

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 Representative(s) Kyle offered the following:

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**Amendment (with title amendment)**

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On page 12, line 23, of the bill

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16 insert:

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

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334.30 Public-private ~~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 public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

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(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 is

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1 authorized to adopt rules to implement this section and shall  
2 by rule establish an application fee for the submission of  
3 proposals under this section. The fee must be sufficient to  
4 pay the costs of evaluating the proposals. The department may  
5 engage the services of private consultants to assist in the  
6 evaluation. Before ~~seeking legislative~~ approval, the  
7 department must determine that the proposed project:

8 (a) Is in the public's best interest.

9 (b) Would not require state funds to be used unless  
10 there is an overriding state interest; however, the department  
11 may use state resources for a transportation facility project  
12 that is on the State Highway System or that provides for  
13 increased mobility on the state's transportation system.~~and~~

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

19  
20 The department shall ensure that all reasonable costs to the  
21 state related to transportation facilities that are not part  
22 of the State Highway System are borne by the public-private  
23 entity.The department shall also ensure that all reasonable  
24 costs to the state, ~~and substantially affected~~ local  
25 governments, ~~and utilities, related to the private~~  
26 transportation facility, are borne by the public-private  
27 private entity for transportation facilities that are owned by  
28 private entities.

29 (2) The use of funds from the State Transportation  
30 Trust Fund is limited to advancing projects already programmed  
31 in the adopted 5-year work program or to no more than a

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1 statewide total of \$25 million in capital costs for all  
2 projects not programmed in the adopted 5-year work program.  
3 (3) The department may request proposals for  
4 public-private transportation projects or, if the department  
5 receives an unsolicited proposal, shall publish a notice  
6 within 30 days in the Florida Administrative Weekly and a  
7 newspaper of general circulation at least once a week for 2  
8 weeks, stating that the department has received the proposal  
9 and will accept, for 60 days after the initial date of  
10 publication, other proposals for the same project purpose. A  
11 copy of the notice must be mailed to each local government in  
12 the affected area. After the public notification period has  
13 expired, the department shall then rank the proposals in order  
14 of preference. In ranking the proposals, the department may  
15 consider, but is not limited to considering, professional  
16 qualifications, general business terms, innovative engineering  
17 or cost-reduction terms, finance plans, and the need for state  
18 funds to deliver the proposal. The department shall negotiate  
19 with the top-ranked proposer in good faith, and if the  
20 department is not satisfied with the results of said  
21 negotiations, the department may, at its sole discretion,  
22 terminate negotiations with said proposer. If these  
23 negotiations are unsuccessful, the department may go to the  
24 second and lower-ranked firms in order using this same  
25 procedure. If only one proposal is received, the department  
26 may negotiate in good faith, and if the department is not  
27 satisfied with the results of said negotiations, the  
28 department may, at its sole discretion, terminate negotiations  
29 with the said proposers. Notwithstanding any other provision  
30 of this subsection, the department may, at its sole  
31 discretion, reject all proposals at any point in the process

1 up to completion of a contract with the proposer.

2 (4) The department shall not commit funds in excess of  
3 the limitation in subsection (2) without specific project  
4 approval by the Legislature.

5 (5)~~(2)~~ Agreements entered into pursuant to this  
6 section may authorize the private entity to impose tolls or  
7 fares for the use of the facility. However, the amount and  
8 use of toll or fare revenues may be regulated by the  
9 department to avoid unreasonable costs to users of the  
10 facility.

11 (6)~~(3)~~ Each ~~private~~ transportation facility  
12 constructed pursuant to this section shall comply with all  
13 requirements of federal, state, and local laws; state,  
14 regional, and local comprehensive plans; department rules,  
15 policies, procedures, and standards for transportation  
16 facilities; and any other conditions which the department  
17 determines to be in the public's best interest.

