



1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; removing the Secretary of
4 Transportation's authority to appoint an inspector
5 general; removing responsibilities of the Fort Myers
6 Urban Office; amending ss. 311.07 and 311.09, F.S.;
7 revising the minimum amount of funds that the
8 department must request for the Florida Seaport
9 Transportation and Economic Development Program;
10 amending s. 316.003, F.S.; revising definitions and
11 defining the term "port-of-entry" for purposes of the
12 Florida Uniform Traffic Control Law; amending s.
13 316.081, F.S.; revising provisions that require
14 driving on the right side of the roadway; amending s.
15 316.130, F.S.; revising provisions relating to right-
16 of-way when a pedestrian is crossing the roadway;
17 amending s. 316.2065, F.S.; revising provisions for
18 operating a bicycle on a roadway; removing the
19 definition of "substandard-width lane"; amending s.
20 316.545, F.S.; revising provisions for fines for
21 certain commercial motor vehicles that obtain a
22 temporary registration permit; amending s. 333.01,
23 F.S.; revising definitions for purposes of airport
24 zoning provisions; amending s. 333.025, F.S.; revising
25 provisions for permits issued by the department for
26 construction or alteration of a structure hazardous to



27 | air navigation; providing for administrative review of
28 | a denial of a permit; amending s. 333.03, F.S.;
29 | revising provisions for certain political subdivisions
30 | to adopt certain airport zoning regulations; amending
31 | s. 333.04, F.S.; revising provisions for incorporation
32 | of airport protection zoning regulations into a
33 | comprehensive plan or policy; providing for conflict
34 | between specified regulations and other regulations
35 | applicable to the same area; amending s. 333.05, F.S.;
36 | revising procedure for adoption of zoning regulations;
37 | amending s. 333.06, F.S.; revising airport zoning
38 | requirements; repealing s. 333.065, F.S., relating to
39 | guidelines regarding land use near airports; amending
40 | s. 333.07, F.S.; revising provisions for permits and
41 | variances; requiring a person proposing to erect,
42 | construct, or alter any structure, increase the height
43 | of any structure, permit the growth of any vegetation,
44 | or otherwise use his or her property in violation of
45 | the airport protection zoning regulations to apply for
46 | a permit; revising provisions for removal of a
47 | nonconforming structure or vegetation; removing
48 | provisions for a variance to airport zoning
49 | regulations for such structure or vegetation;
50 | providing certain considerations for the political
51 | subdivision or its administrative agency to consider
52 | when issuing or denying a permit; revising



53 requirements relating to markings and lighting for the
54 owner of the structure or vegetation; repealing s.
55 333.08, F.S., relating to appeals of agency action
56 relating to airport zoning regulations; amending s.
57 333.09, F.S.; revising provisions for administration
58 of airport zoning regulations; requiring certain
59 political subdivisions or their administrative
60 agencies to provide certain processes for permits with
61 respect to airport zoning regulations; providing for
62 appeal of decisions made in the administration of such
63 regulations; repealing s. 333.10, F.S., relating to
64 boards of adjustment; amending s. 333.11, F.S.;
65 revising provisions for judicial review; amending s.
66 333.12, F.S.; revising provisions for acquisition of
67 air rights by political subdivision; amending s.
68 333.13, F.S.; revising provisions for enforcement and
69 remedies for violations; creating s. 333.135, F.S.;
70 providing a period for political subdivisions to
71 conform airport ordinances with changes made by the
72 act; providing a period for political subdivisions to
73 adopt airport zoning regulations; directing the
74 department to administer specified permitting process
75 for certain political subdivisions; repealing s.
76 333.14, F.S., relating to a short title; amending s.
77 334.03, F.S.; revising the definition of "511" or "511
78 service" used in the Florida Transportation Code;



79 removing the definition of the term "interactive voice
80 response"; amending s. 334.044, F.S.; revising the
81 department's duty to provide oversight of traveler
82 information systems; authorizing the department to
83 assume certain responsibilities of the United States
84 Department of Transportation with respect to highway
85 projects within the state; authorizing the department
86 to enter into certain agreements related to the
87 federal surface transportation project delivery
88 program under specified federal law; authorizing the
89 department to adopt rules and relevant federal
90 environmental standards; providing a limited waiver of
91 sovereign immunity to civil suit in federal court;
92 amending s. 334.60, F.S.; revising department's duty
93 to provide oversight of traveler information systems;
94 amending s. 337.18, F.S.; authorizing the department
95 to waive a surety bond on certain contracts with
96 specified contractors; amending s. 338.165, F.S.;
97 removing certain facilities from the list of
98 facilities whose toll revenues can be used to secure
99 bonds; amending s. 338.227, F.S.; providing that the
100 validation of turnpike revenues bonds is optional
101 instead of mandatory; providing requirements regarding
102 a complaint for such validation; amending s. 338.231,
103 F.S.; increasing the length of time that a prepaid
104 toll account must be inactive before reverting to



105 unclaimed property; amending s. 339.135, F.S.;

106 revising requirements for amendments to the

107 department's adopted work program to be submitted to

108 the Legislative Budget Commission; amending s.

109 339.175, F.S.; revising the membership of certain

110 metropolitan planning organizations; amending s.

111 339.176, F.S.; providing an exception to the voting

112 membership of metropolitan planning organizations in

113 certain counties; amending s. 339.2818, F.S.; revising

114 the definition of the term "small county" for purposes

115 of the Small County Outreach Program; amending F.S.

116 339.55, F.S.; adding certain facilities to the list of

117 eligible recipients of State Infrastructure Bank

118 loans; providing that a municipality or county that

119 applies transportation concurrency may not require a

120 developer to pay a fee for the removal of vegetation

121 within the right-of-way limits of road improvements;

122 defining the term "fee"; providing for a municipality

123 or county to exempt itself from such provisions;

124 directing the Office of Economic and Demographic

125 Research to determine the economic benefits of the

126 state's investment in the department's adopted work

127 program; requiring a report to the Legislature;

128 amending s. 215.82, F.S., relating to validation of

129 bonds; conforming to changes made by the act;

130 reenacting s. 350.81(6), F.S., relating to



131 communications services offered by governmental
 132 entities, to incorporate the amendment made by the act
 133 to s. 333.01, F.S., in a reference thereto; providing
 134 an effective date.

135
 136 Be It Enacted by the Legislature of the State of Florida:

137
 138 Section 1. Paragraphs (d) and (e) of subsection (3) and
 139 paragraphs (d), (e), and (f) of subsection (4) of section 20.23,
 140 Florida Statutes, are amended to read:

141 20.23 Department of Transportation.—There is created a
 142 Department of Transportation which shall be a decentralized
 143 agency.

144 (3)

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

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

154 (4)

155 ~~(d) The district director for the Fort Myers Urban Office~~
 156 ~~of the Department of Transportation is responsible for~~



157 ~~developing the 5-year Transportation Plan for Charlotte,~~
158 ~~Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort~~
159 ~~Myers Urban Office also is responsible for providing policy,~~
160 ~~direction, local government coordination, and planning for those~~
161 ~~counties.~~

162 (d)~~(e)~~1. The responsibility for the turnpike system shall
163 be delegated by the secretary to the executive director of the
164 turnpike enterprise, who shall serve at the pleasure of the
165 secretary. The executive director shall report directly to the
166 secretary, and the turnpike enterprise shall operate pursuant to
167 ss. 338.22-338.241.

168 2. To facilitate the most efficient and effective
169 management of the turnpike enterprise, including the use of best
170 business practices employed by the private sector, the turnpike
171 enterprise, except as provided in s. 287.055, shall be exempt
172 from departmental policies, procedures, and standards, subject
173 to the secretary having the authority to apply any such
174 policies, procedures, and standards to the turnpike enterprise
175 from time to time as deemed appropriate.

176 (e)~~(f)~~1. The responsibility for developing and operating
177 the high-speed and passenger rail systems established in chapter
178 341, directing funding for passenger rail systems under s.
179 341.303, and coordinating publicly funded passenger rail
180 operations in the state, including freight rail interoperability
181 issues, shall be delegated by the secretary to the executive
182 director of the rail enterprise, who shall serve at the pleasure



CS/HB 7039, Engrossed 1

2015

183 of the secretary. The executive director shall report directly
184 to the secretary, and the rail enterprise shall operate pursuant
185 to ss. 341.8201-341.842.

186 2. To facilitate the most efficient and effective
187 management of the rail enterprise, including the use of best
188 business practices employed by the private sector, the rail
189 enterprise, except as provided in s. 287.055, shall be exempt
190 from departmental policies, procedures, and standards, subject
191 to the secretary having the authority to apply any such
192 policies, procedures, and standards to the rail enterprise from
193 time to time as deemed appropriate.

194 Section 2. Subsection (2) of section 311.07, Florida
195 Statutes, is amended to read:

196 311.07 Florida seaport transportation and economic
197 development funding.—

198 (2) A minimum of \$25 ~~\$15~~ million per year shall be made
199 available from the State Transportation Trust Fund to fund the
200 Florida Seaport Transportation and Economic Development Program.
201 The Florida Seaport Transportation and Economic Development
202 Council created in s. 311.09 shall develop guidelines for
203 project funding. Council staff, the Department of
204 Transportation, and the Department of Economic Opportunity shall
205 work in cooperation to review projects and allocate funds in
206 accordance with the schedule required for the Department of
207 Transportation to include these projects in the tentative work
208 program developed pursuant to s. 339.135(4).



209 Section 3. Subsection (9) of section 311.09, Florida
210 Statutes, is amended to read:

211 311.09 Florida Seaport Transportation and Economic
212 Development Council.—

213 (9) The Department of Transportation shall include no less
214 than \$25 ~~\$15~~ million per year in its annual legislative budget
215 request for the Florida Seaport Transportation and Economic
216 Development Program funded under s. 311.07. Such budget shall
217 include funding for projects approved by the council which have
218 been determined by each agency to be consistent. The Department
219 of Transportation shall include the specific approved Florida
220 Seaport Transportation and Economic Development Program projects
221 to be funded under s. 311.07 during the ensuing fiscal year in
222 the tentative work program developed pursuant to s. 339.135(4).
223 The total amount of funding to be allocated to Florida Seaport
224 Transportation and Economic Development Program projects under
225 s. 311.07 during the successive 4 fiscal years shall also be
226 included in the tentative work program developed pursuant to s.
227 339.135(4). The council may submit to the Department of
228 Transportation a list of approved projects that could be made
229 production-ready within the next 2 years. The list shall be
230 submitted by the Department of Transportation as part of the
231 needs and project list prepared pursuant to s. 339.135(2)(b).
232 However, the Department of Transportation shall, upon written
233 request of the Florida Seaport Transportation and Economic
234 Development Council, submit work program amendments pursuant to



235 s. 339.135(7) to the Governor within 10 days after the later of
 236 the date the request is received by the Department of
 237 Transportation or the effective date of the amendment,
 238 termination, or closure of the applicable funding agreement
 239 between the Department of Transportation and the affected
 240 seaport, as required to release the funds from the existing
 241 commitment. Notwithstanding s. 339.135(7)(c), any work program
 242 amendment to transfer prior year funds from one approved seaport
 243 project to another seaport project is subject to the procedures
 244 in s. 339.135(7)(d). Notwithstanding any provision of law to the
 245 contrary, the Department of Transportation may transfer
 246 unexpended budget between the seaport projects as identified in
 247 the approved work program amendments.

