

TITLE XXVI

PUBLIC TRANSPORTATION

CHAPTER 334

TRANSPORTATION ADMINISTRATION

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332.007, 351.35, 351.36, 351.37, and 861.011 may be cited as the "Florida Transportation Code."

History.—s. 168, ch. 29965, 1955; s. 1, ch. 73-59; s. 72, ch. 79-164; s. 6, ch. 84-309.

334.03 Definitions.—When used in the Florida Transportation Code, the term:

(1) "Arterial road" means a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

(2) "Bridge" means a structure, including supports, erected over a depression or an obstruction, such as water or a highway or railway, and having a track or passageway for carrying traffic as defined in chapter 316 or other moving loads.

(3) "City street system" means all local roads within a municipality, and all collector roads inside that municipality, which are not in the county road system.

(4) "Collector road" means a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

(5) "Commissioners" means the governing body of a county.

(6) "Consolidated metropolitan statistical area" means two or more metropolitan statistical areas that are socially and economically interrelated as defined by the United States Bureau of the Census.

(7) "Controlled access facility" means a street or highway to which the right of access is highly regulated by the governmental entity having jurisdiction over the facility in order to maximize the operational efficiency and safety of the high-volume through traffic utilizing the facility. Owners or occupants of abutting lands and other persons have a right of access to or from such facility at such points only and in such manner as may be determined by the governmental entity.

(8) "County road system" means all collector roads in the unincorporated areas of a county and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas, and all urban minor arterial roads not in the State Highway System.

(9) "Department" means the Department of Transportation.

334.01 Florida Transportation Code; short title.—Chapters 334-339, 341, 348, and 349 and ss. 332.003-

(10) "Florida Intrastate Highway System" means a system of limited access and controlled access facilities on the State Highway System which have the capacity to provide high-speed and high-volume traffic movements in an efficient and safe manner.

(11) "Functional classification" means the assignment of roads into systems according to the character of service they provide in relation to the total road network. Basic functional categories include arterial roads, collector roads, and local roads which may be subdivided into principal, major, or minor levels. Those levels may be additionally divided into rural and urban categories.

(12) "Governmental entity" means a unit of government, or any officially designated public agency or authority of a unit of government, that has the responsibility for planning, construction, operation, or maintenance or jurisdiction over transportation facilities; the term includes the Federal Government, the state government, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

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

(14) "Local governmental entity" means a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

(15) "Local road" means a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property.

(16) "Metropolitan area" means a geographic region comprising as a minimum the existing urbanized area and the contiguous area projected to become urbanized within a 20-year forecast period. The boundaries of a metropolitan area may be designated so as to encompass a metropolitan statistical area or a consolidated metropolitan statistical area. If a metropolitan area, or any part thereof, is located within a nonattainment area, the boundaries of the metropolitan area must be designated so as to include the boundaries of the entire nonattainment area, unless otherwise provided by agreement between the applicable metropolitan planning organization and the Governor.

(17) "Metropolitan statistical area" means an area that includes a municipality of 50,000 persons or more, or an

urbanized area of at least 50,000 persons as defined by the United States Bureau of the Census, provided that the component county or counties have a total population of at least 100,000.

(18) "Nonattainment area" means an area designated by the United States Environmental Protection Agency, pursuant to federal law, as exceeding national primary or secondary ambient air quality standards for the pollutants carbon monoxide or ozone.

(19) "Periodic maintenance" means activities that are large in scope and require a major work effort to restore deteriorated components of the transportation system to a safe and serviceable condition, including, but not limited to, the repair of large bridge structures, major repairs to bridges and bridge systems, and the mineral sealing of lengthy sections of roadway.

(20) "Person" means any person described in s. 1.01 or any unit of government in or outside the state.

(21) "Right of access" means the right of ingress to a highway from abutting land and egress from a highway to abutting land.

(22) "Right-of-way" means land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

(23) "Road" means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

(24) "Routine maintenance" means minor repairs and associated tasks necessary to maintain a safe and efficient transportation system. The term includes: pavement patching; shoulder repair; cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter cleanup; and other similar activities.

(25) "State Highway System" means the following, which shall be facilities to which access is regulated:

(a) The interstate system;

(b) All rural arterial routes and their extensions into and through urban areas;

(c) All urban principal arterial routes; and

(d) The urban minor arterial mileage on the existing State Highway System as of July 1, 1987, plus additional mileage to comply with the 2-percent requirement as described below. These urban minor arterial routes shall be selected in accordance with 's. 335.04(1)(a) and (b).

