

26 appearance; amending ss. 318.1451 and 322.095, F.S.;

27 requiring the department to annually review changes

28 made to certain laws and to require course content for

29 specified driving courses to be modified in accordance

30 with relevant changes; amending s. 334.30, F.S.;

31 authorizing the Department of Transportation to enter

32 into comprehensive agreements with private entities

33 for certain purposes; revising provisions relating to

34 a traffic and revenue study provided by a private

35 entity; revising the time period during which the

36 department will accept additional proposals after

37 receiving an unsolicited proposal, based on project

38 complexity; authorizing the department to enter into

39 an interim agreement with a private entity before or

40 in connection with negotiating a comprehensive

41 agreement; providing requirements; authorizing the

42 department secretary to authorize an agreement term of

43 up to 75 years for certain projects; amending s.

44 337.11, F.S.; requiring the department to receive at

45 least three letters of interest in order to proceed

46 with a request for proposals for design-build

47 contracts and phased design-build contracts; requiring

48 a motor vehicle used for specified work on a

49 department project to be registered in compliance with

50 certain provisions; amending s. 337.18, F.S.;

51 authorizing the department to determine whether to
52 reduce bonding requirements; revising the time periods
53 within which certain actions must be instituted by a
54 claimant; amending s. 337.195, F.S.; providing
55 definitions; providing a presumption that if a death,
56 injury, or damage results from a motor vehicle crash
57 within a construction zone in which the driver of a
58 vehicle was under the influence of certain marijuana,
59 the driver's operation of such vehicle was the
60 proximate cause of his or her own death, injury, or
61 damage; revising conditions under which a contractor
62 is immune from liability; conforming provisions to
63 changes made by the act; requiring the department to
64 convene a working group for certain purposes related
65 to utility relocation agreements; providing membership
66 requirements; requiring a report to the Governor and
67 Legislature by a specified date; creating s.
68 339.28201, F.S.; creating a Local Agency Program
69 within the department for certain funding purposes;
70 requiring oversight by the department; providing
71 requirements for the department's project cost
72 estimate; providing for prioritization and budget of
73 certain local projects; providing funding eligibility
74 requirements; providing contract requirements;
75 amending ss. 339.2825 and 627.06501, F.S.; conforming

76 provisions to changes made by the act; providing an
 77 effective date.

78

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

80

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

83 206.46 State Transportation Trust Fund.—

84 (6) The department may not annually commit to public
 85 transit projects under chapter 341 more than 20 percent of the
 86 revenues derived from state fuel taxes and motor vehicle
 87 license-related fees deposited into the State Transportation
 88 Trust Fund, except:

89 (a) Funds used for federal matching.

90 (b) Projects included in an M.P.O.'s transportation
 91 improvement program adopted pursuant to s. 339.175(8) and
 92 approved by a supermajority vote of the board of county
 93 commissioners of the county in which the project is located.

94 Section 2. Subsection (95) of section 316.003, Florida
 95 Statutes, is amended to read:

96 316.003 Definitions.—The following words and phrases, when
 97 used in this chapter, shall have the meanings respectively
 98 ascribed to them in this section, except where the context
 99 otherwise requires:

100 (95) TELEOPERATION SYSTEM.—The hardware and software

101 installed in a motor vehicle which allow a remote human operator
 102 to supervise or perform aspects of, or the entirety of, the
 103 dynamic driving task. The term "remote human operator" means a
 104 natural person who:

105 (a) Is not physically present in the motor a vehicle;
 106 ~~equipped with an automated driving system who~~

107 (b) Engages or monitors the motor vehicle from a remote
 108 ~~location;. A remote human operator may have~~

109 (c) Has the ability to perform aspects of, or the entirety
 110 ~~of, the dynamic driving task for the motor vehicle;~~

111 (d) Has the ability to ~~or~~ cause the motor vehicle to
 112 achieve a reasonably safe state, such as bringing the vehicle to
 113 a complete stop and activating the vehicle's hazard lamps;
 114 ~~minimal risk condition as defined in s. 319.145(2). A remote~~
 115 ~~human operator must be~~

116 (e) Is physically present in the United States; and ~~be~~

117 (f) Is licensed to operate a motor vehicle by a United
 118 ~~States jurisdiction.~~

119 Section 3. Subsection (1) of section 316.303, Florida
 120 Statutes, is amended to read:

121 316.303 Television receivers.—

122 (1) A motor vehicle may not be operated on the highways of
 123 this state if the vehicle is actively displaying moving
 124 television broadcast or pre-recorded video entertainment content
 125 that is visible from the driver's seat while the vehicle is in

126 motion, unless the vehicle is being operated with the automated
 127 driving system or teleoperation system engaged.

