

Section 337.273, Florida Statutes

Transportation corridors.—

(1) It is hereby found and declared that:

(a) Immediate and decisive action must be taken to plan, designate, and develop transportation corridors within this state in order that the public health, safety, and welfare may be protected, preserved, and improved by planning for future growth, coordinating land use and transportation planning, and complying with the concurrency requirements of chapter 163.

(b) Traffic congestion and facility overcrowding on the State Highway System constitutes a serious and growing problem; impedes the development of an effective transportation system; results in increased incidents of traffic accidents, personal injury, and property damage or loss; causes environmental degradation; impedes sound economic growth; impairs effective growth management, including the ability to meet concurrency requirements and coordinate land use decisions and transportation planning; discourages tourism; aggravates social discord; increases maintenance costs; shortens the effective life of the transportation facility; delays public evacuation for natural storms and emergencies; impairs national defense and disaster response readiness; delays response time for emergency vehicles; significantly increases public infrastructure needs and associated public costs, such as police, fire, accident, medical, and hospital costs; and otherwise is injurious to the public health, safety, and welfare.

(c) The designation and management of transportation corridors and the planning and development of transportation facilities within transportation corridors will substantially assist in allowing government to alleviate traffic congestion and transportation facility overcrowding, aid in the development of an effective transportation system that is coordinated with land use planning, assist in planning for future growth, enable compliance with concurrency requirements, and alleviate the heretofore described health, safety, and welfare liabilities to the public.

(d) The designation and management of transportation corridors can best be achieved through the inclusion of transportation corridors in the local government comprehensive plans that are developed, reviewed, and adopted pursuant to chapter 163, in order to ensure comprehensive planning for future development and growth, improved coordination between land use and transportation planning, and compliance with concurrency requirements.

(2) It is further found and declared that:

(a) Investments in transportation corridors cannot be adequately coordinated with land use decisions without timely preservation, management, or acquisition of property necessary to accommodate existing and planned transportation facilities within the corridor.

(b) The inability to timely protect or acquire property necessary to accommodate a transportation facility in a transportation corridor constitutes an economic, health, safety, and welfare liability that imposes increasingly onerous burdens on public revenues, seriously impedes the ability to plan for future growth, substantially impairs or arrests sound growth, impedes the provision of transportation infrastructure concurrent with the impact of

development, retards the provision of an adequate transportation system for the people in the state, aggravates traffic problems, and substantially hampers the elimination of traffic hazards and the improvement of traffic facilities.

(c) When development, building, or other intensification of land uses occur within the area of right-of-way needed for transportation facilities, the subsequent public acquisition of property results in disruption of neighborhoods, residences, and businesses; relocation of people and property; interference with utility facilities; and substantial additional costs to property owners, business owners, and public agencies for services, planning, permitting, and zoning.

(d) The prevention and elimination of traffic congestion on the State Highway System and the protection, management, and early acquisition of property to accommodate future transportation facilities is a matter of state policy and state concern in order that the state, counties, and municipalities shall not continue to consume an excessive proportion of limited resources on the extra services required for police, fire, accident, hospitalization, and other forms of public protection services and facilities as a result of inadequate transportation facilities.

(3) It is the intent of the Legislature that governmental police powers be utilized to the greatest extent possible by each governmental entity, and by two or more entities through corridor management agreements, to manage land uses necessary for transportation corridors; that property acquisition by donation, purchase, or eminent domain occur as far in advance of construction need as possible; and that property, needed to manage transportation corridors, be acquired and retained for future use to avoid the public liabilities for health, safety, and welfare heretofore outlined.

(4) It is recognized by the Legislature that advance acquisition of property to manage land uses in transportation corridors for future use will, of necessity, require acquisition without design plans and profiles, project development, and construction information; and it is intended by the Legislature that such advance acquisition, including acquisition utilizing the power of eminent domain, must nevertheless occur to avoid the social, economic, health, safety, and welfare liabilities heretofore declared.

(5) When lands and property in a transportation corridor are acquired pursuant to the eminent domain powers granted by s. 337.27(1), public purpose and necessity may be demonstrated through the use of typical design, construction plans or profiles, and one or more of the following: anticipated trends in such areas as demographic and other growth patterns, land use and development patterns, traffic projections, expected utility needs, or future anticipated mass-transit requirements. Immediate availability of construction funds and applicable permits shall not be required to support such showing of public purpose and necessity.

(6) A local government may designate a transportation corridor by including the corridor in the entity's comprehensive plan traffic circulation or transportation element. A transportation management ordinance may be adopted for designated transportation corridors. The transportation corridor management ordinance should contain the criteria to manage the land uses within and adjacent to the transportation corridor, the types of restrictions on nonresidential and residential construction within the designated corridor, identification of permitted land uses within the designated corridor, a public notification process, a variance

and appeal process, and an intergovernmental coordination process that provides for the coordinated management of transportation corridors that cross jurisdictional boundaries with the plans of adjacent jurisdictions. Local governments may adopt such additional ordinances and regulations as necessary to manage designated transportation corridors.

