

By Senator Hooper

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1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 206.46, F.S.; prohibiting the department
4 from annually committing more than a certain
5 percentage of revenues derived from state fuel taxes
6 and motor vehicle license-related fees to public
7 transit projects; providing exceptions; amending s.
8 334.30, F.S.; conforming provisions to changes made by
9 the act; replacing the term "public-private
10 partnership agreement" with the term "comprehensive
11 agreement"; requiring a private entity to provide an
12 independent traffic and revenue study prepared by a
13 certain expert; providing a requirement for such
14 study; revising the timeframe within which the
15 department must publish a certain notice; authorizing
16 the department to enter into an interim agreement with
17 a private entity regarding a qualifying project;
18 providing that an interim agreement does not obligate
19 the department to enter into a comprehensive agreement
20 and is not required under certain circumstances;
21 providing requirements for an interim agreement;
22 authorizing the secretary of the department to
23 authorize comprehensive agreements for a term of up to
24 75 years under certain circumstances; amending s.
25 337.11, F.S.; requiring the department to pay interest
26 at a certain rate to contractors under certain
27 circumstances; making technical changes; amending s.
28 337.18, F.S.; revising the timeframe for certain
29 actions against the contractor or the surety bond

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30 payment; specifying a timeframe for when an action for
31 recovery of retainage must be instituted; amending s.
32 337.195, F.S.; defining terms; revising a presumption
33 regarding the proximate cause of death, injury, or
34 damage in a civil suit against the department;
35 providing for immunity for contractors under certain
36 circumstances; revising provisions related to a
37 certain limitation on liability relating to traffic
38 control plans; making technical changes; revising a
39 presumption regarding a design engineer's degree of
40 care and skill; deleting immunity for certain persons
41 and entities; amending s. 339.175, F.S.; prohibiting
42 additional metropolitan planning organizations from
43 being designated in this state after a specified date;
44 providing an exception; creating s. 339.2820, F.S.;
45 creating within the department a local agency program
46 for a specified purpose; specifying that the
47 department is responsible for oversight of certain
48 projects; requiring local agencies to prioritize and
49 fund certain local projects; specifying that certain
50 funds are available to local agencies under certain
51 conditions; requiring local agencies to include
52 specified items in certain contracts; providing an
53 effective date.

54

55 Be It Enacted by the Legislature of the State of Florida:

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

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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 Transportation Trust Fund to public transit projects, in accordance with chapter 341, with the exception of all of the following public transit projects:

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

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

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

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling 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

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88 project in the department's work program, enter into
89 comprehensive agreements with private entities, or consortia
90 thereof, for the building, operation, ownership, or financing of
91 transportation facilities. The department may advance projects
92 programmed in the adopted 5-year work program or projects
93 increasing transportation capacity and greater than \$500 million
94 in the 10-year Strategic Intermodal Plan using funds provided by
95 public-private partnerships or private entities to be reimbursed
96 from department funds for the project as programmed in the
97 adopted work program. The department shall by rule establish an
98 application fee for the submission of unsolicited proposals
99 under this section. The fee must be sufficient to pay the costs
100 of evaluating the proposals. The department may engage the
101 services of private consultants to assist in the evaluation.
102 Before approval, the department must determine that the proposed
103 project:

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

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

107 (c) Would have adequate safeguards in place to ensure that
108 no additional costs or service disruptions would be realized by
109 the traveling public and residents of the state in the event of
110 default or cancellation of the comprehensive agreement by the
111 department;

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

116 (e) Would be owned by the department upon completion or

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117 termination of the comprehensive agreement.

118

119 The department shall ensure that all reasonable costs to the
120 state, related to transportation facilities that are not part of
121 the State Highway System, are borne by the private entity. The
122 department shall also ensure that all reasonable costs to the
123 state and substantially affected local governments and
124 utilities, related to the private transportation facility, are
125 borne by the private entity for transportation facilities that
126 are owned by private entities. For projects on the State Highway
127 System, the department may use state resources to participate in
128 funding and financing the project as provided for under the
129 department's enabling legislation. Because the Legislature
130 recognizes that private entities or consortia thereof would
131 perform a governmental or public purpose or function when they
132 enter into comprehensive agreements with the department to
133 design, build, operate, own, or finance transportation
134 facilities, the transportation facilities, including leasehold
135 interests thereof, are exempt from ad valorem taxes as provided
136 in chapter 196 to the extent property is owned by the state or
137 other government entity, and from intangible taxes as provided
138 in chapter 199 and special assessments of the state, any city,
139 town, county, special district, political subdivision of the
140 state, or any other governmental entity. The private entities or
141 consortia thereof are exempt from tax imposed by chapter 201 on
142 all documents or obligations to pay money which arise out of the
143 comprehensive agreements to design, build, operate, own, lease,
144 or finance transportation facilities. Any private entities or
145 consortia thereof must pay any applicable corporate taxes as