However, not less than 2 percent of the public road mileage of each urbanized area on record as of June 30, 1986, shall be included as minor arterials in the State Highway System. Urbanized areas not meeting the foregoing minimum requirement shall have transferred to the State Highway System additional minor arterials of the highest significance in which case the total minor arterials in the State Highway System from any urbanized area shall not exceed 2.5 percent of that area's total public urban road mileage.

(26) "State Park Road System" means roads embraced within the boundaries of state parks and state roads leading to state parks, other than roads of the State Highway System, the county road systems, or the city street systems.

(27) "State road" means a street, road, highway, or other way open to travel by the public generally and dedicated to the public use according to law or by prescription and designated by the department, as provided by law, as part of the State Highway System.

(28) "Structure" means a bridge, viaduct, tunnel, causeway, approach, ferry slip, culvert, toll plaza, gate, or other similar facility used in connection with a transportation facility.

(29) "Sufficiency rating" means the objective rating of a road or section of a road for the purpose of determining its capability to serve properly the actual or anticipated volume of traffic using the road.

(30) "Transportation corridor" means any land area designated by the state, a county, or a municipality which is between two geographic points and which area is used or suitable for the movement of people and goods by one or more modes of transportation, including areas necessary for management of access and securing applicable approvals and permits. Transportation corridors shall contain, but are not limited to, the following:

(a) Existing publicly owned rights-of-way;

(b) All property or property interests necessary for future transportation facilities, including rights of access, air, view, and light, whether public or private, for the purpose of securing and utilizing future transportation rights-of-way, including, but not limited to, any lands reasonably necessary now or in the future for securing applicable approvals and permits, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access could be impaired due to the construction of a future facility, and replacement rights-of-way for relocation of rail and utility facilities.

(31) "Transportation facility" means any means for the transportation of people and property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people and property from place to place.

(32) "Urban area" means a geographic region comprising as a minimum the area inside the United States Bureau of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations.

(33) "Urban minor arterial road" means a route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as "principal" and contain facilities that place more emphasis on land access than the higher system.

(34) "Urban place" means a geographic region composed of one or more contiguous census tracts that

have been found by the United States Bureau of the Census to contain a population density of at least 1,000 persons per square mile.

(35) "Urban principal arterial road" means a route that generally serves the major centers of activity of an urban area, the highest traffic volume corridors, and the longest trip purpose and carries a high proportion of the total urban area travel on a minimum of mileage. Such roads are integrated, both internally and between major rural connections.

(36) "Urbanized area" means a geographic region comprising as a minimum the area inside an urban place of 50,000 or more persons, as designated by the United States Bureau of the Census, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations. Urban areas with a population of fewer than 50,000 persons which are located within the expanded boundary of an urbanized area are not separately recognized.

History.—s. 2, ch. 29965, 1955; ss. 1, 2, ch. 57-318; ss. 1, 2, ch. 63-27; s. 1, ch. 67-43; ss. 23, 35, ch. 69-106; s. 105, ch. 71-377; ss. 5, 17, ch. 77-165; s. 1, ch. 79-357; s. 136, ch. 79-400; s. 1, ch. 83-52; s. 9, ch. 84-309; s. 6, ch. 85-180; s. 9, ch. 88-168; s. 1, ch. 88-224; s. 3, ch. 90-136; s. 2, ch. 93-164; s. 52, ch. 94-237.

Note.—Repealed by s. 35, ch. 95-257.

334.035 Purpose of transportation code.—The purpose of the Florida Transportation Code is to establish the responsibilities of the state, the counties, and the municipalities in the planning and development of the transportation systems serving the people of the state and to assure the development of an integrated, balanced statewide transportation system. This code is necessary for the protection of the public safety and general welfare and for the preservation of all transportation facilities in the state. The chapters in the code shall be considered components of the total code, and the provisions therein, unless expressly limited in scope, shall apply to all chapters.

History.—s. 10, ch. 84-309.

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

(1) To assume the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and to assure the compatibility of all components, including multimodal facilities.

(2) To adopt rules, procedures, and standards for the conduct of its business operations and the implementation of any provision of law for which the department is responsible.

(3) To adopt an official seal.