248 Section 4. Subsections (6) and (47) of section 316.003,
 249 Florida Statutes, are amended, and subsection (94) is added to
 250 that section, to read:

251 316.003 Definitions.—The following words and phrases, when
 252 used in this chapter, shall have the meanings respectively
 253 ascribed to them in this section, except where the context
 254 otherwise requires:

255 (6) CROSSWALK.—

256 (a) "Marked crosswalk" means pavement marking lines on the
 257 roadway surface, which may include contrasting pavement texture,
 258 style, or colored portions of the roadway, at an intersection
 259 which is used by pedestrians for crossing the roadway. ~~That part~~
 260 of a roadway at an intersection included within the connections



CS/HB 7039, Engrossed 1

2015

261 ~~of the lateral lines of the sidewalks on opposite sides of the~~
262 ~~highway, measured from the curbs or, in the absence of curbs,~~
263 ~~from the edges of the traversable roadway.~~

264 (b) "Midblock crosswalk" means pavement marking lines on
265 the roadway surface, which may include contrasting pavement
266 texture, style, or a colored portion of the roadway, located
267 between intersections at a signalized or nonsignalized crosswalk
268 that is used by pedestrians for crossing the roadway and may
269 include a pedestrian refuge island. Any portion of a roadway at
270 an intersection or elsewhere distinctly indicated for pedestrian
271 crossing by lines or other markings on the surface.

272 (c) "Unmarked crosswalk" means a portion of the roadway at
273 an intersection which is used by pedestrians for crossing the
274 roadway and is not marked by pavement marking lines on the
275 roadway surface.

276 (47) SIDEWALK.—That portion of a street between the
277 curbline, or the lateral line, of a roadway and the adjacent
278 property lines, intended for use by pedestrians, adjacent to the
279 roadway between the curb or edge of the roadway and the property
280 line.

281 (94) PORT-OF-ENTRY.—A designated location that allows
282 drivers of commercial motor vehicles to purchase temporary
283 registration permits necessary to operate legally within the
284 state. The locations and the designated routes to such locations
285 shall be determined by the Department of Transportation.

286 Section 5. Subsection (2) of section 316.081, Florida



CS/HB 7039, Engrossed 1

2015

287 Statutes, is amended to read:

288 316.081 Driving on right side of roadway; exceptions.—

289 (2) Upon all roadways, any vehicle proceeding at less than
290 the normal speed of traffic based on existing ~~at the time and~~
291 ~~place and under the~~ conditions ~~then existing~~ shall be driven in
292 the right-hand lane then available for traffic or, if no lane is
293 marked for traffic, as close as is safe and reasonable
294 ~~practicable~~ to the right-hand curb or edge of the roadway except
295 when overtaking and passing another vehicle proceeding in the
296 same direction or when preparing for a left turn at an
297 intersection or into a private road or driveway.

298 Section 6. Paragraphs (b) and (c) of subsection (7) of
299 section 316.130, Florida Statutes, are amended to read:

300 316.130 Pedestrians; traffic regulations.—

301 (7)

302 (b) The driver of a vehicle at any crosswalk location
303 where the approach is not controlled by a traffic signal or stop
304 sign ~~signage so indicates~~ shall stop and remain stopped to allow
305 a pedestrian to cross a roadway when the pedestrian is in the
306 crosswalk or steps into the crosswalk and is upon the half of
307 the roadway upon which the vehicle is traveling or turning, or
308 when the pedestrian is approaching so closely from the opposite
309 half of the roadway as to be in danger. Any pedestrian crossing
310 a roadway at a point where a pedestrian tunnel or overhead
311 pedestrian crossing has been provided shall yield the right-of-
312 way to all vehicles upon the roadway.



CS/HB 7039, Engrossed 1

2015

313 ~~(c) When traffic control signals are not in place or in~~
314 ~~operation and there is no signage indicating otherwise, the~~
315 ~~driver of a vehicle shall yield the right of way, slowing down~~
316 ~~or stopping if need be to so yield, to a pedestrian crossing the~~
317 ~~roadway within a crosswalk when the pedestrian is upon the half~~
318 ~~of the roadway upon which the vehicle is traveling or when the~~
319 ~~pedestrian is approaching so closely from the opposite half of~~
320 ~~the roadway as to be in danger. Any pedestrian crossing a~~
321 ~~roadway at a point where a pedestrian tunnel or overhead~~
322 ~~pedestrian crossing has been provided shall yield the right of~~
323 ~~way to all vehicles upon the roadway.~~

324 Section 7. Subsection (5) of section 316.2065, Florida
325 Statutes, is amended to read:

326 316.2065 Bicycle regulations.—

327 (5) (a) Any person operating a bicycle upon a roadway at
328 less than the normal speed of traffic ~~at the time and place~~ and
329 under existing the conditions ~~then existing~~ shall ride in the
330 lane marked for bicycle use or, if no lane is marked for bicycle
331 use, as close as is safe and reasonable ~~practicable~~ to the
332 right-hand curb or edge of the roadway except under any of the
333 following situations:

334 1. When overtaking and passing another bicycle or vehicle
335 proceeding in the same direction.

336 2. When preparing for a left turn at an intersection or
337 into a private road or driveway.

338 3. When reasonably necessary to avoid any condition or



CS/HB 7039, Engrossed 1

2015

339 potential conflict, including, but not limited to, a fixed or
340 moving object, parked or moving vehicle, bicycle, pedestrian,
341 animal, surface hazard, or turn lane, ~~or substandard width lane,~~
342 ~~which makes it unsafe to continue along the right-hand curb or~~
343 ~~edge or within a bicycle lane. For the purposes of this~~
344 ~~subsection, a "substandard width lane" is a lane that is too~~
345 ~~narrow for a bicycle and another vehicle to travel safely side~~
346 ~~by side within the lane.~~

347 (b) Any person operating a bicycle upon a one-way highway
348 with two or more marked traffic lanes may ride as near the left-
349 hand curb or edge of such roadway as safe and reasonable
350 practicable.

351 Section 8. Paragraph (b) of subsection (2) of section
352 316.545, Florida Statutes, is amended to read:

353 316.545 Weight and load unlawful; special fuel and motor
354 fuel tax enforcement; inspection; penalty; review.—

355 (2)

356 (b) The officer or inspector shall inspect the license
357 plate or registration certificate of the commercial vehicle, ~~as~~
358 ~~defined in s. 316.003(66),~~ to determine if its gross weight is
359 in compliance with the declared gross vehicle weight. If its
360 gross weight exceeds the declared weight, the penalty shall be 5
361 cents per pound on the difference between such weights. In those
362 cases when the commercial vehicle, as defined in s. 316.003(66),
363 is being operated over the highways of the state with an expired
364 registration or with no registration from this or any other



365 jurisdiction or is not registered under the applicable
366 provisions of chapter 320, the penalty herein shall apply on the
367 basis of 5 cents per pound on that scaled weight which exceeds
368 35,000 pounds on laden truck tractor-semitrailer combinations or
369 tandem trailer truck combinations, 10,000 pounds on laden
370 straight trucks or straight truck-trailer combinations, or
371 10,000 pounds on any unladen commercial motor vehicle.
372 Commercial motor vehicles entering the state at designated port-
373 of-entry locations or operating on designated routes to a port-
374 of-entry location, which obtain temporary registration permits,
375 shall be assessed a penalty limited to the difference between
376 its gross weight and the declared gross vehicle weight at 5
377 cents per pound. If the license plate or registration has not
378 been expired for more than 90 days, the penalty imposed under
379 this paragraph may not exceed \$1,000. In the case of special
380 mobile equipment ~~as defined in s. 316.003(48)~~, which qualifies
381 for the license tax provided for in s. 320.08(5)(b), being
382 operated on the highways of the state with an expired
383 registration or otherwise not properly registered under the
384 applicable provisions of chapter 320, a penalty of \$75 shall
385 apply in addition to any other penalty which may apply in
386 accordance with this chapter. A vehicle found in violation of
387 this section may be detained until the owner or operator
388 produces evidence that the vehicle has been properly registered.
389 Any costs incurred by the retention of the vehicle shall be the
390 sole responsibility of the owner. A person who has been assessed



CS/HB 7039, Engrossed 1

2015

391 a penalty pursuant to this paragraph for failure to have a valid
392 vehicle registration certificate pursuant to the provisions of
393 chapter 320 is not subject to the delinquent fee authorized in
394 s. 320.07 if such person obtains a valid registration
395 certificate within 10 working days after such penalty was
396 assessed.

397 Section 9. Section 333.01, Florida Statutes, is amended to
398 read:

399 333.01 Definitions.—For the purpose of this chapter, the
400 term following words, terms, and phrases shall have the meanings
401 herein given, unless otherwise specifically defined, or unless
402 another intention clearly appears, or the context otherwise
403 requires:

404 (1) "Aeronautical study" means a Federal Aviation
405 Administration review conducted pursuant to 14 C.F.R. part 77,
406 concerning the effect of proposed construction or alteration on
407 the use of air navigation facilities or navigable airspace by
408 aircraft.

409 ~~(1) "Aeronautics" means transportation by aircraft; the~~
410 ~~operation, construction, repair, or maintenance of aircraft,~~
411 ~~aircraft power plants and accessories, including the repair,~~
412 ~~packing, and maintenance of parachutes; the design,~~
413 ~~establishment, construction, extension, operation, improvement,~~
414 ~~repair, or maintenance of airports, restricted landing areas, or~~
415 ~~other air navigation facilities, and air instruction.~~

416 (2) "Airport" means any area of land or water designed and



417 set aside for the landing and taking off of aircraft and
 418 utilized or to be utilized in the interest of the public for
 419 such purpose.

420 (3) "Airport hazard" means any obstruction that exceeds
 421 ~~structure or tree or use of land which would exceed~~ the federal
 422 obstruction standards as contained in 14 C.F.R. ss. 77.15,
 423 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, and 77.29~~ and that
 424 ~~which~~ obstructs the airspace required for the flight of aircraft
 425 in taking off, maneuvering, or landing or is otherwise hazardous
 426 to such taking off, maneuvering, or landing of aircraft and for
 427 which no person has previously obtained a permit ~~or variance~~
 428 pursuant to s. 333.025 or s. 333.07.

429 (4) "Airport hazard area" means any area of land or water
 430 upon which an airport hazard might be established ~~if not~~
 431 ~~prevented as provided in this chapter.~~

432 (5) "Airport land use compatibility zoning" means airport
 433 zoning regulations governing ~~restricting~~ the use of land
 434 adjacent to or in the immediate vicinity of airports in the
 435 manner provided ~~enumerated~~ in s. 333.03 ~~333.03(2) to activities~~
 436 ~~and purposes compatible with the continuation of normal airport~~
 437 ~~operations including landing and takeoff of aircraft in order to~~
 438 ~~promote public health, safety, and general welfare.~~

439 (6) "Airport layout plan" means a scaled ~~detailed, scale~~
 440 ~~engineering drawing, or set of drawings, in either paper or~~
 441 electronic form, of existing, including pertinent dimensions, of
 442 ~~an airport's current~~ and planned airport facilities which



443 provides a graphic representation of the existing and long-term
444 development plan for the airport and demonstrates the
445 preservation and continuity of safety, utility, and efficiency
446 of the airport, ~~their locations, and runway usage.~~

447 (7) "Airport master plan" means a comprehensive plan of an
448 airport that describes the immediate and long-term development
449 plans to meet future aviation demand.

450 (8) "Airport protection zoning" means airport zoning
451 regulations governing airport hazards in the manner provided in
452 s. 333.03.

453 (9) "Department" means the Department of Transportation as
454 created under s. 20.23.

455 (10) "Educational facility" means any structure, land, or
456 use thereof that includes a public or private kindergarten
457 through 12th grade school, charter school, magnet school, college
458 campus, or university campus. For the purpose of this chapter,
459 the term "educational facility" does not include space used for
460 educational purposes within a multitenant building.