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146 provided in chapter 220, and reemployment assistance taxes as
147 provided in chapter 443, and sales and use tax as provided in
148 chapter 212 shall be applicable. The private entities or
149 consortia thereof must also register and collect the tax imposed
150 by chapter 212 on all their direct sales and leases that are
151 subject to tax under chapter 212. The comprehensive agreement
152 between the private entity or consortia thereof and the
153 department establishing a transportation facility under this
154 chapter constitutes documentation sufficient to claim any
155 exemption under this section.

156 (2) Comprehensive agreements entered into pursuant to this
157 section may authorize the private entity to impose tolls or
158 fares for the use of the facility. The following provisions
159 ~~shall~~ apply to such agreements:

160 (a) With the exception of the Florida Turnpike System, the
161 department may lease existing toll facilities through public-
162 private partnerships. The comprehensive ~~public-private~~
163 ~~partnership~~ agreement must ensure that the transportation
164 facility is properly operated, maintained, and renewed in
165 accordance with department standards.

166 (b) The department may develop new toll facilities or
167 increase capacity on existing toll facilities through public-
168 private partnerships. The comprehensive ~~public-private~~
169 ~~partnership~~ agreement must ensure that the toll facility is
170 properly operated, maintained, and renewed in accordance with
171 department standards.

172 (c) Any toll revenues shall be regulated by the department
173 pursuant to s. 338.165(3). The regulations governing the future
174 increase of toll or fare revenues shall be included in the

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175 comprehensive ~~public-private partnership~~ agreement.

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

180 (e) The department shall include provisions in the
181 comprehensive ~~public-private partnership~~ agreement which ~~that~~
182 ensure a negotiated portion of revenues from tolled or fare
183 generating projects are returned to the department over the life
184 of the comprehensive ~~public-private partnership~~ agreement. In
185 the case of a lease of an existing toll facility, the department
186 shall receive a portion of funds upon closing on the
187 comprehensive agreement ~~agreements~~ and shall also include
188 provisions in the comprehensive agreement to receive payment of
189 a portion of excess revenues over the life of the public-private
190 partnership.

191 (f) The private entity shall provide an independent
192 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~
193 ~~internationally recognized~~ traffic and revenue expert as part of
194 the private entity proposal. The study must be ~~that is~~ accepted
195 by the national bond rating agencies before closing on the
196 financing that supports the comprehensive agreement for the
197 public-private partnership project. The private entity shall
198 also provide a finance plan that identifies the project cost,
199 revenues by source, financing, major assumptions, internal rate
200 of return on private investments, and whether any government
201 funds are assumed to deliver a cost-feasible project, and a
202 total cash flow analysis beginning with implementation of the
203 project and extending for the term of the comprehensive

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204 agreement.

205 (6) The procurement of public-private partnerships by the
206 department shall follow the provisions of this section. Sections
207 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
208 337.185, 337.19, 337.221, and 337.251 shall not apply to
209 procurements under this section unless a provision is included
210 in the procurement documents. The department shall ensure that
211 generally accepted business practices for exemptions provided by
212 this subsection are part of the procurement process or are
213 included in the comprehensive ~~public-private partnership~~
214 agreement.

215 (a) The department may request proposals from private
216 entities for public-private transportation projects or, if the
217 department receives an unsolicited proposal, the department
218 shall publish a notice in the Florida Administrative Register
219 and a newspaper of general circulation at least once a week for
220 2 weeks stating that the department has received the proposal
221 and will accept, for between 30 and 120 days after the initial
222 date of publication as determined by the department based on the
223 complexity of the project, other proposals for the same project
224 purpose. A copy of the notice must be mailed to each local
225 government in the affected area.