18 (7)~~(4)~~ The department may exercise any power possessed  
19 by it, including eminent domain, with respect to the  
20 development and construction of state transportation projects  
21 to facilitate the development and construction of  
22 transportation projects pursuant to this section. For  
23 public-private facilities located on the State Highway System,  
24 the department may pay all or part of the cost of operating  
25 and maintaining the facility. For facilities not located on  
26 the State Highway System, the department may provide services  
27 to the private entity and ~~agreements~~ for maintenance, law  
28 enforcement, and other services ~~entered into pursuant to this~~  
29 ~~section~~ shall provide for full reimbursement for services  
30 rendered.

31 (8)~~(5)~~ Except as herein provided, the provisions of

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1 this section are not intended to amend existing laws by  
2 granting additional powers to, or further restricting, local  
3 governmental entities from regulating and entering into  
4 cooperative arrangements with the private sector for the  
5 planning, construction, and operation of transportation  
6 facilities.

7 (9) The department shall have the authority to create  
8 or assist in the creation of tax-exempt, public-purpose  
9 Internal Revenue Service Ruling 63-20 corporations as provided  
10 for under the Internal Revenue Code. Any bonds issued by the  
11 63-20 corporation shall be payable solely from and secured by  
12 a lien upon and pledge of the revenues received by the 63-20  
13 corporation. Any bonds issued by the 63-20 corporation shall  
14 not be or constitute a general indebtedness of the State of  
15 Florida, any department or agency thereof, or any political  
16 subdivision thereof within the meaning of any constitutional  
17 or statutory provision or limitation. The full faith and  
18 credit of the State of Florida shall not be pledged to the  
19 payment of the principal of or interest on the bonds issued by  
20 the 63-20 corporation. No owner of any of the bonds shall ever  
21 have the right to require or compel the exercise of the taxing  
22 power of the State of Florida or any department or agency of  
23 the state for payment thereof, and the bonds shall not  
24 constitute a lien upon any property owned by the State of  
25 Florida or any department or agency of the state. Bonds issued  
26 by the 63-20 corporation shall be rated investment grade by a  
27 nationally recognized credit rating agency. Any bonds issued  
28 by a 63-20 corporation to finance a project requiring the use  
29 of state money, either directly or indirectly, shall be reviewed  
30 and approved by the secretary of the Department of  
31 Transportation. Nothing in this subsection is intended to

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1 prohibit credit enhancement of such bonds, whether provided by  
2 private or governmental sources other than sources backed by  
3 the taxing power of the State of Florida. Nothing in this  
4 subsection is intended to prohibit the pledging of additional  
5 funds or revenues from private sources to secure such bonds.  
6 Internal Revenue Service Ruling 63-20 corporations may receive  
7 State Transportation Trust Fund grants and loans from the  
8 department. The department shall be empowered to enter into  
9 public-private partnership agreements with Internal Revenue  
10 Service Ruling 63-20 corporations for projects under this  
11 section but shall not agree to expend any funds not  
12 appropriated for this purpose. The provisions of s. 339.135(6)  
13 shall apply to such agreements.

14 (10) The department may lend funds from the Toll  
15 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
16 Internal Revenue Service Ruling 63-20 corporations that  
17 construct projects containing toll facilities approved under  
18 this section. To be eligible, the Internal Revenue Service  
19 Ruling 63-20 corporation must meet the provisions of s.  
20 338.251 and must either provide an indication from a  
21 nationally recognized rating agency that the senior bonds of  
22 the 63-20 corporation will be investment grade or must provide  
23 credit support, such as a letter of credit or other means  
24 acceptable to the department, to ensure that the loans will be  
25 fully repaid as required by law. The state's liability for  
26 debt of a facility shall be limited to the amount approved for  
27 that specific facility in the department's 5-year work program  
28 adopted pursuant to s. 339.135.

29 (11)(6) Notwithstanding s. 341.327, a fixed-guideway  
30 transportation system authorized by the department to be  
31 wholly or partially within the department's right-of-way

1 pursuant to a lease granted under s. 337.251 may operate at  
2 any safe speed.

