



745354

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2024	.	
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The Appropriations Committee on Transportation, Tourism, and Economic Development (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 206.46,
Florida Statutes, to read:

206.46 State Transportation Trust Fund.—

(6) The department may not annually commit more than 20
percent of the revenues derived from state fuel taxes and motor
vehicle license-related fees deposited into the State



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11 Transportation Trust Fund to public transit projects, in
12 accordance with chapter 341. However, this subsection does not
13 apply to either of the following:

14 (a) A public transit project that uses revenues derived
15 from state fuel taxes and motor vehicle license-related fees to
16 match funds made available by the Federal Government.

17 (b) A public transit project included in the transportation
18 improvement program adopted pursuant to s. 339.175(8) and
19 approved by a supermajority vote of the board of county
20 commissioners where the project is located.

21 Section 2. Subsections (6) and (7) of section 288.9606,
22 Florida Statutes, are amended to read:

23 288.9606 Issue of revenue bonds.—

24 (6) The proceeds of any bonds of the corporation may not be
25 used, in any manner, to acquire any building or facility that
26 will be, during the pendency of the financing, used by, occupied
27 by, leased to, or paid for by any state, county, or municipal
28 agency or entity. This subsection does not prohibit the use of
29 proceeds of bonds of the corporation for the purpose of
30 financing the acquisition or construction of a transportation
31 facility under a comprehensive ~~public-private partnership~~
32 agreement authorized by s. 334.30.

33 (7) Notwithstanding any provision of this section, the
34 corporation in its corporate capacity may, without authorization
35 from a public agency under s. 163.01(7), issue revenue bonds or
36 other evidence of indebtedness under this section to:

37 (a) Finance the undertaking of any project within the state
38 that promotes renewable energy as defined in s. 366.91 or s.
39 377.803;



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40 (b) Finance the undertaking of any project within the state
41 that is a project contemplated or allowed under s. 406 of the
42 American Recovery and Reinvestment Act of 2009; ~~or~~

43 (c) If permitted by federal law, finance qualifying
44 improvement projects within the state under s. 163.08; ~~or-~~

45 (d) Finance the costs of acquisition or construction of a
46 transportation facility by a private entity or consortium of
47 private entities under a comprehensive ~~public-private~~
48 ~~partnership~~ agreement authorized by s. 334.30.

49 Section 3. Present subsections (8) through (13) of section
50 334.30, Florida Statutes, are redesignated as subsections (9)
51 through (14), respectively, a new subsection (8) is added to
52 that section, and subsections (1), (2), and (6) and present
53 subsections (8), (10), (11), and (13) of that section are
54 amended, to read:

55 334.30 Public-private transportation facilities.—The
56 Legislature finds and declares that there is a public need for
57 the rapid construction of safe and efficient transportation
58 facilities for the purpose of traveling within the state, and
59 that it is in the public's interest to provide for the
60 construction of additional safe, convenient, and economical
61 transportation facilities.

62 (1) The department may receive or solicit proposals and,
63 with legislative approval as evidenced by approval of the
64 project in the department's work program, enter into
65 comprehensive agreements with private entities, or consortia
66 thereof, for the building, operation, ownership, or financing of
67 transportation facilities. The department may advance projects
68 programmed in the adopted 5-year work program or projects



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69 increasing transportation capacity and greater than \$500 million
70 in the 10-year Strategic Intermodal Plan using funds provided by
71 public-private partnerships or private entities to be reimbursed
72 from department funds for the project as programmed in the
73 adopted work program. The department shall by rule establish an
74 application fee for the submission of unsolicited proposals
75 under this section. The fee must be sufficient to pay the costs
76 of evaluating the proposals. The department may engage the
77 services of private consultants to assist in the evaluation.
78 Before approval, the department must determine that the proposed
79 project:

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

81 (b) Would not require state funds to be used unless the
82 project is on the State Highway System;

83 (c) Would have adequate safeguards in place to ensure that
84 no additional costs or service disruptions would be realized by
85 the traveling public and residents of the state in the event of
86 default or cancellation of the comprehensive agreement by the
87 department;

88 (d) Would have adequate safeguards in place to ensure that
89 the department or the private entity has the opportunity to add
90 capacity to the proposed project and other transportation
91 facilities serving similar origins and destinations; and

92 (e) Would be owned by the department upon completion or
93 termination of the comprehensive agreement.