226 (b) Public-private partnerships shall be qualified by the
227 department as part of the procurement process as outlined in the
228 procurement documents, provided such process ensures that the
229 private firm meets at least the minimum department standards for
230 qualification in department rule for professional engineering
231 services and road and bridge contracting prior to submitting a
232 proposal under the procurement.

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233 (c) The department shall ensure that procurement documents
234 include provisions for performance of the private entity and
235 payment of subcontractors, including, but not limited to, surety
236 bonds, letters of credit, parent company guarantees, and lender
237 and equity partner guarantees. The department shall balance the
238 structure of the security package for the public-private
239 partnership that ensures performance and payment of
240 subcontractors with the cost of the security to ensure the most
241 efficient pricing.

242 (d) After the public notification period has expired, the
243 department shall rank the proposals in order of preference. In
244 ranking the proposals, the department may consider factors that
245 include, but are not limited to, professional qualifications,
246 general business terms, innovative engineering or cost-reduction
247 terms, finance plans, and the need for state funds to deliver
248 the project. If the department is not satisfied with the results
249 of the negotiations, the department may, at its sole discretion,
250 terminate negotiations with the proposer. If these negotiations
251 are unsuccessful, the department may go to the second-ranked and
252 lower-ranked firms, in order, using this same procedure. If only
253 one proposal is received, the department may negotiate in good
254 faith and, if the department is not satisfied with the results
255 of the negotiations, the department may, at its sole discretion,
256 terminate negotiations with the proposer. Notwithstanding this
257 subsection, the department may, at its discretion, reject all
258 proposals at any point in the process up to completion of a
259 contract with the proposer.

260 (e) The department shall provide an independent analysis of
261 the proposed public-private partnership that demonstrates the

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262 cost-effectiveness and overall public benefit at the following
263 times:

- 264 1. Prior to moving forward with the procurement; and
- 265 2. If the procurement moves forward, prior to awarding the
266 contract.

267 (8) Before or in connection with the negotiation of a
268 comprehensive agreement, the department may enter into an
269 interim agreement with the private entity proposing the
270 development or operation of a qualifying project. An interim
271 agreement does not obligate the department to enter into a
272 comprehensive agreement. The interim agreement is discretionary
273 with the parties and is not required on a project for which the
274 parties may proceed directly to a comprehensive agreement
275 without the need for an interim agreement. An interim agreement
276 must be limited to any of the following provisions that:

277 (a) Authorize the private entity to commence activities for
278 which it may be compensated related to the proposed qualifying
279 project, including, but not limited to, project planning and
280 development, designing, environmental analysis and mitigation,
281 surveying, other activities concerning any part of the proposed
282 qualifying project, and ascertaining the availability of
283 financing for the proposed facility or facilities.

284 (b) Establish the process and timing for the negotiation of
285 the comprehensive agreement.

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

289 (9)~~(8)~~ The department may enter into comprehensive public-
290 private partnership agreements that include extended terms

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291 providing annual payments for performance based on the
292 availability of service or the facility being open to traffic or
293 based on the level of traffic using the facility. In addition to
294 other provisions in this section, the following provisions ~~shall~~
295 apply:

296 (a) The annual payments under any such comprehensive
297 agreement must ~~shall~~ be included in the department's tentative
298 work program developed under s. 339.135 and the long-range
299 transportation plan for the applicable metropolitan planning
300 organization developed under s. 339.175. The department shall
301 ensure that annual payments on multiyear comprehensive public-
302 ~~private partnership~~ agreements are prioritized ahead of new
303 capacity projects in the development and updating of the
304 tentative work program.

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

308 ~~(11)-(10) Before~~ Prior to entering into any comprehensive
309 ~~such~~ agreement in which ~~where~~ funds are committed from the State
310 Transportation Trust Fund, the project must be prioritized as
311 follows:

312 (a) The department, in coordination with the local
313 metropolitan planning organization, shall prioritize projects
314 included in the Strategic Intermodal System 10-year and long-
315 range cost-feasible plans.

316 (b) The department, in coordination with the local
317 metropolitan planning organization or local government where
318 there is no metropolitan planning organization, shall prioritize
319 projects, for facilities not on the Strategic Intermodal System,

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320 included in the metropolitan planning organization cost-feasible
321 transportation improvement plan and long-range transportation
322 plan.