461 (11) "Landfill" has the same meaning as defined in s.
462 403.703.

463 (12)~~(7)~~ "Obstruction" means any object of natural growth
464 or terrain, or permanent or temporary construction or
465 alteration, including equipment or materials used and any
466 permanent or temporary apparatus, or alteration of any permanent
467 or temporary existing structure by a change in its height,
468 including appurtenances, or lateral dimensions, including



469 equipment or material used therein, existing or proposed, which
470 exceeds manmade object or object of natural growth or terrain
471 ~~that violates~~ the standards contained in 14 C.F.R. ss. 77.15,
472 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, and 77.29.~~

473 ~~(13)-(8)~~ "Person" means any individual, firm,
474 copartnership, corporation, company, association, joint-stock
475 association, or body politic, and includes any trustee,
476 receiver, assignee, or other similar representative thereof.

477 ~~(14)-(9)~~ "Political subdivision" means the local government
478 of any county, city, town, village, or other subdivision or
479 agency of the state thereof, or any district or special
480 district, port commission, port authority, or other such agency
481 authorized to establish or operate airports in the state.

482 (15) "Public-use airport" means an airport, publicly or
483 privately owned, licensed by the state, which is open for use by
484 the public.

485 ~~(16)-(10)~~ "Runway protection clear zone" means an area at
486 ground level beyond the runway end to enhance the safety and
487 protection of people and property on the ground ~~a runway clear~~
488 ~~zone as defined in 14 C.F.R. s. 151.9(b).~~

489 ~~(17)-(11)~~ "Structure" means any object, ~~constructed,~~
490 erected, altered, or installed ~~by humans,~~ including, but without
491 limitation thereof, buildings, towers, smokestacks, utility
492 poles, power generation equipment, and overhead transmission
493 lines.

494 ~~(12)~~ "Tree" ~~includes any plant of the vegetable kingdom.~~



495 (18) "Substantial modification" means any repair,
496 reconstruction, rehabilitation, or improvement of a structure
497 when the actual cost of the repair, reconstruction,
498 rehabilitation, or improvement of the structure equals or
499 exceeds 50 percent of the market value of the structure.

500 Section 10. Section 333.025, Florida Statutes, is amended
501 to read:

502 333.025 Permit required for structures exceeding federal
503 obstruction standards.—

504 (1) Any person proposing the construction or alteration in
505 ~~order to prevent the erection~~ of structures hazardous ~~dangerous~~
506 to air navigation, subject to the provisions of subsections (2),
507 (3), and (4), ~~each person~~ shall secure from the department ~~of~~
508 ~~Transportation~~ a permit for the proposed construction or
509 ~~erection, alteration, or modification~~ of any structure the
510 result of which would exceed the federal obstruction standards
511 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
512 ~~77.23, 77.25, 77.28, and 77.29~~. However, permits from the
513 department ~~of Transportation~~ will be required only within an
514 airport hazard area where federal obstruction standards are
515 exceeded and if the proposed construction is within a 10-
516 nautical-mile radius of the airport reference point, located at
517 the approximate geometric ~~geographical~~ center of all usable
518 runways of a public-use airport, or a publicly owned or operated
519 ~~airport, a military airport, or an airport licensed by the state~~
520 ~~for public use.~~



CS/HB 7039, Engrossed 1

2015

521 (2) Existing, planned, and proposed ~~Affected airports will~~
522 ~~be considered as having these facilities~~ on public-use airports
523 contained in an ~~which are shown on the~~ airport master plan, on
524 ~~or~~ an airport layout plan submitted to the Federal Aviation
525 Administration Airport District Office, or in comparable
526 military documents, ~~and will be so~~ protected from the structures
527 that exceed federal obstruction standards. ~~Planned or proposed~~
528 ~~public-use airports which are the subject of a notice or~~
529 ~~proposal submitted to the Federal Aviation Administration or to~~
530 ~~the Department of Transportation shall also be protected.~~

531 (3) Permit requirements of subsection (1) shall not apply
532 to structures ~~projects~~ which received construction permits from
533 the Federal Communications Commission for structures exceeding
534 federal obstruction standards prior to May 20, 1975, ~~provided~~
535 ~~such structures now exist;~~ nor shall such requirements ~~it~~ apply
536 to previously approved structures now existing, or any necessary
537 replacement or repairs to such existing structures, so long as
538 the height and location is unchanged.

539 (4) When political subdivisions have adopted adequate
540 airport airspace protection zoning regulations in compliance
541 with s. 333.03, ~~and such regulations are on file with the~~
542 ~~department of Transportation,~~ and have established a permitting
543 process in compliance with s. 333.09(2), a permit for such
544 structure shall not be required from the department ~~of~~
545 ~~Transportation.~~ To evaluate technical consistency with this
546 section there is a 15-day department review period concurrent



547 with the permitting process prescribed by s. 333.09. Upon
548 receipt of a complete permit application, the local government
549 shall forward a copy of the application to the department's
550 Aviation Office by certified mail, return receipt requested, or
551 by delivery service that provides a receipt evidencing delivery.
552 Cranes, construction equipment, and other temporary structures
553 in use or in place for a period not to exceed 18 consecutive
554 months are exempt from department review, unless such review is
555 requested by the department.

556 (5) The department ~~of Transportation~~ shall, within 30 days
557 after ~~of~~ the receipt of an application for a permit, issue or
558 deny a permit for the construction or erection, alteration, ~~or~~
559 ~~modification~~ of any structure ~~the result of~~ which would exceed
560 federal obstruction standards as contained in 14 C.F.R. ss.
561 77.15, 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, and 77.29~~.
562 The department shall review permit applications in conformity
563 with s. 120.60.

564 (6) In determining whether to issue or deny a permit, the
565 department shall consider:

566 (a) The safety of persons on the ground and in the air.

567 (b) The safe and efficient use of navigable airspace.

568 (c) ~~(a)~~ The nature of the terrain and height of existing
569 structures.

570 ~~(b) Public and private interests and investments.~~

571 (d) Whether the construction of the proposed structure
572 would impact the state licensing standards for a public-use



573 airport, contained in chapter 330 and rule 14-60, Florida
 574 Administrative Code.

575 (e)-(e) The character of existing and planned flight flying
 576 operations and ~~planned~~ developments at public-use of airports.

577 (f)-(d) Federal airways, visual flight rules, flyways and
 578 corridors, and instrument approaches as designated by the Federal
 579 Aviation Administration.

580 (g)-(e) Whether the construction of the proposed structure
 581 would cause an increase in the minimum descent altitude or the
 582 decision height at the affected airport.

583 ~~(f) Technological advances.~~

584 ~~(g) The safety of persons on the ground and in the air.~~

585 ~~(h) Land use density.~~

586 ~~(i) The safe and efficient use of navigable airspace.~~

587 (h)-(j) The cumulative effects on navigable airspace of all
 588 existing structures, ~~proposed structures identified in the~~
 589 ~~applicable jurisdictions' comprehensive plans,~~ and all other
 590 known proposed structures in the area.

591 (7) When issuing a permit under this section, the
 592 department ~~of Transportation shall, as a specific condition of~~
 593 ~~such permit,~~ require the owner ~~obstruction marking and lighting~~
 594 of the permitted structure or vegetation to install, operate,
 595 and maintain thereon, at his or her own expense, marking and
 596 lighting in conformance with the specific standards established
 597 by the Federal Aviation Administration as provided in s.

598 ~~333.07(3)(b).~~



599 (8) The department ~~of Transportation~~ shall not approve a
 600 permit for the construction or alteration ~~erection~~ of a
 601 structure unless the applicant submits both documentation
 602 showing compliance with the federal requirement for notification
 603 of proposed construction or alteration and a valid aeronautical
 604 study evaluation, and a ~~no~~ permit may not ~~shall~~ be approved
 605 solely on the basis that such proposed structure will not exceed
 606 federal obstruction standards as contained in 14 C.F.R. ss.
 607 77.15, 77.17, 77.19, 77.21, or 77.23, 77.25, 77.28, or 77.29, or
 608 any other federal aviation regulation.

609 (9) The denial of a permit under this section shall be
 610 subject to the administrative review provisions of chapter 120.

611 Section 11. Section 333.03, Florida Statutes, is amended
 612 to read:

613 333.03 Requirement ~~Power~~ to adopt airport zoning
 614 regulations.—

615 (1) (a) ~~In order to prevent the creation or establishment~~
 616 ~~of airport hazards,~~ Every political subdivision having an
 617 airport hazard area within its territorial limits shall, ~~by~~
 618 ~~October 1, 1977,~~ adopt, administer, and enforce, ~~under the~~
 619 ~~police power and~~ in the manner and upon the conditions
 620 hereinafter prescribed in this section, airport protection
 621 zoning regulations for such airport hazards ~~hazard area~~.

622 (b) Where an airport is owned or controlled by a political
 623 subdivision and an ~~any~~ airport hazard area ~~appertaining to such~~
 624 ~~airport~~ is located wholly or partly outside the territorial



625 limits of ~~the said~~ political subdivision, the political
626 subdivision owning or controlling the airport and any the
627 political subdivision within which the airport hazard area is
628 located, shall either:

629 1. By interlocal agreement, ~~in accordance with the~~
630 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
631 of airport protection zoning regulations applicable to the
632 airport hazard area ~~in question~~; or

633 2. By ordinance, regulation, or resolution duly adopted,
634 create a joint airport zoning board ~~that,~~ ~~which board shall have~~
635 ~~the same power to~~ adopt, administer, and enforce airport
636 protection zoning regulations applicable to the airport hazard
637 area in each ~~question as that vested in paragraph (a) in the~~
638 political subdivision in ~~within~~ which the airport hazard ~~such~~
639 area is located. Each such joint airport zoning board shall have
640 as members two representatives appointed by each participating
641 political subdivision ~~participating in its creation~~ and, in
642 addition, a chair elected by a majority of the members so
643 appointed. ~~The~~ ~~However,~~ the airport manager or representative of
644 each airport in ~~managers of~~ the affected participating political
645 subdivisions shall serve on the board in a nonvoting capacity.

646 (c) Airport protection zoning regulations adopted under
647 paragraph (a) shall, as a minimum, require:

648 1. A permit ~~variance~~ for the ~~erection,~~ construction, or
649 ~~alteration,~~ ~~or modification~~ of any structure which would cause
650 the structure to exceed the federal obstruction standards as



651 contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
652 ~~77.23, 77.25, 77.28, and 77.29;~~

653 2. Obstruction marking and lighting for structures
654 exceeding the federal obstruction standards as contained in 14
655 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23, as specified
656 in s. 333.07(3);

657 3. Documentation showing compliance with the federal
658 requirement for notification of proposed construction or
659 alteration and a valid aeronautical study evaluation submitted
660 by each person applying for a permit variance;

661 4. Consideration of the criteria in s. 333.025(6), when
662 determining whether to issue or deny a permit variance; and

663 5. That no permit variance shall be approved solely on the
664 basis that such proposed structure will not exceed federal
665 obstruction standards as contained in 14 C.F.R. ss. 77.15,
666 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, or 77.29,~~ or any
667 other federal aviation regulation.

