Session Law 89-301

Florida Senate & House of Representatives

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Recommended Citation

S 1474 GENERAL BILL/CS/CS/2ND ENG by Appropriations; Transportation; Kirkpatrick and others (Compare CS/H 607, H 957, CS/H 1262, H 1820, H 1836, S 840, CS/S 1036, CS/1ST ENG/S 1124, S 1477)

Transportation/Planning & Budgeting: revises procedures & requirements for submittal of legislative budget request & tentative work program; specifies procedures & requirements for development of tentative work programs & for changes submitted by M.P.O.'s; provides for review of said work program by Community Affairs Dept. for specified purposes; provides for development of statewide transportation plan; provides duties of Transportation Secretary & Commission, etc.

Amends F.S. Effective Date: 07/05/89 except as otherwise provided.

04/17/89 SENATE Filed
04/27/89 SENATE Introduced, referred to Transportation; Appropriations -SJ 221
04/28/89 SENATE Extension of time granted Committee Transportation
05/12/89 SENATE Extension of time granted Committee Transportation
05/15/89 SENATE On Committee agenda—Transportation, 05/17/89, 3:15 pm, Room-C-(LL-32)—Temporarily postponed
05/18/89 SENATE On Committee agenda—Transportation, 05/22/89, 11:00 am, Room-C-(LL-32)
05/22/89 SENATE Comm. Report: CS by Transportation -SJ 450
05/25/89 SENATE CS read first time -SJ 457; Now in Appropriations -SJ 450; On Committee agenda—Appropriations, 05/26/89, 8:00 am, Room-A-(LL-37) -SJ 437
05/25/89 HOUSE On Committee agenda—Appropriations, 05/25/89, 8:00 am, 21-HOB—Not received
05/26/89 SENATE Comm. Report: CS/CS by Appropriations, placed on Calendar -SJ 478; CS read first time -SJ 479
05/29/89 SENATE Placed on Special Order Calendar -SJ 493; CS passed as amended; YEAS 38 NAYS 0 -SJ 508
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06/02/89 HOUSE Received, placed on Calendar—HJ 1410; Read second time; Amendments adopted; Read third time; CS passed as amended; YEAS 114 NAYS 0 -HJ 1423
06/02/89 SENATE In Messages
06/03/89 SENATE Was taken up—SJ 1341; Concurred; CS passed as amended; YEAS 37 NAYS 0 -SJ 1354
06/03/89 HOUSE Ordered engrossed. then enrolled—SJ 1354
06/20/89 SENATE Signed by Officers and presented to Governor
07/05/89 HOUSE Approved by Governor; Chapter No. 89-301; See also: CS/UB 1124 (Ch. 89-160)

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

A. Present Situation:

Section 339.135, F.S., specifies the procedures and requirements pursuant to which the department develops, adopts, and amends its 5-year transportation plan and specifies procedures for documents related thereto.

Section 339.135(2), F.S., requires that the department file its budget pursuant to chapter 216, except that the right-of-way, construction, maintenance expenditures, and all grants and aids shall be set forth only in program totals. Pursuant to chapter 216, the department's legislative budget request must be submitted by November 1 of each year.

Section 339.135(5), F.S., provides for the development of the 5-year transportation plan pursuant to specified requirements. The department is authorized to include changes to the policies contained in the current adopted 5-year plan and such changes must be clearly identified and reflect the effect of the change on the adopted policies and on the funds allocated for programs in the tentative 5-year plan.

The subsection requires the 5-year transportation plan to be developed cooperatively from the outset with the metropolitan planning organizations (M.P.O.'s) and to include, to the maximum extent feasible, the transportation improvement programs of the M.P.O.'s. The department must provide an M.P.O. with written justification for the rescheduling or deletion from the 5-year plan of any project in the M.P.O.'s transportation improvement program.

As part of the development of the 5-year plan, the department is required to hold a public hearing in at least one urbanized area in each district and must make a presentation to each M.P.O. to determine the necessity of making changes to projects in the 5-year plan and to hear requests for new projects to be added to or existing projects to be deleted from, the 5-year plan. The M.P.O. may request in writing to the district further consideration of any project not included in or not adequately addressed in the 5-year plan. The head of the department must acknowledge and review all such requests and include them in the department's deliberations prior to submission of the plan to the Legislature.

Section 339.135(6), F.S., requires the department to conduct a statewide public hearing on the proposed 5-year transportation plan and provides notification procedures related to the hearing.
The 5-year transportation plan must be submitted to the legislative appropriations committees no later than March 1 of each year.

Section 339.135(6), F.S., requires the department to hold a statewide public hearing on the 5-year transportation plan for the purpose of hearing questions or comments from the public. The subsection provides for notice of the hearing and for copies of the 5-year transportation plan to be forwarded to each clerk of the court and each board of county commissioners along with a notice of the public hearing. A copy of the plan must also be provided to each municipality with a population of 3,000 persons or more.

Section 339.135(7), F.S., provides for adoption of the 5-year transportation plan and requires that, in accordance with the appropriations act, and prior to the beginning of the fiscal year, the department shall adopt a final budget and 5-year transportation plan. The adopted plan may include only those projects submitted as part of the 5-year transportation plan plus any projects contained in the original operating budget.

Under s. 339.135(8), F.S., in the execution of the budget, the department's spending authority is limited to its budget authority. Unless otherwise provided in the General Appropriations Act, the department may certify forward as fixed capital outlay unexpended funds in certain categories for projects for which contracts have been executed or bids let.

Currently, the department rolls forward into the next fiscal year projects that were programmed to begin during the current budget year but were postponed due to funding or scheduling problems. There is no provision in the statutes which provides for the department to roll forward projects in the work program to the next fiscal year or to roll forward the spending authority associated with such projects.

Section 339.135(9), F.S., authorizes the department to amend the adopted 5-year transportation plan at any time during the fiscal year. The department may substitute a project in the adopted 5-year plan for any other project in the plan; however, if the substitution results in the delay of a right-of-way or construction phase of a project estimated to cost over $500,000, the department must notify the legislative appropriations committees and transportation committees. The transportation committees are required to notify each affected member of the Legislature. Prior to any substitution, the department is required to notify the local governmental entity in which the project is located.

Section 339.155, F.S., relates to the statewide transportation planning process. Subsection (2) of the section provides for the development of the Florida Transportation Plan by the department, and requires that the department take into account certain factors in developing the plan. As one of these requirements, the department must take into account consistency with regional comprehensive plans and local government comprehensive plans so as to contribute to orderly and coordinated community development.

Section 339.175, F.S., establishes the membership, responsibilities and authority of the various metropolitan planning organizations (M.P.O.'s) in the urbanized areas of the state where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds.

Subsection (5) of the section provides that an M.P.O. is responsible for a cooperative and comprehensive transportation planning process that results in plans which are consistent with comprehensively planned development of the urbanized area.
Subsection (7) of the section specifies that certain federal-aid projects may only be removed from a transportation improvement program by joint action of the M.P.O. and the department when such projects have advanced to federal approval of right-of-way acquisition or to federal approval of construction if right-of-way acquisition was not federally funded.

Subsection (10) of the section requires that the M.P.O. serve as the principal state transportation planning entity within the urbanized area and specifies as one of its functions the development of an annually updated transportation improvement program for initiating federally-aided transportation facilities and improvements for a program period of not less than 3 years and which must indicate the priorities of the urbanized area and include a discussion of how improvements relate to the M.P.O.'s comprehensive transportation plan (the plan which contains the M.P.O.'s long-range transportation goals).

Section 216.163(7), F.S., specifies the content of the Governor's recommended budget and enumerates several evaluations, summaries, and justifications which must be included therein.

Section 20.23, F.S., establishes the Florida Transportation Commission. The commission is composed of 7 members appointed by the Governor and confirmed by the Senate.

As one of its primary functions, the commission reviews the department's budget, the 5-year transportation plan and the Florida Transportation Plan for compliance with established department policies. If the commission determines that these documents are not in compliance with department policies, it must report such noncompliance to the secretary and the Governor.

The secretary of the Department of Transportation is required to provide from existing department personnel such staff support services to the commission in Tallahassee as are necessary to enable the commission to fulfill its duties and responsibilities. Currently, one full-time administrative assistant III is dedicated to provide staff support to the commission.

The commission does not have a separate budget from which its administrative expenses are funded. Presently, the commission's expenses, which consist primarily of travel and per diem expenses, are funded as part of the department's budget and are paid by the Office of the Secretary.