94

95 The department shall ensure that all reasonable costs to the
96 state, related to transportation facilities that are not part of
97 the State Highway System, are borne by the private entity. The



98 department shall also ensure that all reasonable costs to the
99 state and substantially affected local governments and
100 utilities, related to the private transportation facility, are
101 borne by the private entity for transportation facilities that
102 are owned by private entities. For projects on the State Highway
103 System, the department may use state resources to participate in
104 funding and financing the project as provided for under the
105 department's enabling legislation. Because the Legislature
106 recognizes that private entities or consortia thereof would
107 perform a governmental or public purpose or function when they
108 enter into comprehensive agreements with the department to
109 design, build, operate, own, or finance transportation
110 facilities, the transportation facilities, including leasehold
111 interests thereof, are exempt from ad valorem taxes as provided
112 in chapter 196 to the extent property is owned by the state or
113 other government entity, and from intangible taxes as provided
114 in chapter 199 and special assessments of the state, any city,
115 town, county, special district, political subdivision of the
116 state, or any other governmental entity. The private entities or
117 consortia thereof are exempt from tax imposed by chapter 201 on
118 all documents or obligations to pay money which arise out of the
119 comprehensive agreements to design, build, operate, own, lease,
120 or finance transportation facilities. Any private entities or
121 consortia thereof must pay any applicable corporate taxes as
122 provided in chapter 220, and reemployment assistance taxes as
123 provided in chapter 443, and sales and use tax as provided in
124 chapter 212 shall be applicable. The private entities or
125 consortia thereof must also register and collect the tax imposed
126 by chapter 212 on all their direct sales and leases that are



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127 subject to tax under chapter 212. The comprehensive agreement
128 between the private entity or consortia thereof and the
129 department establishing a transportation facility under this
130 chapter constitutes documentation sufficient to claim any
131 exemption under this section.

132 (2) Comprehensive agreements entered into pursuant to this
133 section may authorize the private entity to impose tolls or
134 fares for the use of the facility. The following provisions
135 shall apply to such agreements:

136 (a) With the exception of the Florida Turnpike System, the
137 department may lease existing toll facilities through public-
138 private partnerships. The comprehensive ~~public-private~~
139 ~~partnership~~ agreement must ensure that the transportation
140 facility is properly operated, maintained, and renewed in
141 accordance with department standards.

142 (b) The department may develop new toll facilities or
143 increase capacity on existing toll facilities through public-
144 private partnerships. The comprehensive ~~public-private~~
145 ~~partnership~~ agreement must ensure that the toll facility is
146 properly operated, maintained, and renewed in accordance with
147 department standards.

148 (c) Any toll revenues shall be regulated by the department
149 pursuant to s. 338.165(3). The regulations governing the future
150 increase of toll or fare revenues shall be included in the
151 comprehensive ~~public-private partnership~~ agreement.

152 (d) The department shall provide the analysis required in
153 subparagraph (6)(e)2. to the Legislative Budget Commission
154 created pursuant to s. 11.90 for review and approval prior to
155 awarding a contract on a lease of an existing toll facility.



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156 (e) The department shall include provisions in the
157 comprehensive public-private partnership agreement which that
158 ensure a negotiated portion of revenues from tolled or fare
159 generating projects are returned to the department over the life
160 of the comprehensive public-private partnership agreement. In
161 the case of a lease of an existing toll facility, the department
162 shall receive a portion of funds upon closing on the
163 comprehensive agreement ~~agreements~~ and shall also include
164 provisions in the comprehensive agreement to receive payment of
165 a portion of excess revenues over the life of the public-private
166 partnership.

167 (f) The private entity shall provide an independent
168 ~~investment grade~~ traffic and revenue study prepared by a an
169 ~~internationally recognized~~ traffic and revenue expert as part of
170 the private entity proposal. The study must be ~~that is~~ accepted
171 by the national bond rating agencies before closing on the
172 financing that supports the comprehensive agreement for the
173 public-private partnership project. The private entity shall
174 also provide a finance plan that identifies the project cost,
175 revenues by source, financing, major assumptions, internal rate
176 of return on private investments, and whether any government
177 funds are assumed to deliver a cost-feasible project, and a
178 total cash flow analysis beginning with implementation of the
179 project and extending for the term of the comprehensive
180 agreement.