128 Section 4. Subsections (5) and (6) of section 316.85,
 129 Florida Statutes, are amended to read:

130 316.85 Autonomous vehicles and motor vehicles equipped
 131 with teleoperation systems; operation; compliance with traffic
 132 and motor vehicle laws; testing.—

133 (5) (a) Notwithstanding any other provision of this
 134 chapter, a motor ~~an autonomous vehicle or a fully autonomous~~
 135 vehicle equipped with a teleoperation system may operate without
 136 a human operator physically present in the motor vehicle when
 137 the teleoperation system is engaged. When the teleoperation
 138 system is engaged, the remote human operator is deemed to be the
 139 driver or operator of the motor vehicle and must operate the
 140 motor vehicle in compliance with the applicable traffic and
 141 motor vehicle laws of this state.

142 (b) A motor vehicle equipped with a teleoperation system,
 143 while the teleoperation system is engaged, must be covered by a
 144 policy of automobile insurance which provides:

145 1. Primary liability coverage of at least \$1 million for
 146 death, bodily injury, and property damage.

147 2. Personal injury protection benefits that meet the
 148 minimum coverage amounts required under ss. 627.730-627.7405.

149 3. Uninsured and underinsured vehicle coverage as required
 150 by s. 627.727 ~~A vehicle that is subject to this subsection must~~

151 ~~meet the requirements of s. 319.145 and is considered a vehicle~~
152 ~~that meets the definition provided in s. 316.003(3)(c) for the~~
153 ~~purposes of ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3),~~
154 ~~and 316.303(1).~~

155 (6) It is the intent of the Legislature to provide for
156 uniformity of laws governing autonomous vehicles and motor
157 vehicles equipped with teleoperation systems throughout the
158 state. A local government may not impose any tax, fee, for-hire
159 vehicle requirement, or other requirement on automated driving
160 systems or autonomous vehicles; teleoperation systems or motor
161 vehicles equipped with teleoperation systems; or on a person who
162 operates an autonomous vehicle, including, but not limited to, a
163 person who operates an autonomous vehicle for purposes of
164 providing passenger transportation services; or a remote human
165 operator of a motor vehicle with a teleoperation system engaged.

166 This subsection does not prohibit an airport or a seaport from
167 charging reasonable fees consistent with any fees charged to
168 companies that provide similar services at that airport or
169 seaport for their use of the airport's or seaport's facilities,
170 nor does it prohibit the airport or seaport from designating
171 locations for staging, pickup, or other similar operations at
172 the airport or seaport.

173 Section 5. Subsection (9) of section 318.14, Florida
174 Statutes, is amended to read:

175 318.14 Noncriminal traffic infractions; exception;

176 procedures.—

177 (9) Any person who does not hold a commercial driver
178 license or commercial learner's permit and who is cited while
179 driving a noncommercial motor vehicle for an infraction under
180 this section other than a violation of s. 316.183(2), s.
181 316.187, or s. 316.189 when the driver exceeds the posted limit
182 by 30 miles per hour or more, s. 320.0605, s. 320.07(3) (a) or
183 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
184 lieu of a court appearance, elect to attend in the location of
185 his or her choice within this state a basic driver improvement
186 course approved by the Department of Highway Safety and Motor
187 Vehicles. In such a case, adjudication must be withheld, any
188 civil penalty that is imposed by s. 318.18(3) must be reduced by
189 18 percent, and points, as provided by s. 322.27, may not be
190 assessed. However, a person may not make an election under this
191 subsection if the person has made an election under this
192 subsection in the preceding 12 months. A person may not make
193 more than eight ~~five~~ elections within his or her lifetime under
194 this subsection. The requirement for community service under s.
195 318.18(8) is not waived by a plea of nolo contendere or by the
196 withholding of adjudication of guilt by a court.