(4) To maintain its headquarters in Tallahassee and its district offices and necessary field offices at such places within the state as it may designate, and to purchase, build, or lease suitable buildings for such uses.

(5) To purchase, lease, or otherwise acquire property, materials, equipment, and supplies, and to sell, exchange, or otherwise dispose of any property which is no longer needed by the department.

(6) To acquire, by the exercise of the power of eminent domain as provided by law, all property or property rights, whether public or private, which it may determine are necessary to the performance of its duties and the execution of its powers.

- (7) To enter into contracts and agreements.
- (8) To sue and be sued as provided by law.
- (9) To employ and train staff, and to contract with qualified consultants. For the purposes of chapters 471 and 472, the department shall be considered a firm.
- (10)(a) To develop and adopt uniform minimum standards and criteria for the design, construction, maintenance, and operation of public roads pursuant to the provisions of s. 336.045.
- (b) The department shall periodically review its construction, design, and maintenance standards to ensure that such standards are cost-effective and consistent with applicable federal regulations and state law.
- (11) To establish a numbering system for public roads, to functionally classify such roads, and to assign jurisdictional responsibility.
- (12) To coordinate the planning of the development of public transportation facilities within the state and the provision of related transportation services as authorized by law.
- (13) To designate existing and to plan proposed transportation facilities as part of the State Highway System, and to construct, maintain, and operate such facilities.
- (14) To establish, control, and prohibit points of ingress to, and egress from, the State Highway System, the turnpike, and other transportation facilities under the department's jurisdiction as necessary to ensure the safe, efficient, and effective maintenance and operation of such facilities.
- (15) To plan, acquire, lease, construct, maintain, and operate toll facilities; to authorize the issuance and refunding of bonds; and to fix and collect tolls or other charges for travel on any such facilities.
- (16) To designate limited access facilities on the State Highway System and turnpike projects; to plan, construct, maintain, and operate service roads in connection with such facilities; and to regulate, reconstruct, or realign any existing public road as a service road.
- (17) To establish and maintain bicycle and pedestrian ways.
- (18) To encourage and promote the development of multimodal transportation alternatives.
- (19) To conduct research studies, and to collect data necessary for the improvement of the state transportation system.
- (20) To conduct research and demonstration projects relative to innovative transportation technologies.
- (21) To cooperate with and assist local governments in the development of a statewide transportation system and in the development of the individual components of the system.
- (22) To cooperate with the transportation department or duly authorized commission or authority of any state in the development and construction of transportation facilities physically connecting facilities of this state with those facilities of any adjoining state.
- (23) To identify, obtain, and administer all federal funds available to the department for all transportation purposes.
- (24) To do all things necessary to obtain the full benefits of the national Highway Safety Act of 1966, and in so doing, to cooperate with federal and state agencies,

public and private agencies, interested organizations, and individuals to effectuate the purposes of that act, and any and all amendments thereto. The Governor shall have the ultimate state responsibility for dealing with the Federal Government in respect to programs and activities initiated pursuant to the national Highway Safety Act of 1966, and any amendments thereto.

(25) To provide for the conservation of natural roadside growth and scenery and for the implementation and maintenance of roadside beautification programs.

(26) To conduct studies and provide coordination to assess the needs associated with landside ingress and egress to port facilities, and to coordinate with local governmental entities to ensure that port facility access routes are properly integrated with other transportation facilities.

(27) To require persons to affirm the truth of statements made in any application for a license, permit, or certification issued by the department or in any contract documents submitted to the department.

(28) To advance funds for projects in the department's adopted work program to governmental entities prior to commencement of the project or project phase when the advance has been authorized by the department's comptroller and is made pursuant to a written agreement between the department and a governmental entity.

(29) To take any other action necessary to carry out the powers and duties expressly granted in this code.

History.—s. 11, ch. 84-309; s. 9, ch. 85-180; s. 26, ch. 86-243; s. 2, ch. 88-224; s. 155, ch. 92-152; s. 56, ch. 93-164.

334.0445 Model career service classification and compensation plan.—

(1) Effective July 1, 1994, the Legislature grants to the Department of Transportation in consultation with the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions, the authority on a pilot basis to develop and implement a model career service classification and compensation system. Such system shall be developed for use by all state agencies. Authorization for this program will be for 3 fiscal years beginning July 1, 1994, and ending June 30, 1997; however, the department may elect or be directed by the Legislature to return to the current system at anytime during this period if the model system does not meet the stated goals and objectives.