Section 20.23(1)(c), F.S., requires the secretary to appoint an assistant secretary who is directly responsible to the secretary and who serves at the pleasure of the secretary.

Section 20.23(3)(c), F.S., requires the secretary to appoint a State Transportation Planner, a State Transportation Engineer, and a State Operations Administrator, each of whom serve at the pleasure of the secretary. The paragraph enumerates those functional areas that are included in the responsibilities of these positions.

Section 20.23(4)(a), F.S., provides that the operations of the department are organized into seven districts, each headed by a district secretary. The paragraph also requires that in order to provide for the efficient operations and to expedite the decisionmaking process, the department must provide for maximum decentralization to the districts, where appropriate.

The law does not specify the position in the central office to which the district secretaries report. However, pursuant to
the present organization of the department, the district secretaries report directly to the secretary.

Pursuant to s. 110.205(2)(i), F.S., the secretaries and assistant secretaries of all departments are exempt from the Career Service System, and unless otherwise fixed by law, their salaries and benefits are set by the Department of Administration in accordance with the rules of the Senior Management Service.

Part III of chapter 110, F.S., governs all aspects of the Senior Management Service System. Section 110.403, F.S., provides that the Department of Administration, after approval by the Administration Commission, shall adopt rules providing a classification plan and a salary and benefit plan for the Senior Management Service.

Pursuant to these provisions, the Secretary of Transportation and the Assistant Secretary of Transportation are placed in pay grade 950 which has an annual salary range of $60,000 to $104,640.

Under s. 320.20, F.S., revenues from registrations of certain motor vehicles are distributed each month as follows: first proceeds, to the extent necessary to comply with Article XII, Section 9, Subsection (d) of the Florida Constitution, are deposited into the school district and Junior College District Capital Outlay and Debt Service Trust Fund; the remainder is deposited into the State Transportation Trust Fund with twenty-five million dollars each year reserved for completion of the interstate highway system. Revenue from motor vehicle registrations generally begin to be deposited into the State Transportation Trust Fund in October of each year.

Section 215.32, F.S., establishes the State Infrastructure Trust Fund. Pursuant to s. 212.235, F.S., revenue in the fund is limited to $500 million annually. Any revenue collected in excess of such amount reverts to the General Revenue Fund.

Section 212.235(2), F.S., provides that moneys in the State Infrastructure Trust Fund may only be used for the purposes of constructing specified categories of infrastructure projects or issuing revenue bonds to finance state capital outlay projects for such purposes.

Presently, if an appropriation from the State Infrastructure Trust Fund (S.I.F.) is vetoed by the Governor, those moneys revert to the S.I.F. as unallocated funds and are available for future appropriation from the S.I.F.

Section 215.32(2)(c), F.S., establishes the Working Capital Fund, which consists of an amount, not to exceed 10 percent of the net revenue of the General Revenue Fund for the preceding fiscal year, which accrues from moneys in the General Revenue Fund that are in excess of the amount needed to meet the needs of the appropriations act, as determined by the Executive Office of the Governor. If the Administration Commission determines that revenue collections in the General Revenue Fund will be insufficient to meet the needs of the appropriations act then funds are transferred from the Working Capital Fund to the General Revenue Fund. When not required to meet General Revenue Fund Appropriations, funds in the Working Capital Fund must be used as a revolving fund to meet temporary deficiencies in other trust funds, which funds must be repaid prior to the end of the fiscal year in which they were transferred.

B. Effect of Proposed Changes:

Section 339.135, F.S., is amended to revise and update the procedures and requirements contained therein. The term "5-year transportation plan" is removed and is replaced by the
terms "district work program," "tentative work program," or "adopted work program," as appropriate. These terms are defined in amendments to subsection (1) of the section.

Section 339.135(2), F.S. is amended to specify that the department's legislative budget request would set forth the department's proposed revenues and expenditures for operational and fixed capital outlay needs to accomplish the department's objectives in the ensuing fiscal year. Right-of-way, construction, preliminary engineering, maintenance and all grants and aids programs would be set forth in program totals. Further, the legislative budget request must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan.

Subsection (5) of section 339.135, F.S., is amended to modify procedures related to the development of the tentative work program. The department would continue to be authorized to include in the tentative work program changes to programs contained in the previous adopted work program, but would be required, to the maximum extent feasible, to minimize changes that affect project schedules in 4 common fiscal years contained in the previous adopted work program and the tentative work program, and to reflect the effects of the changes on the 4 common fiscal years.

The district work program (prepared by each of the seven districts and submitted to the central office) would continue to include, to the maximum extent feasible, the transportation improvement programs of the M.P.O.'s and would additionally include changes to such programs that are submitted to the district by October 15, 1989, and by July 15 of each year thereafter.

The district would provide an M.P.O. with written justification no less than 14 days prior to the rescheduling or deletion of a project from the district work program which project is part of the M.P.O.'s transportation improvement program and which is contained in the last 4 years of the previous adopted work program.

A new provision is added to allow an M.P.O. to file an objection to such rescheduling or deletion. Upon the filing of the objection with the secretary, such rescheduling or deletion may not be included in the district work program unless the inclusion of such rescheduling or deletion is specifically approved by the secretary. If the secretary has approved the rescheduling or deletion, then the Florida Transportation Commission must include the objection in its review and approval of the tentative work program.

The district office would continue to meet with each M.P.O. to determine the necessity of making changes to projects included in the district work program and to hear requests for new projects to be added to or existing projects to be deleted from the district work program. However, the bill requires that the district and the M.P.O. shall, to the maximum extent feasible, minimize changes to, deletions from or adjustments to projects in the 4 common years of the previous adopted work program and the district work program.

Further, the district would be required to provide the M.P.O. with a written explanation for any project contained in the M.P.O.'s transportation improvement program that is not included in the district work program.

If the M.P.O. requests in writing further consideration of any projects not included in or not adequately addressed in the district program, the district secretary, rather than the secretary, would acknowledge and review such request prior to submission of the district work program to the central office.
and must forward a copy of the request to the secretary and to the Florida Transportation Commission. The commission must include such requests in its review and approval of the work program.

Following submission of the district work programs to the central office, the department would develop the tentative work program in accordance with specified requirements. The central office must submit the tentative work program to the Florida Transportation Commission and the Department of Community Affairs by January 15, 1990, and by October 15 of each year thereafter. The Department of Community Affairs must transmit to the Florida Transportation Commission a list of those projects in the tentative work program and which are also in an M.P.O.'s transportation improvement program, which projects have been identified as being inconsistent with approved local government comprehensive plans. The Florida Transportation Commission must consider said list in its review and approval of the tentative work program.

The tentative work program shall be submitted to the Executive Office of the Governor and to the legislative appropriations committees no later than February 1, 1990, and no later than each November 1 thereafter. (this change has the effect of requiring submittal of the tentative work program concurrently with submittal of the legislative budget request).

The legislative budget request may be amended to conform to the tentative work program submitted by February 1, 1990, and must conform to the tentative work program submitted by November 1 thereafter. However, the department may amend its legislative budget request and tentative work program based on the most recent revenue estimate by the Transportation Estimating Conference and the most recent federal aid apportionments.

The tentative work program must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan.

Section 339.135(6), F.S., is amended to provide that the Florida Transportation Commission would conduct the state-wide hearing on the tentative work program. The current notification requirements are replaced with a requirement that the commission advertise the hearing in the Florida Administrative Weekly.

Section 339.135(7), F.S., is amended to define the department's original approved budget for operational and fixed capital expenditures as the Governor's budget request and the first year of the tentative work program, as amended by the General Appropriations Act and any other act containing appropriations.

The department would continue to adopt a final work program in accordance with the appropriations act, which program may only include the original approved budget for the ensuing fiscal year, any approved roll forwards, and the portion of the tentative work program for the following 4 fiscal years revised in accordance with original approved budget.

The adopted work program may include only those projects submitted in the tentative work program plus any projects which are separately identified by specific appropriation in the General Appropriations Act and any approved roll forwards.

Section 339.135(8), F.S., is amended to provide additionally that funds for right-of-way relocation assistance, and right-of-way land acquisition which are part of the adopted work program and for which appraisals have been completed and approved would be eligible to be certified forward as fixed capital outlay.
Further, the section is amended to provide that any project phase in the work program not certified forward would be available to roll forward to the next fiscal year. Subject to approval of the Executive Office of the Governor, project phases certified forward for which bids have been let but were subsequently rejected would be available for roll forward. Spending authority associated with such project phases eligible for the roll forward process would also be rolled forward.

