

Bill No. SB 1350

Barcode 705246

CHAMBER ACTION

Senate

House

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Comm: WD
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The Committee on Transportation (Sebesta) recommended the following amendment:

Senate Amendment (with title amendment)

On page 1, between lines 22 and 23,

insert:

Section 2. Subsection (9) of section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.--

(9) The Legislature declares that there is a public need for rapid construction of safe and efficient transportation facilities for 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.

(a) Notwithstanding any other provision of the Florida Expressway Authority Act, any expressway authority, transportation authority, bridge authority, or toll authority established under this part or any other statute may receive

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1 or solicit proposals and enter into agreements with private
2 entities, or consortia thereof, for the building, operation,
3 ownership, or financing of ~~expressway~~ authority transportation
4 facilities or new transportation facilities within the
5 jurisdiction of the ~~expressway~~ authority. An ~~expressway~~
6 authority is authorized to adopt rules to implement this
7 subsection and shall, by rule, establish an application fee
8 for the submission of unsolicited proposals under this
9 subsection. The fee must be sufficient to pay the costs of
10 evaluating the proposals. An ~~expressway~~ authority may engage
11 private consultants to assist in the evaluation. Before
12 approval, an ~~expressway~~ authority must determine that a
13 proposed project:

- 14 1. Is in the public's best interest.
- 15 2. Would not require state funds to be used unless the
16 project is on or provides increased mobility on the State
17 Highway System.
- 18 3. Would have adequate safeguards to ensure that no
19 additional costs or service disruptions would be realized by
20 the traveling public and residents ~~citizens~~ of the state in
21 the event of default or the cancellation of the agreement by
22 the ~~expressway~~ authority.

23 (b) An ~~expressway~~ authority shall ensure that all
24 reasonable costs to the state, related to transportation
25 facilities that are not part of the State Highway System, are
26 borne by the private entity. An ~~expressway~~ authority shall
27 also ensure that all reasonable costs to the state and
28 substantially affected local governments and utilities related
29 to the private transportation facility are borne by the
30 private entity for transportation facilities that are owned by
31 private entities. For projects on the State Highway System,

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1 the department may use state resources to participate in
2 funding and financing the project as provided for under the
3 department's enabling legislation.

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

31 (d) The department may lend funds from the Toll

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1 Facilities Revolving Trust Fund, as outlined in s. 338.251, to
 2 public-private partnerships. To be eligible a private entity
 3 must comply with s. 338.251 and must provide an indication
 4 from a nationally recognized rating agency that the senior
 5 bonds for the project will be investment grade or must provide
 6 credit support, such as a letter of credit or other means
 7 acceptable to the department, to ensure that the loans will be
 8 fully repaid.

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

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

23 (g) An ~~expressway~~ authority may exercise any power
 24 possessed by it, including eminent domain, to facilitate the
 25 development and construction of transportation projects
 26 pursuant to this subsection. An ~~expressway~~ authority may pay
 27 all or part of the cost of operating and maintaining the
 28 facility or may provide services to the private entity for
 29 which it receives full or partial reimbursement for services
 30 rendered.

31 (h) Except as herein provided, this subsection is not

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1 intended to amend existing laws by granting additional powers
 2 to or further restricting the governmental entities from
 3 regulating and entering into cooperative arrangements with the
 4 private sector for the planning, construction, and operation
 5 of transportation facilities. Use of the powers granted in
 6 this subsection may not subject a statutorily created
 7 expressway authority, transportation authority, bridge
 8 authority, or toll authority, other than one statutorily
 9 created under this part, to any of the requirements of this
 10 part other than those contained in this subsection.

11 Section 3. Section 348.0012, Florida Statutes, is
 12 amended to read:

13 348.0012 Exemptions from applicability.--The Florida
 14 Expressway Authority Act does not apply:

15 (1) In a county in which an expressway authority has
 16 been created pursuant to parts II-IX of this chapter, except
 17 as expressly provided in this part; or

18 (2) To a transportation authority created pursuant to
 19 chapter 349.

20
 21 (Redesignate subsequent sections.)

22
 23
 24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1, line 6, after the semicolon,

27
 28 insert:

29 amending s. 348.0004, F.S.; authorizing
 30 transportation authorities, bridge authorities,
 31 or toll authorities to enter agreements with

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1 private entities to provide transportation
2 facilities; amending s. 348.0012, F.S.;
3 clarifying certain exemptions from the Florida
4 Expressway Authority Act;

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