(2) The Department of Transportation is authorized to establish and test a modified position classification system and modified compensation system for Department of Transportation career service positions and employees provided that such system does not include a step pay plan unless specifically approved by the Legislature, and provided that such system utilizes all other provisions of the career service reform rules as approved by the 1994 Legislature. The model program shall consist of the following:

(a) A position classification system using a standard six class series structure for each identified occupational group. All classes developed by the Department of Transportation shall be incorporated into the career

service pay plan as developed by the department in consultation with the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions. This classification system shall be developed to address all current career service classes.

(b) The department shall continue to have vacancies funded at 10 percent above the minimum for each position on June 30 each year.

(c) The department shall design the system so that implementation costs no more than the appropriated salary budget.

(d) The department shall use a new official title on all official documents; however, a working title may be used on employee position descriptions.

(e) The department shall track any changed salary history which shall include:

1. The dollar amount of pay increases by type.
2. The number of employees hired by class, the hiring salary rate, and if a current career service employee, the percent of the increase.
3. The job turnover by class.

(f) The department shall develop interim procedures for handling employees who accept employment with other state agencies or who accept employment with the department from another state agency.

(g) The Department of Transportation is authorized to promulgate emergency and permanent administrative rules to implement this model program.

(3) The department shall use at a minimum the following baseline goals and performance measures to determine the success of the model:

(a) The goal of the classification plan shall be to significantly reduce the need to reclassify positions due to work assignment and organizational changes by decreasing the number of classification changes required. To measure the result, the department shall compare the number of classification changes made in the 12 months preceding implementation and a 12-month period following full implementation with followup reports quarterly.

(b) The goal of the classification and pay plans shall allow employees to develop fully in their current position and not require promotions which result in decreased position-based turnover, fewer numbers of employees who change positions, and a reduced number of promotion appointments. To measure the result, the department shall compare the number of employees who were promoted during the 12-month period prior to implementation and the 12-month period following full implementation with followup reports quarterly.

(c) The goal of the classification plan shall be to establish broad-based classes allowing flexibility in organizational structure and to eliminate multiple levels of supervisory classes which should reduce the number of supervisory positions. To measure the result, the department shall compare the number of supervisory positions prior to implementation with the number of positions in supervisory classes 12 months after implementation with followup reports quarterly.

(d) The goal of the classification and pay plans shall be to emphasize pay administration and job perform-

ance evaluation by management to eliminate the use of the classification plan as a means of awarding salary increases. Rather the plans would reallocate classification work hours to compensation and evaluation work hours and broaden the scope of performance planning and evaluation to benefit both the supervisor and employee. To measure the result, the department shall establish a standard work hour estimate to process classification actions and compare the hours used based upon the number of actions processed prior to implementation and 12 months after implementation with followup reports quarterly.

(e) The goal of the classification plan shall be to provide employees and management a better understanding of the classification plan structure and how positions are classified. To measure the result, the department shall conduct a preimplementation and postimplementation opinion survey of employees and management to evaluate presumed effectiveness of the systems for the following criteria:

1. Is the system understandable.
2. Is the system flexible to employee and management needs.
3. Does the system support the agency mission.
4. Is the system fair and equitable.

Additional goals and performance measures may be developed in consultation with the Department of Management Services, legislative staff, and the affected certified bargaining unions.

(4) The department shall issue a baseline report on the performance measures outlined in subsection (3) within 30 days after implementation of this act and shall provide quarterly progress reports to the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, the Auditor General, and the affected certified bargaining unions. Such reports shall contain the mandatory measures listed in this legislation, as well as other mutually agreed-upon measures between the Department of Transportation, the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions.

(5) This section shall not be construed to remove employees of the Department of Transportation from the Career Service System or abrogate the terms and conditions of the collective bargaining agreements currently in effect and applicable to such employees. The Office of Labor Relations of the Department of Management Services shall continue to represent the state for purposes of negotiating terms related to this act and shall be authorized, pursuant to the provisions of this section, to provide benefits in addition to those offered to career service employees under the terms of the collective bargaining agreement.

History.—s. 77, ch. 94-237.