Section 339.135(9), F.S., is amended to delete all current provisions relating to amendment of the adopted work program. A new subsection (8) is created to establish procedures and requirements for amendment to the adopted work program.

The department would be precluded from transferring funds for any project or project phase from one district to another district. However, a district secretary is authorized to agree to a temporary loan to another district provided that several specified conditions are met.

The department is authorized to amend the adopted work program to transfer appropriations within a district, except that the following amendments would be subject to the new amendment procedure:

1. Any amendment which affects any project or project phase which is estimated to cost more than $500,000;
2. Any amendment which results in the delay or advancement of any project or project phase for a period of 6 months or more;
3. Any amendment which reschedules a project or project phase from one fiscal year to another fiscal year; however, a project or project phase may not be postponed more than 1 year during any fiscal year from the year in which it is scheduled;
4. Any amendment which adds any project to the adopted work program which project is estimated to cost over $150,000; or
5. Any amendment which deletes the construction phase of a project.

The department would be required to submit any proposed amendment in the categories listed above, to the Governor for his approval and must immediately notify the President of the Senate, the Speaker of the House of Representatives, the chairmen of the legislative appropriations committees, the chairmen of the legislative transportation committees, each member of the Legislature who represents a district affected by the proposed amendment, each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment.

The Governor may not approve a proposed amendment until 21 days following the notification.

If either of the chairmen of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives objects in writing to a proposed amendment within 21 days following notification and specifies the reasons for such objection, the Governor must disapprove the proposed amendment or must submit the proposed amendment to the Administration Commission. The proposed amendment may be approved by the Administration Commission by a two-thirds vote of the members present with the Governor voting in the affirmative. In the absence of approval by the commission, the proposed amendment is automatically disapproved.
Section 339.155, F.S., is amended to require that, to the maximum extent feasible, the Florida Transportation Plan shall be consistent with regional comprehensive plans and adopted local government comprehensive plans.

Section 339.175, F.S., is amended to expand the planning responsibilities of the M.P.O.'s to include not only federally aided transportation projects but also transportation projects to be funded from the State Transportation Trust Fund.

Subsection (5) of the section is amended to require that the M.P.O. planning process result in plans and programs that are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government whose boundaries are within the urbanized area. Likewise, the M.P.O.'s transportation improvement programs would be subject to the consistency requirement.

Subsection (7) of the section is amended to provide that projects included in the M.P.O.'s transportation improvement program may only be removed from or rescheduled in a subsequent transportation improvement program by joint action of the M.P.O. and the department when such projects have advanced to the detailed design stage. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement plan may not be rescheduled by the M.P.O. in that subsequent plan earlier than the fifth year of such plan.

Subsection (10) of the section is amended to specify that the M.P.O. transportation improvement program would identify transportation improvements for the next and subsequent four fiscal years and provides that the department would give priority to those improvements that meet certain criteria specified in the bill.

Subsection (11) is created to require that the Department of Community Affairs review the M.P.O. transportation improvement programs for consistency with approved local government comprehensive plans, identify inconsistent projects and notify the M.P.O. of such inconsistency.

Section 216.163, F.S., is amended to require that the Governor include in his recommended budget for the Department of Transportation, a reconciliation of his recommendations for funding of the agency budget and tentative work program with the budget and tentative work program submitted by the department. The reconciliation must be by project, by project phase, by department district and by appropriation category.

The bill amends s. 20.23, F.S., to provide that the Florida Transportation Commission is assigned to the Office of the Secretary of the Department of Transportation for administrative and fiscal accountability purposes, but that the commission shall otherwise function independent of the control and direction of the department.

The commission would be required to approve, rather than review, the department's budget request, the tentative work program and the Florida Transportation Plan. Commission approval of the budget request and tentative work program would be required prior to submittal of these documents to the Governor and Legislature. The following additional commission functions are specified in the bill:

1. Regularly monitor the financial status of the department to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.
2. Monitor at least quarterly the efficiency, productivity and management of the department.

3. Evaluate the factors causing disruption of project schedules in the 5-year transportation plan and recommend to the Governor and Legislature methods to eliminate or reduce the disruptive effects of these factors.

4. Review all employee positions in the department and provide to the Legislature by January 1, 1991, recommendations as to those positions that should be exempt from the Career Service Systems.

5. Perform a limited study relating to the functional classification of roads on the state highway system and report its findings and recommendations to the Legislature by September 15, 1989.

The commission would appoint an executive director who would serve under the direction of the commission and who would employ such staff as are necessary to perform adequately the commission's functions, within budgetary limitations.

The commission would develop a budget which is not subject to change by the department. The commission's budget would be submitted to the Governor along with the budget of the department.

Section 20.23, F.S., is amended to require the secretary to appoint four assistant secretaries, all of whom would report directly to the secretary. The assistant secretaries and their major responsibilities are as follows:

1. The Assistant Secretary for Finance and Administration would be the chief financial officer of the department and would be responsible for financial planning and management, accounting systems, information systems and administrative functions. The head of the Office of Management and Budget and the Comptroller would be directly responsible to this assistant secretary.

The bill requires that the Assistant Secretary for Finance and Administration possess a broad knowledge in those areas for which he is responsible and that he be a proven effective manager with specialized skills in financial planning and management.

2. The Assistant Secretary for District Operations would be responsible for administration of the seven districts and for implementation of the decentralization of the department.

3. The Assistant Secretary for Planning and Engineering would be responsible for policy planning, statewide modal systems planning, design and construction of transportation facilities, acquisition and management of right-of-way, and motor carrier compliance and safety.

4. The Assistant Secretary for Turnpike and Toll Operations would be responsible for the Florida Turnpike and toll operations.

Any secretary appointed after the effective date of this act and the assistant secretaries would be exempt from Part III of chapter 110, F.S., and would receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector.

The bill amends s. 320.20, F.S., to require the State Comptroller to do the following, beginning July 1, 1989: in any month in which motor vehicle registration revenues deposited into the State Transportation Trust Fund are less
than 95 percent of the average monthly amount of such revenues estimated by the revenue estimating conference to be deposited into the fund, the Comptroller must transfer into the fund from other funds in the State Treasury an amount such that deposits into the fund for the month equal 95 percent of the estimate. In any month when motor vehicle registration revenues deposited into the State Transportation Trust Fund exceed 95 percent of such estimated average monthly amount, the excess is to be credited to state funds in the State Treasury from which the comptroller transferred funds pursuant to this bill.

In the last months of each fiscal year, an adjustment is to be made such that total revenues deposited into the fund in each year equals the total revenues derived from motor vehicle registration in the year, other than revenues which are deposited pursuant to the Constitution.

The bill provides that interest earnings on State Treasury revenues would continue to accrue to General Revenue.

The bill creates a section to provide that all funds appropriated from the State Infrastructure Fund which are vetoed by the Governor must be appropriated to the State Working Capital Fund.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

Review and approval by the Governor of certain amendments to the adopted work program would increase the workload of the Executive Office of the Governor.

Review by the Department of Community Affairs of the M.P.O. transportation improvement programs and the department's tentative work program for specified purposes would increase the workload of the Department of Community Affairs.

Any legislative appropriation to the commission for purposes of employing staff and funding its administrative expenses, is anticipated to be from the State Transportation Trust Fund.

The department estimates that $250,000 would be required in F.Y. 1989-90 to fund the commission's staff and administrative expenses. In F.Y. 1990-91, the estimated amount is $265,000 and in F.Y. 1991-92, the estimated amount is $281,000.

The proposed reorganization is expected to result in a net increase of 2 assistant secretary positions and the upgrade of a third position from State Operations Administrator to assistant secretary. The department estimates that a minimum of $300,000 in F.Y. 1989-90 would be required to fund these positions, their support staff of 2 positions, and associated benefits and overhead costs.

The Department of Transportation would be insulated from the variations in motor vehicle registration revenues to the extent that the cash balance restrictions limiting its contractual ability will not operate. The department would be better able to maximize expenditures from the State Transportation Trust Fund by not having to maintain a higher than necessary cash balance in the fund to cover periods when deposits into the fund are seasonally low.

There is no fiscal impact on the General Revenue Fund since interest on amounts transferred into the State Transportation
Trust Fund pursuant to the act would still be earned on behalf of the General Revenue Fund.

III. COMMENTS:

CS/SB 1036, regarding the Transportation Commission, which was recently passed out of Appropriations amends section 20.23 F.S. in the same manner as this bill.

IV. AMENDMENTS:

None.
BILL #: CS/CS/SB 1474.