668 (d) The department is available to provide assistance to
669 political subdivisions with regard to federal obstruction
670 standards ~~shall issue copies of the federal obstruction~~
671 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
672 ~~77.28, and 77.29 to each political subdivision having airport~~
673 ~~hazard areas and, in cooperation with political subdivisions,~~
674 ~~shall issue appropriate airport zoning maps depicting within~~
675 ~~each county the maximum allowable height of any structure or~~
676 ~~tree. Material distributed pursuant to this subsection shall be~~



677 | ~~at no cost to authorized recipients.~~

678 | (2) In the manner provided in subsection (1), ~~interim~~
679 | airport land use compatibility zoning regulations shall be
680 | adopted, administered, and enforced. Airport land use
681 | compatibility zoning ~~When political subdivisions have adopted~~
682 | ~~land development~~ regulations shall, at a minimum, in accordance
683 | ~~with the provisions of chapter 163 which address the use of land~~
684 | ~~in the manner consistent with the provisions herein, adoption of~~
685 | ~~airport land use compatibility regulations pursuant to this~~
686 | ~~subsection shall not be required. Interim airport land use~~
687 | ~~compatibility zoning regulations shall consider the following:~~

688 | (a) Prohibiting any new and restricting any existing
689 | landfills ~~Whether sanitary landfills are located~~ within the
690 | following areas:

691 | 1. Within 10,000 feet from the nearest point of any runway
692 | used or planned to be used by turbine ~~turbojet or turboprop~~
693 | aircraft.

694 | 2. Within 5,000 feet from the nearest point of any runway
695 | used only by nonturbine ~~piston-type~~ aircraft.

696 | 3. Outside the perimeters defined in subparagraphs 1. and
697 | 2., but still within the lateral limits of the civil airport
698 | imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25.~~
699 | Case-by-case review of such landfills is advised.

700 | (b) Where ~~Whether~~ any landfill is located and constructed
701 | so that it attracts or sustains hazardous bird movements from
702 | feeding, water, or roosting areas into, or across, the runways



703 or approach and departure patterns of aircraft. The landfill
704 operator must be required to ~~political subdivision shall request~~
705 ~~from the airport authority or other governing body operating the~~
706 ~~airport a report on such bird feeding or roosting areas that at~~
707 ~~the time of the request are known to the airport. In preparing~~
708 ~~its report, the authority, or other governing body, shall~~
709 ~~consider whether the landfill will incorporate bird management~~
710 ~~techniques or other practices to minimize bird hazards to~~
711 ~~airborne aircraft. The airport authority or other governing body~~
712 ~~shall respond to the political subdivision no later than 30 days~~
713 ~~after receipt of such request.~~

714 (c) Where an airport authority or other governing body
715 operating a ~~publicly owned,~~ public-use airport has conducted a
716 noise study in accordance with the provisions of 14 C.F.R. part
717 150, or where the public-use airport owner has established noise
718 contours pursuant to another public study approved by the Federal
719 Aviation Administration, incompatible uses, as established in
720 Appendix A of the 14 C.F.R. part 150 noise study or as a part of
721 an alternative Federal Aviation Administration-approved public
722 study, shall not be permitted within the noise contours
723 established by that study, except where such use is specifically
724 contemplated by such study with appropriate mitigation or similar
725 techniques described in the study ~~neither residential~~
726 ~~construction nor any educational facility as defined in chapter~~
727 ~~1013, with the exception of aviation school facilities, shall be~~
728 ~~permitted within the area contiguous to the airport defined by~~



729 ~~an outer noise contour that is considered incompatible with that~~
730 ~~type of construction by 14 C.F.R. part 150, Appendix A or an~~
731 ~~equivalent noise level as established by other types of noise~~
732 ~~studies.~~

733 (d) Where an airport authority or other governing body
734 operating a ~~publicly owned,~~ public-use airport has not conducted
735 a noise study, neither residential construction nor any
736 educational facility ~~as defined in chapter 1013,~~ with the
737 exception of aviation school facilities, shall be permitted
738 within an area contiguous to the airport measuring one-half the
739 length of the longest runway on either side of and at the end of
740 each runway centerline.

741 (3) In the manner provided in subsection (1), airport
742 zoning regulations that shall be adopted which restrict new
743 incompatible uses, ~~activities,~~ or substantial modifications to
744 existing incompatible uses ~~construction~~ within runway protection
745 clear zones shall be adopted, ~~including uses, activities, or~~
746 ~~construction in runway clear zones which are incompatible with~~
747 ~~normal airport operations or endanger public health, safety, and~~
748 ~~welfare by resulting in congregations of people, emissions of~~
749 ~~light or smoke, or attraction of birds. Such regulations shall~~
750 ~~prohibit the construction of an educational facility of a public~~
751 ~~or private school at either end of a runway of a publicly owned,~~
752 ~~public-use airport within an area which extends 5 miles in a~~
753 ~~direct line along the centerline of the runway, and which has a~~
754 ~~width measuring one-half the length of the runway. Exceptions~~



755 ~~approving construction of an educational facility within the~~
756 ~~delineated area shall only be granted when the political~~
757 ~~subdivision administering the zoning regulations makes specific~~
758 ~~findings detailing how the public policy reasons for allowing~~
759 ~~the construction outweigh health and safety concerns prohibiting~~
760 ~~such a location.~~

761 ~~(4) The procedures outlined in subsections (1), (2), and~~
762 ~~(3) for the adoption of such regulations are supplemental to any~~
763 ~~existing procedures utilized by political subdivisions in the~~
764 ~~adoption of such regulations.~~

765 ~~(4)~~(5) The department of Transportation shall provide
766 technical assistance to any political subdivision requesting
767 assistance in the preparation of an airport zoning regulation
768 ~~code~~. A copy of all local airport zoning codes, rules, and
769 regulations, and amendments and proposed and granted permits
770 ~~variances thereto~~, shall be filed with the department. All
771 updates and amendments to local airport zoning codes, rules, and
772 regulations shall be filed with the department within 30 days
773 after adoption.

774 ~~(5)~~(6) Nothing in subsection (2) or subsection (3) shall
775 be construed to require the removal, alteration, sound
776 conditioning, or other change, or to interfere with the
777 continued use or adjacent expansion of any educational structure
778 or site in existence on July 1, 1993, ~~or be construed to~~
779 ~~prohibit the construction of any new structure for which a site~~
780 ~~has been determined as provided in former s. 235.19, as of July~~



781 ~~1, 1993.~~

782 (6) This section does not preclude an airport authority,
783 political subdivision or its administrative agency, or other
784 governing body operating a public-use airport from establishing
785 airport protection zoning regulations more restrictive than
786 prescribed in this section in order to protect the safety and
787 welfare of the public in the air and on the ground.

788 Section 12. Section 333.04, Florida Statutes, is amended
789 to read:

790 333.04 Comprehensive zoning regulations; most stringent to
791 prevail where conflicts occur.—

792 (1) INCORPORATION.—In the event that a political
793 subdivision has adopted, or hereafter adopts, a comprehensive
794 plan or policy ~~zoning ordinance~~ regulating, among other things,
795 the height of buildings, structures, and natural objects, and
796 uses of property, any airport zoning regulations applicable to
797 the same area or portion thereof may be incorporated in and made
798 a part of such comprehensive plans or policies ~~zoning~~
799 ~~regulations~~, and be administered and enforced in connection
800 therewith.

801 (2) CONFLICT.—In the event of conflict between any airport
802 zoning regulations adopted under this chapter and any other
803 regulations applicable to the same area, whether the conflict be
804 with respect to the height of structures or vegetation ~~trees~~,
805 the use of land, or any other matter, and whether such
806 regulations were adopted by the political subdivision which



807 adopted the airport zoning regulations or by some other
808 political subdivision, the more stringent limitation or
809 requirement shall govern and prevail.

810 Section 13. Section 333.05, Florida Statutes, is amended
811 to read:

812 333.05 Procedure for adoption of zoning regulations.—

813 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may
814 not shall be adopted, amended, or deleted changed under this
815 chapter except by action of the legislative body of the
816 political subdivision or subdivisions affected in question, or
817 the joint board provided in s. 333.03(1)(b)2. ~~333.03(1)(b)~~ by
818 the political subdivisions bodies therein provided and set
819 forth, after a public hearing in relation thereto, at which
820 parties in interest and citizens shall have an opportunity to be
821 heard. Notice of the hearing shall be published at least once a
822 week for 2 consecutive weeks in a newspaper ~~an official paper,~~
823 ~~or a paper~~ of general circulation, in the political subdivision
824 or subdivisions where in which are located the airport zoning
825 regulations are areas to be adopted, amended, or deleted zoned.

826 (2) AIRPORT ZONING COMMISSION.—Before ~~Prior to~~ the initial
827 zoning of any airport area under this chapter the political
828 subdivision or joint airport zoning board which is to adopt,
829 administer, and enforce the regulations shall appoint a
830 commission, to be known as the airport zoning commission, to
831 recommend the boundaries of the various zones to be established
832 and the regulations to be adopted therefor. Such commission



833 shall make a preliminary report and hold public hearings thereon
 834 before submitting its final report, and the legislative body of
 835 the political subdivision or the joint airport zoning board
 836 shall not hold its public hearings or take any action until it
 837 has received the final report of such commission, and at least
 838 15 days shall elapse between the receipt of the final report of
 839 the commission and the hearing to be held by the latter board.
 840 Where a planning ~~city plan~~ commission, airport commission, or
 841 comprehensive zoning commission already exists, it may be
 842 appointed as the airport zoning commission.

843 Section 14. Section 333.06, Florida Statutes, is amended
 844 to read:

845 333.06 Airport zoning requirements.—

846 (1) REASONABLENESS.—All airport zoning regulations adopted
 847 under this chapter shall be reasonable and ~~none~~ shall not impose
 848 any requirement or restriction which is not reasonably necessary
 849 to effectuate the purposes of this chapter. In determining what
 850 regulations it may adopt, each political subdivision and joint
 851 airport zoning board shall consider, among other things, the
 852 character of the flying operations expected to be conducted at
 853 the airport, the nature of the terrain within the airport hazard
 854 area and runway protection ~~clear~~ zones, the character of the
 855 neighborhood, the uses to which the property to be zoned is put
 856 and adaptable, and the impact of any new use, activity, or
 857 construction on the airport's operating capability and capacity.

858 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport



859 zoning regulations adopted under this chapter is to provide both
860 airspace protection and land uses ~~use~~ compatible with airport
861 operations. Each aspect of this purpose requires independent
862 justification in order to promote the public interest in safety,
863 health, and general welfare. Specifically, construction in a
864 runway protection ~~clear~~ zone which does not exceed airspace
865 height restrictions is not conclusive ~~evidence per se~~ that such
866 use, activity, or construction is compatible with airport
867 operations.

868 (3) NONCONFORMING USES.—No airport protection zoning
869 regulations adopted under this chapter shall require the
870 removal, lowering, or other change or alteration of any
871 structure or vegetation ~~tree~~ not conforming to the regulations
872 when adopted or amended, or otherwise interfere with the
873 continuance of any nonconforming use, except as provided in s.
874 333.07(1) and (3).

875 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED
876 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
877 each public-use ~~publicly owned and operated~~ airport licensed by
878 the department ~~of Transportation~~ under chapter 330. The
879 authorized entity having responsibility for governing the
880 operation of the airport, when either requesting from or
881 submitting to a state or federal governmental agency with
882 funding or approval jurisdiction a "finding of no significant
883 impact," an environmental assessment, a site-selection study, an
884 airport master plan, or any amendment to an airport master plan,



885 shall submit simultaneously a copy of said request, submittal,
 886 assessment, study, plan, or amendments by certified mail to all
 887 affected local governments. For the purposes of this subsection,
 888 "affected local government" is defined as any city or county
 889 having jurisdiction over the airport and any city or county
 890 located within 2 miles of the boundaries of the land subject to
 891 the airport master plan.

