

Bill No. CS for CS for CS for SB 1928

Barcode 844626

CHAMBER ACTION

Senate

House

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Senator Baker moved the following amendment:

**Senate Amendment (with title amendment)**

On page 66, line 20, through  
page 70, line 13, delete those lines

and insert:

Section 28. Section 334.30, Florida Statutes, is amended to read:

334.30 Public-private transportation facilities.--The Legislature ~~hereby~~ finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling ~~travel~~ within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of

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1 transportation facilities which increase transportation  
2 capacity. Except as provided in s. 337.25, s. 337.251, s.  
3 338.234, or s. 338.235, the department may not sell or lease  
4 any transportation facility owned by the department. The  
5 department may advance projects programmed in the adopted  
6 5-year work program using funds provided by public-private  
7 partnerships or private entities to be reimbursed from  
8 department funds for the project as programmed in the adopted  
9 work program. The department shall by rule establish an  
10 application fee for the submission of unsolicited proposals  
11 under this section. The fee must be sufficient to pay the  
12 costs of evaluating the proposals. The department may engage  
13 the services of private consultants to assist in the  
14 evaluation. Before approval, the department must determine  
15 that the proposed project:

16 (a) Is in the public's best interest;

17 (b) Would not require state funds to be used unless  
18 the project is on the State Highway System; ~~and~~

19 (c) Would have adequate safeguards in place to ensure  
20 that no additional costs or service disruptions would be  
21 realized by the traveling public and residents ~~citizens~~ of the  
22 state in the event of default or cancellation of the agreement  
23 by the department;-

24 (d) Would have adequate safeguards in place to ensure  
25 that the department or the private entity has the opportunity  
26 to add capacity to the proposed project and other  
27 transportation facilities serving similar origins and  
28 destinations; and

29 (e) Would be owned by the department upon completion  
30 or termination of the agreement.

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1 The department shall ensure that all reasonable costs to the  
2 state, related to transportation facilities that are not part  
3 of the State Highway System, are borne by the private entity.  
4 The department shall also ensure that all reasonable costs to  
5 the state and substantially affected local governments and  
6 utilities, related to the private transportation facility, are  
7 borne by the private entity for transportation facilities that  
8 are owned by private entities. For projects on the State  
9 Highway System, the department may use state resources to  
10 participate in funding and financing the project as provided  
11 for under the department's enabling legislation.

12 (2) Agreements entered into pursuant to this section  
13 may authorize the private entity to impose tolls or fares for  
14 the use of the facility. However, the amount and use of toll  
15 or fare revenues shall be regulated by the department to avoid  
16 unreasonable costs to users of the facility.

17 (3) Each private transportation facility constructed  
18 pursuant to this section shall comply with all requirements of  
19 federal, state, and local laws; state, regional, and local  
20 comprehensive plans; department rules, policies, procedures,  
21 and standards for transportation facilities; and any other  
22 conditions which the department determines to be in the  
23 public's best interest.

24 (4) The department may exercise any power possessed by  
25 it, including eminent domain, with respect to the development  
26 and construction of state transportation projects to  
27 facilitate the development and construction of transportation  
28 projects pursuant to this section. The department may provide  
29 services to the private entity. Agreements for maintenance,  
30 law enforcement, and other services entered into pursuant to  
31 this section shall provide for full reimbursement for services

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1 rendered for projects not on the State Highway System.

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

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

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1 negotiations, the department may, at its sole discretion,  
 2 terminate negotiations with the proposer. ~~Notwithstanding this~~  
 3 ~~subsection,~~ The department may, at its discretion, reject all  
 4 proposals at any point in the process up to completion of a  
 5 contract with the proposer.

6 (7) The department may lend funds from the Toll  
 7 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
 8 private entities that construct projects on the State Highway  
 9 System containing toll facilities that are approved under this  
 10 section. To be eligible, a private entity must comply with s.  
 11 338.251 and must provide an indication from a nationally  
 12 recognized rating agency that the senior bonds for the project  
 13 will be investment grade, or must provide credit support such  
 14 as a letter of credit or other means acceptable to the  
 15 department, to ensure that the loans will be fully repaid. The  
 16 state's liability for the funding of a facility is limited to  
 17 the amount approved for that specific facility in the  
 18 department's 5-year work program adopted pursuant to s.  
 19 339.135.

20 ~~(8) A fixed guideway transportation system authorized~~  
 21 ~~by the department to be wholly or partially within the~~  
 22 ~~department's right of way pursuant to a lease granted under s.~~  
 23 ~~337.251 may operate at any safe speed.~~

24 Section 29. Section 338.234, Florida Statutes, is  
 25 amended to read:

26 338.234 Granting concessions or selling along the  
 27 turnpike system; immunity from taxation.--

28 (1) The department may enter into contracts or  
 29 licenses with any person for the sale of services or products  
 30 or business opportunities on the turnpike system, or the  
 31 turnpike enterprise may sell services, products, or business

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1 opportunities on the turnpike system, which benefit the  
 2 traveling public or provide additional revenue to the turnpike  
 3 system. Services, business opportunities, and products  
 4 authorized to be sold include, but are not limited to, motor  
 5 fuel, vehicle towing, and vehicle maintenance services; food  
 6 with attendant nonalcoholic beverages; lodging, meeting rooms,  
 7 and other business services opportunities; advertising and  
 8 other promotional opportunities, which advertising and  
 9 promotions must be consistent with the dignity and integrity  
 10 of the state; state lottery tickets sold by authorized  
 11 retailers; games and amusements that operate by the  
 12 application of skill, not including games of chance as defined  
 13 in s. 849.16 or other illegal gambling games; Florida citrus,  
 14 goods promoting the state, or handmade goods produced within  
 15 the state; and travel information, tickets, reservations, or  
 16 other related services. However, the department, pursuant to  
 17 the grants of authority to the turnpike enterprise under this  
 18 section, shall not exercise the power of eminent domain solely  
 19 for the purpose of acquiring real property in order to provide  
 20 business services or opportunities, such as lodging and  
 21 meeting-room space on the turnpike system.

