

HB 497

2010

1                   A bill to be entitled  
2           An act relating to transportation facilities; amending s.  
3           334.30, F.S.; revising criteria for evaluation by the  
4           Department of Transportation of certain public-private  
5           project proposals; providing that a determination that a  
6           project is in the public's best interest be evidenced by a  
7           business case prepared under specified provisions and  
8           submitted to the Council on Efficient Government; deleting  
9           a provision authorizing the department to lease existing  
10          toll facilities through public-private partnerships;  
11          providing an effective date.

12  
13   Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Paragraph (a) of subsection (1) and subsection  
16          (2) of section 334.30, Florida Statutes, are amended to read:

17           334.30 Public-private transportation facilities.—The  
18          Legislature finds and declares that there is a public need for  
19          the rapid construction of safe and efficient transportation  
20          facilities for the purpose of traveling within the state, and  
21          that it is in the public's interest to provide for the  
22          construction of additional safe, convenient, and economical  
23          transportation facilities.

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

HB 497

2010

29 | The department may advance projects programmed in the adopted 5-  
30 | year work program or projects increasing transportation capacity  
31 | and greater than \$500 million in the 10-year Strategic  
32 | Intermodal Plan using funds provided by public-private  
33 | partnerships or private entities to be reimbursed from  
34 | department funds for the project as programmed in the adopted  
35 | work program. The department shall by rule establish an  
36 | application fee for the submission of unsolicited proposals  
37 | under this section. The fee must be sufficient to pay the costs  
38 | of evaluating the proposals. The department may engage the  
39 | services of private consultants to assist in the evaluation.  
40 | Before approval, the department must determine that the proposed  
41 | project:

42 |       (a) Is in the public's best interest as evidenced by a  
43 | business case prepared under s. 287.0574 and submitted to the  
44 | Council on Efficient Government;

45 |  
46 | The department shall ensure that all reasonable costs to the  
47 | state, related to transportation facilities that are not part of  
48 | the State Highway System, are borne by the private entity. The  
49 | department shall also ensure that all reasonable costs to the  
50 | state and substantially affected local governments and  
51 | utilities, related to the private transportation facility, are  
52 | borne by the private entity for transportation facilities that  
53 | are owned by private entities. For projects on the State Highway  
54 | System, the department may use state resources to participate in  
55 | funding and financing the project as provided for under the  
56 | department's enabling legislation. Because the Legislature

HB 497

2010

57 recognizes that private entities or consortia thereof would  
58 perform a governmental or public purpose or function when they  
59 enter into agreements with the department to design, build,  
60 operate, own, or finance transportation facilities, the  
61 transportation facilities, including leasehold interests  
62 thereof, are exempt from ad valorem taxes as provided in chapter  
63 196 to the extent property is owned by the state or other  
64 government entity, and from intangible taxes as provided in  
65 chapter 199 and special assessments of the state, any city,  
66 town, county, special district, political subdivision of the  
67 state, or any other governmental entity. The private entities or  
68 consortia thereof are exempt from tax imposed by chapter 201 on  
69 all documents or obligations to pay money which arise out of the  
70 agreements to design, build, operate, own, lease, or finance  
71 transportation facilities. Any private entities or consortia  
72 thereof must pay any applicable corporate taxes as provided in  
73 chapters 220 and 221, and unemployment compensation taxes as  
74 provided in chapter 443, and sales and use tax as provided in  
75 chapter 212 shall be applicable. The private entities or  
76 consortia thereof must also register and collect the tax imposed  
77 by chapter 212 on all their direct sales and leases that are  
78 subject to tax under chapter 212. The agreement between the  
79 private entity or consortia thereof and the department  
80 establishing a transportation facility under this chapter  
81 constitutes documentation sufficient to claim any exemption  
82 under this section.

83 (2) Agreements entered into pursuant to this section may  
84 authorize the private entity to impose tolls or fares for the

85 use of the facility. The following provisions shall apply to  
86 such agreements:

87 ~~(a) With the exception of the Florida Turnpike System, the~~  
88 ~~department may lease existing toll facilities through public-~~  
89 ~~private partnerships. The public-private partnership agreement~~  
90 ~~must ensure that the transportation facility is properly~~  
91 ~~operated, maintained, and renewed in accordance with department~~  
92 ~~standards.~~

93 (a) ~~(b)~~ The department may develop new toll facilities or  
94 increase capacity on existing toll facilities through public-  
95 private partnerships. The public-private partnership agreement  
96 must ensure that the toll facility is properly operated,  
97 maintained, and renewed in accordance with department standards.

98 (b) ~~(e)~~ Any toll revenues shall be regulated by the  
99 department pursuant to s. 338.165(3). The regulations governing  
100 the future increase of toll or fare revenues shall be included  
101 in the public-private partnership agreement.

102 (c) ~~(d)~~ The department shall provide the analysis required  
103 in subparagraph (6) (e)2. to the Legislative Budget Commission  
104 created pursuant to s. 11.90 for review and approval prior to  
105 awarding a contract on a lease of an existing toll facility.

106 (d) ~~(e)~~ The department shall include provisions in the  
107 public-private partnership agreement that ensure a negotiated  
108 portion of revenues from tolled or fare generating projects are  
109 returned to the department over the life of the public-private  
110 partnership agreement. In the case of a lease of an existing  
111 toll facility, the department shall receive a portion of funds  
112 upon closing on the agreements and shall also include provisions

HB 497

2010

113 | in the agreement to receive payment of a portion of excess  
114 | revenues over the life of the public-private partnership.

115 |       (e)~~(f)~~ The private entity shall provide an investment  
116 | grade traffic and revenue study prepared by an internationally  
117 | recognized traffic and revenue expert that is accepted by the  
118 | national bond rating agencies. The private entity shall also  
119 | provide a finance plan that identifies the project cost,  
120 | revenues by source, financing, major assumptions, internal rate  
121 | of return on private investments, and whether any government  
122 | funds are assumed to deliver a cost-feasible project, and a  
123 | total cash flow analysis beginning with implementation of the  
124 | project and extending for the term of the agreement.

125 |       Section 2. This act shall take effect July 1, 2010.