197 Section 6. Paragraph (d) of subsection (6) of section
198 318.1451, Florida Statutes, is amended to read:

199 318.1451 Driver improvement schools.—

200 (6) The department shall adopt rules establishing and

201 maintaining policies and procedures to implement the
 202 requirements of this section. These policies and procedures may
 203 include, but shall not be limited to, the following:

204 (d) Course content.—The department shall set and modify
 205 course content requirements to keep current with laws and safety
 206 information. The department shall annually review changes made
 207 to major traffic laws of this state, including s. 316.126(1)(b),
 208 and shall require course content for courses referenced in this
 209 section to be modified in accordance with changes relevant to
 210 the courses. Course content includes all items used in the
 211 conduct of the course.

212 Section 7. Subsection (7) of section 322.095, Florida
 213 Statutes, is amended to read:

214 322.095 Traffic law and substance abuse education program
 215 for driver license applicants.—

216 (7) Courses approved under this section must be updated at
 217 the department's request. The department shall annually review
 218 changes made to major traffic laws of this state, including s.
 219 316.126(1)(b), and shall require course content for courses
 220 referenced in this section to be modified in accordance with
 221 changes relevant to the courses. Failure of a course provider to
 222 update the course within 90 days after the department's request
 223 shall result in the suspension of the course approval until such
 224 time that the updates are submitted and approved by the
 225 department.

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

231 334.30 Public-private transportation facilities.—The
232 Legislature finds and declares that there is a public need for
233 the rapid construction of safe and efficient transportation
234 facilities for the purpose of traveling within the state, and
235 that it is in the public's interest to provide for the
236 construction of additional safe, convenient, and economical
237 transportation facilities.

238 (1) The department may receive or solicit proposals and,
239 with legislative approval as evidenced by approval of the
240 project in the department's work program, enter into
241 comprehensive agreements with private entities, or consortia
242 thereof, for the building, operation, ownership, or financing of
243 transportation facilities. The department may advance projects
244 programmed in the adopted 5-year work program or projects
245 increasing transportation capacity and greater than \$500 million
246 in the 10-year Strategic Intermodal Plan using funds provided by
247 public-private partnerships or private entities to be reimbursed
248 from department funds for the project as programmed in the
249 adopted work program. The department shall by rule establish an
250 application fee for the submission of unsolicited proposals

251 under this section. The fee must be sufficient to pay the costs
252 of evaluating the proposals. The department may engage the
253 services of private consultants to assist in the evaluation.
254 Before approval, the department must determine that the proposed
255 project:

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

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

259 (c) Would have adequate safeguards in place to ensure that
260 no additional costs or service disruptions would be realized by
261 the traveling public and residents of the state in the event of
262 default or cancellation of the comprehensive agreement by the
263 department;

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

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

270

271 The department shall ensure that all reasonable costs to the
272 state, related to transportation facilities that are not part of
273 the State Highway System, are borne by the private entity. The
274 department shall also ensure that all reasonable costs to the
275 state and substantially affected local governments and

276 utilities, related to the private transportation facility, are
277 borne by the private entity for transportation facilities that
278 are owned by private entities. For projects on the State Highway
279 System, the department may use state resources to participate in
280 funding and financing the project as provided for under the
281 department's enabling legislation. Because the Legislature
282 recognizes that private entities or consortia thereof would
283 perform a governmental or public purpose or function when they
284 enter into comprehensive agreements with the department to
285 design, build, operate, own, or finance transportation
286 facilities, the transportation facilities, including leasehold
287 interests thereof, are exempt from ad valorem taxes as provided
288 in chapter 196 to the extent property is owned by the state or
289 other government entity, and from intangible taxes as provided
290 in chapter 199 and special assessments of the state, any city,
291 town, county, special district, political subdivision of the
292 state, or any other governmental entity. The private entities or
293 consortia thereof are exempt from tax imposed by chapter 201 on
294 all documents or obligations to pay money which arise out of the
295 comprehensive agreements to design, build, operate, own, lease,
296 or finance transportation facilities. Any private entities or
297 consortia thereof must pay any applicable corporate taxes as
298 provided in chapter 220, and reemployment assistance taxes as
299 provided in chapter 443, and sales and use tax as provided in
300 chapter 212 shall be applicable. The private entities or

301 consortia thereof must also register and collect the tax imposed
302 by chapter 212 on all their direct sales and leases that are
303 subject to tax under chapter 212. The comprehensive agreement
304 between the private entity or consortia thereof and the
305 department establishing a transportation facility under this
306 chapter constitutes documentation sufficient to claim any
307 exemption under this section.