1334.045 Transportation performance and productivity standards; development; measurement; application.—

(1) The Florida Transportation Commission shall develop and adopt measures for evaluating the performance and productivity of the department. The measures may be both quantitative and qualitative and shall, to the maximum extent practical, assess those factors that are within the department's control. The measures shall, at a minimum, assess performance in the following areas:

- (a) Production;
- (b) Finance and administration;
- (c) Preservation of the current state system;
- (d) Safety of the current state system;
- (e) Capacity improvements: highways and all public transportation modes; and
- (f) Disadvantaged business enterprise and minority business programs.

(2) The commission shall establish annual performance objectives and standards that can be used to evaluate the department's performance and productivity.

(3) The commission shall evaluate the department's performance and productivity on a quarterly basis using the measures adopted pursuant to this section.

(4) As soon as practical after each annual evaluation, the commission shall submit its findings to the Governor and legislative transportation and appropriation committees. If the commission finds that the department failed to perform satisfactorily pursuant to the measures, the commission shall recommend actions to be taken to improve the department's performance.

History.—s. 118, ch. 90-136; s. 91, ch. 92-152; s. 55, ch. 93-164.

Note.—Expires June 30, 1996, pursuant to s. 118, ch. 90-136, and is scheduled for review by the Legislature.

334.046 Department program objectives.—

(1) The program objectives of the department for the purpose of enhancing public safety and providing for a comprehensive transportation system are:

- (a) To complete the Florida interstate system.
- (b) To meet the annual needs for resurfacing of the State Highway System, including repair and replacement of bridges on the system, and to provide routine and uniform maintenance of the State Highway System.
- (c) To reduce congestion on the state transportation system, the generation of pollutants, and fuel consumption by:

1. Developing and implementing the Florida Interstate Highway System as approved by the Legislature;
2. Reducing deficient lane miles through new construction and expansion of existing facilities;
3. Constructing intersection improvements, grade separations, and other traffic operation improvements;
4. Participating in the development of toll roads; and
5. Promoting all forms of public transit.

(d) To provide matching financial assistance to local governments for meeting local transportation needs that improve traffic flow and reduce traffic congestion on the State Highway System.

(2) These program objectives shall be accomplished in the most efficient and cost-effective manner.

(3) By no later than 14 days after the convening of each regular legislative session, the department shall issue a report showing how commitments from the prior fiscal year, estimates of the current fiscal year, and projections for the first year of the tentative work program

comply with the program objectives set forth in subsection (1).

History.—s. 12, ch. 84-309; ss. 8, 31, ch. 85-180; s. 4, ch. 90-136; s. 96, ch. 92-152; ss. 8, 24, ch. 93-164; s. 48, ch. 94-237; s. 66, ch. 95-257.

334.047 Prohibition.—Notwithstanding any other provision of law to the contrary, the Department of Transportation may not establish a cap on the number of miles in the State Highway System or a maximum number of miles of urban principal arterial roads, as defined in s. 334.03, within a district or county.

History.—s. 10, ch. 89-232.

334.048 Legislative intent with respect to department management accountability and monitoring systems.—The department shall implement the following accountability and monitoring systems to evaluate whether the department's goals are being accomplished efficiently and cost-effectively, and ensure compliance with all laws, rules, policies, and procedures related to the department's operations:

(1) The Transportation Commission shall monitor those aspects of the department's operations as assigned in s. 20.23.

(2) The secretary shall ensure that accountability and monitoring systems are fully integrated, that the systems provide useful information for department managers to assess program performance, and that department managers take corrective actions when necessary.

(3) The central office shall adopt policies, rules, procedures, and standards which are necessary for the department to function properly, including establishing accountability for all aspects of the department's operations.

(4) The central office shall monitor the districts and central office units that provide transportation programs to assess performance; determine compliance with all applicable laws, rules, and procedures; and provide useful information for department managers to take corrective action when necessary.

(5) All department managers shall be accountable for the implementation and enforcement of all laws, rules, policies, and procedures adopted for their areas of responsibilities.

(6) The inspector general shall provide to the secretary independent evaluations of the department's accountability and central office monitoring systems to assess whether such systems are effective and properly operating.

Such systems are herein established to quickly identify and resolve problems, to hold responsible parties accountable, and to ensure that all costs to the taxpayer are recovered.

History.—s. 39, ch. 90-136; s. 3, ch. 95-153.