181 (6) The procurement of public-private partnerships by the
182 department shall follow the provisions of this section. Sections
183 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
184 337.185, 337.19, 337.221, and 337.251 may ~~shall~~ not apply to



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185 procurements under this section unless a provision is included
186 in the procurement documents. The department shall ensure that
187 generally accepted business practices for exemptions provided by
188 this subsection are part of the procurement process or are
189 included in the comprehensive ~~public-private partnership~~
190 agreement.

191 (a) The department may request proposals from private
192 entities for public-private transportation projects or, if the
193 department receives an unsolicited proposal, the department
194 shall publish a notice in the Florida Administrative Register
195 and a newspaper of general circulation at least once a week for
196 2 weeks stating that the department has received the proposal
197 and will accept, for between 30 and 120 days after the initial
198 date of publication as determined by the department based on the
199 complexity of the project, other proposals for the same project
200 purpose. A copy of the notice must be mailed to each local
201 government in the affected area.

202 (b) Public-private partnerships shall be qualified by the
203 department as part of the procurement process as outlined in the
204 procurement documents, provided such process ensures that the
205 private firm meets at least the minimum department standards for
206 qualification in department rule for professional engineering
207 services and road and bridge contracting prior to submitting a
208 proposal under the procurement.

209 (c) The department shall ensure that procurement documents
210 include provisions for performance of the private entity and
211 payment of subcontractors, including, but not limited to, surety
212 bonds, letters of credit, parent company guarantees, and lender
213 and equity partner guarantees. The department shall balance the



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214 structure of the security package for the public-private
215 partnership that ensures performance and payment of
216 subcontractors with the cost of the security to ensure the most
217 efficient pricing.

218 (d) After the public notification period has expired, the
219 department shall rank the proposals in order of preference. In
220 ranking the proposals, the department may consider factors that
221 include, but are not limited to, professional qualifications,
222 general business terms, innovative engineering or cost-reduction
223 terms, finance plans, and the need for state funds to deliver
224 the project. If the department is not satisfied with the results
225 of the negotiations, the department may, at its sole discretion,
226 terminate negotiations with the proposer. If these negotiations
227 are unsuccessful, the department may go to the second-ranked and
228 lower-ranked firms, in order, using this same procedure. If only
229 one proposal is received, the department may negotiate in good
230 faith and, if the department is not satisfied with the results
231 of the negotiations, the department may, at its sole discretion,
232 terminate negotiations with the proposer. Notwithstanding this
233 subsection, the department may, at its discretion, reject all
234 proposals at any point in the process up to completion of a
235 contract with the proposer.

236 (e) The department shall provide an independent analysis of
237 the proposed public-private partnership that demonstrates the
238 cost-effectiveness and overall public benefit at the following
239 times:

- 240 1. Prior to moving forward with the procurement; and
- 241 2. If the procurement moves forward, prior to awarding the
242 contract.



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243 (8) Before or in connection with the negotiation of a
244 comprehensive agreement, the department may enter into an
245 interim agreement with the private entity proposing the
246 development or operation of a qualifying project. An interim
247 agreement does not obligate the department to enter into a
248 comprehensive agreement. The interim agreement is discretionary
249 with the parties and is not required on a project for which the
250 parties may proceed directly to a comprehensive agreement
251 without the need for an interim agreement. An interim agreement
252 must be limited to any of the following provisions that:

253 (a) Authorize the private entity to commence activities for
254 which it may be compensated related to the proposed qualifying
255 project, including, but not limited to, project planning and
256 development, designing, environmental analysis and mitigation,
257 surveying, other activities concerning any part of the proposed
258 qualifying project, and ascertaining the availability of
259 financing for the proposed facility or facilities.

260 (b) Establish the process and timing for the negotiation of
261 the comprehensive agreement.

262 (c) Contain such other provisions related to an aspect of
263 the development or operation of a qualifying project which the
264 department and the private entity deem appropriate.