RELATING TO: State Planning and Budgeting and Department of Transportation/Planning, Budgeting and Organization.

SPONSOR(S): Senate Committees on Appropriations and Transportation, and Senator Kirkpatrick and others.

EFFECTIVE DATE: Upon becoming law, unless otherwise provided.

DATE BECAME LAW: July 5, 1989.

CHAPTER #: 89-301, Laws of Florida

COMPANION BILL(S): Compare to CS/HB 607, HB 957, CS/HB 1262, HB 1820, and HB 1836.

OTHER COMMITTEES OF REFERENCE: (1) None

I. SUMMARY:

As part of the Capital Facilities Planning and Budgeting Act (chapter 216, F.S.), this bill requires the State University System and the community colleges to prepare 5-year facility plans as part of the Capital Facilities Planning and Budgeting Act. This makes educational facilities plans compatible with all other state facilities plans.

The Executive Office of the Governor is required by this bill to develop a finance plan for meeting the state's infrastructure and fixed capital outlay needs. The Governor's office is also required to develop policies and criteria for determining expenditures from the State Infrastructure Trust Fund.

This legislation amends various provisions relating to transportation planning and financing to increase consistency between state and regional transportation plans and approved local government comprehensive plans. The procedures and requirements for development of the legislative budget request and work program of the Department of Transportation are revised by the bill to provide greater involvement by the Department of Community Affairs and the Florida Transportation Commission.

This bill generally restructures the makeup of upper management at the Department of Transportation. Under the bill, the secretary appoints three assistant secretaries, current law authorizes one assistant secretary. The bill provides staff to the Florida Transportation Commission and broadens the authority of the
commission to review programs of the department. The commission is also given authority under the bill to develop its own independent budget request, and is required to make various reports to the Governor and Legislature.

The bill expands a provision that allows a governmental entity to contribute funds to certain phases of state road projects to allow such contributions to any project or project phase. The Department of Transportation is authorized to commit funds for the purpose of reimbursing contributions made by governmental entities subject to legislative appropriation of funds.

This bill also provides for funds to be transferred from the State Treasury to the Department of Transportation in an amount equal to 95% of one twelfth of the department's share of motor vehicle license fee revenue as projected by the Revenue Estimating Conference. Repayment by the department to the State Treasury would occur during the same fiscal year as the transfer to the department. The bill prohibits the department from investing such transferred funds and provides that transfers may be suspended if there is a shortfall in revenues. Authority for these transfers expire and become void on July 1, 1991.

II. SECTION BY SECTION ANALYSIS:

State Planning and Budgeting
(Sections 1 and 2)

A. PRESENT SITUATION:

Section 216.0152, F.S., requires that the Department of General Services (DGS) develop by July 1, 1986, an automated inventory of all facilities owned, leased, rented, or otherwise occupied by a state agency. Facilities with less than 3,000 square feet are excluded from this inventory. The inventory includes items such as location, ownership, condition, and age of the facility. DGS must update the inventory at least every 3 years.

The term "facility" is defined as buildings and structures, but transportation facilities are excluded from the definition. The Department of Transportation is required to inventory state transportation facilities and the Board of Regents and the Division of Community Colleges of the Department of Education are required to inventory all higher education facilities.

Section 216.016, F.S., requires DGS to evaluate each state agency's 5-year plan for facility needs. The Division of Bond Finance of DGS is directed to work with the Executive Office of the Governor and the agencies to determine the most cost-beneficial and effective methods of financing the capital facility needs in the plans.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s.216.0152, F.S., effective July 1, 1990, to require DGS to maintain an inventory of facilities owned, leased, rented, occupied, or maintained by state agencies. The exemption for state
Transportation system facilities is retained and building systems are added to the inventory so that the inventory can be related directly to fixed capital outlay maintenance projects. The bill excludes from the inventory maintenance and condition assessment information on facilities not owned by the state. Items relating to the condition and life-cycle cost of a facility must be updated at least every 5 years, instead of every 3 years.

The bill also amends s. 216.016, F.S., effective July 1, 1990, to require the Executive Office of the Governor to develop a finance plan as part of the capital planning and budgeting process so that the needs identified in the plan can be met. The bill also requires the Executive Office of the Governor to develop policies that will guide the determination of which projects should appropriately be paid for out of the State Infrastructure Fund.

Transportation Plan-Funding and Development (Sections 3 through 6, and 9 through 19)

A. PRESENT SITUATION:

Section 216.163, F.S., sets out the form and content of the Governor's recommended budget. This section does not specifically address the budget request for the Department of Transportation.

The procedures and requirements by which the Department of Transportation develops, adopts and amends its 5-year transportation plan is provided for in Section 339.135, F.S.

The department is required by s. 335.135 (2), F.S., to file each budget in the manner required by Chapter 216, F.S., except that right-of-way, construction, and maintenance plan expenditures, and all grants and aid are to be set forth only in total, with project details to be submitted as required by subsection (5). Chapter 216, F.S., requires that legislative budget requests of agencies be submitted by November 1st of each even numbered year.

Subsection (3) of s. 339.135, F.S., provides that the department shall prepare a proposed annual program budget pursuant to the budgets submitted as required by subsection (2). The nature and scope of the proposed annual program budget is set forth in s. 339.135 (4), F.S. These requirements also apply to the final annual program budget required by s. 339.135 (7), F.S. The budgets must present a complete, balanced financial plan for the State Transportation Trust Fund and restricted funds.

The receipt side of the budgets must show fund balances to be brought forward, and estimated revenues and receipts by source. The department is required to ascertain the amount of federal-aid funds which are estimated to be available in the fiscal year and must budget sufficient funds for matching purposes. The expenditure side of the budgets must show proposed expenditures as classified by major program and appropriations categories to accomplish the objectives of the department.
The budgets are to be planned so as to exhaust estimated resources, with two exceptions. An emergency reserve may be set aside to prevent the stoppage of travel over any state transportation facility. The amount of this emergency reserve is determined by the department, and may be used during the last two months of the fiscal year. The other exception is the requirement contained in s. 339.135 (8)(b), F.S., that the department maintain an available cash balance in an amount not less than 5 percent of the unpaid balance of all State Transportation Trust Fund obligations.

Section 339.135 (5), F.S., requires the department to prepare a 5-year transportation plan, allocating funds for new construction to the various districts based on equal parts of population and fuel tax collections. Funds for resurfacing, bridge repair, public transit, and other programs with quantitative needs assessments must be allocated based on the needs assessments. A plan of work for the budget year, listing those projects to be undertaken during the budget year is also required to be developed. The plan shows amounts programmed for projects by district and is to be developed in cooperation with the metropolitan planning organizations (MPOs). To the maximum extent feasible, the plan must include the plans, priorities, and improvement programs of the MPOs.

Prior to adoption of the plan, the department is required to hold a public hearing on the plan in each district. A presentation must be made at a meeting of each MPO to determine if any changes to the plan are necessary.

The 5-year transportation plan is required to be submitted to the legislative appropriations committees no later than March 1 of each year. Along with this plan, department is required to submit a report related to implementation of the plan and how the plan is consistent with various policies, goals, and objectives.

The department is also required to develop and maintain a list of projects for various program categories that could be made production ready within the biennium if additional revenues become available. Program amounts must equal 50 percent of the corresponding funded program for each category. The project list is independent of the 5-year plan, except that funded projects in later years of the plan may be included in the list and advanced to an earlier year if justified by priority. This list is required to be submitted to the legislative appropriations committees prior to the regular session.

Proposals to assist local governments with unfunded transportation needs are required to be developed by the department and submitted with the legislative budget request. The department, in conjunction with the Department of Community Affairs, is to develop criteria for a cooperative program to plan, design, and construct transportation projects required by growth management, but which cannot be funded from local revenues. The department must submit a prioritized list of such projects to the Legislature for consideration.

As a part of the 5-year transportation plan, the department is also required by s. 338.223, F.S., to develop and maintain a turnpike system plan delineating a statewide interconnected turnpike system of
limited access highways. This plan is also required to be submitted to the Legislature by March 1 of each year.

Section 339.135 (6), F.S., provides for publication of the annual program budget and the 5-year transportation plan by means of a statewide public hearing held by the department. Copies of these documents are to be made available for public inspection in each county prior to the hearing.

Prior to the beginning of the fiscal year s. 339.135 (7), F.S., requires the department to prepare and adopt the final program budget and 5-year transportation plan in accordance with this section and in accordance with the appropriations act. The budget and plan may only include projects submitted as part of the 5-year transportation plan prepared under subsection (5), plus any projects contained in the original operation budget.