334.049 Patents, copyrights, trademarks; notice to Department of State; confidentiality of trade secrets.

(1) Notwithstanding any other provision of law to the contrary, the Department of Transportation is authorized, in its own name, to:

- (a) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any legitimately acquired work products, and to enforce its rights therein.

(b) License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use of any product protected by patent, copyright, or trademark, whether on a royalty basis or for such other consideration as the department may deem proper.

(c) Take any action necessary, including legal action, to enforce its rights under any agreement and to protect its property rights from improper or unlawful use or infringement.

(d) Enforce the collection of any payments or other obligations due the department for the manufacture or use of any product by any other party.

(e) Sell any product, except where otherwise provided by public records laws, which the department may create or cause to be created, whether or not the product is protected by a department patent, copyright, or trademark, and to execute all instruments necessary to consummate any such sale.

(f) Do all other acts necessary and proper for the execution of powers and duties herein conferred upon the department.

(2) The department shall notify the Department of State in writing whenever property rights by patent, copyright, or trademark are secured or exploited by the department.

(3) Any proceeds from the sale of products or the right to manufacture or use a product shall be deposited in the State Transportation Trust Fund and may be appropriated to finance activities of the department. The department's legislative budget request should give special consideration to using such funds for research and development projects.

(4) Any information obtained by the department as a result of research and development projects and revealing a method of process, production, or manufacture which is a trade secret as defined in s. 688.002, is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with 's. 119.14.

(5) As used in this section the term "product" includes any and all inventions, methodologies, techniques, and creations that may be properly protected by patent, copyright, or trademark.

History.—s. 32, ch. 93-164; s. 1, ch. 95-122.

Note.—

A. Repealed by s. 1, ch. 95-217.

B. Section 4, ch. 95-217, provides that "[n]otwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995."

334.05 Department headquarters; acquisition of office space.—

(1) The headquarters and general office of the department shall be located at the state capital.

(2) The department may purchase, build, rent, or lease suitable buildings or rooms for its headquarters, general office, branch offices, or division offices and for maintenance yards and rooms for equipment and supplies in other cities and towns of this state as the business of the department may necessitate or require; and payment for the purchase, construction, rental, or lease

of such offices shall be made from any funds provided for the maintenance of the department.

History.—s. 4, ch. 29965, 1955; s. 1, ch. 63-330; s. 13, ch. 84-309.

334.063 Statistical studies relating to traffic count and accidents.—The department shall include in the criteria for the planning, construction, and maintenance of the State Highway System statistical studies of accidents and fatalities as well as traffic count.

History.—s. 1, ch. 69-66; ss. 23, 35, ch. 69-106; s. 14, ch. 84-309.

334.065 Center for Urban Transportation Research.—

(1) There is established at the University of South Florida the Florida Center for Urban Transportation Research, to be administered by the Board of Regents and the State University System. The responsibilities of the center include, but are not limited to, conducting and facilitating research on issues related to urban transportation problems in this state and serving as an information exchange and depository for the most current information pertaining to urban transportation and related issues.

(2) The center shall be a continuing resource for the Legislature, the Department of Transportation, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation and related research and shall generate support in addition to its state-funded base of support provided by s. 212.69(1). The center shall promote intercampus transportation and related research activities among Florida's universities in order to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.

(3) An advisory board shall be created to periodically and objectively review and advise the center concerning its research program. Except for projects mandated by law, state-funded base projects shall not be undertaken without approval of the advisory board. The membership of the board shall consist of nine experts in transportation-related areas, including the secretaries of the Florida Departments of Transportation, Community Affairs, and Environmental Protection, or their designees, and a member of the Florida Transportation Commission. The nomination of the remaining members of the board shall be made to the President of the University of South Florida by the College of Engineering at the University of South Florida, and the appointment of these members must be reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Regents.

(4) The center shall develop a budget pursuant to chapter 216. This budget shall be submitted to the Governor along with the budget of the Board of Regents.

History.—s. 12, ch. 88-215; s. 60, ch. 90-136; s. 153, ch. 92-152; s. 162, ch. 94-356; s. 13, ch. 95-417.

Note.—Section 133, ch. 95-417, amended subsection (2), effective July 1, 1996, to read:

(2) The center shall be a continuing resource for the Legislature, the Department of Transportation, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation and related research and shall generate support in addition to its state-funded base of support provided by s. 206.606. The center shall promote intercampus transportation and related research activities among Florida's universities in order to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.