323 ~~(12)-(11) Comprehensive Public-private partnership~~
324 agreements under this section are ~~shall be~~ limited to a term not
325 exceeding 50 years. Upon making written findings that a
326 comprehensive ~~an~~ agreement under this section requires a term in
327 excess of 50 years, the secretary of the department may
328 authorize a term of up to 75 years for projects that are
329 partially or completely funded from project user fees.

330 Comprehensive agreements under this section may ~~shall~~ not have a
331 term in excess of 75 years unless specifically approved by the
332 Legislature. The department shall identify each new project
333 under this section with a term exceeding 75 years in the
334 transmittal letter that accompanies the submittal of the
335 tentative work program to the Governor and the Legislature in
336 accordance with s. 339.135.

337 Section 3. Subsections (12) and (13) of section 337.11,
338 Florida Statutes, are amended to read:

339 337.11 Contracting authority of department; bids; emergency
340 repairs, supplemental agreements, and change orders; combined
341 design and construction contracts; progress payments; records;
342 requirements of vehicle registration.-

343 (12) (a) Notwithstanding any other provision of law to the
344 contrary, the department has unilateral authority to pay the
345 contractor the sums the department determines to be due to the
346 contractor for work performed on a project. This unilateral
347 authority to pay by the department does not preclude or limit
348 the rights of the department and the contractor to negotiate and

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349 agree to the amounts to be paid to the contractor. By acceptance
350 of any such unilateral payment, the contractor does not waive
351 any rights the contractor may have against the department for
352 payment of any additional sums the contractor claims are due for
353 the work.

354 (b) The department shall pay interest at the rate set forth
355 in s. 55.03 to the contractor on any unpaid amounts that remain
356 75 days after the completion of the added work or the
357 elimination of a project delay.

358 (13) Any motor vehicle used in ~~Each contract let by the~~
359 ~~department for~~ the performance of road or bridge construction or
360 maintenance work on a department project must ~~shall require all~~
361 ~~motor vehicles that the contractor operates or causes to be~~
362 ~~operated in this state to~~ be registered in compliance with
363 chapter 320.

364 Section 4. Paragraph (d) of subsection (1) of section
365 337.18, Florida Statutes, is amended to read:

366 337.18 Surety bonds for construction or maintenance
367 contracts; requirement with respect to contract award; bond
368 requirements; defaults; damage assessments.-

369 (1)

370 (d) An action, except for an action for recovery of
371 retainage, must be instituted by a claimant, whether in privity
372 with the contractor or not, against the contractor or the surety
373 on the payment bond or the payment provisions of a combined
374 payment and performance bond within 365 days after the
375 performance of the labor or completion of delivery of the
376 materials or supplies. An action for recovery of retainage must
377 be instituted against the contractor or the surety within 365

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378 days after final acceptance of the contract work by the
379 department. A claimant may not waive in advance his or her right
380 to bring an action under the bond against the surety. In any
381 action brought to enforce a claim against a payment bond under
382 this section, the prevailing party is entitled to recover a
383 reasonable fee for the services of his or her attorney for trial
384 and appeal or for arbitration, in an amount to be determined by
385 the court, which fee must be taxed as part of the prevailing
386 party's costs, as allowed in equitable actions.

387 Section 5. Section 337.195, Florida Statutes, is amended to
388 read:

389 337.195 Limits on liability.—

390 (1) As used in this section, the term:

391 (a) "Contract documents" has the same meaning as in the
392 department's Standard Specifications for Road and Bridge
393 Construction applicable under the contract between the
394 department and the contractor.

395 (b) "Contractor" means a person, including any member of a
396 design-build team, who, pursuant to s. 337.11, constructs,
397 maintains, or repairs a highway, road, street, bridge, or other
398 transportation facility for the department or in connection with
399 a department project.

400 (c) "Design engineer" means a person, including the design
401 consultant of a design-build team, who contracts to prepare or
402 provide engineering plans, including traffic control plans, for
403 the construction or repair of a highway, road, street, bridge,
404 or other department transportation facility for the department
405 or in connection with a department project.

406 (d) "Traffic control plans" means the maintenance of

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407 traffic plans designed by a professional engineer, or otherwise
408 in accordance with the department's maintenance of traffic
409 standards, and approved by the department.