The adopted plan must include a statement of the major transportation policies from which the plan is developed. The plan must also include a comparison by project phase of work committed during the previous fiscal year to the work scheduled for commitment in the prior 5-year transportation plan.

Projects cannot be undertaken unless listed in the annual transportation plan, except that if projects in the annual plan cannot be undertaken during that year, then projects by priority in the 5-year transportation plan may be undertaken.

The department is prohibited by s. 339.135 (8), F.S., from expending money, incurring liability, or entering into any contract which involves the expenditure of any money in excess of amount budgeted for that fiscal year. This subsection also requires the department to maintain an available cash balance in an amount not less than 5 percent of the unpaid balance of all State Transportation Trust Fund obligations.

Any unexpended balance remaining at the end of the fiscal year in appropriations to the department for special categories, aid to local governments, and lump sums for multiyear projects, and for which contracts have been executed or bids have been let, may be certified forward as fixed capital outlay under s. 219.301 (2) and (3), F.S. The amount certified forward may include contingency allowances for asphalt and petroleum product escalation clauses and contract overages. Contingency amounts may be transferred from a category that has an excess to a category that is deficient by the Executive Office of the Governor.

The department is required to allocate resources as provided by the appropriations act to the districts prior to July 31, of each year. The allocations are to be reported to the Governor and to the legislative appropriations committees. Amendments must be reported to the secretary of the department. Each district secretary must report monthly on the status of the district budget, indicating the expenditures and remaining balances. Summaries of these reports are to be provided to the Governor and legislative appropriations committees on a quarterly basis.
The department is authorized by s. 339.135 (9), F.S., to amend the final annual program budget and 5-year transportation plan at any time during the fiscal year. The department may:

- transfer within the same fund any unencumbered budget item from one activity to another.

- transfer any unencumbered money between the State Transportation Trust Fund and restricted funds, or between restricted funds.

- budget and expend any receipts not anticipated or receipts in excess of what was anticipated.

- substitute a project in the adopted 5-year transportation plan, for any other project in the plan, notice of certain substitutions must be provided to the Legislature and to affected local governmental entities.

- add a project within available funds when the project cost is less than $150,000 and when no delays to other projects would result, or add a project when not funded from the State Transportation Trust Fund.

- add to, delete from, or reschedule projects implemented from aid to local governments and public transportation matching grants to reflect local government decisions.

Pursuant to s. 339.155 (2), F.S., the department is required to develop a statewide transportation plan for meeting present and future transportation needs. This plan, which must be reviewed and updated annually, is known as the Florida Transportation Plan (FTP). In developing the FTP the department must take into account the following factors:

- future and present needs;
- all possible alternative modes of transportation;
- joint use of transportation corridors and major transportation facilities for alternative uses;
- integration of proposed systems into other types of transportation facilities;
- consistency with regional and local comprehensive plans so as to contribute to the management of community development; and
- the total environment of the community and region.

MPOs are required by s. 339.155 (4), F.S., to prepare local transportation plans for their areas showing projects which are planned to be undertaken by local governments during the next five years. The MPOs then submit this plan to the department district office, with a copy to the central office.

Subsection (5) of this section provides that the department must institute a systematic planning process for consideration of those factors to be used in developing the FTP. The planning process is developed in conjunction with the MPOs and must provide a framework to guide planning consistent with the state comprehensive plan. The
planning process must identify statewide and local transportation needs and issues by documenting system conditions and projecting future mobility demands.

The department is required by subsection (6) to fully document this planning process by adopting the FTP which must, at a minimum, consist of the following sections:

- Transportation policies and guidelines;
- Transportation modes;
- Transportation corridor designation and coordination;
- Performance monitoring; and
- The five-year program plan.

To provide for public participation in the transportation planning process, s. 339.155 (7), F.S., requires the department to hold public hearings on planning, facility location, and project design.

Section 339.175, F.S., contains procedures regarding the creation and operation of MPOs. Subsection (5) provides that an MPO is responsible for a continuing, cooperative and comprehensive transportation planning process. The MPO is the forum for decision-making by locally elected officials. Subsection (6) requires each MPO to develop a transportation improvements program.

Pursuant to s. 339.175 (7), F.S., certain federally funded projects selected by the MPO, may only be removed from the transportation improvements program by joint action of the MPO and the department, when the project has advanced to federal authorization to acquire right-of-way, or has advanced to federal approval of construction if right-of-way is not federally funded. Subsection (8) requires the department to notify the MPO if a federal aid project in the transportation improvements plan and in the first 2 years of the department's 5-year transportation plan is rescheduled.

Each MPO is required by s. 339.175 (10), F.S., to develop a comprehensive transportation plan and an annual unified planning work program to identify the planning budget and activities for the year. An updated transportation improvement program consisting of improvements from the transportation plan and recommended for federal funding which must:

- identify improvements recommended for advancement during the program period of not less than 3 years;
- indicate the priorities for the area;
- group improvements into staging periods;
- include estimates of costs and revenues; and
- include how improvements relate to the comprehensive transportation plan.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s. 216.163, F.S., to provide that the Governor's recommended budget shall also include a reconciliation of his recommendations for the funding of the Department of Transportation.
budget and tentative work program with the budget and tentative work program submitted by the department. The reconciliation must be by project, by project phase, by department district and by appropriation category.

Section 339.135, F.S., is amended to provide the following definitions:

"District work program" - a 5-year listing of projects for each district which is used by the central office to develop the tentative work program.

"Tentative work program" - a 5-year listing of all projects for each fiscal year, developed by the central office.

"Adopted work program" - the 5-year work program finally adopted by the department.

Subsection (2) of s. 339.135, F.S., is also amended to require the department to submit a legislative budget request (LBR) by November 1st of each year, containing proposed revenues and expenditures to accomplish departmental objectives for the fiscal year. Program totals only for right-of-way, construction, preliminary engineering, maintenance, and grants and aids programs must be set forth. The LBR must include a balanced 36 month forecast of cash and expenditures and a 5-year finance plan. The LBR must be amended to conform to the tentative work program submitted by January 15th of each year.

Pursuant to s. 339.135 (3) and (4), F.S., as amended by the bill, the tentative work program and the adopted work program must be based on a balanced financial plan for all funds managed by the department. Both programs must show proposed commitments and planned expenditures classified by program and fixed capital appropriations categories to accomplish departmental objectives. The tentative and adopted work programs must be so planned as to deplete the estimated resources of each fund for the fiscal year. The LBR may contain an emergency reserve for performing emergency work to prevent the stoppage of travel over any state transportation facility.

In developing and funding the work programs, allocations of funds for new construction to the various districts is to be based on equal parts of population and fuel tax collections. Funds for resurfacing, bridge repair, public transit, and other programs with quantitative needs assessments must be allocated based on the needs assessments. This district allocation process is the same as previously required for development of the 5-year transportation plan. The bill provides that funds allocated to a district may not be transferred to any other district except as provided in subsection (8).

The bill requires that each district, in cooperation with the MPOs, develop a district work program. The district work program must include, to the maximum extent feasible, the transportation improvement programs of the MPOs, along with any changes submitted by the MPO at least 90 days prior to submission of the tentative work program to the Transportation Commission. The district must provide notice to an MPO if any project is rescheduled or deleted from the
district work program which was in the MPO's transportation improvement program and was in the last four years of the previous adopted work program. The MPO may file an objection to the change and the project cannot be rescheduled or deleted unless specifically approved by the DOT secretary.

Prior to the submission of the district work program to the central office the district must hold a public hearing on the program and must present the program to the MPOs. The district and the MPO must, to the maximum extent feasible, minimize changes to project phases contained in the 4 common years of the previous adopted work program and the district work program. The district must provide MPOs with written explanation when a project contained in the MPO's transportation improvement program is not contained in the district work program. The district work program is then submitted to the central office for review for compliance with department procedures and legal requirements.

The tentative work program is to be developed based on the district work programs, and must show all projects by phase which are to be undertaken during the fiscal year and those planned for the next 4 fiscal years. The liabilities accruing in each fiscal year cannot exceed the revenues available for that fiscal year based on the department's cash forecast. The tentative work program must be developed in accordance with the program and resource plan of the Florida Transportation Plan and must include a balanced 36 month forecast of cash and expenditures and a 5-year finance plan.