Section 337.25, Florida Statutes

Acquisition, lease, and disposal of real and personal property.—

- (1)
 - (a) The department may purchase, lease, exchange, or otherwise acquire any land, property interests, buildings, or other improvements, including personal property within such buildings or on such lands, necessary to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the department. Such property shall be held in the name of the state.
 - (b) The department may accept donations of any land, buildings, or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the department. Such donations may be used as transportation rights-of-way or to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a transportation corridor designated by the department.
 - (c) If lands, buildings, or other improvements are needed for transportation purposes, but are held by a federal, state, or local governmental entity and used for public purposes other than transportation, the department may compensate the entity for such properties by providing functionally equivalent replacement facilities. The provision of replacement facilities under this subsection may only be undertaken with the agreement of the governmental entity affected.
 - (d) The department may contract pursuant to s. 287.055 for auction services used in the conveyance of real or personal property or the conveyance of leasehold interests under subsections (4) and (5). The contract may allow for the contractor to retain a portion of the proceeds as compensation for the contractor's services.
- (2) A complete inventory shall be made of all real or personal property immediately upon possession or acquisition. Such inventory must include a statement of the location or site of each piece of realty, structure, or severable item. Copies of each inventory shall be filed in the district office in which the property is located. Such inventory shall be carried forward to show the final disposition of each item of property, both real and personal.
- (3) The inventory of real property that was acquired by the state after December 31, 1988, that has been owned by the state for 10 or more years, and that is not within a transportation corridor or within the right-of-way of a transportation facility shall be evaluated to determine the necessity for retaining the property. If the property is not needed for the construction, operation, and maintenance of a transportation facility or is not located within a transportation corridor, the department may dispose of the property pursuant to subsection (4).

(4) The department may convey, in the name of the state, any land, building, or other property, real or personal, which was acquired under subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. When such a determination has been made, property may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest, with due advertisement for property valued by the department at greater than \$10,000. A sale may not occur at a price less than the department's current estimate of value, except as provided in paragraphs (a)-(d). The department may afford a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is situated, except in a conveyance transacted under paragraph (a), paragraph (c), or paragraph (e).

(a) If the property has been donated to the state for transportation purposes and a transportation facility has not been constructed for at least 5 years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, the governmental entity may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.

(b) If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.

(c) If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the department may negotiate for the sale of such property as replacement housing. As compensation, the state shall receive at least its investment in such property or the department's current estimate of value, whichever is lower. It is expressly intended that this benefit be extended only to persons actually displaced by the project. Dispositions to any other person must be for at least the department's current estimate of value.

(d) If the department determines that the property requires significant costs to be incurred or that continued ownership of the property exposes the department to significant liability risks, the department may use the projected maintenance costs over the next 10 years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.

(e) If, at the discretion of the department, a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the department's current estimate of value.

(5) The department may convey a leasehold interest for commercial or other purposes, in the name of the state, to any land, building, or other property, real or personal, which was acquired under subsection (1). However, a lease may not be entered into at a price less than the department's current estimate of value. The department's estimate of value shall be prepared in accordance with department procedures, guidelines, and rules for valuation of real property, the cost of which shall be paid by the party seeking the lease of the property.

(a) A lease may be accomplished through negotiations, sealed competitive bids, auction, or any other means the department deems to be in its best interest. The department may allow an outdoor advertising sign to remain on the property acquired or be relocated on department

property. This subsection shall not cause a sign to be considered a nonconforming sign pursuant to chapter 479.

(b) If, at the discretion of the department, a lease to a person other than an abutting property owner or tenant with a leasehold interest in the abutting property would be inequitable, the property may be leased to the abutting owner or tenant for at least the department's current estimate of value.

(c) A lease signed pursuant to paragraph (a) may not be for more than 5 years; however, the department may renegotiate or extend such a lease for an additional 5 years as the department deems appropriate.

(d) Each lease shall provide that, unless otherwise directed by the lessor, any improvements made to the property during the lease shall be removed at the lessee's expense.

(e) If property is to be used for a public purpose, the property may be leased without consideration to a governmental entity. A lease for a public purpose is exempt from the term limits in paragraph (c).

(f) Paragraphs (c) and (e) do not apply to leases entered into pursuant to s. 260.0161(3), except as provided in such a lease.

(g) A lease executed under this subsection may not be used by the lessee to establish the standing required under s. 73.071(3)(b) if the business had not been established for the specified number of years on the date title passed to the department.

(h) The department may enter into a long-term lease without compensation with a public port listed in s. 403.021(9)(b) for rail corridors used for the operation of a short-line railroad to the port.

(6) This chapter does not prevent the joint use of right-of-way for alternative modes of transportation if the joint use does not impair the integrity and safety of the transportation facility.

(7) The department shall prepare the estimate of value provided under subsection (4) in accordance with department procedures, guidelines, and rules for valuation of real property. If the value of the property is greater than \$50,000, as determined by the department estimate, the sale must be at a negotiated price of at least the estimate of value as determined by an appraisal prepared in accordance with department procedures, guidelines, and rules for valuation of real property, the cost of which shall be paid by the party seeking the purchase of the property. If the estimated value is \$50,000 or less, the department may use a department staff appraiser or obtain an independent appraisal.

