

By Representative Kyle

1 A bill to be entitled
2 An act relating to public transportation;
3 amending s. 334.30, F.S.; providing for
4 public-private partnership agreements for
5 transportation facilities; providing an
6 effective date.

7

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

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10 Section 1. Section 334.30, Florida Statutes, is
11 amended to read:

12 334.30 Public-private ~~private~~ transportation
13 facilities.--The Legislature hereby finds and declares that
14 there is a public need for rapid construction of safe and
15 efficient transportation facilities for the purpose of travel
16 within the state, and that it is in the public's interest to
17 provide for public-private partnership agreements to
18 effectuate the construction of additional safe, convenient,
19 and economical transportation facilities.

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

- 1 (a) Is in the public's best interest;
- 2 (b) Would not require state funds to be used unless
- 3 there is a reasonable public interest to invest state funds ~~an~~
- 4 ~~overriding state interest~~; and
- 5 (c) Would have adequate safeguards in place to ensure
- 6 that no additional costs or service disruptions would be
- 7 realized by the traveling public and citizens of the state in
- 8 the event of default or cancellation of the agreement by the
- 9 department.

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11 The department shall ensure, to the extent feasible, that all

12 reasonable costs to the state and substantially affected local

13 governments and utilities, related to the ~~private~~

14 transportation facility, are borne by the private entity, are

15 paid from the revenue proceeds from the proposed project, or

16 are mutually accepted and agreed upon by the affected public

17 entities.

18 (2) Agreements entered into pursuant to this section

19 may authorize the private entity to impose tolls or fares for

20 the use of the facility. However, the amount and use of toll

21 or fare revenues may be regulated by the department to avoid

22 unreasonable costs to users of the facility.

23 (3) Each ~~private~~ transportation facility constructed

24 pursuant to this section shall comply with all requirements of

25 federal, state, and local laws; state, regional, and local

26 comprehensive plans; department rules, policies, procedures,

27 and standards for transportation facilities; and any other

28 conditions which the department determines to be in the

29 public's best interest.

30 (4) The department may exercise any power possessed by

31 it, including eminent domain, with respect to the development

1 and construction of state transportation projects to
2 facilitate the development and construction of transportation
3 projects pursuant to this section. The department may provide
4 services necessary to operate and maintain the project ~~to the~~
5 ~~private entity~~. Agreements for maintenance, law enforcement,
6 and other services entered into pursuant to this section shall
7 provide for full reimbursement for services rendered, to the
8 extent feasible. If deemed necessary or appropriate by the
9 secretary, the department may employ public sources of funding
10 to provide operations and maintenance services.

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

18 (6) Notwithstanding s. 341.327, a fixed-guideway
19 transportation system authorized by the department to be
20 wholly or partially within the department's right-of-way
21 pursuant to a lease granted under s. 337.251 may operate at
22 any safe speed.

23 (7) The department shall draft implementing rules
24 pursuant to this section, including rules to solicit
25 competitive proposals for projects identified by the
26 department, and to consider and accept unsolicited proposals
27 in the order in which they are received. In accepting an
28 unsolicited proposal and entering into an agreement for the
29 building, operation, ownership, or financing of a
30 transportation facility pursuant to this section, the
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1 department and the private entity shall, for all purposes, be
2 deemed to have complied with chapters 255, 287, and 337.

3 (8) Notwithstanding s. 334.30(1), legislative approval
4 by a separate bill shall not be required in order for the
5 department and a private entity to enter into agreements for
6 the building, operation, ownership, or financing of
7 transportation facilities pursuant to this section upon a
8 determination by the secretary that such transportation
9 facilities:

10 (a) Are included in the long-range transportation plan
11 of the applicable metropolitan planning organization.

12 (b) Do not require the exercise of the power of
13 eminent domain by the department.

14 (c) Result in minimal environmental impacts as
15 evidenced by an approved "environmental determination" (FDOT
16 form 650-040-02 or its successor) that finds the proposed
17 improvements are classified as requiring a "Type 2 Categorical
18 Exclusion" or result in the department making an approved
19 written finding that the proposed improvements are classified
20 as having even less impact than a "Type 2 Categorical
21 Exclusion" (such as a "Type 1 Categorical Exclusion" or a
22 "Programmatic Exclusion").

23 (d) Do not require state funding from sources outside
24 the district or districts of the department in which the
25 transportation facilities are located except for state
26 infrastructure bank (SIB) loans, loan guarantees, and other
27 forms of debt financing.

28 (e) Have received the approval of the Governor and the
29 Secretary of Transportation.

30 Section 2. This act shall take effect upon becoming a
31 law.

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HOUSE SUMMARY

Provides for public-private partnership agreements for transportation facilities. See bill for details.