892 Section 15. Section 333.065, Florida Statutes, is
 893 repealed.

894 Section 16. Section 333.07, Florida Statutes, is amended
 895 to read:

896 333.07 Local government permitting of airspace ~~Permits and~~
 897 ~~variances.-~~

898 (1) PERMITS.-

899 (a) Any person proposing to erect, construct, or alter any
 900 structure, increase the height of any structure, permit the
 901 growth of any vegetation, or otherwise use his or her property
 902 in violation of the airport protection zoning regulations
 903 adopted under this chapter shall apply for a permit. A Any
 904 ~~airport zoning regulations adopted under this chapter may~~
 905 ~~require that a permit be obtained before any new structure or~~
 906 ~~use may be constructed or established and before any existing~~
 907 ~~use or structure may be substantially changed or substantially~~
 908 ~~altered or repaired. In any event, however, all such regulations~~
 909 ~~shall provide that before any nonconforming structure or tree~~
 910 ~~may be replaced, substantially altered or repaired, rebuilt,~~



911 ~~allowed to grow higher, or replanted, a permit must be secured~~
912 ~~from the administrative agency authorized to administer and~~
913 ~~enforce the regulations, authorizing such replacement, change,~~
914 ~~or repair. No permit may not shall be issued granted~~ that would
915 allow the establishment or creation of an airport hazard or
916 would permit a nonconforming structure or vegetation ~~tree~~ or
917 nonconforming use to be made or become higher or to become a
918 greater hazard to air navigation than it was when the applicable
919 regulation was adopted or than it is when the application for a
920 permit is made.

921 (b) Whenever the political subdivision or its
922 administrative agency determines that a nonconforming use or
923 nonconforming structure or vegetation ~~tree~~ has been abandoned or
924 is more than 80 percent torn down, destroyed, deteriorated, or
925 decayed, ~~a~~ ~~no~~ permit may not shall be granted that would allow
926 ~~the said~~ structure or vegetation ~~tree~~ to exceed the applicable
927 height limit or otherwise deviate from the zoning regulations.~~.~~
928 ~~and,~~ Whether or not an application is made for a permit under
929 this subsection ~~or not~~, the ~~said~~ agency may by appropriate
930 action, ~~compel~~ the owner of the nonconforming structure or
931 vegetation may be required ~~tree~~, at his or her own expense, to
932 lower, remove, reconstruct, alter, or equip such object as may
933 be necessary to conform to the regulations. If the owner of the
934 nonconforming structure or vegetation ~~tree~~ shall neglect or
935 refuse to comply with such order for 10 days after notice
936 ~~thereof~~, the ~~said~~ agency may report the violation to the



937 political subdivision involved therein, which subdivision,
938 through its appropriate agency, may proceed to have the object
939 so lowered, removed, reconstructed, altered or equipped, and
940 assess the cost and expense thereof upon the object or the land
941 whereon it is or was located, ~~and, unless such an assessment is~~
942 ~~paid within 90 days from the service of notice thereof on the~~
943 ~~owner or the owner's agent, of such object or land, the sum~~
944 ~~shall be a lien on said land, and shall bear interest thereafter~~
945 ~~at the rate of 6 percent per annum until paid, and shall be~~
946 ~~collected in the same manner as taxes on real property are~~
947 ~~collected by said political subdivision, or, at the option of~~
948 ~~said political subdivision, said lien may be enforced in the~~
949 ~~manner provided for enforcement of liens by chapter 85.~~

950 ~~(c) Except as provided herein, applications for permits~~
951 ~~shall be granted, provided the matter applied for meets the~~
952 ~~provisions of this chapter and the regulations adopted and in~~
953 ~~force hereunder.~~

954 ~~(2) VARIANCES.~~

955 ~~(a) Any person desiring to erect any structure, increase~~
956 ~~the height of any structure, permit the growth of any tree, or~~
957 ~~otherwise use his or her property in violation of the airport~~
958 ~~zoning regulations adopted under this chapter or any land~~
959 ~~development regulation adopted pursuant to the provisions of~~
960 ~~chapter 163 pertaining to airport land use compatibility, may~~
961 ~~apply to the board of adjustment for a variance from the zoning~~
962 ~~regulations in question. At the time of filing the application,~~



CS/HB 7039, Engrossed 1

2015

963 ~~the applicant shall forward to the department by certified mail,~~
964 ~~return receipt requested, a copy of the application. The~~
965 ~~department shall have 45 days from receipt of the application to~~
966 ~~comment and to provide its comments or waiver of that right to~~
967 ~~the applicant and the board of adjustment. The department shall~~
968 ~~include its explanation for any objections stated in its~~
969 ~~comments. If the department fails to provide its comments within~~
970 ~~45 days of receipt of the application, its right to comment is~~
971 ~~waived. The board of adjustment may proceed with its~~
972 ~~consideration of the application only upon the receipt of the~~
973 ~~department's comments or waiver of that right as demonstrated by~~
974 ~~the filing of a copy of the return receipt with the board.~~
975 ~~Noncompliance with this section shall be grounds to appeal~~
976 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
977 ~~to s. 333.11. Such variances may only be allowed where a literal~~
978 ~~application or enforcement of the regulations would result in~~
979 ~~practical difficulty or unnecessary hardship and where the~~
980 ~~relief granted would not be contrary to the public interest but~~
981 ~~would do substantial justice and be in accordance with the~~
982 ~~spirit of the regulations and this chapter. However, any~~
983 ~~variance may be allowed subject to any reasonable conditions~~
984 ~~that the board of adjustment may deem necessary to effectuate~~
985 ~~the purposes of this chapter.~~

986 ~~(b) The Department of Transportation shall have the~~
987 ~~authority to appeal any variance granted under this chapter~~
988 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~



989 ~~to s. 333.11.~~

990 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.-In
 991 determining whether to issue or deny a permit, the political
 992 subdivision or its administrative agency shall consider the
 993 following, as applicable:

994 (a) The safety of persons on the ground and in the air.

995 (b) The safe and efficient use of navigable airspace.

996 (c) The nature of the terrain and height of existing
 997 structures.

998 (d) The state licensing standards for a public-use
 999 airport, contained in chapter 330 and rule 14-60, Florida
 1000 Administrative Code, for the construction or alteration of the
 1001 proposed structure.

1002 (e) The character of existing and planned flight
 1003 operations and developments at public-use airports.

1004 (f) Federal airways, visual flight rules, flyways and
 1005 corridors, and instrument approaches as designated by the
 1006 Federal Aviation Administration.

1007 (g) Effect of the construction or alteration of the
 1008 proposed structure on the minimum descent altitude or the
 1009 decision height at the affected airport.

1010 (h) The cumulative effects on navigable airspace of all
 1011 existing structures and all other known proposed structures in
 1012 the area.

1013 (i) Requirements contained in s. 333.03(2) and (3).

1014 (j) Additional requirements adopted by the political



1015 subdivision or administrative agency pertinent to evaluation and
 1016 protection of airspace and airport operations.

1017 (3) OBSTRUCTION MARKING AND LIGHTING.—

1018 ~~(a) In issuing a granting any permit or variance under~~
 1019 ~~this section, the political subdivision or its administrative~~
 1020 ~~agency or board of adjustment shall require the owner of the~~
 1021 ~~structure or vegetation tree in question to install, operate,~~
 1022 ~~and maintain thereon, at his or her own expense, ~~such~~ marking~~
 1023 ~~and lighting in conformance with the specific standards~~
 1024 ~~established by the Federal Aviation Administration as may be~~
 1025 ~~necessary to indicate to aircraft pilots the presence of an~~
 1026 ~~obstruction.~~

1027 (b) Such marking and lighting shall conform to the
 1028 specific standards established by rule by the department of
 1029 Transportation.

1030 ~~(c) Existing structures not in compliance on October 1,~~
 1031 ~~1988, shall be required to comply whenever the existing marking~~
 1032 ~~requires refurbishment, whenever the existing lighting requires~~
 1033 ~~replacement, or within 5 years of October 1, 1988, whichever~~
 1034 ~~occurs first.~~

1035 Section 17. Section 333.08, Florida Statutes, is repealed.

1036 Section 18. Section 333.09, Florida Statutes, is amended
 1037 to read:

1038 333.09 Administration of airport zoning regulations.—

1039 (1) ADMINISTRATION.—All airport zoning regulations adopted
 1040 under this chapter shall provide for the administration and



1041 enforcement of such regulations by the political subdivision or
1042 its administrative agency ~~an administrative agency which may be~~
1043 ~~an agency created by such regulations or any official, board, or~~
1044 ~~other existing agency of the political subdivision adopting the~~
1045 ~~regulations or of one of the political subdivisions which~~
1046 ~~participated in the creation of the joint airport zoning board~~
1047 ~~adopting the regulations, if satisfactory to that political~~
1048 ~~subdivision, but in no case shall such administrative agency be~~
1049 ~~or include any member of the board of adjustment.~~ The duties of
1050 any administrative agency designated pursuant to this chapter
1051 shall include that of hearing and deciding all permits under s.
1052 333.07(1), ~~deciding all matters under s. 333.07(3),~~ as they
1053 pertain to such agency, and all other matters under this chapter
1054 applying to said agency, ~~but such agency shall not have or~~
1055 ~~exercise any of the powers herein delegated to the board of~~
1056 ~~adjustment.~~

1057 (2) LOCAL GOVERNMENT PROCESS.—

1058 (a) A political subdivision required to adopt airport
1059 zoning regulations under this chapter shall provide a process to:

1060 1. Issue or deny permits consistent with s. 333.07,
1061 including requests for exceptions to airport zoning regulations.

1062 2. Notify the department of receipt of a complete
1063 application consistent with s. 333.025(4).

1064 3. Enforce any permit, order, requirement, decision, or
1065 determination made by the administrative agency with respect to
1066 airport zoning regulations.



1067 (b) If a zoning board or permitting body already exists
1068 within a political subdivision, the zoning board or permitting
1069 body may implement the permitting and appeals process. Otherwise,
1070 the political subdivision shall implement the permitting and
1071 appeals process in a manner consistent with its constitutional
1072 powers and areas of jurisdiction.

1073 (3) APPEALS.—

1074 (a) A person or a political subdivision or its
1075 administrative agency or a joint airport zoning board that
1076 contends a decision made by a political subdivision or its
1077 administrative agency is an improper application of airport
1078 zoning regulations, may use the process established for an
1079 appeal.

1080 (b) All appeals taken under this section must be taken
1081 within a reasonable time, as provided by the political
1082 subdivision or its administrative agency, by filing with the
1083 entity from which appeal is taken a notice of appeal specifying
1084 the grounds for appeal.

1085 (c) An appeal shall stay all proceedings in the underlying
1086 action appealed from, unless the entity from which the appeal is
1087 taken certifies pursuant to the rules for appeal that by reason
1088 of the facts stated in the certificate a stay would, in its
1089 opinion, cause imminent peril to life or property. In such cases,
1090 proceedings shall not be stayed except by order of the political
1091 subdivision or its administrative agency on notice to the entity
1092 from which the appeal is taken and for good cause shown.



1093 (d) The political subdivision or its administrative agency
 1094 shall set a reasonable time for the hearing of appeals, give
 1095 public notice and due notice to the parties in interest, and
 1096 decide the same within a reasonable time. Upon the hearing, any
 1097 party may appear in person, by agent, or by attorney.

1098 (e) The political subdivision or its administrative agency
 1099 may, in conformity with the provisions of this chapter, reverse,
 1100 affirm, or modify the order, requirement, decision, or
 1101 determination from which the appeal is taken.

