authority Act; providing definitions; providing for formation and membership of the authority; providing purposes and powers; providing for bonds; providing for lease-purchase agreement; providing that the Department of Transportation may be appointed as an agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the covenant of the state; providing for exemption from taxation; providing for applicability; creating s. 337.276, F.S.; providing requirements with respect to the Department of Transportation in regard to advanced acquisition of right-of-way; amending s. 339.135, F.S.; providing for the allocation of funds for bridge fender system construction or repair; providing for allocation of funds for public transit block grants; providing for identification of advanced right-of-way acquisition projects and right-of-way phases in the tentative work program; requiring additional information in the report submitted by the department with the tentative work program; providing that certain projects identified in the General Appropriations Act shall also be identified as a debit against described funds; revising language with respect to the amendment of the adopted work program; amending s. 339.155, F.S.; providing for the identification and acquisition of right-of-way in the development of the statewide transportation plan; requiring the consideration of a seaport or airport master plan; providing criteria for certain projects; amending s. 339.12, F.S.; revising language with respect to aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads and bridges in the State Highway System; amending s. 335.20, F.S.; revising the Local Government Transportation Assistance Act with respect to project funding by the Department of Transportation; creating s. 334.048, F.S.; providing legislative intent with respect to department management accountability and monitoring systems; amending s. 20.23, F.S.; providing additional duties of the secretary; revising language with respect to the central office; providing for an Assistant Secretary for Transportation Policy and prescribing his duties; providing for additional duties for the central office; providing for the Office of Information Systems; providing for additional duties of the Assistant Secretary for Finance and Administration; providing for a chief internal auditor; revising the requirements of the Comptroller; providing additional responsibilities of each district secretary; providing for the appointment of a State Public Transportation Administrator and prescribing his responsibilities; revising language with respect to certain contracts; amending s. 337.221, F.S.; providing for a claims settlement process; creating s. 337.162, F.S.; providing requirements with respect to substandard services; amending s. 339.149, F.S.; providing for periodic audits by the Auditor General; requiring an annual report to the Legislature; amending s. 120.53, F.S.; revising

language with respect to agencies providing notice of decision under the Administrative Procedure Act; requiring encouraging the participation of disadvantaged business enterprises; amending s. 337.11, F.S.; requiring the department to take certain steps prior to advertisement of work for bid; revising language with respect to the contracting authority of the Department of Transportation; amending s. 337.16, F.S.; revising language with respect to bid disqualification; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.18, F.S.; revising language with respect to liquidated damages; requiring a schedule of liquidated damages in construction contracts; specifying categories; providing penalties for delinquent contractors; amending s. 337.106, F.S.; providing for waiver of professional liability insurance under certain circumstances; requiring approval by the department comptroller; amending s. 73.091, F.S.; conforming a cross-reference to other changes made by the act; creating s. 73.032, F.S.; providing for offer of judgment in eminent domain actions; providing for acceptance, rejection, and withdrawal of the offer of judgment; requiring the person making the offer to make certain construction plans available; amending s. 73.092, F.S.; revising procedures for award of attorney's fees in eminent domain proceedings; requiring that the greatest weight be given to benefits resulting to the client; providing for reduction of attorney's fees to be paid pursuant to a fee agreement in specified circumstances; providing circumstances for limiting attorney's fees after rejection of an offer of judgment; amending s. 74.011, F.S.; deleting obsolete language; amending s. 337.271, F.S.; specifying contents of the invoice for costs in Department of Transportation negotiations for land acquisition; providing for nonbinding mediation of compensation and business damage claims; providing that certain statements used in mediation are not admissible in subsequent proceedings; specifying applicability; providing for a review of duties of M.P.O.'s; providing for a determination of major allocations of public roads between state and local government; amending s. 334.065, F.S.; providing procedures for the submission of an annual budget by the Center for Urban Transportation Research; amending s. 320.20, F.S.; increasing the amount deposited in the State Transportation Trust Fund; amending s. 119.07, F.S.; correcting a reference; amending s. 206.46, F.S.; allocating funds from the State Transportation Trust Fund for public transportation projects; creating s. 311.07, F.S.; creating the Florida Seaport Transportation and Economic Development Trust Fund; providing funding allocations; creating s. 311.09, F.S.; creating the Florida Seaport Transportation and Economic Development Council; providing powers and duties; providing for review and repeal; amending s. 332.004, F.S.; providing definitions; amending s. 332.006, F.S.; providing for separate identification of development projects and discretionary capacity improvement projects in the statewide aviation system plan; permitting expenditure of state aviation funds on road and rail transportation systems which are on airport property; amending s. 332.007, F.S.; requiring that