308 (2) Comprehensive agreements entered into pursuant to this
309 section may authorize the private entity to impose tolls or
310 fares for the use of the facility. The following provisions
311 shall apply to such comprehensive agreements:

312 (a) With the exception of the Florida Turnpike System, the
313 department may lease existing toll facilities through public-
314 private partnerships. The comprehensive ~~public-private~~
315 ~~partnership~~ agreement must ensure that the transportation
316 facility is properly operated, maintained, and renewed in
317 accordance with department standards.

318 (b) The department may develop new toll facilities or
319 increase capacity on existing toll facilities through public-
320 private partnerships. The comprehensive ~~public-private~~
321 ~~partnership~~ agreement must ensure that the toll facility is
322 properly operated, maintained, and renewed in accordance with
323 department standards.

324 (c) Any toll revenues shall be regulated by the department
325 pursuant to s. 338.165(3). The regulations governing the future

326 increase of toll or fare revenues shall be included in the
327 comprehensive ~~public-private partnership~~ agreement.

328 (d) The department shall provide the analysis required in
329 subparagraph (6)(e)2. to the Legislative Budget Commission
330 created pursuant to s. 11.90 for review and approval before
331 ~~prior to~~ awarding a contract on a lease of an existing toll
332 facility.

333 (e) The department shall include provisions in the
334 comprehensive ~~public-private partnership~~ agreement that ensure a
335 negotiated portion of revenues from tolled or fare generating
336 projects is are returned to the department over the life of the
337 comprehensive ~~public-private partnership~~ agreement. In the case
338 of a lease of an existing toll facility, the department shall
339 receive a portion of funds upon closing on the comprehensive
340 agreements and shall also include provisions in the
341 comprehensive agreement to receive payment of a portion of
342 excess revenues over the life of the public-private partnership.

343 (f) The private entity shall provide an independent
344 ~~investment grade~~ traffic and revenue study prepared by a an
345 ~~internationally recognized~~ traffic and revenue expert as part of
346 the private entity proposal. The private entity shall provide a
347 traffic and revenue study that is accepted by the national bond
348 rating agencies for the financing that supports the
349 comprehensive agreement at financial close for the public-
350 private partnership project. The private entity shall also

351 provide a finance plan that identifies the project cost,
352 revenues by source, financing, major assumptions, internal rate
353 of return on private investments, and whether any government
354 funds are assumed to deliver a cost-feasible project, and a
355 total cash flow analysis beginning with implementation of the
356 project and extending for the term of the comprehensive
357 agreement.

358 (6) The procurement of public-private partnerships by the
359 department shall follow the provisions of this section. Sections
360 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
361 337.185, 337.19, 337.221, and 337.251 shall not apply to
362 procurements under this section unless a provision is included
363 in the procurement documents. The department shall ensure that
364 generally accepted business practices for exemptions provided by
365 this subsection are part of the procurement process or are
366 included in the comprehensive ~~public-private partnership~~
367 agreement.

368 (a) The department may request proposals from private
369 entities for public-private transportation projects or, if the
370 department receives an unsolicited proposal, the department
371 shall publish a notice in the Florida Administrative Register
372 and a newspaper of general circulation at least once a week for
373 2 weeks stating that the department has received the proposal
374 and will accept, between 30 and ~~for~~ 120 days after the initial
375 date of publication as determined by the department based on the

376 complexity of the project, other proposals for the same project
 377 purpose. A copy of the notice must be mailed to each local
 378 government in the affected area.

379 (b) Public-private partnerships shall be qualified by the
 380 department as part of the procurement process as outlined in the
 381 procurement documents, provided such process ensures that the
 382 private firm meets at least the minimum department standards for
 383 qualification in department rule for professional engineering
 384 services and road and bridge contracting before ~~prior to~~
 385 submitting a proposal under the procurement.

386 (c) The department shall ensure that procurement documents
 387 include provisions for performance of the private entity and
 388 payment of subcontractors, including, but not limited to, surety
 389 bonds, letters of credit, parent company guarantees, and lender
 390 and equity partner guarantees. The department shall balance the
 391 structure of the security package for the public-private
 392 partnership that ensures performance and payment of
 393 subcontractors with the cost of the security to ensure the most
 394 efficient pricing.