The tentative work program may include proposed changes to the programs contained in the adopted work program from the previous year. Any changes which affect the scheduling of project phases are to be minimized. In developing the tentative work program, the department must advance by 1 year all projects included in the second year of the previous adopted work program, unless the DOT secretary determines specifically that a project is to be rescheduled or deleted. Such changes must be identified and the effect on the remaining years of the work program must be shown. The bill provides specific legislative intent that the first three year of the adopted work program is a state commitment that local governments may rely on for planning purposes.

The department must submit the tentative work program to the Florida Transportation Commission and to the Department of Community Affairs at least 30 days prior to its submission to the Governor and Legislature on January 15th each year. The Department of Community Affairs must review the tentative work program and provide the commission with a list of projects which are inconsistent with approved local comprehensive plans. Projects which are scheduled in an MPO's transportation improvement program shall not be included in the list unless the inconsistency has previously been reported to the MPO. The list is to be considered by the commission in its review of the tentative work program. The commission is also required by s. 339.135 (6), F.S., to hold a statewide public hearing on the tentative work program to hear public comments, suggestions, and questions.
The bill amends s. 20.23 (2)(b), F.S., to require the Florida Transportation Commission to perform and in depth analysis of the DOT budget request, the Florida Transportation Plan, and the tentative work program for compliance with applicable laws and departmental policies. In order to allow this in depth review, the bill provides a limited exception from the general prohibition against the commission considering individual projects.

After the tentative work program is evaluated by the commission, s. 339.135 (4)(g), F.S., requires that it be submitted to the Governor and Legislature no later than January 15th of each year. Along with the program the department must submit a report that includes:

-How the legislative budget request and the tentative work program comply with the program objectives of s. 334.046, F.S., and compare with the needs identified pursuant to s. 339.155 (5), F.S.

-An analysis of the variance between projects in the most recently completed fiscal year and the adopted work program for that year, and the variance between projections for the current fiscal year and the current adopted work program. The analysis is to include projects in each year that were not in the adopted work program.

-An analysis of the variance between actual and planned construction time.

-A comparison of manpower utilization for the current year and the previous year.

-A summary of work program categories showing amounts programmed by district.

-A report showing production capacity; estimates of the production capacity needed for each year of the work program; and estimates of the production capacity needed for compliance with the requirement that the department maintain a list of projects that could be production ready to use additional revenues. The report must identify what portion of production is to be performed by the department in-house, and the portion to be performed by consultants.

-A statement of proposed program and policy changes and the effects of the changes on the work program.

-A project comparison by phase and cost for the four common years of the tentative work program and the previous adopted work program.

-A list of projects in the tentative work program organized by fiscal year, district, county, project phase, and fixed capital appropriation category and fund.

The department must make a presentation of the tentative work program and reports to the transportation committees of the Legislature prior to or during each regular session.
The list of projects for various program categories that could be made production ready if additional revenues become available must also be provided to the Governor, in addition to the Legislature. The requirement that proposals to assist local governments with unfunded transportation needs be developed and submitted with the legislative budget request is retained. The department must submit a prioritized list of such projects to the Legislature for consideration.

Section 338.223, F.S., is amended by the bill to provide that the time of submission of the turnpike system plan is January 15th of each year, when the tentative work program is due.

Final adoption of the work program is provided for by s. 339.135 (6), F.S., as amended by the bill. The department's approved budget shall be the Governor's recommended budget and the first year of the tentative work plan, as both are amended by the Legislature. Prior to the fiscal year the department must adopt a final work program which includes only the approved budget and any approved rollforwards, and the following 4 years of the tentative work program. The adopted work program can only include projects which were a part of the tentative work program, plus any projects which are separately identified by specific appropriation and any approved rollforwards from the previous year. No project can be undertaken unless listed in the adopted work program.

Execution of the department's budget is provided for by s. 339.135 (7), F.S. As amended by the bill, this subsection retains the provision which prohibits the department from expending money, incurring liability, or entering into any contract which involves the expenditure of any money in excess of amounts budgeted for that fiscal year. This subsection also retains the requirement that the department maintain an available cash balance in an amount not less than 5 percent of the unpaid balance of all State Transportation Trust Fund obligations.

The bill incorporates the existing provision allowing any unexpended balance remaining at the end of the fiscal year in appropriations to the department for special categories, aid to local governments, and lump sums for multiyear projects, and for which contracts have been executed or bids have been let, to be certified forward as fixed capital outlay under s. 219.301 (2) and (3), F.S. In addition, the bill authorizes unexpended funds for right-of-way and relocation assistance for parcels which have appraisals completed and approved to be certified forward.

A project phase in the adopted work program not eligible to be certified forward would be available for roll forward for the next year of the adopted work program. Associated spending authority may be rolled forward but is limited to amounts of unexpended balances by appropriations categories.

The budget may contain contingency allowances for right-of-way acquisition and relocation, asphalt and petroleum product escalation clauses, and contract overages. Allowances related to right-of-way and contract overages must be based on historical patterns.
The department is required to allocate resources as provided by the appropriations act to the districts prior to July 31, of each year. The allocations are to be reported to the Governor and to the legislative appropriations committees. Amendments must be reported to the secretary of the department. Each district secretary must report monthly on the status of the district budget, indicating the expenditures and remaining balances. Summaries of these reports are to be provided to the Governor and legislative appropriations committees on a quarterly basis.

The requirements of this subsection related to the execution of the budget do not apply to bonds issued on behalf of the department under the State Bond Act.

Section 339.135 (8), F.S., as amended, provides the circumstances under which the adopted work program may be amended. Funds for a project phase cannot be transferred between districts. The district secretary may agree to a temporary loan of funds to another district if:

- the funds are used solely to maximize federal aid;
- the loan is in writing and signed by the district secretaries;
- repayment is to be made by the end of the next fiscal year;
- the district loaning the funds does not have the ability to use the funds during the fiscal year; and
- the loan is treated as an amendment to the adopted work program and is subject to the requirements for such amendments.

The adopted work program may be amended to transfer appropriations within the department. If the proposed amendment deletes a project phase; adds a project costing over $150,000; reschedules for more than 6 months a right-of-way phase, a construction phase, or a public transportation project costing over $500,000, or a preliminary engineering phase or design phase costing over $150,000, then notice must be provided to the Governor, Legislature, and affected MPOs and local governments. The proposed amendment must provide a complete justification of the need for the amendment.

The Governor cannot approve the proposed amendment until 14 days after the required notice. If either chairman of the legislative appropriations committees or the Senate President or House Speaker objects to the amendment within 14 days of being notified, then the Governor must either disapprove the amendment or submit it to the Administration Commission for approval. The amendment may be approved by a two-thirds vote with the Governor voting in the affirmative. The amendment is automatically disapproved in the absence of Administration Commission approval.

The bill creates a new subsection (9) of s 339.135, F.S., which requires the department to continuously monitor and report annually to the Governor and Legislature on the compliance with, and accomplishment of the adopted work program compared to the guidelines of the Florida Transportation Plan.
The bill retains the systematic planning process which s. 339.155, F.S., requires the department to institute, with the additional requirement that the department and the MPOs ensure that their planning is consistent to the maximum extent feasible with approved local government comprehensive plans. This systematic planning process must also be published by the department, and is to be included as a section of the Florida Transportation Plan (FTP). In addition to being reviewed and updated annually, the FTP is to be submitted to the legislative appropriations committees, and the State Comptroller by January 15th of each year.

The bill also requires that the FTP contain a "five-year program and resource plan" establishing program funding levels for developing the tentative work program. These funding levels must be in compliance with the 36 month cash forecast and the 5-year finance plan. Policy guidelines and program priorities that are to guide funding decisions must be identified in the plan.

Section 339.175., F.S., relating to the planning responsibilities of the MPOs, is amended by the bill to require that MPO transportation improvement programs be consistent to the maximum extent feasible with approved local government comprehensive plans. In addition to existing responsibility for initiating federally aided improvements, the bill requires the MPOs to initiate other transportation improvements to be funded out of state funds.

The bill also provides that when a project in a transportation improvement plan has advanced to the detailed design stage of preliminary engineering, it may only be removed or rescheduled in a subsequent program by the joint action of the MPO and the department. A project removed or rescheduled must not be rescheduled earlier than the fifth year of a subsequent improvement program, except when the district secretary recommends otherwise for good cause.

The MPO transportation improvement program is also required to identify projects for the next and subsequent 4 fiscal years. These projects must be consistent to the maximum extent feasible with approved local government comprehensive plans. The department is required to give priority to those projects that are:

- designed to maximize safe and efficient travel;
- identified in local comprehensive plans to receive local funds;
- located in transportation corridors protected by local governments;
- used for public transportation purposes; and
- located in a local government that has made responsible efforts to fund improvements needed to accommodate local traffic.