265 (9)~~(8)~~ The department may enter into comprehensive public-
266 private partnership agreements that include extended terms
267 providing annual payments for performance based on the
268 availability of service or the facility being open to traffic or
269 based on the level of traffic using the facility. In addition to
270 other provisions in this section, the following provisions ~~shall~~
271 apply:



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272 (a) The annual payments under any such comprehensive
273 agreement ~~must shall~~ be included in the department's tentative
274 work program developed under s. 339.135 and the long-range
275 transportation plan for the applicable metropolitan planning
276 organization developed under s. 339.175. The department shall
277 ensure that annual payments on multiyear comprehensive public-
278 ~~private partnership~~ agreements are prioritized ahead of new
279 capacity projects in the development and updating of the
280 tentative work program.

281 (b) The annual payments are subject to annual appropriation
282 by the Legislature as provided in the General Appropriations Act
283 in support of the first year of the tentative work program.

284 ~~(11)-(10)~~ Before ~~Prior to~~ entering into any comprehensive
285 ~~such~~ agreement in which ~~where~~ funds are committed from the State
286 Transportation Trust Fund, the project must be prioritized as
287 follows:

288 (a) The department, in coordination with the local
289 metropolitan planning organization, shall prioritize projects
290 included in the Strategic Intermodal System 10-year and long-
291 range cost-feasible plans.

292 (b) The department, in coordination with the local
293 metropolitan planning organization or local government where
294 there is no metropolitan planning organization, shall prioritize
295 projects, for facilities not on the Strategic Intermodal System,
296 included in the metropolitan planning organization cost-feasible
297 transportation improvement plan and long-range transportation
298 plan.

299 ~~(12)-(11)~~ Comprehensive ~~Public-private partnership~~
300 agreements under this section are ~~shall be~~ limited to a term not



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301 exceeding 50 years. Upon making written findings that a
302 comprehensive ~~an~~ agreement under this section requires a term in
303 excess of 50 years, the secretary of the department may
304 authorize a term of up to 75 years for projects that are
305 partially or completely funded from project user fees.

306 Comprehensive agreements under this section may ~~shall~~ not have a
307 term in excess of 75 years unless specifically approved by the
308 Legislature. The department shall identify each new project
309 under this section with a term exceeding 75 years in the
310 transmittal letter that accompanies the submittal of the
311 tentative work program to the Governor and the Legislature in
312 accordance with s. 339.135.

313 (14) ~~(13)~~ In connection with a proposal to finance or
314 refinance a transportation facility pursuant to this section,
315 the department shall consult with the Division of Bond Finance
316 of the State Board of Administration. The department shall
317 notify the division before entering into an interim agreement or
318 comprehensive agreement and provide the division with the
319 information necessary to provide timely consultation and
320 recommendations. The Division of Bond Finance may make an
321 independent recommendation to the Executive Office of the
322 Governor.

323 Section 4. Subsection (5) of section 336.044, Florida
324 Statutes, is amended to read:

325 336.044 Use of recyclable materials in construction.-

326 (5) Notwithstanding any law, rule, or ordinance to the
327 contrary, a local governmental entity may not adopt standards or
328 specifications that are contrary to the department standards or
329 specifications for permissible use of reclaimed asphalt pavement



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330 material or deem reclaimed asphalt pavement material as in
331 ~~construction. For purposes of this section, such material may~~
332 ~~not be considered~~ solid waste.

333 Section 5. Paragraph (e) of subsection (7) and subsection
334 (13) of section 337.11, Florida Statutes, are amended to read:

335 337.11 Contracting authority of department; bids; emergency
336 repairs, supplemental agreements, and change orders; combined
337 design and construction contracts; progress payments; records;
338 requirements of vehicle registration.-

339 (7)

340 (e) For design-build contracts and phased design-build
341 contracts, the department must receive at least three letters of
342 interest in order to proceed with a request for proposals. The
343 department shall request proposals from no fewer than three of
344 the ~~design-build~~ firms submitting letters of interest. If a
345 ~~design-build~~ firm withdraws from consideration after the
346 department requests proposals, the department may continue if at
347 least two proposals are received.