395 (d) After the public notification period has expired, the
 396 department shall rank the proposals in order of preference. In
 397 ranking the proposals, the department may consider factors that
 398 include, but are not limited to, professional qualifications,
 399 general business terms, innovative engineering or cost-reduction
 400 terms, finance plans, and the need for state funds to deliver

401 the project. If the department is not satisfied with the results
 402 of the negotiations, the department may, at its sole discretion,
 403 terminate negotiations with the proposer. If these negotiations
 404 are unsuccessful, the department may go to the second-ranked and
 405 lower-ranked firms, in order, using this same procedure. If only
 406 one proposal is received, the department may negotiate in good
 407 faith and, if the department is not satisfied with the results
 408 of the negotiations, the department may, at its sole discretion,
 409 terminate negotiations with the proposer. Notwithstanding this
 410 subsection, the department may, at its discretion, reject all
 411 proposals at any point in the process up to completion of a
 412 contract with the proposer.

413 (e) The department shall provide an independent analysis
 414 of the proposed public-private partnership that demonstrates the
 415 cost-effectiveness and overall public benefit at the following
 416 times:

- 417 1. Before ~~Prior to~~ moving forward with the procurement;
- 418 and
- 419 2. If the procurement moves forward, before ~~prior to~~
- 420 awarding the contract.

421 (8) Before or in connection with the negotiation of a
 422 comprehensive agreement, the department may enter into an
 423 interim agreement with the private entity proposing the
 424 development or operation of the qualifying project. An interim
 425 agreement does not obligate the department to enter into a

426 comprehensive agreement. The interim agreement is discretionary
 427 with the parties and is not required on a qualifying project for
 428 which the parties may proceed directly to a comprehensive
 429 agreement without the need for an interim agreement. An interim
 430 agreement must be limited to provisions that:

431 (a) Authorize the private entity to commence activities
 432 for which it may be compensated related to the proposed
 433 qualifying project, including, but not limited to, project
 434 planning and development, design, environmental analysis and
 435 mitigation, survey, other activities concerning any part of the
 436 proposed qualifying project, and ascertaining the availability
 437 of financing for the proposed facility or facilities.

438 (b) Establish the process and timing of the negotiation of
 439 the comprehensive agreement.

440 (c) Contain such other provisions that the department and
 441 the private entity deem appropriate related to an aspect of the
 442 development or operation of a qualifying project.

443 (9)-(8) The department may enter into a comprehensive
 444 agreement ~~public-private partnership agreements~~ that includes
 445 ~~include~~ extended terms providing annual payments for performance
 446 based on the availability of service or the facility being open
 447 to traffic or based on the level of traffic using the facility.
 448 In addition to other provisions in this section, the following
 449 provisions shall apply:

450 (a) The annual payments under such comprehensive agreement

451 shall be included in the department's tentative work program
 452 developed under s. 339.135 and the long-range transportation
 453 plan for the applicable metropolitan planning organization
 454 developed under s. 339.175. The department shall ensure that
 455 annual payments on multiyear comprehensive ~~public-private~~
 456 ~~partnership~~ agreements are prioritized ahead of new capacity
 457 projects in the development and updating of the tentative work
 458 program.

459 (b) The annual payments are subject to annual
 460 appropriation by the Legislature as provided in the General
 461 Appropriations Act in support of the first year of the tentative
 462 work program.

463 ~~(11)-(10)~~ Before ~~Prior to~~ entering into such comprehensive
 464 agreement where funds are committed from the State
 465 Transportation Trust Fund, the project must be prioritized as
 466 follows:

467 (a) The department, in coordination with the local
 468 metropolitan planning organization, shall prioritize projects
 469 included in the Strategic Intermodal System 10-year and long-
 470 range cost-feasible plans.

471 (b) The department, in coordination with the local
 472 metropolitan planning organization or local government where
 473 there is no metropolitan planning organization, shall prioritize
 474 projects, for facilities not on the Strategic Intermodal System,
 475 included in the metropolitan planning organization cost-feasible

476 transportation improvement plan and long-range transportation
 477 plan.