1102 Section 19. Section 333.10, Florida Statutes, is repealed.

1103 Section 20. Section 333.11, Florida Statutes, is amended
 1104 to read:

1105 333.11 Judicial review.—

1106 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
 1107 ~~decision of a board of adjustment, or any governing body of a~~
 1108 ~~political subdivision, or the Department of Transportation or~~
 1109 ~~any joint airport zoning board,~~ affected by a decision of a
 1110 political subdivision or its ~~of any~~ administrative agency
 1111 ~~hereunder,~~ may apply for judicial relief to the circuit court in
 1112 the judicial circuit where the political subdivision ~~board of~~
 1113 ~~adjustment~~ is located within 30 days after rendition of the
 1114 decision ~~by the board of adjustment.~~ Review shall be by petition
 1115 for writ of certiorari, which shall be governed by the Florida
 1116 Rules of Appellate Procedure.

1117 ~~(2) Upon presentation of such petition to the court, it~~
 1118 ~~may allow a writ of certiorari, directed to the board of~~



1119 ~~adjustment, to review such decision of the board. The allowance~~
 1120 ~~of the writ shall not stay the proceedings upon the decision~~
 1121 ~~appealed from, but the court may, on application, on notice to~~
 1122 ~~the board, on due hearing and due cause shown, grant a~~
 1123 ~~restraining order.~~

1124 ~~(3) The board of adjustment shall not be required to~~
 1125 ~~return the original papers acted upon by it, but it shall be~~
 1126 ~~sufficient to return certified or sworn copies thereof or of~~
 1127 ~~such portions thereof as may be called for by the writ. The~~
 1128 ~~return shall concisely set forth such other facts as may be~~
 1129 ~~pertinent and material to show the grounds of the decision~~
 1130 ~~appealed from and shall be verified.~~

1131 ~~(2)-(4)~~ (2) The court shall have exclusive jurisdiction to
 1132 affirm, modify, or set aside the decision brought up for review,
 1133 ~~in whole or in part,~~ and, if need be, to order further
 1134 proceedings by the political subdivision or its administrative
 1135 agency board of adjustment. The findings of fact by the
 1136 political subdivision or its administrative agency board, if
 1137 supported by substantial evidence, shall be accepted by the
 1138 court as conclusive, and no objection to a decision of the
 1139 political subdivision or its administrative agency board shall
 1140 be considered by the court unless such objection was raised in
 1141 the underlying proceeding ~~shall have been urged before the~~
 1142 ~~board, or, if it was not so urged, unless there were reasonable~~
 1143 ~~grounds for failure to do so.~~

1144 ~~(3)-(5)~~ (3) In any case where ~~in which~~ airport zoning



1145 regulations adopted under this chapter, ~~although generally~~
1146 ~~reasonable,~~ are held by a court to interfere with the use and
1147 enjoyment of a particular structure or parcel of land to such an
1148 extent, or to be so onerous in their application to such a
1149 structure or parcel of land, as to constitute a taking or
1150 deprivation of that property in violation of the State
1151 Constitution or the Constitution of the United States, such
1152 holding shall not affect the application of such regulations to
1153 other structures and parcels of land, or such regulations as are
1154 not involved in the particular decision.

1155 ~~(4)(6)~~ A judicial ~~no~~ appeal to any court may not shall be
1156 ~~or is~~ permitted under this section, ~~to any courts,~~ until the
1157 appellant has exhausted all its remedies through application for
1158 local government permits, exceptions, and appeals as herein
1159 ~~provided, save and except an appeal from a decision of the board~~
1160 ~~of adjustment, the appeal herein provided being from such final~~
1161 ~~decision of such board only, the appellant being hereby required~~
1162 ~~to exhaust his or her remedies hereunder of application for~~
1163 ~~permits, exceptions and variances, and appeal to the board of~~
1164 ~~adjustment, and gaining a determination by said board, before~~
1165 ~~being permitted to appeal to the court hereunder.~~

1166 Section 21. Section 333.12, Florida Statutes, is amended
1167 to read:

1168 333.12 Acquisition of air rights. ~~When~~ In any case which:
1169 ~~it is desired to remove, lower or otherwise terminate a~~
1170 ~~nonconforming structure or use~~ presents an air hazard and the



1171 structure cannot be removed, lowered, or otherwise terminated;
1172 or the approach protection necessary cannot, because of
1173 constitutional limitations, be provided by airport regulations
1174 under this chapter; or it appears advisable that the necessary
1175 approach protection be provided by acquisition of property
1176 rights rather than by airport zoning regulations, the political
1177 subdivision within which the property or nonconforming use is
1178 located, or the political subdivision owning or operating the
1179 airport or being served by it, may acquire, by purchase, grant,
1180 or condemnation in the manner provided by chapter 73, such air
1181 right, avigation ~~navigation~~ easement, or other estate, portion
1182 or interest in the property or nonconforming structure or use or
1183 such interest in the air above such property, vegetation ~~tree~~,
1184 structure, or use, in question, as may be necessary to
1185 effectuate the purposes of this chapter, and in so doing, if by
1186 condemnation, to have the right to take immediate possession of
1187 the property, interest in property, air right, or other right
1188 sought to be condemned, at the time, and in the manner and form,
1189 and as authorized by chapter 74. In the case of the purchase of
1190 any property, or any ~~any~~ easement, or estate or interest therein or
1191 the acquisition of the same by the power of eminent domain the
1192 political subdivision making such purchase or exercising such
1193 power shall in addition to the damages for the taking, injury,
1194 or destruction of property also pay the cost of the removal and
1195 relocation of any structure or any public utility which is
1196 required to be moved to a new location.



1197 Section 22. Section 333.13, Florida Statutes, is amended
 1198 to read:

1199 333.13 Enforcement and remedies.—

1200 (1) Each violation of this chapter or of any regulations,
 1201 orders, or rulings promulgated or made pursuant to this chapter
 1202 shall constitute a misdemeanor of the second degree, punishable
 1203 as provided in s. 775.082 or s. 775.083, and each day a
 1204 violation continues to exist shall constitute a separate
 1205 offense.

1206 (2) In addition, the political subdivision or agency
 1207 adopting the airport zoning regulations under this chapter may
 1208 institute in any court of competent jurisdiction an action to
 1209 prevent, restrain, correct, or abate any violation of this
 1210 chapter or of airport zoning regulations adopted under this
 1211 chapter or of any order or ruling made in connection with their
 1212 administration or enforcement, and the court shall adjudge to
 1213 the plaintiff such relief, by way of injunction (which may be
 1214 mandatory) or otherwise, as may be proper under all the facts
 1215 and circumstances of the case in order to fully effectuate the
 1216 purposes of this chapter and of the regulations adopted and
 1217 orders and rulings made pursuant thereto.

1218 (3) The department ~~of Transportation~~ may institute a civil
 1219 action for injunctive relief in the appropriate circuit court to
 1220 prevent violation of any provision of this chapter.

1221 Section 23. Section 333.135, Florida Statutes, is created
 1222 to read:



1223 333.135 Transition provisions.—
 1224 (1) Any airport zoning regulation in effect on July 1,
 1225 2015, that includes provisions in conflict with this chapter
 1226 shall be amended to conform to the requirements of this chapter
 1227 by July 1, 2016.
 1228 (2) Any political subdivision having an airport within its
 1229 territorial limits which has not adopted airport zoning
 1230 regulations, shall, by October 1, 2017, adopt airport zoning
 1231 regulations consistent with the provisions of this chapter.
 1232 (3) For those political subdivisions that have not yet
 1233 adopted airport zoning regulations pursuant to this chapter, the
 1234 department shall administer the permitting process as provided in
 1235 s. 333.025.
 1236 Section 24. Section 333.14, Florida Statutes, is repealed.
 1237 Section 25. Subsections (36) and (37) of section 334.03,
 1238 Florida Statutes, are amended to read:
 1239 334.03 Definitions.—When used in the Florida
 1240 Transportation Code, the term:
 1241 (36) "511" or "511 services" means all three-digit
 1242 ~~telecommunications dialing to access interactive voice response~~
 1243 ~~telephone~~ traveler information services provided in the state,
 1244 including, but not limited to, the terms as defined by the
 1245 Federal Communications Commission in FCC Order No. 00-256, July
 1246 31, 2000.
 1247 ~~(37) "Interactive voice response" means a software~~
 1248 ~~application that accepts a combination of voice telephone input~~



1249 ~~and touch-tone keypad selection and provides appropriate~~
1250 ~~responses in the form of voice, fax, callback, e-mail, and other~~
1251 ~~media.~~

1252 Section 26. Subsection (31) of section 334.044, Florida
1253 Statutes, is amended, and subsection (34) is added to that
1254 section, to read:

1255 334.044 Department; powers and duties.—The department
1256 shall have the following general powers and duties:

1257 (31) To provide oversight of traveler information systems
1258 ~~that may include the provision of interactive voice response~~
1259 ~~telephone systems accessible via the 511 services number~~ as
1260 assigned by the Federal Communications Commission for traveler
1261 information services. The department shall ensure that uniform
1262 standards and criteria for the collection and dissemination of
1263 traveler information are applied ~~using interactive voice~~
1264 ~~response systems.~~

1265 (34) To assume responsibilities of the United States
1266 Department of Transportation with respect to highway projects
1267 within the state under the National Environmental Policy Act of
1268 1969, 42 U.S.C. s. 4321 et seq., and with respect to related
1269 responsibilities for environmental review, consultation, or
1270 other action required under any federal environmental law
1271 pertaining to review or approval of a highway project within the
1272 state. The department may assume responsibilities under 23
1273 U.S.C. s. 327 and enter into one or more agreements, including
1274 memoranda of understanding, with the United States Secretary of



CS/HB 7039, Engrossed 1

2015

1275 Transportation related to the federal surface transportation
1276 project delivery program for the delivery of highway projects,
1277 as provided by 23 U.S.C. s. 327. The department may adopt rules
1278 to implement this subsection and may adopt relevant federal
1279 environmental standards as the standards for this state for a
1280 program described in this subsection. Sovereign immunity to
1281 civil suit in federal court is waived consistent with 23 U.S.C.
1282 s. 327 and limited to the compliance, discharge, or enforcement
1283 of a responsibility assumed by the department under this
1284 subsection.

1285 Section 27. Section 334.60, Florida Statutes, is amended
1286 to read:

1287 334.60 511 traveler information system.—The department is
1288 the state's lead agency for implementing 511 services and is the
1289 state's point of contact for coordinating all 511 services ~~with~~
1290 ~~telecommunications service providers~~. The department shall:

- 1291 (1) Implement and administer 511 services in the state;
- 1292 (2) Coordinate with other transportation authorities in
1293 the state to provide multimodal traveler information through 511
1294 services and other means;
- 1295 (3) Develop uniform standards and criteria for the
1296 collection and dissemination of traveler information using ~~the~~
1297 511 services ~~number or other interactive voice response systems;~~
1298 and
- 1299 (4) Enter into joint participation agreements or contracts
1300 with highway authorities and public transit districts to share



CS/HB 7039, Engrossed 1

2015

1301 the costs of implementing and administering 511 services in the
1302 state. The department may also enter into other agreements or
1303 contracts with private firms relating to the 511 services to
1304 offset the costs of implementing and administering 511 services
1305 in the state.

1306
1307 The department shall adopt rules to administer the coordination
1308 of 511 traveler information ~~phone~~ services in the state.