3 Section 2. Paragraph (m) of subsection (2) of section  
4 348.0004, Florida Statutes, is repealed.

5 Section 3. Subsection (9) is added to section  
6 348.0004, Florida Statutes, to read:

7 348.0004 Purposes and powers.--

8 (9) The Legislature hereby finds and declares that  
9 there is a public need for rapid construction of safe and  
10 efficient transportation facilities for the purpose of travel  
11 within the state and that it is in the public's interest to  
12 provide for public-private partnership agreements to  
13 effectuate the construction of additional safe, convenient,  
14 and economical transportation facilities.

15 (a) An expressway authority in any county as defined  
16 in s. 125.011(1) may receive or solicit proposals and enter  
17 into agreements with private entities, or consortia thereof,  
18 for the building, operation, ownership, or financing or  
19 extensions or other improvements to existing expressway  
20 authority transportation facilities or new transportation  
21 facilities that are within the jurisdiction of such an  
22 expressway authority. Such an expressway authority is  
23 authorized to adopt rules to implement this subsection and  
24 shall by rule establish an application fee for the submission  
25 of unsolicited proposals under this subsection. The fee must  
26 be sufficient to pay the costs of evaluating the proposals.  
27 Such an expressway authority may engage the services of  
28 private consultants to assist in the evaluation. Before  
29 approval, such an expressway authority must determine that the  
30 proposed project:

31 1. Is in the public's best interest.

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1           2. Would have adequate safeguards in place to ensure  
2 that no additional costs or service disruptions would be  
3 realized by the traveling public and citizens of the state in  
4 the event of default by the private entity or consortium or  
5 cancellation of the agreement by such expressway authority.

6           (b) Such an expressway authority may request proposals  
7 for public-private transportation projects or, if such an  
8 expressway authority receives an unsolicited proposal that it  
9 has an interest in evaluating, it shall publish a notice in  
10 the Florida Administrative Weekly and a newspaper of general  
11 circulation in the county in which such expressway authority  
12 is located at least once a week for 2 weeks stating that such  
13 expressway authority has received the proposal and will  
14 accept, for 60 days after the initial date of publication,  
15 other proposals for the same project purpose. A copy of the  
16 notice must be mailed to each local government in the affected  
17 areas. After the public notification period has expired, the  
18 expressway authority shall then rank the proposals in order of  
19 preference. In ranking the proposals, the expressway authority  
20 may consider, but is not limited to considering, professional  
21 qualifications, general business terms, innovative engineering  
22 or cost-reduction terms, finance plans, and the need for state  
23 funds to deliver the proposal. The expressway authority shall  
24 negotiate with the top-ranked proposer in good faith, and if  
25 the expressway authority is not satisfied with the results of  
26 said negotiations, the expressway authority may, at its sole  
27 discretion, terminate negotiations with said proposer. If  
28 these negotiations are unsuccessful, the expressway authority  
29 may go to the second and lower-ranked firms in order using  
30 this same procedure. If only one proposal is received, the  
31 expressway authority may negotiate in good faith, and if the



1 expressway authority is not satisfied with the results of said  
2 negotiations, the expressway authority may, at its sole  
3 discretion, terminate negotiations with the said proposers.  
4 Notwithstanding any other provision of this paragraph, the  
5 expressway authority may, at its sole discretion, reject all  
6 proposals at any point in the process up to completion of a  
7 contract with the proposer.

8 (c) Agreements entered into pursuant to this  
9 subsection may authorize the private entity to impose tolls or  
10 fares for the use of the facility. However, the amount and  
11 use of toll or fare revenues may be regulated by such an  
12 expressway authority to avoid unreasonable costs to users of  
13 the facility.

14 (d) Each transportation facility constructed pursuant  
15 to this subsection shall comply with all requirements of  
16 federal, state, and local laws; state, regional, and local  
17 comprehensive plans; such expressway authority's rules,  
18 policies, procedures, and standards for transportation  
19 facilities; and any other conditions such expressway authority  
20 determines to be in the public's best interest.

