

By the Committee on Transportation and Representative Kyle

1 A bill to be entitled
2 An act relating to transportation; amending s.
3 334.30, F.S.; providing for public-private
4 transportation facilities; eliminating the
5 requirement that the Legislature approve such
6 facilities; providing requirements for the use
7 of funds from the State Transportation Trust
8 Fund; providing requirements with respect to
9 proposals; providing for specific project
10 approval by the Legislature for certain
11 projects; authorizing the Department of
12 Transportation to create certain corporations
13 to shield the state from possible financial
14 risks for projects; authorizing the department
15 to lend certain funds to such corporations;
16 authorizing the department to adopt rules;
17 repealing s. 348.0004(2)(m), F.S., relating to
18 private entity proposals for transportation
19 projects; amending s. 348.0004, F.S.;
20 establishing a process for certain expressway
21 authorities to participate in public-private
22 partnerships to build, operate, own, or finance
23 certain transportation facilities; specifying
24 the expressway authority's role in such
25 projects and providing rulemaking authority;
26 providing for the assessment of tolls;
27 providing for creation of certain tax-exempt,
28 public-purpose corporations; providing an
29 effective date.

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

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

3 334.30 Public-private ~~Private~~ transportation
4 facilities.--The Legislature hereby finds and declares that
5 there is a public need for rapid construction of safe and
6 efficient transportation facilities for the purpose of travel
7 within the state, and that it is in the public's interest to
8 provide for public-private partnership agreements to
9 effectuate the construction of additional safe, convenient,
10 and economical transportation facilities.

11 (1) The department may receive or solicit proposals
12 and, ~~with legislative approval by a separate bill for each~~
13 ~~facility,~~ enter into agreements with private entities, or
14 consortia thereof, for the building, operation, ownership, or
15 financing of transportation facilities. The department is
16 authorized to adopt rules to implement this section and shall
17 by rule establish an application fee for the submission of
18 proposals under this section. The fee must be sufficient to
19 pay the costs of evaluating the proposals. The department may
20 engage the services of private consultants to assist in the
21 evaluation. Before ~~seeking legislative~~ approval, the
22 department must determine that the proposed project:

23 (a) Is in the public's best interest. ~~†~~

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

29 (c) Would have adequate safeguards in place to ensure
30 that no additional costs or service disruptions would be
31 realized by the traveling public and citizens of the state in

1 the event of default or cancellation of the agreement by the
2 department.

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4 The department shall ensure that all reasonable costs to the
5 state related to transportation facilities that are not part
6 of the State Highway System are borne by the public-private
7 entity.The department shall also ensure that all reasonable
8 costs to the state, ~~and substantially affected local~~
9 ~~governments, and utilities, related to the private~~
10 ~~transportation facility,~~ are borne by the public-private
11 private entity for transportation facilities that are owned by
12 private entities.

13 (2) The use of funds from the State Transportation
14 Trust Fund is limited to advancing projects already programmed
15 in the adopted 5-year work program or to no more than a
16 statewide total of \$50 million in capital costs for all
17 projects not programmed in the adopted 5-year work program.

18 (3) The department may request proposals for
19 public-private transportation projects or, if the department
20 receives a proposal, shall publish a notice in the Florida
21 Administrative Weekly and a newspaper of general circulation
22 at least once a week for 2 weeks, stating that the department
23 has received the proposal and will accept, for 60 days after
24 the initial date of publication, other proposals for the same
25 project purpose. A copy of the notice must be mailed to each
26 local government in the affected area. Notwithstanding any
27 other provision of law, entities selected by the department in
28 this manner shall be deemed to have complied with all open
29 competition provisions of law.

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

4 ~~(5)(2)~~ Agreements entered into pursuant to this
5 section may authorize the private entity to impose tolls or
6 fares for the use of the facility. However, the amount and
7 use of toll or fare revenues may be regulated by the
8 department to avoid unreasonable costs to users of the
9 facility.

10 ~~(6)(3)~~ Each ~~private~~ transportation facility
11 constructed pursuant to this section shall comply with all
12 requirements of federal, state, and local laws; state,
13 regional, and local comprehensive plans; department rules,
14 policies, procedures, and standards for transportation
15 facilities; and any other conditions which the department
16 determines to be in the public's best interest.

17 ~~(7)(4)~~ The department may exercise any power possessed
18 by it, including eminent domain, with respect to the
19 development and construction of state transportation projects
20 to facilitate the development and construction of
21 transportation projects pursuant to this section. For
22 public-private facilities located on the State Highway System,
23 the department may pay all or part of the cost of operating
24 and maintaining the facility. For facilities not located on
25 the State Highway System, the department may provide services
26 to the private entity and ~~agreements~~ for maintenance, law
27 enforcement, and other services ~~entered into pursuant to this~~
28 ~~section~~ shall provide for full reimbursement for services
29 rendered.