1309 Section 28. Paragraph (a) of subsection (1) of section
1310 337.18, Florida Statutes, is amended to read:

1311 337.18 Surety bonds for construction or maintenance
1312 contracts; requirement with respect to contract award; bond
1313 requirements; defaults; damage assessments.—

1314 (1)(a) A surety bond shall be required of the successful
1315 bidder in an amount equal to the awarded contract price.
1316 However, the department may choose, in its discretion and
1317 applicable only to multiyear maintenance contracts, to allow for
1318 incremental annual contract bonds that cumulatively total the
1319 full, awarded, multiyear contract price.

1320 1. The department may waive the requirement for all or a
1321 portion of a surety bond if:

1322 a. ~~For a project for which~~ The contract price is \$250,000
1323 or less ~~and the department,~~ the department may waive the
1324 requirement for all or a portion of a surety bond if it
1325 determines the project is of a noncritical nature and
1326 nonperformance will not endanger public health, safety, or



1327 property;

1328 b. The prime contractor is a qualified nonprofit agency
1329 for the blind or for the other severely handicapped under s.
1330 413.036(2); or

1331 c. The prime contractor is using a subcontractor that is a
1332 qualified nonprofit agency for the blind or for the other
1333 severely handicapped under s. 413.036(2) but may not waive more
1334 than the amount of the subcontract.

1335 2. If the Secretary of Transportation or the secretary's
1336 designee determines that it is in the best interests of the
1337 department to reduce the bonding requirement for a project and
1338 that to do so will not endanger public health, safety, or
1339 property, the department may waive the requirement of a surety
1340 bond in an amount equal to the awarded contract price for a
1341 project having a contract price of \$250 million or more and, in
1342 its place, may set a surety bond amount that is a portion of the
1343 total contract price and provide an alternate means of security
1344 for the balance of the contract amount that is not covered by
1345 the surety bond or provide for incremental surety bonding and
1346 provide an alternate means of security for the balance of the
1347 contract amount that is not covered by the surety bond. Such
1348 alternative means of security may include letters of credit,
1349 United States bonds and notes, parent company guarantees, and
1350 cash collateral. The department may require alternate means of
1351 security if a surety bond is waived. The surety on such bond
1352 shall be a surety company authorized to do business in the



CS/HB 7039, Engrossed 1

2015

1353 state. All bonds shall be payable to the department and
1354 conditioned for the prompt, faithful, and efficient performance
1355 of the contract according to plans and specifications and within
1356 the time period specified, and for the prompt payment of all
1357 persons defined in s. 713.01 furnishing labor, material,
1358 equipment, and supplies for work provided in the contract;
1359 however, whenever an improvement, demolition, or removal
1360 contract price is \$25,000 or less, the security may, in the
1361 discretion of the bidder, be in the form of a cashier's check,
1362 bank money order of any state or national bank, certified check,
1363 or postal money order. The department shall adopt rules to
1364 implement this subsection. Such rules shall include provisions
1365 under which the department shall refuse to accept bonds on
1366 contracts when a surety wrongfully fails or refuses to settle or
1367 provide a defense for claims or actions arising under a contract
1368 for which the surety previously furnished a bond.

1369 Section 29. Subsection (4) of section 338.165, Florida
1370 Statutes, is amended to read:

1371 338.165 Continuation of tolls.—

1372 (4) Notwithstanding any other law to the contrary,
1373 pursuant to s. 11, Art. VII of the State Constitution, and
1374 subject to the requirements of subsection (2), the Department of
1375 Transportation may request the Division of Bond Finance to issue
1376 bonds secured by toll revenues collected on the Alligator Alley,
1377 the Sunshine Skyway Bridge, ~~the Beeline East Expressway, the~~
1378 ~~Navarre Bridge,~~ and the Pinellas Bayway to fund transportation



CS/HB 7039, Engrossed 1

2015

1379 projects located within the county or counties in which the
1380 project is located and contained in the adopted work program of
1381 the department.

1382 Section 30. Subsection (5) is added to section 338.227,
1383 Florida Statutes, to read:

1384 338.227 Turnpike revenue bonds.—

1385 (5) Notwithstanding s. 215.82, bonds issued pursuant to
1386 this section are not required to be validated pursuant to
1387 chapter 75, but may be validated at the option of the Division
1388 of Bond Finance. Any complaint for such validation shall be
1389 filed in the circuit court of the county where the seat of state
1390 government is situated; the notice required to be published by
1391 s. 75.06 shall be published only in the county where the
1392 complaint is filed; and the complaint and order of the circuit
1393 court shall be served only on the state attorney of the circuit
1394 in which the action is pending.

1395 Section 31. Paragraph (c) of subsection (3) of section
1396 338.231, Florida Statutes, is amended to read:

1397 338.231 Turnpike tolls, fixing; pledge of tolls and other
1398 revenues.—The department shall at all times fix, adjust, charge,
1399 and collect such tolls and amounts for the use of the turnpike
1400 system as are required in order to provide a fund sufficient
1401 with other revenues of the turnpike system to pay the cost of
1402 maintaining, improving, repairing, and operating such turnpike
1403 system; to pay the principal of and interest on all bonds issued
1404 to finance or refinance any portion of the turnpike system as



1405 | the same become due and payable; and to create reserves for all
1406 | such purposes.

1407 | (3)

1408 | (c) Notwithstanding any other provision of law to the
1409 | contrary, any prepaid toll account of any kind which has
1410 | remained inactive for 10 ~~3~~ years shall be presumed unclaimed and
1411 | its disposition shall be handled by the Department of Financial
1412 | Services in accordance with all applicable provisions of chapter
1413 | 717 relating to the disposition of unclaimed property, and the
1414 | prepaid toll account shall be closed by the department.

1415 | Section 32. Paragraph (g) of subsection (7) of section
1416 | 339.135, Florida Statutes, is amended, and paragraph (h) is
1417 | added to that subsection, to read:

1418 | 339.135 Work program; legislative budget request;
1419 | definitions; preparation, adoption, execution, and amendment.—

1420 | (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

1421 | (g) Any work program amendment which also requires the
1422 | transfer of fixed capital outlay appropriations between
1423 | categories within the department or the increase of an
1424 | appropriation category is subject to the approval of the
1425 | Legislative Budget Commission. ~~If a meeting of the Legislative~~
1426 | ~~Budget Commission cannot be held within 30 days of the~~
1427 | ~~department submitting an amendment to the Legislative Budget~~
1428 | ~~Commission, then the chair and vice chair of the Legislative~~
1429 | ~~Budget Commission may authorize such amendment to be approved~~
1430 | ~~pursuant to the provisions of s. 216.177.~~



1431 (h) Any work program amendment which also adds a new
1432 project, or phase thereof, to the adopted work program in excess
1433 of \$3 million is subject to the approval of the Legislative
1434 Budget Commission. Any work program amendment submitted under
1435 this paragraph must include, as supplemental information, a list
1436 of projects, or phases thereof, in the current 5-year adopted
1437 work program that are eligible for the funds within the
1438 appropriation category being utilized for the proposed
1439 amendment. The department shall provide narrative with the
1440 rationale for not advancing an existing project, or phase
1441 thereof, in lieu of the proposed amendment.

1442 Section 33. Paragraphs (a), (c), and (d) of subsection (3)
1443 of section 339.175, Florida Statutes, are amended to read:

1444 339.175 Metropolitan planning organization.—

1445 (3) VOTING MEMBERSHIP.—

1446 (a) The voting membership of an M.P.O. shall consist of at
1447 least 5 but not more than 25 apportioned members, with the exact
1448 number determined on an equitable geographic-population ratio
1449 basis, based on an agreement among the affected units of
1450 general-purpose local government and the Governor, as required
1451 by federal regulations. In accordance with 23 U.S.C. s. 134, the
1452 Governor may also allow M.P.O. members who represent
1453 municipalities to alternate with representatives from other
1454 municipalities within the metropolitan planning area which do
1455 not have members on the M.P.O. With the exception of counties
1456 chartered under s. 6(e), Art. VIII of the State Constitution and



1457 instances in which all of the county commissioners in a single-
1458 county M.P.O. are members of the M.P.O. governing board, county
1459 commissioners shall compose at least one-third of the M.P.O.
1460 governing board membership. A multicounty M.P.O. may satisfy
1461 this requirement by any combination of county commissioners from
1462 each of the counties constituting the M.P.O. Voting members
1463 shall be elected officials of general-purpose local governments,
1464 one of whom may represent a group of general-purpose local
1465 governments through an entity created by an M.P.O. for that
1466 purpose. An M.P.O. may include, as part of its apportioned
1467 voting members, a member of a statutorily authorized planning
1468 board, an official of an agency that operates or administers a
1469 major mode of transportation, or an official of Space Florida.
1470 As used in this section, the term "elected officials of a
1471 general-purpose local government" excludes constitutional
1472 officers, including sheriffs, tax collectors, supervisors of
1473 elections, property appraisers, clerks of the court, and similar
1474 types of officials. County commissioners shall compose not less
1475 than 20 percent of the M.P.O. membership if an official of an
1476 agency that operates or administers a major mode of
1477 transportation has been appointed to an M.P.O.

1478 (c) Except as provided in paragraph (d), and any other
1479 provision of this section to the contrary notwithstanding, a
1480 chartered county with over 1 million population may elect to
1481 reapportion the membership of an M.P.O. whose jurisdiction is
1482 wholly within the county. The charter county may exercise the



CS/HB 7039, Engrossed 1

2015

1483 provisions of this paragraph if:

1484 1. The M.P.O. approves the reapportionment plan by a
1485 three-fourths vote of its membership;

1486 2. The M.P.O. and the charter county determine that the
1487 reapportionment plan is needed to fulfill specific goals and
1488 policies applicable to that metropolitan planning area; and

1489 3. The charter county determines the reapportionment plan
1490 otherwise complies with all federal requirements pertaining to
1491 M.P.O. membership.

1492

1493 Any charter county that elects to exercise the provisions of
1494 this paragraph shall notify the Governor in writing.

1495 (d) Any other provision of this section to the contrary
1496 notwithstanding, the membership of an M.P.O. in any county
1497 chartered under s. 6(e), Art. VIII of the State Constitution
1498 whose jurisdiction is wholly contained within the county shall
1499 be the county mayor, the chairperson of the county commission,
1500 the chairperson of the county's transportation committee, one
1501 person appointed by the governing body of each municipality with
1502 a population of 60,000 or more residents, one county
1503 commissioner appointed by the Governor whose district includes
1504 only unincorporated areas of the county, one county commissioner
1505 appointed by the Governor whose district includes Biscayne
1506 National Park, one representative from the county's expressway
1507 authority appointed by the Governor, and one representative of
1508 the department serving as a nonvoting advisor ~~may elect to have~~



CS/HB 7039, Engrossed 1

2015

1509 ~~its county commission serve as the M.P.O., if the M.P.O.~~
1510 ~~jurisdiction is wholly contained within the county. Any charter~~
1511 ~~county that elects to exercise the provisions of this paragraph~~
1512 ~~shall so notify the Governor in writing. Upon receipt of such~~
1513 ~~notification, the Governor must designate the county commission~~
1514 ~~as the M.P.O. The Governor must appoint four additional voting~~
1515 ~~members to the M.P.O., one of whom must be an elected official~~
1516 ~~representing a municipality within the county, one of whom must~~
1517 ~~be an expressway authority member, one of whom must be a person~~
1518 ~~who does not hold elected public office and who resides in the~~
1519 ~~unincorporated portion of the county, and one of whom must be a~~
1520 ~~school board member.~~

1521 Section 34. Section 339.176, Florida Statutes, is amended
1522 to read:

1523 339.176 Voting membership for M.P.O. with boundaries
1524 including certain counties.—In addition to the voting membership
1525 established by s. 339.175(3) and notwithstanding any other
1526 provision of law to the contrary, the voting membership of any
1527 Metropolitan Planning Organization whose geographical boundaries
1528 include any county as defined in s. 125.011(1) must include an
1529 additional voting member appointed by the ~~that city's~~ governing
1530 body for each municipality ~~city~~ with a population of 50,000 or
1531 more residents, except as otherwise provided in s.
1532 339.175(3)(d).