21 (e) Such an expressway authority may exercise any  
22 power possessed by it, including eminent domain, with respect  
23 to the development and construction of transportation projects  
24 to facilitate the development and construction of  
25 transportation projects pursuant to this subsection. Such an  
26 expressway authority may pay all or part of the cost of  
27 operating and maintaining the facility or may provide services  
28 to the private entity for which it shall be entitled to  
29 receive full or partial reimbursement for services rendered.

30 (f) Except as herein provided, the provisions of this  
31 subsection are not intended to amend existing laws by further

1 expanding or further restricting the authority of local  
2 governmental entities to regulate and enter into cooperative  
3 arrangements with the private sector for the planning,  
4 construction, and operation of transportation facilities.  
5 (g) Such an expressway authority shall have the  
6 authority to create or assist in the creation of tax-exempt,  
7 public-purpose Internal Revenue Service Ruling 63-20  
8 corporations as provided for under the Internal Revenue Code.  
9 Any bonds issued by the 63-20 corporation shall be payable  
10 solely from and secured by a lien upon and pledge of the  
11 revenues received by the 63-20 corporation. Any bonds issued  
12 by the 63-20 corporation shall not be or constitute a general  
13 indebtedness of the State of Florida, any department or agency  
14 thereof, or any political subdivision thereof within the  
15 meaning of any constitutional or statutory provision or  
16 limitation. The full faith and credit of the State of Florida  
17 shall not be pledged to the payment of the principal of or  
18 interest on the bonds issued by the 63-20 corporation. No  
19 owner of any of the bonds shall ever have the right to require  
20 or compel the exercise of the taxing power of the State of  
21 Florida or any department or agency of the state for payment  
22 thereof, and the bonds shall not constitute a lien upon any  
23 property owned by the State of Florida or any department or  
24 agency of the state. Bonds issued by the 63-20 corporation  
25 shall be rated investment grade by a nationally recognized  
26 credit rating agency. Nothing in this paragraph is intended to  
27 prohibit credit enhancement of such bonds, whether provided by  
28 private or governmental sources other than sources backed by  
29 the taxing power of the State of Florida. Nothing in this  
30 paragraph is intended to prohibit the pledging of additional  
31 funds or revenues from private sources to secure such bonds.

1 Such an expressway authority shall be empowered to enter into  
2 public-private partnership agreements with Internal Revenue  
3 Service Ruling 63-20 corporations for projects under this  
4 subsection.

5 (h) Such an expressway authority or Internal Revenue  
6 Service Ruling 63-20 corporation created under this subsection  
7 shall be entitled to apply for grants and loans from the  
8 department for projects under this subsection, subject to the  
9 same eligibility criteria and other terms and conditions as  
10 would apply to projects of such an expressway authority  
11 undertaken without private participation.

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, line 3, after Transportation;

17

18 insert:

19 amending s. 334.30, F.S.; providing for  
20 public-private transportation facilities;  
21 eliminating the requirement that the  
22 Legislature approve such facilities; providing  
23 requirements for the use of funds from the  
24 State Transportation Trust Fund; providing  
25 requirements with respect to proposals;  
26 providing for a selection process; providing  
27 for specific project approval by the  
28 Legislature for certain projects; authorizing  
29 the Department of Transportation to create  
30 certain corporations; authorizing such  
31 corporations to issue bonds; authorizing the

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1 department to lend certain funds to such  
2 corporations; authorizing the department to  
3 adopt rules; repealing s. 348.0004(2)(m), F.S.,  
4 relating to private entity proposals for  
5 transportation projects; amending s. 348.0004,  
6 F.S.; establishing a process enabling certain  
7 expressway authorities to participate in  
8 public-private partnerships to build, operate,  
9 own, or finance certain transportation  
10 facilities; specifying the expressway  
11 authority's role in such projects and providing  
12 rulemaking authority; providing for a selection  
13 process; providing for the assessment of tolls;  
14 providing for creation of certain tax-exempt,  
15 public-purpose corporations; authorizing such  
16 corporations to issue bonds;

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