410 (2) In a civil action for the death of or injury to a
411 person, or for damage to property, against the department ~~of~~
412 ~~Transportation~~ or its agents, consultants, or contractors for
413 work performed on a highway, road, street, bridge, or other
414 transportation facility when the death, injury, or damage
415 resulted from a motor vehicle crash within a construction zone
416 in which the driver of one of the vehicles was under the
417 influence of alcoholic beverages as set forth in s. 316.193; ~~or~~
418 under the influence of any chemical substance as set forth in s.
419 877.111; under the influence of marijuana authorized in s.
420 381.986, not including low-THC cannabis; ~~or~~ or illegally under the
421 influence of any substance controlled under chapter 893 to the
422 extent that her or his normal faculties were impaired or that
423 she or he operated a vehicle recklessly as defined in s.
424 316.192, it is presumed that the driver's operation of the
425 vehicle was the sole proximate cause of her or his own death,
426 injury, or damage. This presumption can be overcome if the gross
427 negligence or intentional misconduct of the department ~~of~~
428 ~~Transportation~~, or of its agents, consultants, or contractors,
429 was a proximate cause of the driver's death, injury, or damage.

430 (3) (a) ~~(2)~~ A contractor is immune from liability for
431 personal injury, property damage, or death arising from any of
432 the following:

433 1. The performance of the construction, maintenance, or
434 repair of the transportation facility, if, at the time the
435 personal injury, property damage, or death occurred, the

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436 contractor was in compliance with the traffic control plan
437 material to the personal injury, property damage, or death.

438 2. Acts or omissions of a third party that furnishes or
439 contracts to furnish services or materials to the transportation
440 facility, including any subcontractor; sub-subcontractor;
441 laborer; materialman; owner, lessor, or driver of a motor
442 vehicle, trailer, semitrailer, truck, heavy truck, truck
443 tractor, or commercial motor vehicle, as those terms are defined
444 in s. 320.01(1), (4), (5), (9), (10), (11), and (25),
445 respectively; or any person who performs services as an
446 architect, a landscape architect, an interior designer, an
447 engineer, or a surveyor and mapper.

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

452 4. Acts or omissions of a third party who damages,
453 modifies, moves, or removes any traffic control device, warning
454 device, barrier, or other facility or device used for the
455 public's safety and convenience ~~who constructs, maintains, or~~
456 ~~repairs a highway, road, street, bridge, or other transportation~~
457 ~~facility for the Department of Transportation is not liable to a~~
458 ~~claimant for personal injury, property damage, or death arising~~
459 ~~from the performance of the construction, maintenance, or repair~~
460 ~~if, at the time of the personal injury, property damage, or~~
461 ~~death, the contractor was in compliance with contract documents~~
462 ~~material to the condition that was the proximate cause of the~~
463 ~~personal injury, property damage, or death.~~

464 (b)(a) The limitations ~~limitation~~ on liability contained in

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465 this subsection do ~~does~~ not apply when the proximate cause of
466 the personal injury, property damage, or death is a latent
467 condition, defect, error, or omission that was created by the
468 contractor and not a defect, error, or omission in the traffic
469 control plans ~~contract documents~~; or when the proximate cause of
470 the personal injury, property damage, or death was the
471 contractor's failure to perform, update, or comply with the
472 maintenance of the traffic control plans ~~safety plan~~ as required
473 by the contract documents.

474 (c) ~~(b)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
475 interpreted or construed as relieving the contractor of any
476 obligation to provide the department ~~of Transportation~~ with
477 written notice of any apparent error or omission in the contract
478 documents.

479 (d) ~~(e)~~ ~~Nothing in~~ This subsection may not ~~shall~~ be
480 interpreted or construed to alter or affect any claim of the
481 department ~~of Transportation~~ against such contractor.

482 (e) ~~(d)~~ This subsection does not affect any claim of any
483 entity against such contractor, which claim is associated with
484 such entity's facilities on or in department ~~of Transportation~~
485 roads or other transportation facilities.