30 ~~(8)(5)~~ Except as herein provided, the provisions of
31 this section are not intended to amend existing laws by

1 granting additional powers to, or further restricting, local
2 governmental entities from regulating and entering into
3 cooperative arrangements with the private sector for the
4 planning, construction, and operation of transportation
5 facilities.

6 (9) The department shall have the authority to create
7 or assist in the creation of tax-exempt, public-purpose
8 Internal Revenue Service Ruling 63-20 corporations as provided
9 for under the Internal Revenue Code for the purpose of
10 shielding the state from possible financing risks for projects
11 under this section. Internal Revenue Service Ruling 63-20
12 corporations may receive State Transportation Trust Fund
13 grants and loans from the department. The department shall be
14 empowered to enter into public-private partnership agreements
15 with Internal Revenue Service Ruling 63-20 corporations for
16 projects under this section but shall not agree to expend any
17 funds not appropriated for this purpose. The provisions of s.
18 339.135(6) shall apply to such agreements.

19 (10) The department may lend funds from the Toll
20 Facilities Revolving Trust Fund, as outlined in s. 338.251, to
21 Internal Revenue Service Ruling 63-20 corporations that
22 propose projects containing toll facilities. To be eligible,
23 the Internal Revenue Service Ruling 63-20 corporation must
24 meet the provisions of s. 338.251 and must also provide credit
25 support, such as a letter of credit or other means acceptable
26 to the department, to ensure the loans will be repaid as
27 required by law. The state's liability for debt of a facility
28 shall be limited to the amount approved for that specific
29 facility in the department's 5-year work program adopted
30 pursuant to s. 339.135.

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1 ~~(11)(6)~~ Notwithstanding s. 341.327, a fixed-guideway
2 transportation system authorized by the department to be
3 wholly or partially within the department's right-of-way
4 pursuant to a lease granted under s. 337.251 may operate at
5 any safe speed.

6 Section 2. Paragraph (m) of subsection (2) of section
7 348.0004, Florida Statutes, is repealed.

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

10 348.0004 Purposes and powers.--

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

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

1 approval, such an expressway authority must determine that the
2 proposed project:

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

9 (b) Such an expressway authority may request proposals
10 for public-private transportation projects or, if such an
11 expressway authority receives an unsolicited proposal that it
12 has an interest in evaluating, it shall publish a notice in
13 the Florida Administrative Weekly and a newspaper of general
14 circulation in the county in which such expressway authority
15 is located at least once a week for 2 weeks stating that such
16 expressway authority has received the proposal and will
17 accept, for 60 days after the initial date of publication,
18 other proposals for the same project purpose. A copy of the
19 notice must be mailed to each local government in the affected
20 areas. Notwithstanding any other provision of law, entities
21 selected by such an expressway authority in this manner shall
22 for all purposes be deemed to have complied with all open
23 competition provisions of law, including, without limitation,
24 chapters 255 and 287.

25 (c) Agreements entered into pursuant to this
26 subsection may authorize the private entity to impose tolls or
27 fares for the use of the facility. However, the amount and
28 use of toll or fare revenues may be regulated by such an
29 expressway authority to avoid unreasonable costs to users of
30 the facility.

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1 (d) Each transportation facility constructed pursuant
2 to this subsection shall comply with all requirements of
3 federal, state, and local laws; state, regional, and local
4 comprehensive plans; such expressway authority's rules,
5 policies, procedures, and standards for transportation
6 facilities; and any other conditions such expressway authority
7 determines to be in the public's best interest.

8 (e) Such an expressway authority may exercise any
9 power possessed by it, including eminent domain, with respect
10 to the development and construction of transportation projects
11 to facilitate the development and construction of
12 transportation projects pursuant to this subsection. Such an
13 expressway authority may pay all or part of the cost of
14 operating and maintaining the facility or may provide services
15 to the private entity for which it shall be entitled to
16 receive full or partial reimbursement for services rendered.

17 (f) Except as herein provided, the provisions of this
18 subsection are not intended to amend existing laws by further
19 expanding or further restricting the authority of local
20 governmental entities to regulate and enter into cooperative
21 arrangements with the private sector for the planning,
22 construction, and operation of transportation facilities.

23 (g) Such an expressway authority shall have the
24 authority to create, or assist in the creation of, tax-exempt,
25 public-purpose Internal Revenue Service Ruling 63-20
26 corporations as provided for under the Internal Revenue Code
27 for the purpose of shielding such an expressway authority from
28 possible financing risks for projects under this
29 subsection. Such an expressway authority shall be empowered
30 to enter into public-private partnership agreements with
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1 Internal Revenue Service Ruling 63-20 corporations for
2 projects under this subsection.

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

10 Section 4. This act shall take effect upon becoming a
11 law.

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