348 (13) Any motor vehicle used in ~~Each contract let by the~~
349 ~~department for~~ the performance of road or bridge construction or
350 maintenance work on a department project must ~~shall require all~~
351 ~~motor vehicles that the contractor operates or causes to be~~
352 ~~operated in this state to~~ be registered in compliance with
353 chapter 320.

354 Section 6. Paragraphs (a) and (d) of subsection (1) of
355 section 337.18, Florida Statutes, are amended to read:

356 337.18 Surety bonds for construction or maintenance
357 contracts; requirement with respect to contract award; bond
358 requirements; defaults; damage assessments.-



359 (1) (a) A surety bond shall be required of the successful
360 bidder in an amount equal to the awarded contract price.
361 However, the department may choose, in its discretion and
362 applicable only to multiyear maintenance contracts, to allow for
363 incremental annual contract bonds that cumulatively total the
364 full, awarded, multiyear contract price. The department may also
365 choose, in its discretion and applicable only to phased design-
366 build construction contracts under s. 337.11(7) (b), to allow the
367 issuance of multiple contract performance and payment bonds in
368 succession to align with each phase of the contract to meet the
369 bonding requirement in this subsection.

370 1. The department may waive the requirement for all or a
371 portion of a surety bond if:

372 a. The contract price is \$250,000 or less and the
373 department determines that the project is of a noncritical
374 nature and that nonperformance will not endanger public health,
375 safety, or property;

376 b. The prime contractor is a qualified nonprofit agency for
377 the blind or for the other severely handicapped under s.
378 413.036(2); or

379 c. The prime contractor is using a subcontractor that is a
380 qualified nonprofit agency for the blind or for the other
381 severely handicapped under s. 413.036(2). However, the
382 department may not waive more than the amount of the
383 subcontract.

384 2. If the Secretary of Transportation or the secretary's
385 designee determines that it is in the best interests of the
386 department to reduce the bonding requirement for a project and
387 that to do so will not endanger public health, safety, or



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388 property, the department may waive the requirement of a surety
389 bond in an amount equal to the awarded contract price for a
390 project having a contract price of \$250 million or more and, in
391 its place, may set a surety bond amount that is a portion of the
392 total contract price and provide an alternate means of security
393 for the balance of the contract amount that is not covered by
394 the surety bond or provide for incremental surety bonding and
395 provide an alternate means of security for the balance of the
396 contract amount that is not covered by the surety bond. Such
397 alternative means of security may include letters of credit,
398 United States bonds and notes, parent company guarantees, and
399 cash collateral. The department may require alternate means of
400 security if a surety bond is waived. The surety on such bond
401 shall be a surety company authorized to do business in the
402 state. All bonds shall be payable to the department and
403 conditioned for the prompt, faithful, and efficient performance
404 of the contract according to plans and specifications and within
405 the time period specified, and for the prompt payment of all
406 persons defined in s. 713.01 furnishing labor, material,
407 equipment, and supplies for work provided in the contract;
408 however, whenever an improvement, demolition, or removal
409 contract price is \$25,000 or less, the security may, in the
410 discretion of the bidder, be in the form of a cashier's check,
411 bank money order of any state or national bank, certified check,
412 or postal money order. The department shall adopt rules to
413 implement this subsection. Such rules shall include provisions
414 under which the department shall refuse to accept bonds on
415 contracts when a surety wrongfully fails or refuses to settle or
416 provide a defense for claims or actions arising under a contract



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417 for which the surety previously furnished a bond.

418 (d) An action, except for an action for recovery of
419 retainage, must be instituted by a claimant, whether in privity
420 with the contractor or not, against the contractor or the surety
421 on the payment bond or the payment provisions of a combined
422 payment and performance bond within 365 days after the
423 performance of the labor or completion of delivery of the
424 materials or supplies. An action for recovery of retainage must
425 be instituted against the contractor or the surety within 365
426 days after final acceptance of the contract work by the
427 department. A claimant may not waive in advance his or her right
428 to bring an action under the bond against the surety. In any
429 action brought to enforce a claim against a payment bond under
430 this section, the prevailing party is entitled to recover a
431 reasonable fee for the services of his or her attorney for trial
432 and appeal or for arbitration, in an amount to be determined by
433 the court, which fee must be taxed as part of the prevailing
434 party's costs, as allowed in equitable actions.