334.075 Minimum standards for drawbridge operators.—The Department of Transportation shall, by rule,

adopt minimum standards for employment of persons to operate drawbridges. The standards shall be designed to protect the public safety and promote efficiency in land and water transportation. The standards shall specify the amount and type of training required for drawbridge operators, the amount and type of supervision required, and the nature and frequency of performance evaluations.

History.—s. 1, ch. 90-24; s. 4, ch. 91-201; s. 4, ch. 91-429.

334.131 Department employees' benefit fund.—

The department is authorized to create and operate an employees' benefit fund for employees of the department. The proceeds of the vending machines located in premises occupied by the department shall be paid into the fund, to be used for such benefits and purposes as the department may determine.

History.—s. 1, ch. 69-387; ss. 23, 35, ch. 69-106; s. 16, ch. 84-309.

334.14 Employees of department who are required to be engineers.—

(1) At a minimum, each of the following employees of the department must be a professional engineer registered under chapter 471:

(a) The State Transportation Engineer and the district secretary for each district, except that in lieu of engineering registration the district secretary for each district may hold an advanced degree in an appropriate related discipline such as a master of business administration.

(b)1. The head of each office, or equivalent unit, of the department that is responsible for the design of transportation facilities.

2. Any person who is employed or assigned by any such unit to be in responsible charge of an engineering project designed by the unit, regardless of whether such person is employed in the central office or in a field office.

(c)1. The head of each office, or equivalent unit, of the department that is responsible for the construction of transportation facilities or materials testing.

2. Any area or resident engineer who is in responsible charge of an engineering construction project.

(d)1. The head of each office, or equivalent unit, of the department that is directly responsible for traffic operations or the maintenance of transportation facilities.

2. The senior maintenance engineer assigned to a field office.

3. The senior maintenance engineers in charge of the various area maintenance yards assigned to the field units.

(2) As used in this section, the term "responsible charge" means the rendering of engineering judgment and decisions in the development of technical policy and programs or the direct control and personal supervision of work performed by himself or herself or by others over whom the person holds supervisory authority.

(3) Any person holding the position of resident engineer of construction or senior maintenance engineer of a field unit on July 1, 1984, or the position of designer as identified in subparagraph (1)(b)2. on July 1, 1985, is not subject to the engineering registration requirement. However, when such person vacates his or her position,

his or her replacement must comply with that requirement.

(4) The department shall employ a district secretary for each transportation district whose duties shall be fixed by the department and who shall be responsible for the efficient operation and administration of that district.

(5) In addition to the requirement for engineering registration in subsection (1), the department, in filling the positions described in this section, shall place emphasis on proven management ability and experience.

History.—s. 13, ch. 29965, 1955; s. 5, ch. 57-318; s. 5, ch. 67-461; ss. 12, 23, 35, ch. 69-106; s. 2, ch. 72-29; ss. 2, 3, ch. 73-58; s. 2, ch. 78-90; s. 205, ch. 81-259; s. 2, ch. 81-302; s. 17, ch. 84-309; s. 10, ch. 85-180; s. 4, ch. 88-215; s. 486, ch. 95-148.

Note.—Renamed the State Highway Engineer by s. 40, ch. 90-136.

334.17 Consulting services; provision by department to other governmental units.—

The department is authorized to provide consulting services, upon request, to any governmental unit on such terms as may be mutually agreed upon in writing.

History.—s. 16, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 18, ch. 84-309.

334.175 Certification of project design plans and surveys.—

All design plans and surveys prepared by or for the department shall be signed, sealed, and certified by the professional engineer or surveyor or architect in responsible charge of the project work. Such professional engineer, surveyor, or architect must be duly registered in this state.

History.—s. 20, ch. 84-309.

334.185 Financial responsibility for construction, material, or design failures; review of contracts; financial assurances.—

The department shall request its legal staff, prior to awarding any contract, to review the contract to determine the responsibilities of the parties for construction, material, or design failures. The department shall, whenever practical, minimize its responsibility for such failures. The department legal staff shall review and comment on all contracts to:

(1) Determine the legal responsibility for construction, material, or design failures.

(2) Advise the department on ways to minimize the responsibility of the department for such failures.

The department may require financial assurances, including, but not limited to, bonds, liability insurance or other form of insurance, or letters of credit, to provide that the responsibilities of the parties to a contract will be met.

History.—s. 22, ch. 84-309.