The transportation improvement program must be submitted to the Department of Community Affairs at least 90 days prior to the submission of the tentative work program to the Florida Transportation Commission (mid-September). The Department of Community Affairs performs a review of the programs, identifying those projects which are inconsistent with approved local comprehensive plans, and so notifying the MPOs.
Sections 9 through 13 and 15 through 19 of the bill conform various other statutory provisions with the changes made to ss. 339.135, 339.155, and 339.175, F.S.

Department of Transportation Organization

A. PRESENT SITUATION:
Currently section 20.23, F.S., creates the Department of Transportation and provides that it shall be a decentralized agency. The following management structure is also provided for in this section.

Secretary of Transportation

Section 20.23 (1), F.S., provides that the head of the department is the Secretary of Transportation who is appointed by the Governor from three persons nominated by the Florida Transportation Commission, and who serves at the pleasure of the Governor. The secretary is required to be a proven effective administrator with a broad knowledge of the administrative, financial, and technical, aspects of transportation systems and facilities, or of comparable systems and facilities. The secretary is given broad powers to administer the department's programs and operations.

Florida Transportation Commission

Section 20.23 (2), F.S., created a seven member Florida Transportation Commission appointed by the Governor that, jointly with the secretary, recommends major transportation policies for the Governor's approval, and assures that approved policies are properly executed.

Membership of the commission is required to equitably represent all geographic areas of the state. Each member must be a registered voter and a citizen of the state, and must possess private sector business management experience. The term of a commissioner is four years, except that the original appointments varied from two to four years to provide staggered terms. The DOT secretary provides the commission with staff support services from existing departmental personnel.

The commission also reviews the status of the state transportation system jointly with the secretary and recommends changes to the Governor and Legislature. The commission reviews the department's budget, the Florida Transportation Plan, and the five year transportation plan for compliance with department policies, and must report findings of non-compliance to the secretary and to the Governor. The commission must also review department standards regarding design, construction, and maintenance for cost effectiveness and consistency with state and federal regulations.
The commission may recommend to the secretary standards and policies governing the use of consultants and contractors. Commission members are specifically prohibited from entering into the day to day operations of the department.

**Assistant Secretary**

Section 20.23 (1)(c), F.S., creates within the department the position of assistant secretary who is appointed by and is directly responsible to the secretary. The assistant secretary must possess similar qualifications as the secretary and acts in the secretary's absence. The assistant secretary performs those duties assigned by the secretary and serves at the pleasure of the secretary.

**State Transportation Planner**

The state transportation planner is appointed by and serves at the pleasure of the secretary. This position in the central office is responsible for developing policy and managing major technical programs in the area of development of the agency functional plan and other policy planning, and the area of development of statewide modal systems plans, including public transportation systems.

**State Transportation Engineer**

The state transportation engineer is appointed by and serves at the pleasure of the secretary. This position in the central office is responsible for developing policy and managing major technical programs in the areas of design and construction of transportation facilities, and acquisition and management of right-of-way.

**State Operations Administrator**

The state operations administrator also is appointed by and serves at the secretary's pleasure. This central office position is responsible for policy development and program management for the Florida Turnpike and other statewide operating units.

**Other Departmental Offices**

The following offices, each headed by a manager who is appointed by and serves at the secretary's pleasure, are specifically provided for by s. 20.23 (3)(d), F.S.:

- Office of Administration;
- Office of Policy Planning;
- Office of Design;
- Office of Construction;
- Office of Right-of-Way;
- Office of Toll Facilities;
- Office of Public Transportation Operations; and
- Office of the Florida Turnpike.
Office of Management and Budget

The Office of Management and Budget is created within the central office by s. 20.23 (3)(e), F.S. This office is responsible for preparing the 5 year transportation plan and the department's budget, and for production management and coordination of related policies and procedures.

Comptroller

The comptroller is appointed by the secretary and reports to either the secretary or his designee. The comptroller is the chief financial officer of the department and is responsible for developing and maintaining an accounting system which accurately reflects revenues and expenditures of the department.

District Secretaries

Section 20.23 (4)(a) requires that the operations of the department be organized into seven districts, each headed by a district secretary. Where appropriate, the department is required to decentralize operations and decision making to the districts to the maximum extent possible. Primary responsibility for implementation of the department's programs is delegated by the secretary to the district secretaries.

Monthly Management Reports

Currently, s. 20.23 (6), F.S., requires the department to develop a system for the submission by the district secretaries of monthly management reports to the Florida Transportation Commission and department secretary. The information in these reports is intended to facilitate the efficient and effective management of the department in a businesslike manner. These reports must at a minimum include information related to budgets, expenditures, contracts, personnel, and related matters. Copies of these monthly reports are also provided to the appropriations committees of the Legislature.

Highway Beautification Council

Section 339.2405 (3), F.S., requires the council to meet no less than semiannually at the chairman's call. Five members constitutes a quorum for council actions.

B. EFFECT OF PROPOSED CHANGES:

Secretary of Transportation

Section 20.23 (1), F.S., is amended by the bill to provide that secretaries of the department, appointed after the effective date of the act, are exempt from the Senior Management Service System and must receive compensation commensurate with their qualifications and competitive with comparable private sector compensation.
Florida Transportation Commission

This bill amends s. 20.23, F.S., to provide the commission with its own staff and to give the commission more independent authority. Obsolete language relating to the terms of initial appointees of the commission and relating to the initial chairman are deleted.

The secretary is required to provide assistance, information, and documents requested by the commission or its staff. The commission is assigned to the Office of the Secretary of Transportation only for administrative and fiscal accountability purposes, but functions independently of the department.

The bill amends s. 20.23 (2)(b), F.S., to require the Florida Transportation Commission to perform and in depth analysis of the DOT budget request, the Florida Transportation Plan, and the tentative work program for compliance with applicable laws and departmental policies. In order to allow this in depth review, the bill provides a limited exception from the general prohibition against the commission considering individual projects. The commission is required to report its findings and recommendations regarding such noncompliance to the Legislature and the Governor.

The requirement that the commission recommend policies and review the status of the state transportation system jointly with the secretary, is modified to provide that these functions be performed independent of the department. The commission is required to regularly review the financial status of the department to assure that funds are being managed responsibly and in accordance with law and established policy. The commission is also required to monitor the department's efficiency, productivity, and management.

The bill requires the commission to evaluate and make recommendations to the Legislature and Governor regarding the causes of disruptions of project schedules in the adopted work program of the department. By January 1, 1991, the commission must also review all positions within the department and provide the Legislature with its recommendations regarding exemptions from the Career Service System.

The commission is also directed by the bill to perform a study of the functional classification of roads on the State Highway System. The results of this study must be provided to the Governor and Legislature by September 15, 1989. In the report the commission must:

- determine the fiscal and other impacts of transferring urban minor arterials from the State Highway System to the counties, and recommend a time-frame for the transfer;

- evaluate the appropriateness of transferring minor arterial extensions into urban areas from the State Highway System to the counties, determining the fiscal and other impacts and recommending a time-frame for the transfer; and
recommend factors and criteria for evaluating urban principal arterials on the State Highway System to determine whether such roads should remain on the state system or be transferred to the appropriate local government.

The commission is to employ an executive director and necessary staff who serve at the commission's pleasure. The commission is made responsible for developing its own budget pursuant to Chapter 216, for submittal to the Governor. This budget is not subject to departmental review or change.

Assistant Secretaries

This bill amends s. 20.23, F.S., to provide that the secretary appoint three, rather than one, assistant secretaries. The bill also provides that the assistant secretaries of the department are exempt from the Senior Management Service System and must receive compensation commensurate with their qualifications and competitive with comparable private sector compensation. The bill creates the positions of assistant secretary for planning and engineering, assistant secretary for finance and administration, and assistant secretary for district operations. The assistant secretaries are appointed by, and directly responsible to, the secretary.

The assistant secretary for planning and engineering is responsible for developing policy and managing major technical programs in the area of development of the agency functional plan and other policy planning, and the area of development of statewide modal systems plans, including public transportation systems. This position is also responsible for developing policy and managing major technical programs in the areas of design and construction of transportation facilities, and acquisition and management of right-of-way. Responsibility for administration of motor carrier compliance and safety also lies with this position. The state transportation planner and state transportation engineer both report to this assistant secretary.