(8) As used in this section, the term "due advertisement" means an advertisement in a newspaper of general circulation in the area of the improvements of at least 14 calendar days before the date of the receipt of bids or the date on which a public auction is to be held.

(9) The department, with the approval of the Chief Financial Officer, may disburse state funds for real estate closings in a manner consistent with good business practices and in a manner minimizing costs and risks to the state.

(10) The department may purchase title insurance if it determines that such insurance is necessary to protect the public's investment in property being acquired for transportation purposes. The department shall adopt procedures to be followed in making the determination to purchase title insurance for a particular parcel or group of parcels which, at a minimum, shall specify criteria that the parcels must meet.

Section 338.223, Florida Statutes

Proposed turnpike projects.—

- (1) (a) Any proposed project to be constructed or acquired as part of the turnpike system and any turnpike improvement shall be included in the tentative work program. A proposed project or group of proposed projects may not be added to the turnpike system unless such project or projects are determined to be economically feasible and a statement of environmental feasibility has been completed for such project or projects and such projects are determined to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located. The department may authorize engineering studies, traffic studies, environmental studies, and other expert studies of the location, costs, economic feasibility, and practicality of proposed turnpike projects throughout the state and may proceed with the design phase of such projects. The department may not request legislative approval of a proposed turnpike project until the design phase of that project is at least 30 percent complete. If a proposed project or group of proposed projects is found to be economically feasible, consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located, and a favorable statement of environmental feasibility has been completed, the department, with the approval of the Legislature, shall, after the receipt of all necessary permits, construct, maintain, and operate such turnpike projects.
- (b) Any proposed turnpike project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program pursuant to s. 339.135. Turnpike projects that add capacity, alter access, affect feeder roads, or affect the operation of the local transportation system shall be included in the transportation improvement plan of the affected metropolitan planning organization. If such turnpike project does not fall within the jurisdiction of a metropolitan planning organization, the department shall notify the affected county and provide for public hearings in accordance with s. 339.155(5)(c).
- (c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided within 14 days, the Department of Transportation shall publish the notice in a newspaper to provide a 30-day public comment period. The headline of the required notice shall be in a type no smaller than 18 point. The notice shall be placed in that portion of the newspaper where legal notices appear. The notice shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community

as provided in s. 50.031, not one of limited subject matter. Whenever possible, the notice shall appear in a newspaper that is published at least 5 days a week. The notice shall include, but is not limited to, the following information:

1. The purpose of the notice is to provide for a 30-day period for written public comments on the environmental impacts of a proposed turnpike project.
2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.
3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or other rights or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

- (2)
 - (a) Subject to the provisions of s. 338.228, the department is authorized to expend, out of any funds available for the purpose, such moneys as may be necessary for studies, preliminary engineering, construction, right-of-way acquisition, and construction engineering inspection of any turnpike project and is authorized to use its engineering and other resources for such purposes.
 - (b) In accordance with the legislative intent expressed in s. 337.273, and after the requirements of paragraph (1)(c) have been met, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The requirements of paragraph (1)(c) do not apply to hardship and protective purchases of advance right-of-way by the department. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. For purposes of this paragraph, the term "hardship purchase" means purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this paragraph, the term "protective purchase" means that a purchase to limit development, building, or other intensification of land uses within the area right-of-way is needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days before final agency acceptance as set forth in s. 119.0711, which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of a project, including the decision relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and are not to be considered in the determination of environmental feasibility for the project.
- (3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records

and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.241 except when such reimbursement is prohibited by state or federal law.

(4) The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike projects. For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed 1.5 percent of state transportation tax revenues for that fiscal year.

Section 339.115, Florida Statutes

Procedures for public participation in transportation planning.—

(6) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) During the development of the Florida Transportation Plan and prior to substantive revisions, the department shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other known interested parties with an opportunity to comment on the proposed plan or revisions. These opportunities shall include, at a minimum, publishing a notice in the Florida Administrative Register and within a newspaper of general circulation within the area of each department district office.

(b) During development of major transportation improvements, such as those increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location, the department shall hold one or more hearings prior to the selection of the facility to be provided; prior to the selection of the site or corridor of the proposed facility; and prior to the selection of and commitment to a specific design proposal for the proposed facility. Such public hearings shall be conducted so as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions that will be made.

(c) Opportunity for design hearings:

1. The department, prior to holding a design hearing, shall duly notify all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the centerline of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall publish notice prior to the hearing date in a newspaper of general circulation for the area affected. These notices must be published twice, with the first notice appearing at least 15 days, but no later than 30 days, before the hearing.
3. A copy of the notice of opportunity for the hearing must be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.
4. The opportunity for another hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a hearing as to have a substantially different social, economic, or environmental effect.
5. The opportunity for a hearing shall be afforded in each case in which the department is in doubt as to whether a hearing is required.