478 ~~(12)-(11) Comprehensive Public-private partnership~~
 479 agreements under this section shall be limited to a term not
 480 exceeding 50 years. Upon making written findings that a
 481 comprehensive ~~an~~ agreement under this section requires a term in
 482 excess of 50 years, the secretary of the department may
 483 authorize a term of up to 75 years for projects that are
 484 partially or completely funded from project user fees.

485 Comprehensive agreements under this section shall not have a
 486 term in excess of 75 years unless specifically approved by the
 487 Legislature. The department shall identify each new project
 488 under this section with a term exceeding 75 years in the
 489 transmittal letter that accompanies the submittal of the
 490 tentative work program to the Governor and the Legislature in
 491 accordance with s. 339.135.

492 Section 9. Paragraph (e) of subsection (7) and subsection
 493 (13) of section 337.11, Florida Statutes, are amended to read:

494 337.11 Contracting authority of department; bids;
 495 emergency repairs, supplemental agreements, and change orders;
 496 combined design and construction contracts; progress payments;
 497 records; requirements of vehicle registration.—

498 (7)

499 (e) For design-build contracts and phased design-build
 500 contracts, the department must receive at least three letters of

501 interest in order to proceed with a request for proposals. The
 502 department shall request proposals from no fewer than three of
 503 the ~~design-build~~ firms submitting letters of interest. If a
 504 ~~design-build~~ firm withdraws from consideration after the
 505 department requests proposals, the department may continue if at
 506 least two proposals are received.

507 (13) A motor vehicle used ~~Each contract let by the~~
 508 ~~department~~ for the performance of road or bridge construction or
 509 maintenance work on a department project must ~~shall require all~~
 510 ~~motor vehicles that the contractor operates or causes to be~~
 511 ~~operated in this state to~~ be registered in compliance with
 512 chapter 320.

513 Section 10. Paragraphs (a) and (d) of subsection (1) of
 514 section 337.18, Florida Statutes, are amended to read:

515 337.18 Surety bonds for construction or maintenance
 516 contracts; requirement with respect to contract award; bond
 517 requirements; defaults; damage assessments.—

518 (1)(a) A surety bond shall be required of the successful
 519 bidder in an amount equal to the awarded contract price.
 520 However, the department may choose, in its discretion and
 521 applicable only to multiyear maintenance contracts, to allow for
 522 incremental annual contract bonds that cumulatively total the
 523 full, awarded, multiyear contract price.

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

526 a. The contract price is \$250,000 or less and the
 527 department determines that the project is of a noncritical
 528 nature and that nonperformance will not endanger public health,
 529 safety, or property;

530 b. The prime contractor is a qualified nonprofit agency
 531 for the blind or for the other severely handicapped under s.
 532 413.036(2); or

533 c. The prime contractor is using a subcontractor that is a
 534 qualified nonprofit agency for the blind or for the other
 535 severely handicapped under s. 413.036(2). However, the
 536 department may not waive more than the amount of the
 537 subcontract.

538 2. If the department ~~Secretary of Transportation or the~~
 539 ~~secretary's designee~~ determines that it is in the best interests
 540 of the department to reduce the bonding requirement for a
 541 project and that to do so will not endanger public health,
 542 safety, or property, the department may waive the requirement of
 543 a surety bond in an amount equal to the awarded contract price
 544 for a project having a contract price of \$250 million or more
 545 and, in its place, may set a surety bond amount that is a
 546 portion of the total contract price and provide an alternate
 547 means of security for the balance of the contract amount that is
 548 not covered by the surety bond or provide for incremental surety
 549 bonding and provide an alternate means of security for the
 550 balance of the contract amount that is not covered by the surety

551 bond. Such alternative means of security may include letters of
552 credit, United States bonds and notes, parent company
553 guarantees, and cash collateral. The department may require
554 alternate means of security if a surety bond is waived. The
555 surety on such bond shall be a surety company authorized to do
556 business in the state. All bonds shall be payable to the
557 department and conditioned for the prompt, faithful, and
558 efficient performance of the contract according to plans and
559 specifications and within the time period specified, and for the
560 prompt payment of all persons defined in s. 713.01 furnishing
561 labor, material, equipment, and supplies for work provided in
562 the contract; however, whenever an improvement, demolition, or
563 removal contract price is \$25,000 or less, the security may, in
564 the discretion of the bidder, be in the form of a cashier's
565 check, bank money order of any state or national bank, certified
566 check, or postal money order. The department shall adopt rules
567 to implement this subsection. Such rules shall include
568 provisions under which the department shall refuse to accept
569 bonds on contracts when a surety wrongfully fails or refuses to
570 settle or provide a defense for claims or actions arising under
571 a contract for which the surety previously furnished a bond.