The assistant secretary for district operations is responsible for the following functional areas: administration of the seven districts; implementation of department decentralization; and administration of the Florida Turnpike. These functions were previously the responsibility of the state operations administrator. The district secretaries are required to report directly to this position.

The assistant secretary for finance and administration, instead of the comptroller, is made the chief financial officer of the department, and is required to have a broad knowledge of all aspects of a complete cost-accounting system, budget preparation and management, and management information systems. Both the head of the Office of Management and Budget and the comptroller are responsible to this assistant secretary.
The following functional areas are under the assistant secretary for finance and administration:

- Financial planning and management;
- Information systems;
- Accounting systems;
- Administrative functions; and
- Administration of toll operations.

In addition to these statutory responsibilities, the assistant secretaries would perform other duties assigned by the secretary, including acting on the secretary's behalf in his absence. The bill also changes the Office of Toll Facilities to the Office of Toll Operations.

Monthly Management Reports

Instead of statutorily requiring the department to submit certain reports to the Florida Transportation Commission, the commission and the secretary are given the authority under s. 20.23 (6), F.S., to determine which monthly management reports must be submitted by the district secretaries.

Highway Beautification Council

Section 339.2405 (3), F.S., is amended by the bill to provide that four, rather than five, members constitutes a quorum for council actions.

State Highway System/Local Governmental Aid

A. PRESENT SITUATION:

Section 339.12, F.S., provides that any governmental entity may make contributions to the department for the acquisition of right-of-way, construction, or maintenance of roads on the State Highway System. All local contributions must be used by the department only for the acquisition of right-of-way, construction, or maintenance as agreed to by the department and the local governmental entity.

Upon acceptance of local contributions, the department must enter into an agreement with the local government specifying the right-of-way acquisition, and construction plans. By specific provision in the agreement, the department may agree to reimburse the local government for contributions used for state projects that are not revenue producing and are in the adopted 5 year transportation plan. The department may not commit funds for reimbursement without legislative approval. Reimbursement is to begin in the year the project or project phase was originally scheduled in the 5 year plan.

B. EFFECT OF PROPOSED CHANGES:

Section 339.12, F.S., is amended to provide that any governmental entity may contribute not only for right-of-way, construction, or maintenance, but to any project or project phase contained in the 5-year transportation plan. The bill conforms other language in this
section by striking references to right-of-way acquisition, and
collection, and inserting "project or project phase." The bill
authorizes the Executive Office of the Governor to amend DOT's budget
in the appropriate categories in order to utilize local contributions
received.

Language requiring "legislative approval" is clarified to provide
that subject to appropriation of funds by the Legislature, the
department may commit state funds for reimbursement to local
governmental entities.

Motor Vehicle License Taxes
(Section 20)

A. PRESENT SITUATION:

Article XII, Section 9, Subsection (d) of the Florida Constitution
provides that:

"the first proceeds of the revenues derived from the licensing of
motor vehicles as referred to therein shall be distributed
annually among the several counties in the ratio of the number of
instruction units in each county, the same being coterminous with
the school district of each county as provided in Article IX,
Section 4, Subsection (a) of this constitution, each year
computed as provided therein to the extent necessary to comply
with all obligations to or for the benefit of holders of bonds or
motor vehicle tax anticipation certificated issued before the
effective date of this amendment or any refunding thereof which
are secured by any portion of such revenues derived from the
licensing of motor vehicles."

These funds are managed by the Department of Education for retiring
educational facility debt.

Section 320.20, F.S., provides for the monthly distribution of
revenues derived from the licensing of motor vehicles, including any
delinquent fees, to the following funds:

- The first proceeds are deposited in the district Capital Outlay
  and Debt Service School Trust Fund to comply with the provisions
  of Article XII, Section 9, Subsection (d) of the Florida
  Constitution.

- $25 million per year deposited in the State Transportation Trust
  Fund, with priority use assigned to the completion of the
  interstate highway system.

- The remainder deposited in the State Transportation Trust Fund.
Subsection 339.135(8), F.S., requires that the cash balance of the State Transportation Trust Fund be no less than 5% of the unpaid balance of all State Transportation Trust Fund obligations at the close of business. The close of business is no later than the 10th calendar day of the month following the end of each quarter.

Section 215.18, F.S., provides that whenever any fund in the state treasury is temporarily short of cash, but another fund has a cash balance more than sufficient for its operations, the Administration Commission, with the concurrence of the Governor, may order a temporary transfer of cash between the two funds. Such transfers are without interest payment, and must be repaid during the same fiscal year.

B. EFFECT OF PROPOSED CHANGES:

This bill amends Subsection 320.20(3), F.S., requiring the State Comptroller to monthly, credit the State Transportation Trust Fund an amount equal to 95% of one twelfth of the Department of Transportation's annual share of motor vehicle license fee revenues as projected by the Revenue Estimating Conference. The Governor and Cabinet acting as the Administration Commission is authorized to suspend these transfers if a significant shortfall of state revenues occurs.

The department must repay the State Treasury during the year as actual motor vehicle license fee revenue exceeds 95% of one twelfth of the Department of Transportation's annual share as determined by the Revenue Estimating Conference. Disbursements for the month of June of each year is required to be made in amounts so that the total revenue deposited in the State Transportation Trust Fund shall equal the amount derived from the registration of motor vehicles, less the amounts to be distributed per Article XII of the Florida Constitution.

The amounts to be credited under the bill are to be calculated and certified to the Comptroller by the Executive Office of the Governor. The bill restricts the Department of Transportation from investing an amount equal to that owed the State Treasury so that interest earnings shall continue to accrue to the General Revenue Fund.

The provisions of the bill relating to transfers of revenues to the State Transportation Trust Fund expire on July 1, 1991.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

   Indeterminate (see Fiscal Comment II. D.)
2. Recurring or Annualized Continuation Effects:

State Transportation Trust Fund:

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<th>EXPENDITURES:</th>
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3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

State Transportation Trust Fund:

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None
C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   None

2. Direct Private Sector Benefits:
   None

3. Effects on Competition, Private Enterprise, and Employment Markets:
   None

D. FISCAL COMMENTS:

Proviso language in the appropriations act directs that the Florida Transportation Commission use $250,000 to perform the studies assigned from funds appropriated to the department for administration purposes.

IV. LONG RANGE CONSEQUENCES:

None

V. COMMENTS:

A. Revenue Smoothing: Annually approximately $68 million of the revenues collected from the licensing of motor vehicles are deposited in the district Capital Outlay and Dept Service Trust Fund to comply with the provisions of Article XII of the Florida Constitution.

The Department of Transportation's share of the revenues collected from licensing of motor vehicles for fiscal year 1989-90 is estimated to be $268 million. Under the current distribution process the Department would receive over half of this revenue in the months of December, February and June.

The available trust fund balances in the State Treasury vary during the fiscal year from approximately $750 million to $1 billion.

B. Legislative History:

1. Enacted Bill:

   Senate Transportation Committee: Adopted a committee substitute for SB 1474.

   Senate Appropriations Committee: Adopted a committee substitute for CS/SB 1474.

   Senate Chamber: One amendment adopted, and CS/CS/SB 1474 passed as amended.
House Chamber: Amendments adopted which had the effect of inserting provisions from HB 607, HB 1262, HB 1820, and HB 1836. The bill was then passed as amended.

Senate Chamber: Senate concurred in the House amendments, and passed the bill as amended.

2. Companion Bills:

a. HB 607, relating to the re-organization of the Department of Transportation:

   Highway Safety and Construction Committee: Adopted a committee substitute for HB 607.

   House Appropriations Committee: Reported the bill favorably with one amendment adopted.

   House Chamber: HB 607 died on the House Calendar.

b. HB 957, relating to transportation planning and budgeting:

   Highway Safety and Construction Committee: HB 957 died in this committee.

c. HB 1262, relating to equalization transfers of funds between the State Treasury and the State Transportation Trust Fund:

   Highway Safety and Construction Committee: Adopted a committee substitute for HB 1262.

   House Finance and Taxation Committee: CS/HB 1262 died in this committee.

d. HB 1820, relating to local governments advancing state road projects by providing funding for such projects:

   Highway Safety and Construction Committee: This bill was filed as a committee bill.

   House Chamber: HB 1820 died on the House Calendar.

e. HB 1836, relating to state planning and budgeting:

   House Community Affairs Committee: This bill was filed as a committee bill.

   House Appropriations Committee: Reported the bill favorably.

   House Chamber: HB 1836 died on the House Calendar.
VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Phillip B. Miller

Staff Director: Bill Ham