486 (4) ~~(3)~~ In all cases involving personal injury, property
487 damage, or death, a design engineer is ~~person or entity who~~
488 ~~contracts to prepare or provide engineering plans for the~~
489 ~~construction or repair of a highway, road, street, bridge, or~~
490 ~~other transportation facility for the Department of~~
491 ~~Transportation shall be~~ presumed to have prepared such
492 engineering plans using the degree of care and skill ordinarily
493 exercised by other engineers in the field under similar

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494 conditions and in similar localities and with due regard for
495 acceptable engineering standards and principles if the
496 engineering plans conformed to the department's ~~Department of~~
497 ~~Transportation's~~ design standards material to the condition or
498 defect that was the proximate cause of the personal injury,
499 property damage, or death. This presumption can be overcome only
500 upon a showing of the design engineer's ~~person's or entity's~~
501 gross negligence in the preparation of the engineering plans and
502 may shall not be interpreted or construed to alter or affect any
503 claim of the department ~~of Transportation~~ against such design
504 engineer ~~person or entity~~. The limitation on liability contained
505 in this subsection does shall not apply to any hidden or
506 undiscoverable condition created by the design engineer. This
507 subsection does not affect any claim of any entity against such
508 design engineer ~~or engineering firm~~, which claim is associated
509 with such entity's facilities on or in department ~~of~~
510 ~~Transportation~~ roads or other transportation facilities.

511 ~~(4) In any civil action for death, injury, or damages~~
512 ~~against the Department of Transportation or its agents,~~
513 ~~consultants, engineers, or contractors for work performed on a~~
514 ~~highway, road, street, bridge, or other transportation facility,~~
515 ~~if the department, its agents, consultants, engineers, or~~
516 ~~contractors are immune from liability pursuant to this section~~
517 ~~or are not parties to the litigation, they may not be named on~~
518 ~~the jury verdict form or be found to be at fault or responsible~~
519 ~~for the injury, death, or damage that gave rise to the damages.~~

520 Section 6. Paragraph (a) of subsection (2) of section
521 339.175, Florida Statutes, is amended to read:

522 339.175 Metropolitan planning organization.-

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523 (2) DESIGNATION.—

524 (a)1. An M.P.O. shall be designated for each urbanized area
525 of the state; however, this does not require that an individual
526 M.P.O. be designated for each such area. Such designation shall
527 be accomplished by agreement between the Governor and units of
528 general-purpose local government representing at least 75
529 percent of the population of the urbanized area; however, the
530 unit of general-purpose local government that represents the
531 central city or cities within the M.P.O. jurisdiction, as
532 defined by the United States Bureau of the Census, must be a
533 party to such agreement.

534 2. To the extent possible, only one M.P.O. shall be
535 designated for each urbanized area or group of contiguous
536 urbanized areas. More than one M.P.O. may be designated within
537 an existing urbanized area only if the Governor and the existing
538 M.P.O. determine that the size and complexity of the existing
539 urbanized area makes the designation of more than one M.P.O. for
540 the area appropriate, in which case each M.P.O. designated for
541 the area must:

542 a. Consult with every other M.P.O. designated for the
543 urbanized area and the state to coordinate plans and
544 transportation improvement programs.

545 b. Ensure, to the maximum extent practicable, the
546 consistency of data used in the planning process, including data
547 used in forecasting travel demand within the urbanized area.

548 3. After July 1, 2024, additional M.P.O.'s may not be
549 designated within this state except for urbanized areas, as
550 defined by the United States Census Bureau, where the urbanized
551 area boundary is not contiguous to an urbanized area designated

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552 before the 2020 decennial census.

553

554 Each M.P.O. required under this section must be fully operative
555 no later than 6 months following its designation.

556 Section 7. Section 339.2820, Florida Statutes, is created
557 to read:

558 339.2820 Local agency program.—

559 (1) There is created within the department a local agency
560 program for the purpose of providing assistance to subrecipient
561 counties, cities, and towns to develop, design, and construct
562 transportation facilities with federal funds.

563 (2) The department is responsible for oversight of funded
564 projects on behalf of the Federal Highway Administration.

565 (3) Local agencies shall prioritize and fund local projects
566 that are eligible for reimbursement for the services provided to
567 the traveling public through compliance with applicable federal
568 statutes, rules, and regulations.

569 (4) Federal-aid highway funds are available only to local
570 agencies that are certified by the department based on the
571 agencies' qualifications, ability to comply with federal
572 requirements, and ability to undertake and satisfactorily
573 complete the work.

574 (5) At a minimum, local agencies shall include in their
575 contracts to develop, design, or construct transportation
576 facilities the department's Division I General Requirements and
577 Covenants for local agencies and a contingency amount in the
578 project cost to account for unforeseen conditions.

579 Section 8. This act shall take effect July 1, 2024.