projects be included in a metropolitan planning organization transportation improvement program prior to receipt of funds; providing funding priority for specified airport development projects; authorizing expenditure of funds for projects which provide for construction of an automatic weather observation station; limiting the amount of development project funds an airport may receive if it is also receiving discretionary capacity improvement funds; requiring consistency of aviation projects with airport master plans as a condition for state funding eligibility; authorizing retroactive reimbursement for the nonfederal share of certain land acquisition projects; authorizing participation by the Department of Transportation in the capital cost of eligible public airport and aviation discretionary capacity improvement projects; authorizing expenditure of funds for projects which provide improved airport access subject to approval by the sponsor; limiting the amount of discretionary capacity improvement project funds that a single airport may receive; allowing the department to transfer funds for discretionary capacity improvement projects within the discretionary capacity improvements program; setting the rate of participation by the department in the costs of eligible discretionary capacity improvement projects, including land acquisition projects; amending s. 332.01, F.S.; revising the definition of "airport" to include access to airport facilities; amending s. 333.01, F.S.; providing definitions; amending s. 333.02, F.S.; providing for regulation of land uses in the vicinity of airports; amending s. 333.03, F.S.; providing for adoption of zoning regulations for runway clear zones and airport land use compatibility; creating s. 333.031, F.S.; creating the Airport Safety and Land Use Compatibility Study Commission; providing for a report; amending s. 333.05, F.S.; providing procedures for the adoption of zoning regulations; amending s. 333.06, F.S.; providing reasonableness and independent justification as airport zoning requirements; amending s. 333.07, F.S.; providing for variance requirements; amending s. 337.242, F.S.; providing that movement of people and goods to and from seaports and airports is a transportation use; amending s. 337.25, F.S.; providing for lease of rail corridors to ports; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; revising membership of metropolitan planning organizations; amending s. 341.031, F.S.; revising definitions for purposes of the Florida Public Transit Act; amending s. 341.041, F.S.; requiring the Department of Transportation to develop and administer state measures concerning public transit systems and including productivity and cost distribution in such measures; revising the measures for certain responsibilities of the department relating to operation of transit systems; amending s. 341.051, F.S.; requiring the department to develop and implement a capital investment policy; creating s. 341.052, F.S.; establishing a public transit block grant program; providing uses for which block grant funds may be expended; providing limitations on use of funds; establishing auditing requirements; allocating 15 percent of the public transit block grant funds to the Transportation

Disadvantaged Trust Fund; providing for certain recipients of such allocations; providing limitations on use of funds; creating s. 341.053, F.S.; creating an intermodal development program; requiring the department to administer the program; providing for the distribution of intermodal development funds; providing priorities for funding; creating s. 341.071, F.S.; requiring the establishment of transit development plans consistent with approved local comprehensive plans; requiring eligible public transit providers to establish productivity and performance measures; requiring certain reports and publication with respect thereto; creating part III of chapter 343, F.S.; creating the "Tampa Bay Commuter Rail Authority Act"; providing definitions; creating the Tampa Bay Commuter Rail Authority; providing for membership; establishing terms of members; providing for filling vacancies; providing powers and duties of the authority; providing for interagency cooperation and contracts; providing for compliance with certain reporting requirements; requiring authority to comply with equal opportunity hiring practices; providing for public and private funding; authorizing issuance of revenue bonds; directing that bonds are not debts or pledges of credit of the state; requiring the authority to develop an annual operating plan; providing for annual review of plan; providing for pledge to bondholders; amending s. 341.325, F.S.; providing for feasibility and planning studies for high-speed rail facilities and for most promising corridors; amending ss. 212.05 and 212.62, F.S.; increasing the rate of the tax on the sale of fuels; revising requirements for calculating the annual adjustment thereof; amending s. 336.026, F.S.; deleting authorization for a local option tax on motor and special fuel for metropolitan transportation systems; providing for an additional tax on motor and special fuel; providing for rates thereof and for annual adjustment; specifying use of the tax; providing for collection, administration, distribution, and enforcement; providing for application of refunds; amending s. 206.12, F.S.; revising provisions relating to records; repealing s. 206.19, F.S.; deleting prohibition against settlement of fuel taxes; amending ss. 206.945, 206.97, 206.9915, and 213.21, F.S., to conform; amending ss. 207.003, 207.005, and 207.026, F.S.; including said additional tax in the rate of the tax on the privilege of operating a commercial motor vehicle; amending s. 72.011, F.S., relating to jurisdiction of the circuit courts, s. 72.041, F.S., relating to enforcement of other states' tax warrants, s. 213.05, F.S., relating to duties of the Department of Revenue, and s. 213.29, F.S., relating to penalty for failure to pay tax, to include said additional tax; repealing part VII of chapter 163, F.S., the Metropolitan Transportation Authority Act; amending s. 189.404, F.S., to conform; amending s. 206.9825, F.S.; increasing the excise tax on aviation fuel; amending s. 212.67, F.S.; providing for a credit against the local gas taxes to retail dealers for shrinkage; amending s. 212.0606, F.S.; increasing the surcharge on rental of motor vehicles; specifying that the surcharge is subject to all applicable taxes under chapter 212; revising the distribution of the proceeds thereof; amending s. 319.32, F.S.; increasing