1533 Section 35. Subsection (2) of section 339.2818, Florida
1534 Statutes, is amended to read:



1535 339.2818 Small County Outreach Program.—

1536 (2) For the purposes of this section, the term "small
 1537 county" means any county that has a population of 165,000
 1538 ~~150,000~~ or less as determined by the most recent official
 1539 estimate pursuant to s. 186.901.

1540 Section 36. Section 339.55, Florida Statutes, is amended
 1541 to read:

1542 339.55 State-funded infrastructure bank.—

1543 (1) There is created within the Department of
 1544 Transportation a state-funded infrastructure bank for the
 1545 purpose of providing loans and credit enhancements to government
 1546 units and private entities for use in constructing and improving
 1547 transportation facilities or ancillary facilities that produce
 1548 or distribute natural gas or fuel.

1549 (2) The bank may lend capital costs or provide credit
 1550 enhancements for:

1551 (a) A transportation facility project that is on the State
 1552 Highway System or that provides for increased mobility on the
 1553 state's transportation system or provides intermodal
 1554 connectivity with airports, seaports, rail facilities, and other
 1555 transportation terminals, pursuant to s. 341.053, for the
 1556 movement of people and goods.

1557 (b) Projects of the Transportation Regional Incentive
 1558 Program which are identified pursuant to s. 339.2819(4).

1559 (c)1. Emergency loans for damages incurred to public-use
 1560 commercial deepwater seaports, public-use airports, and other



1561 public-use transit and intermodal facilities that are within an
1562 area that is part of an official state declaration of emergency
1563 pursuant to chapter 252 and all other applicable laws. Such
1564 loans:

1565 a. May not exceed 24 months in duration except in extreme
1566 circumstances, for which the Secretary of Transportation may
1567 grant up to 36 months upon making written findings specifying
1568 the conditions requiring a 36-month term.

1569 b. Require application from the recipient to the
1570 department that includes documentation of damage claims filed
1571 with the Federal Emergency Management Agency or an applicable
1572 insurance carrier and documentation of the recipient's overall
1573 financial condition.

1574 c. Are subject to approval by the Secretary of
1575 Transportation and the Legislative Budget Commission.

1576 2. Loans provided under this paragraph must be repaid upon
1577 receipt by the recipient of eligible program funding for damages
1578 in accordance with the claims filed with the Federal Emergency
1579 Management Agency or an applicable insurance carrier, but no
1580 later than the duration of the loan.

1581 (d) Beginning July 1, 2017, applications for the
1582 development and construction of natural gas or fuel production
1583 or distribution facilities used primarily to support the state's
1584 transportation system may be considered for the loan program by
1585 the department. Loans under this paragraph may be used to
1586 refinance outstanding debt.



CS/HB 7039, Engrossed 1

2015

1587 (3) Loans from the bank may be subordinated to senior
1588 project debt that has an investment grade rating of "BBB" or
1589 higher. Notwithstanding any other provision of law, the total
1590 outstanding state-funded infrastructure bank loan repayments
1591 over the average term of the loan repayment period, as needed to
1592 meet the requirements of the documents authorizing the bonds
1593 issued or proposed to be issued under s. 215.617 to be paid from
1594 the State Transportation Trust Fund, may not exceed 0.75 percent
1595 of the revenues deposited into the State Transportation Trust
1596 Fund.

1597 (4) Loans from the bank may bear interest at or below
1598 market interest rates, as determined by the department.
1599 Repayment of any loan shall commence not later than 5 years
1600 after the project has been completed or, in the case of a
1601 highway project, the facility has opened to traffic, whichever
1602 is later, and shall be repaid within 30 years, except for loans
1603 provided under paragraph (2)(c), which shall be repaid within 36
1604 months.

1605 (5) To be eligible for consideration, projects must be
1606 consistent, to the maximum extent feasible, with local
1607 metropolitan planning organization plans and local government
1608 comprehensive plans and must provide a dedicated repayment
1609 source to ensure the loan is repaid to the bank.

1610 (6) Funding awarded for projects under paragraph (2)(b)
1611 must be matched by a minimum of 25 percent from funds other than
1612 the state-funded infrastructure bank loan.



1613 (7) The department may consider, but is not limited to,
1614 the following criteria for evaluation of projects for assistance
1615 from the bank:

1616 (a) The credit worthiness of the project.

1617 (b) A demonstration that the project will encourage,
1618 enhance, or create economic benefits.

1619 (c) The likelihood that assistance would enable the
1620 project to proceed at an earlier date than would otherwise be
1621 possible.

1622 (d) The extent to which assistance would foster innovative
1623 public-private partnerships and attract private debt or equity
1624 investment.

1625 (e) The extent to which the project would use new
1626 technologies, including intelligent transportation systems, that
1627 would enhance the efficient operation of the project.

1628 (f) The extent to which the project would maintain or
1629 protect the environment.

1630 (g) A demonstration that the project includes
1631 transportation benefits for improving intermodalism, cargo and
1632 freight movement, and safety.

1633 (h) The amount of the proposed assistance as a percentage
1634 of the overall project costs with emphasis on local and private
1635 participation.

1636 (i) The extent to which the project will provide for
1637 connectivity between the State Highway System and airports,
1638 seaports, rail facilities, and other transportation terminals



1639 and intermodal options pursuant to s. 341.053 for the increased
1640 accessibility and movement of people and goods.

1641 (j) The extent to which damage from a disaster that
1642 results in a declaration of emergency has impacted a public
1643 transportation facility's ability to maintain its previous level
1644 of service and remain accessible to the public or has had a
1645 major impact on the cash flow or revenue-generation ability of
1646 the public-use facility.

1647 (8) Loan assistance provided by the bank shall be included
1648 in the department's work program developed in accordance with s.
1649 339.135.

1650 (9) Funds paid into the State Transportation Trust Fund
1651 pursuant to s. 201.15(1)(c) for the purposes of the State
1652 Infrastructure Bank are hereby annually appropriated for
1653 expenditure to support that program.

1654 Section 37. (1) If a municipality or county applies
1655 transportation concurrency, it may not require a developer to
1656 pay a fee for the removal of vegetation within the right-of-way
1657 limits of road improvements for which the developer completed or
1658 contributed funding as required for transportation concurrency
1659 for a development project.

1660 (2) This section does not affect the ability of a
1661 municipality or county to require any tree removal permits or
1662 tree removal plans.

1663 (3) As used in this section, the term "fee" does not
1664 include any costs associated with applying for a tree removal



1665 permit or preparing a tree removal plan.

1666 (4) This section does not affect a municipality or
1667 county's ability to establish and enforce landscaping
1668 requirements.

1669 (5) A municipality or county may, by majority vote of its
1670 governing body, exempt itself from this section.

1671 Section 38. (1) The Office of Economic and Demographic
1672 Research shall evaluate and determine the economic benefits, as
1673 defined in s. 288.005(1), Florida Statutes, of the state's
1674 investment in the Department of Transportation's adopted work
1675 program developed in accordance with s. 339.135(5) for fiscal
1676 year 2015-2016, including the following 4 fiscal years. At a
1677 minimum, a separate return on investment shall be projected for
1678 each of the following areas:

1679 (a) Roads and highways.

1680 (b) Rails.

1681 (c) Public transit.

1682 (d) Aviation.

1683 (e) Seaports.

1684
1685 The analysis is limited to the funding anticipated by the
1686 adopted work program, but may address the continuing economic
1687 impact for those transportation projects in the 5 years beyond
1688 the conclusion of the adopted work program. The analysis must
1689 also evaluate the number of jobs created, the increase or
1690 decrease in personal income, and the impact on gross domestic



1691 product from the direct, indirect, and induced effects on the
1692 state's investment in each area.

1693 (2) The Department of Transportation and each of its
1694 district offices shall provide the Office of Economic and
1695 Demographic Research full access to all data necessary to
1696 complete the analysis, including any confidential data.

1697 (3) The Office of Economic and Demographic Research shall
1698 submit the analysis to the President of the Senate and the
1699 Speaker of the House of Representatives by January 1, 2016.

1700 Section 39. Subsection (2) of section 215.82, Florida
1701 Statutes, is amended to read:

1702 215.82 Validation; when required.—

1703 (2) Any bonds issued pursuant to this act which are
1704 validated shall be validated in the manner provided by chapter
1705 75. In actions to validate bonds to be issued in the name of the
1706 State Board of Education under s. 9(a) and (d), Art. XII of the
1707 State Constitution and bonds to be issued pursuant to chapter
1708 259, the Land Conservation Act of 1972, the complaint shall be
1709 filed in the circuit court of the county where the seat of state
1710 government is situated, the notice required to be published by
1711 s. 75.06 shall be published only in the county where the
1712 complaint is filed, and the complaint and order of the circuit
1713 court shall be served only on the state attorney of the circuit
1714 in which the action is pending. In any action to validate bonds
1715 issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
1716 Art. XII of the State Constitution or issued pursuant to s.



1717 215.605 ~~or s. 338.227~~, the complaint shall be filed in the
 1718 circuit court of the county where the seat of state government
 1719 is situated, the notice required to be published by s. 75.06
 1720 shall be published in a newspaper of general circulation in the
 1721 county where the complaint is filed and in two other newspapers
 1722 of general circulation in the state, and the complaint and order
 1723 of the circuit court shall be served only on the state attorney
 1724 of the circuit in which the action is pending; provided,
 1725 however, that if publication of notice pursuant to this section
 1726 would require publication in more newspapers than would
 1727 publication pursuant to s. 75.06, such publication shall be made
 1728 pursuant to s. 75.06.

1729 Section 40. For the purpose of incorporating the amendment
 1730 made by this act to section 333.01, Florida Statutes, in a
 1731 reference thereto, subsection (6) of section 350.81, Florida
 1732 Statutes, is reenacted to read:

1733 350.81 Communications services offered by governmental
 1734 entities.—

1735 (6) To ensure the safe and secure transportation of
 1736 passengers and freight through an airport facility, as defined
 1737 in s. 159.27(17), an airport authority or other governmental
 1738 entity that provides or is proposing to provide communications
 1739 services only within the boundaries of its airport layout plan,
 1740 as defined in s. 333.01(6), to subscribers which are integral
 1741 and essential to the safe and secure transportation of
 1742 passengers and freight through the airport facility, is exempt



CS/HB 7039, Engrossed 1

2015

1743 from this section. An airport authority or other governmental
1744 entity that provides or is proposing to provide shared-tenant
1745 service under s. 364.339, but not dial tone enabling subscribers
1746 to complete calls outside the airport layout plan, to one or
1747 more subscribers within its airport layout plan which are not
1748 integral and essential to the safe and secure transportation of
1749 passengers and freight through the airport facility is exempt
1750 from this section. An airport authority or other governmental
1751 entity that provides or is proposing to provide communications
1752 services to one or more subscribers within its airport layout
1753 plan which are not integral and essential to the safe and secure
1754 transportation of passengers and freight through the airport
1755 facility, or to one or more subscribers outside its airport
1756 layout plan, is not exempt from this section. By way of example
1757 and not limitation, the integral, essential subscribers may
1758 include airlines and emergency service entities, and the
1759 nonintegral, nonessential subscribers may include retail shops,
1760 restaurants, hotels, or rental car companies.

1761 Section 41. This act shall take effect July 1, 2015.