22       (2) The effectuation of the authorized purposes of the  
 23 Florida Intrastate Highway System and Florida Turnpike  
 24 Enterprise, created under this chapter, is for the benefit of  
 25 the people of the state, for the increase of their commerce  
 26 and prosperity, and for the improvement of their health and  
 27 living conditions and, because the system and enterprise  
 28 perform essential government functions in effectuating such  
 29 purposes, neither the turnpike enterprise nor any  
 30 nongovernment lessee or licensee renting, leasing, or  
 31 licensing real property from the turnpike enterprise, pursuant

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1 to an agreement authorized by this section are required to pay  
 2 any commercial rental tax imposed under s. 212.031 on any  
 3 capital improvements constructed, improved, acquired,  
 4 installed, or used for such purposes.

5 Section 30. Subsection (9) of section 348.0004,  
 6 Florida Statutes, is amended to read:

7 348.0004 Purposes and powers.--

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

15 (a) Notwithstanding any other provision of the Florida  
 16 Expressway Authority Act, any expressway authority,  
 17 transportation authority, bridge authority, or toll authority  
 18 may receive or solicit proposals and enter into agreements  
 19 with private entities, or consortia thereof, for the building,  
 20 operation, ownership, or financing of ~~expressway~~ authority  
 21 transportation facilities or new transportation facilities  
 22 within the jurisdiction of the ~~expressway~~ authority which  
 23 increase transportation capacity. An authority may not sell or  
 24 lease any transportation facility owned by the authority. An  
 25 ~~expressway~~ authority is authorized to adopt rules to implement  
 26 this subsection and shall, by rule, establish an application  
 27 fee for the submission of unsolicited proposals under this  
 28 subsection. The fee must be sufficient to pay the costs of  
 29 evaluating the proposals. An ~~expressway~~ authority may engage  
 30 private consultants to assist in the evaluation. Before  
 31 approval, an ~~expressway~~ authority must determine that a

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1 proposed project:

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

3 2. Would not require state funds to be used unless the  
4 project is on or provides increased mobility on the State  
5 Highway System.

6 3. Would have adequate safeguards to ensure that no  
7 additional costs or service disruptions would be realized by  
8 the traveling public and residents ~~citizens~~ of the state in  
9 the event of default or the cancellation of the agreement by  
10 the ~~expressway~~ authority.

11 4. Would have adequate safeguards in place to ensure  
12 that the department, the authority, or the private entity has  
13 the opportunity to add capacity to the proposed project and  
14 other transportation facilities serving similar origins and  
15 destinations.

16 5. Would be owned by the authority upon completion or  
17 termination of the agreement.

18 (b) An ~~expressway~~ authority shall ensure that all  
19 reasonable costs to the state which are, related to  
20 transportation facilities that are not part of the State  
21 Highway System, are borne by the private entity. An ~~expressway~~  
22 authority shall also ensure that all reasonable costs to the  
23 state and substantially affected local governments and  
24 utilities related to the private transportation facility are  
25 borne by the private entity for transportation facilities that  
26 are owned by private entities. For projects on the State  
27 Highway System, the department may use state resources to  
28 participate in funding and financing the project as provided  
29 for under the department's enabling legislation.

30 (c) The ~~expressway~~ authority may request proposals for  
31 public-private transportation projects or, if it receives an



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

26 (d) The department may lend funds from the Toll  
27 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
28 public-private partnerships. To be eligible a private entity  
29 must comply with s. 338.251 and must provide an indication  
30 from a nationally recognized rating agency that the senior  
31 bonds for the project will be investment grade or must provide

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1 credit support, such as a letter of credit or other means  
2 acceptable to the department, to ensure that the loans will be  
3 fully repaid.

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

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

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

26 (h) Except as herein provided, this subsection is not  
27 intended to amend existing laws by granting additional powers  
28 to or further restricting the governmental entities from  
29 regulating and entering into cooperative arrangements with the  
30 private sector for the planning, construction, and operation  
31 of transportation facilities. Use of the powers granted in

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1 this subsection do not subject a statutorily created  
 2 expressway authority, transportation authority, bridge  
 3 authority, or toll authority, other than one created under  
 4 this part, to any of the requirements of this part other than  
 5 those contained in this subsection.

6  
 7 (Redesignate subsequent sections.)  
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 9

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

11 And the title is amended as follows:

12            On page 6, line 25, after the semicolon

13  
 14 insert:

15            amending s. 334.30, F.S.; authorizing the  
 16            Department of Transportation to enter into  
 17            agreements with private entities for the  
 18            building, operation, ownership, or financing of  
 19            transportation facilities; revising criteria  
 20            for approving agreements; amending s. 338.234,  
 21            F.S.; granting the Florida Turnpike Enterprise,  
 22            its lessees, and licensees an exemption from  
 23            paying commercial rental tax on capital  
 24            improvements;

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