435 Section 7. Section 337.195, Florida Statutes, is amended to
436 read:

437 337.195 Limits on liability.—

438 (1) In a civil action for the death of or injury to a
439 person, or for damage to property, against the Department of
440 Transportation or its agents, consultants, or contractors for
441 work performed on a highway, road, street, bridge, or other
442 transportation facility when the death, injury, or damage
443 resulted from a motor vehicle crash within a construction zone
444 in which the driver of one of the vehicles was under the
445 influence of alcoholic beverages as set forth in s. 316.193,



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446 under the influence of any chemical substance as set forth in s.
447 877.111, or illegally under the influence of any substance
448 controlled under chapter 893, excluding low-THC cannabis, to the
449 extent that her or his normal faculties were impaired or that
450 she or he operated a vehicle recklessly as defined in s.
451 316.192, it is presumed that the driver's operation of the
452 vehicle was the sole proximate cause of her or his own death,
453 injury, or damage. This presumption can be overcome if the gross
454 negligence or intentional misconduct of the Department of
455 Transportation, or of its agents, consultants, or contractors,
456 was a proximate cause of the driver's death, injury, or damage.

457 (2) (a) For purposes of this section, the term:

458 1. "Contract documents" has the same meaning as in the
459 department's Standard Specifications for Road and Bridge
460 Construction applicable under the contract between the
461 department and the contractor.

462 2. "Contractor" means a person or an entity, at any
463 contractual tier, including any member of a design-build team
464 pursuant to s. 337.11, who constructs, maintains, or repairs a
465 highway, road, street, bridge, or other transportation facility
466 for the department in connection with a department project.

467 3. "Design engineer" means a person or an entity, including
468 the design consultant of a design-build team, who contracts at
469 any tier to prepare or provide engineering plans, including
470 traffic control plans, for the construction or repair of a
471 highway, road, street, bridge, or other department
472 transportation facility for the department or in connection with
473 a department project.

474 4. "Traffic control plans" means the maintenance of traffic



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475 plans designed by a professional engineer, or otherwise in
476 accordance with the department's standard plans, and approved by
477 the department.

478 (b) A contractor is not liable for personal injury,
479 property damage, or death arising from any of the following:

480 1. The performance of the construction, maintenance, or
481 repair of the transportation facility, if, at the time the
482 personal injury, property damage, or death occurred, the
483 contractor was in compliance with the contract documents
484 material to the personal injury, property damage, or death.

485 2. Acts or omissions of a third party that furnishes or
486 contracts at any contractual level to furnish services or
487 materials to the transportation facility, including any
488 subcontractor; sub-subcontractor; laborer; materialman; owner,
489 lessor, or driver of a motor vehicle, trailer, semitrailer,
490 truck, heavy truck, truck tractor, or commercial motor vehicle,
491 as those terms are defined in s. 320.01; or any person who
492 performs services as an architect, a landscape architect, an
493 interior designer, an engineer, or a surveyor and mapper.

494 3. Acts or omissions of a third party who trespasses within
495 the limits of the transportation facility or otherwise is not
496 authorized to enter the area of the transportation facility in
497 which the personal injury, property damage, or death occurred.

498 4. Acts or omissions of a third party who damages,
499 modifies, moves, or removes any traffic control device, warning
500 device, barrier, or other facility or device used for the
501 public's safety and convenience ~~who constructs, maintains, or~~
502 ~~repairs a highway, road, street, bridge, or other transportation~~
503 ~~facility for the Department of Transportation is not liable to a~~



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504 ~~claimant for personal injury, property damage, or death arising~~
505 ~~from the performance of the construction, maintenance, or repair~~
506 ~~if, at the time of the personal injury, property damage, or~~
507 ~~death, the contractor was in compliance with contract documents~~
508 ~~material to the condition that was the proximate cause of the~~
509 ~~personal injury, property damage, or death.~~

510 (c) ~~(a)~~ The limitations ~~limitation~~ on liability contained in
511 this subsection do ~~does~~ not apply when the proximate cause of
512 the personal injury, property damage, or death is a latent
513 condition, defect, error, or omission that was created by the
514 contractor and not a defect, error, or omission in the contract
515 documents; or when the proximate cause of the personal injury,
516 property damage, or death was the contractor's failure to
517 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic
518 control plans ~~safety plan~~ as required by the contract documents.

