

Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

CHAMBER ACTION

Senate

House

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Senator Sebesta moved the following **amendment to amendment**
(323906):

Senate Amendment (with title amendment)

On page 78, between lines 29 and 30,

insert:

Section 41. 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

Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

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

10 (a) Is in the public's best interest.†
11 (b) Complies with the provisions of subsection (2).
12 ~~Would not require state funds to be used unless there is an~~
13 ~~overriding state interest; 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)(a) Public-private partnerships or private entities
30 may advance projects programmed in the first 3 years of the
31 adopted work program to be reimbursed from department funds

Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

1 for the project as programmed in the adopted work program.

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

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

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

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

Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

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

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

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

Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

1 facilities; and any other conditions which the department
2 determines to be in the public's best interest.

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

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

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

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

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Bill No. CS for SB 676

Amendment No. ____ Barcode 681920

1 (Redesignate subsequent sections.)

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

5 And the title is amended as follows:

6 On page 106, line 18, after the first semicolon

7

8 insert:

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

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