572 (d) An action, except an action for recovery of retainage,
573 must be instituted by a claimant, regardless of whether in
574 privity with the contractor ~~or not~~, against the contractor or
575 the surety on the payment bond or the payment provisions of a

576 combined payment and performance bond within 365 days after the
 577 performance of the labor or completion of delivery of the
 578 materials or supplies. An action for recovery of retainage must
 579 be instituted against the contractor or the surety within 365
 580 days after final acceptance of the contract work by the
 581 department. A claimant may not waive in advance his or her right
 582 to bring an action under the bond against the surety. In any
 583 action brought to enforce a claim against a payment bond under
 584 this section, the prevailing party is entitled to recover a
 585 reasonable fee for the services of his or her attorney for trial
 586 and appeal or for arbitration, in an amount to be determined by
 587 the court, which fee must be taxed as part of the prevailing
 588 party's costs, as allowed in equitable actions.

589 Section 11. Section 337.195, Florida Statutes, is amended
 590 to read:

591 337.195 Limits on liability.—

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

593 (a) "Contract documents" means those contract documents
 594 defined in Section 1-3 of the department's Standard
 595 Specifications for Road and Bridge Construction which are
 596 applicable under the contract between the department and the
 597 contractor.

598 (b) "Contractor" means a person or entity at any
 599 contractual tier, including any member of a design-build team,
 600 who, pursuant to s. 337.11, constructs, maintains, or repairs a

601 highway, road, street, bridge, or other transportation facility
 602 for the department or in connection with a department project.

603 (c) "Design engineer" means a person or entity, including
 604 the design consultant of a design-build team, who contracts at
 605 any tier to prepare or provide engineering plans, including
 606 traffic control plans, for the construction or repair of a
 607 highway, road, street, bridge, or other department
 608 transportation facility.

609 (d) "Traffic control plans" means maintenance of traffic
 610 plans designed by a professional engineer, or otherwise in
 611 accordance with the department's standard plans, and approved by
 612 the department.

613 (2)-(1) In a civil action for the death of or injury to a
 614 person, or for damage to property, against the department ~~of~~
 615 ~~Transportation~~ or its agents, consultants, or contractors for
 616 work performed on a highway, road, street, bridge, or other
 617 transportation facility when the death, injury, or damage
 618 resulted from a motor vehicle crash within a construction zone
 619 in which the driver of one of the vehicles was under the
 620 influence of alcoholic beverages as set forth in s. 316.193,
 621 under the influence of any chemical substance as set forth in s.
 622 877.111, under the influence of marijuana authorized by s.
 623 381.986, excluding low-THC cannabis, or illegally under the
 624 influence of any substance controlled under chapter 893 to the
 625 extent that her or his normal faculties were impaired or that

626 she or he operated a vehicle recklessly as defined in s.
627 316.192, it is presumed that the driver's operation of the
628 vehicle was the sole proximate cause of her or his own death,
629 injury, or damage. This presumption can be overcome if the gross
630 negligence or intentional misconduct of the department of
631 ~~Transportation~~, or of its agents, consultants, or contractors,
632 was a proximate cause of the driver's death, injury, or damage.

633 (3)(a)-(2) A contractor is immune from liability for who
634 ~~constructs, maintains, or repairs a highway, road, street,~~
635 ~~bridge, or other transportation facility for the Department of~~
636 ~~Transportation is not liable to a claimant for personal injury,~~
637 ~~property damage, or death arising from the performance of the~~
638 ~~construction, maintenance, or repair if, at the time of the~~
639 ~~personal injury, property damage, or death, the contractor was~~
640 ~~in compliance with contract documents material to the condition~~
641 ~~that was the proximate cause of the personal injury, property~~
642 ~~damage, or death arising from:~~

643 1. The performance of the construction, maintenance, or
644 repair of the transportation facility if, at the time the
645 personal injury, property damage, or death occurred, the
646 contractor was in compliance with the contract documents
647 material to the personal injury, property damage, or death.