519 (d) ~~(b)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
520 interpreted or construed as relieving the contractor of any
521 obligation to provide the department ~~of Transportation~~ with
522 written notice of any apparent error or omission in the contract
523 documents, or as relieving the contractor of his or her contract
524 responsibility to manage the work of others performing under the
525 contract.

526 (e) ~~(c)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
527 interpreted or construed to alter or affect any claim of the
528 department ~~of Transportation~~ against such contractor.

529 (f) ~~(d)~~ This subsection does not affect any claim of any
530 entity against such contractor, which claim is associated with
531 such entity's facilities on or in department ~~of Transportation~~
532 roads or other transportation facilities.



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533 (g) This subsection may not be interpreted or construed to
534 alter or amend any of the provisions of chapter 440, which shall
535 take precedence in the event of any conflict with this
536 subsection.

537 (h) This subsection does not preclude liability where the
538 contractor's negligence is the proximate cause of the personal
539 injury, property damage, or death.

540 (3) In all cases involving personal injury, property
541 damage, or death, a design engineer is ~~person or entity who~~
542 ~~contracts to prepare or provide engineering plans for the~~
543 ~~construction or repair of a highway, road, street, bridge, or~~
544 ~~other transportation facility for the Department of~~
545 ~~Transportation shall be presumed to have prepared such~~
546 engineering plans using the degree of care and skill ordinarily
547 exercised by other engineers in the field under similar
548 conditions and in similar localities and with due regard for
549 acceptable engineering standards and principles if the
550 engineering plans conformed to the department's ~~Department of~~
551 ~~Transportation's~~ design standards material to the condition or
552 defect that was the proximate cause of the personal injury,
553 property damage, or death. This presumption can be overcome only
554 upon a showing of the design engineer's ~~person's or entity's~~
555 gross negligence in the preparation of the engineering plans and
556 may shall not be interpreted or construed to alter or affect any
557 claim of the department ~~of Transportation~~ against such design
558 engineer ~~person or entity~~. The limitation on liability contained
559 in this subsection does shall not apply to any hidden or
560 undiscoverable condition created by the design engineer. This
561 subsection does not affect any claim of any entity against such



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562 ~~design engineer or engineering firm, which claim is associated~~
563 ~~with such entity's facilities on or in department of~~
564 ~~Transportation roads or other transportation facilities.~~

565 ~~(4) In any civil action for death, injury, or damages~~
566 ~~against the Department of Transportation or its agents,~~
567 ~~consultants, engineers, or contractors for work performed on a~~
568 ~~highway, road, street, bridge, or other transportation facility,~~
569 ~~if the department, its agents, consultants, engineers, or~~
570 ~~contractors are immune from liability pursuant to this section~~
571 ~~or are not parties to the litigation, they may not be named on~~
572 ~~the jury verdict form or be found to be at fault or responsible~~
573 ~~for the injury, death, or damage that gave rise to the damages.~~

574 Section 8. Section 339.2820, Florida Statutes, is created
575 to read:

576 339.2820 Local agency program.—

577 (1) There is created within the department a local agency
578 program for the purpose of providing assistance to subrecipient
579 agencies, which include counties, municipalities,
580 intergovernmental agencies, and other eligible governmental
581 entities, to develop, design, and construct transportation
582 facilities using federal funds allocated to the department from
583 federal agencies which are suballocated to local agencies. The
584 department shall update the project cost estimate in the year
585 the project is granted to the local agency and include a
586 contingency amount as part of the project cost estimate.

587 (2) The department is authorized to oversee projects funded
588 by the Federal Highway Administration.

589 (3) Local agencies shall prioritize budgeting local
590 projects through their respective M.P.O.'s or governing boards



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591 so that those organizations or boards may receive reimbursement
592 for the services they provide to the public which are in
593 compliance with applicable federal laws, rules, and regulations.

594 (4) Federal-aid highway funds are available only to local
595 agencies that are certified by the department based on the
596 agencies' qualifications, experience, and ability to comply with
597 federal requirements, and their ability to undertake and
598 satisfactorily complete the work.