334.187 Guarantee of obligations to the department.—

(1) With the approval of the department's comptroller, a letter of credit or bond may be accepted by the department to guarantee payment of any obligation due the department or that may become due to the department.

(2) The letter of credit shall be payable solely to the department as beneficiary, and it shall be nonassignable and nontransferable. The letter of credit may be issued by any financially sound bank or savings association

existing under the laws of this state or any financially sound bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

(3) The department's comptroller must approve the use of the letter of credit or bond, the institution issuing the letter of credit or bond, and the language to be used in the letter of credit or bond. Such approval may be given only when the department's comptroller determines that acceptance of these items is in the best interest of the state and of the department in the performance of its duties.

History.—s. 25, ch. 93-164.

334.193 Unlawful for certain persons to be financially interested in purchases, sales, and certain contracts; penalties.—

(1) It is unlawful for a state officer, or an employee or agent of the department, or for any company, corporation, or firm in which a state officer, or an employee or agent of the department has a financial interest, to bid on, enter into, or be personally interested in:

(a) The purchase or the furnishing of any materials or supplies to be used in the work of the state.

(b) A contract for the construction of any state road, the sale of any property, or the performance of any other work for which the department is responsible.

(2) Any person who is convicted of a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be removed from his or her office or employment.

History.—s. 24, ch. 84-309; s. 487, ch. 95-148.

334.195 Officers or employees of the department; conflicts of interest; exception; penalties.—

(1) Except as provided in subsection (2), no state officer or employee of the department shall directly or indirectly solicit or accept funds from any person who has, maintains, or seeks business relations with the department.

(2) The provisions of this section do not apply to the solicitation of funds for charitable purposes, including, but not limited to, such organizations as the United Fund, Heart Fund, or American Red Cross.

(3) A violation of the terms of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and subjects the officer or employee violating its provisions to removal from his or her office or employment.

History.—s. 1, ch. 70-123; s. 235, ch. 71-136; s. 25, ch. 84-309; s. 488, ch. 95-148.

Note.—Former s. 337.045.

334.196 Authority of department to photograph or microphotograph records and to destroy original records; admissibility of photographs or microphotographs in evidence.—

(1) The department is authorized to photograph, microphotograph, or reproduce on film, whereby each page will be exposed in exact conformity with the original, all its documents, records, maps, data, and information of a permanent character. The department is further authorized to destroy any documents after they have

been photographed and filed except the original minutes of the meetings of the former State Road Board and such title deeds, maps, easements, leases, and releases relating to the rights-of-way of state roads and other property owned or leased by the department, which deeds, maps, easements, leases, and releases the department deems should be preserved in original form.

(2) Photographs or microphotographs in the form of film or print of any records made in compliance with the provisions of this section shall have the same force and effect as the originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with original photographs or microphotographs.

History.—s. 163, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 1, ch. 73-305; s. 26, ch. 84-309.

Note.—Former s. 339.32.

334.24 Compilation, maintenance, and provision of information relating to roads and road building and repair.—The department shall:

(1) Collect data and information as to all roads in the state and, when practicable, have maps and plats thereof made.

(2) Investigate and collect data and information as to the best methods and materials for road building and repair.

(3) Investigate and gather information as to road building and repair in the different localities in the state.

(4) Compile all such data and information and furnish it to counties upon request.

(5) Keep on file at the department headquarters copies of such data and information as a public record.

History.—s. 23, ch. 29965, 1955; s. 1, ch. 63-174; ss. 23, 35, ch. 69-106; ss. 2, 3, ch. 73-57; s. 29, ch. 84-309.

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

(1) The department may receive or solicit proposals and, with legislative approval by a separate bill for each facility, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department shall by rule establish an application fee for the submission of proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before seeking legislative approval, the department must determine that the proposed project:

(a) Is in the public's best interest;

(b) Would not require state funds to be used unless there is an overriding state interest; and

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the department.

The department shall ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity.

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

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

(4) The department may exercise any power pos-

essed by it, including eminent domain, with respect to the development and construction of state transportation projects to facilitate the development and construction of transportation projects pursuant to this section. The department may provide services to the private entity. Agreements for maintenance, law enforcement, and other services entered into pursuant to this section shall provide for full reimbursement for services rendered.

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

History.—s. 1, ch. 91-160; s. 67, ch. 93-164; s. 21, ch. 95-257.