certain motor vehicle title certificate fees and providing for disposition thereof; providing for an exception; amending ss. 206.877 and 206.879, F.S.; revising provisions relating to annual decal fees for vehicles fueled by alternative fuels and the disposition thereof; amending s. 320.072, F.S.; increasing the additional fee on certain initial vehicle registrations and revising the distribution thereof; amending s. 320.14, F.S.; revising provisions which authorize fractional license taxes under certain conditions; amending s. 320.15, F.S.; deleting the requirement to refund certain motor vehicle license taxes; amending s. 320.0609, F.S.; deleting the requirement to refund certain motor vehicle license taxes; providing for the retroactive application of s. 206.87(3)(g), F.S., in certain circumstances; requiring the Florida Transportation Commission to adopt goals by which to measure the performance and productivity of the department; providing procedures; requiring the commission to measure the department's performance on a quarterly basis and to report its findings; providing a penalty for the failure of the department to meet or exceed performance goals; providing exceptions; providing for review and repeal; amending s. 339.135, F.S.; revising language with respect to funding and developing a tentative work program; providing for an improved tentative work program; providing for amending the adopted work program; creating s. 332.115, F.S.; authorizing political subdivisions or authorities operating public-use airports to enter joint project agreements with port districts for the establishment and operation of transportation corridors between the airports and port facilities, subject to the approval of the Departments of Transportation and Community Affairs; amending s. 341.102, F.S.; revising provisions concerning the regulation of nonpublic-sector buses; authorizing the Department of Transportation to enter into a joint participation agreement with the Greater Orlando Aviation Authority for authorization of a loan for land acquisition; providing terms of the loan; providing effective dates.

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

expenditure of both federal and state dollars. The audit should also include a comparison of the programs of the department with those of other states and recommendations for improvements.

(8) Budget process.--The audit shall include a review of the planning and budgeting information system, the transportation planning and budget development process, and the department's implementation and monitoring of the work program and approved budget. The Auditor General shall further perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature methods to eliminate or reduce the disruptive effects of the factors.

(9) Management information systems.--The audit shall include, but not be limited to, a review of the need, usefulness, and accuracy of the data in the department's major management information systems.

(10) Florida transportation commission.--The audit shall include a review of the commission's compliance with applicable laws and recommend improvements that can be made to increase the commission's effectiveness.

(11) Duty of auditor general.--For each audit required by this section, the Auditor General shall determine whether sufficient procedures and internal controls exist to assure that department managers are accountable for the implementation and enforcement of all laws, rules, policies, and procedures related to their areas of responsibilities.

(12) Annual reviews.--The Auditor General shall annually review the accuracy of the department's program objectives and accomplishment report and determine the department's compliance with statutory requirements related to the distribution of funds to the districts and reconciliations of financial management systems.

(13) Audit periods.--The Auditor General shall have the discretion to schedule the audits required by this section. However, such audits shall be performed within 6 years after the requirements of this provision becoming law and shall be performed during each subsequent 6-year period thereafter. The Auditor General shall make audits of department functions or programs identified in this section or of other department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall annually report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.~~The performance audits required by this section shall first be submitted to the Legislature on or before February 1, 1984. Thereafter, the Auditor General shall make performance audits of department functions or programs identified in this section or of other department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall also report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.~~

Section 44. Paragraph (a) of subsection (5) of section 120.53, Florida Statutes, is amended to read:

120.53. Adoption of rules of procedure and public inspection

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.301-282.313, chapter 255, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any decision of the Division of Purchasing of the Department of General Services concerning a request by an agency for approval of an exceptional purchase under part I of chapter 287 and the rules of the Division of Purchasing, notice of a decision or intended decision shall be given by posting such notice in the office of the Division of Purchasing.

3. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail or other express delivery service, return receipt requested.

The notice required by this paragraph shall contain the following statement: Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

Section 45. [FN14] In implementing this act, the Department of Transportation shall institute procedures to encourage the awarding of contracts for professional services and construction to disadvantaged business enterprises. For the purposes of this section, the term "disadvantaged business enterprise" means a small business concern certified by the Department of Transportation to be owned and controlled by socially and economically disadvantaged individuals as defined by the Surface Transportation and Uniform Relocation Act of 1987. The Department of Transportation shall develop and implement activities to encourage the participation of disadvantaged business enterprises in the contracting process and shall report to the Legislature prior to January 1, 1991, on its efforts to increase disadvantaged business participation. Such efforts may include:

(1) Presolicitation or prebid meetings for the purpose of informing disadvantaged business enterprises of contracting opportunities.

(2) Written notice to disadvantaged business enterprises of contract opportunities for commodities or contractual and construction services which the disadvantaged business provides.

(3) Provision of adequate information to disadvantaged business enterprises about the plans, specifications, and requirements of contracts or the availability of jobs.

(4) Breaking large contracts into several single purpose contracts of a size which may be obtained by certified disadvantaged business enterprises.