599 (5) Local agencies shall include in their contracts to
600 develop, design, or construct transportation facilities the
601 department's Division I General Requirements and Covenants for
602 local agencies as well as a contingency amount to cover costs
603 incurred due to unforeseen conditions.

604 Section 9. Subsection (3) of section 339.2825, Florida
605 Statutes, is amended to read:

606 339.2825 Approval of contractor-financed projects.—

607 (3) This section does not apply to a comprehensive public-
608 private partnership agreement authorized in s. 334.30(2)(a).

609 Section 10. This act shall take effect July 1, 2024.

610

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

612 And the title is amended as follows:

613 Delete everything before the enacting clause
614 and insert:

615 A bill to be entitled

616 An act relating to transportation; amending s. 206.46,
617 F.S.; prohibiting the Department of Transportation
618 from annually committing more than a certain
619 percentage of revenues derived from state fuel taxes



620 and motor vehicle license-related fees to public
621 transit projects; providing exceptions; amending s.
622 288.9606, F.S.; conforming provisions to changes made
623 by the act; making technical changes; amending s.
624 334.30, F.S.; authorizing the department to enter into
625 comprehensive agreements with private entities or the
626 consortia thereof for the building, operation,
627 ownership, or financing of transportation facilities;
628 conforming provisions to changes made by the act;
629 replacing the term "public-private partnership
630 agreement" with the term "comprehensive agreement";
631 requiring a private entity to provide an independent
632 traffic and revenue study prepared by a certain
633 expert; providing a requirement for such study;
634 revising the timeframe within which the department
635 must publish a certain notice of receipt of an
636 unsolicited proposal for a public-private
637 transportation project; authorizing the department to
638 enter into an interim agreement with a private entity
639 regarding a qualifying project; providing that an
640 interim agreement does not obligate the department to
641 enter into a comprehensive agreement and is not
642 required under certain circumstances; providing
643 requirements for an interim agreement; conforming
644 provisions to changes made by the act; authorizing the
645 secretary of the department to authorize comprehensive
646 agreements for a term of up to 75 years for certain
647 projects; making technical changes; requiring the
648 department to notify the Division of Bond Finance of



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649 the State Board of Administration before entering into
650 an interim agreement or comprehensive agreement;
651 amending s. 336.044, F.S.; prohibiting a local
652 governmental entity from adopting certain standards or
653 specifications concerning asphalt pavement material;
654 amending s. 337.11, F.S.; requiring the department to
655 receive three letters of interest before proceeding
656 with requests for proposals for certain contracts;
657 making technical changes; amending s. 337.18, F.S.;
658 authorizing the department to allow the issuance of
659 multiple contract performance and payment bonds in
660 succession to meet certain requirements; revising the
661 timeframe for certain actions against the contractor
662 or the surety; specifying a timeframe for when an
663 action for recovery of retainage must be instituted;
664 amending s. 337.195, F.S.; revising a presumption
665 regarding the proximate cause of death, injury, or
666 damage in a civil suit against the department;
667 defining terms; providing for immunity for contractors
668 under certain circumstances; conforming provisions
669 related to certain limitations on liability relating
670 to traffic control plans; making technical changes;
671 providing construction; providing that certain
672 provisions do not preclude liability when the
673 contractor's negligence is the proximate cause of the
674 personal injury, property damage, or death; revising a
675 presumption regarding a design engineer's degree of
676 care and skill; deleting immunity for certain persons
677 and entities; creating s. 339.2820, F.S.; creating



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678 within the department a local agency program for a
679 specified purpose; requiring the department to update
680 certain project cost estimates at a specified time and
681 include a contingency amount as part of the project
682 cost estimate; authorizing the department to oversee
683 certain projects; requiring local agencies to
684 prioritize budgeting certain local projects through
685 their respective M.P.O.'s or governing boards for a
686 specified purpose; specifying that certain funds are
687 available only to local agencies that are certified by
688 the department; requiring local agencies to include in
689 certain contracts a specified document and a
690 contingency amount for costs incurred due to
691 unforeseen conditions; amending s. 339.2825, F.S.;
692 conforming a provision to changes made by the act;
693 providing an effective date.