

Bill No. CS for CS for SB 2658

Amendment No. ____ Barcode 405680

CHAMBER ACTION

Senate

House

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Senator Sebesta moved the following amendment:

Senate Amendment (with title amendment)

On page 78, between lines 17 and 18,

insert:

Section 35. Section 334.30, Florida Statutes, is amended to read:

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 public-private partnership agreements to effectuate 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 as provided in

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

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

10 (b) Complies with the provisions of subsection (2).
 11 ~~Would not require state funds to be used unless there is an~~
 12 ~~overriding state interest; and~~

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

18
 19 The department shall ensure that all reasonable costs to the
 20 state related to transportation facilities that are not part
 21 of the State Highway System are borne by the public-private
 22 entity. The department shall also ensure that all reasonable
 23 costs to the state and substantially affected local
 24 governments and utilities, related to the private
 25 transportation facility, are borne by the public-private
 26 private entity for transportation facilities that are owned by
 27 private entities.

28 (2)(a) Public-private partnerships or private entities
 29 may advance projects programmed in the first 3 years of the
 30 adopted work program to be reimbursed from department funds
 31 for the project as programmed in the adopted work program.

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1 (b) Public-private partnerships or private entities
2 may advance projects programmed in the 4th and 5th years of
3 the adopted work program to be reimbursed from department
4 funds for the project as programmed in the adopted work
5 program. The total capital costs to the department for all
6 projects advanced under this paragraph may not exceed \$50
7 million without specific project approval by the Legislature.

8 (c) Public-private partnerships or private entities
9 may advance projects on the Florida Intrastate Highway System
10 programmed in the adopted 5-year work program to be reimbursed
11 from department funds for the project as programmed in the
12 adopted work program.

13 (d) Public-private partnerships or private entities
14 may advance projects that are not programmed in the adopted
15 5-year work program but are on the State Highway System and
16 included in the local metropolitan planning organization's or
17 the department's long-range transportation plans, to be
18 reimbursed from department funds beyond the adopted 5-year
19 work program. The total capital costs to the department for
20 all projects advanced under this paragraph may not exceed \$50
21 million without specific project approval by the Legislature.

22 (3) The department may request proposals from
23 public-private transportation projects or, if the department
24 receives an unsolicited proposal, the department shall publish
25 a notice in the Florida Administrative Weekly and a newspaper
26 of general circulation at least once a week for 2 weeks
27 stating that the department has received the proposal and will
28 accept, for 60 days after the initial date of publication,
29 other proposals for the same project purpose. A copy of the
30 notice must be mailed to each local government in the affected
31 area. After the public notification period has expired, the

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1 department shall rank the proposals in order of preference. In
2 ranking the proposals the department may consider the
3 following factors, including, but not limited to, professional
4 qualification, general business terms, innovative engineering
5 or cost-reduction terms, finance plans, and the need for state
6 funds to deliver the proposal. The department shall negotiate
7 with the top-ranked proposer in good faith, and if the
8 department is not satisfied with the results of the
9 negotiations, the department may, at its sole discretion,
10 terminate negotiations with the proposer. If these
11 negotiations are unsuccessful, the department may go to the
12 second and lower-ranked firms, in order, using this same
13 procedure. If only one proposal is received, the department
14 may negotiate in good faith, and, if the department is not
15 satisfied with the results of the negotiations, the department
16 may, at its sole discretion, terminate negotiations with the
17 proposers. Notwithstanding this subsection, the department
18 may, at its discretion, reject all proposals at any point in
19 the process up to completion of a contract with the proposer.

20 ~~(4)(2)~~ Agreements entered into pursuant to this
21 section may authorize the private entity to impose tolls or
22 fares for the use of the facility. However, the amount and
23 use of toll or fare revenues may be regulated by the
24 department to avoid unreasonable costs to users of the
25 facility.

26 ~~(5)(3)~~ Each private transportation facility
27 constructed pursuant to this section shall comply with all
28 requirements of federal, state, and local laws; state,
29 regional, and local comprehensive plans; department rules,
30 policies, procedures, and standards for transportation
31 facilities; and any other conditions which the department

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1 determines to be in the public's best interest.

2 ~~(6)(4)~~ The department may exercise any power possessed
3 by it, including eminent domain, with respect to the
4 development and construction of state transportation projects
5 to facilitate the development and construction of
6 transportation projects pursuant to this section. For
7 public-private facilities located on the State Highway System,
8 the department may pay all or part of the cost of operating
9 and maintaining the facility. For facilities not located on
10 the State Highway System, the ~~The~~ department may provide
11 services to the private entity ~~and~~ agreements for
12 maintenance, law enforcement, and other services ~~entered into~~
13 ~~pursuant to this section~~ shall provide for full reimbursement
14 for services rendered.

15 ~~(7)(5)~~ Except as herein provided, the provisions of
16 this section are not intended to amend existing laws by
17 granting additional powers to, or further restricting, local
18 governmental entities from regulating and entering into
19 cooperative arrangements with the private sector for the
20 planning, construction, and operation of transportation
21 facilities.

22 ~~(8)~~ Expressway authorities created under ch. 348 may
23 enter into public-private partnerships only as provided in
24 this section.

25 ~~(9)(6)~~ Notwithstanding s. 341.327, a fixed-guideway
26 transportation system authorized by the department to be
27 wholly or partially within the department's right-of-way
28 pursuant to a lease granted under s. 337.251 may operate at
29 any safe speed.

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31 (Redesignate subsequent sections.)

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

2 And the title is amended as follows:

3 On page 4, line 23, after the first semicolon

4

5 insert:

6 amending s. 334.30, F.S.; providing for
7 public-private partnership agreements for
8 transportation facilities without prior
9 legislative approval; authorizing the
10 department to adopt rules; providing
11 requirements for projects advanced by a
12 public-private partnership or private entity;
13 authorizing the department to request
14 proposals; requiring notice; providing
15 requirements for ranking proposals; extending
16 such authority to expressway authorities;

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