648 2. Acts or omissions of a third party who furnishes, or
649 contracts at any contractual tier to furnish, services or
650 materials to the transportation facility, including a

651 subcontractor; sub-subcontractor; laborer; materialman; owner,
 652 lessor, or operator of a motor vehicle, trailer, semitrailer,
 653 truck, heavy truck, truck tractor, or commercial motor vehicle
 654 as those terms are defined in s. 320.01; or person who performs
 655 services as an architect, a landscape architect, an interior
 656 designer, an engineer, or a surveyor and mapper.

657 3. Acts or omissions of a third party who trespasses
 658 within the limits of the transportation facility or otherwise is
 659 not authorized to enter the area of the transportation facility
 660 in which the personal injury, property damage, or death was
 661 caused.

662 4. Acts or omissions of a third party who damages,
 663 modifies, moves, or removes a traffic control device, warning
 664 device, barrier, or any other facility or device used for the
 665 public's safety and convenience.

666 (b)-(a) The limitations ~~limitation~~ on liability contained
 667 in this subsection do ~~does~~ not apply when the proximate cause of
 668 the personal injury, property damage, or death is a latent
 669 condition, defect, error, or omission that was created by the
 670 contractor and not a defect, error, or omission in the contract
 671 documents; or when the proximate cause of the personal injury,
 672 property damage, or death was the contractor's failure to
 673 ~~perform, update, or comply with the maintenance of the~~ traffic
 674 control plans ~~safety plan~~ as required by the contract documents.

675 ~~(c)-(b)~~ ~~Nothing in~~ This subsection does not relieve ~~shall~~

676 ~~be interpreted or construed as relieving~~ the contractor of any
677 obligation to provide the department ~~of Transportation~~ with
678 written notice of any apparent error or omission in the contract
679 documents.

680 ~~(d)(e)~~ Nothing in This subsection does not ~~shall be~~
681 ~~interpreted or construed to~~ alter or affect any claim of the
682 department ~~of Transportation~~ against such contractor.

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

687 ~~(4)(3)~~ In all cases involving personal injury, property
688 damage, or death, a design engineer ~~person or entity who~~
689 ~~contracts to prepare or provide engineering plans for the~~
690 ~~construction or repair of a highway, road, street, bridge, or~~
691 ~~other transportation facility for the Department of~~
692 ~~Transportation~~ shall be presumed to have prepared such
693 engineering plans using the degree of care and skill ordinarily
694 exercised by other engineers in the field under similar
695 conditions and in similar localities and with due regard for
696 acceptable engineering standards and principles if the
697 engineering plans conformed to the department's ~~Department of~~
698 ~~Transportation's~~ design standards material to the condition or
699 defect that was the proximate cause of the personal injury,
700 property damage, or death. This presumption can be overcome only

701 upon a showing of the design engineer's ~~person's or entity's~~
702 gross negligence in the preparation of the engineering plans and
703 does ~~shall not be interpreted or construed to~~ alter or affect
704 any claim of the department ~~of Transportation~~ against such
705 design engineer ~~person or entity~~. The limitation on liability
706 contained in this subsection does ~~shall not~~ apply to any hidden
707 or undiscoverable condition created by the design engineer. This
708 subsection does not affect any claim of any entity against such
709 design engineer ~~or engineering firm~~, which claim is associated
710 with such entity's facilities on or in department ~~of~~
711 ~~Transportation~~ roads or other transportation facilities.

712 ~~(4) In any civil action for death, injury, or damages~~
713 ~~against the Department of Transportation or its agents,~~
714 ~~consultants, engineers, or contractors for work performed on a~~
715 ~~highway, road, street, bridge, or other transportation facility,~~
716 ~~if the department, its agents, consultants, engineers, or~~
717 ~~contractors are immune from liability pursuant to this section~~
718 ~~or are not parties to the litigation, they may not be named on~~
719 ~~the jury verdict form or be found to be at fault or responsible~~
720 ~~for the injury, death, or damage that gave rise to the damages.~~

721 Section 12. (1) The Department of Transportation shall
722 convene a working group for the purpose of streamlining the
723 process of developing, executing, and revising utility
724 relocation agreements authorized under ss. 337.401 and 337.403,
725 Florida Statutes, to facilitate timely relocation of utilities

726 that are in conflict with the department's construction
727 projects.

728 (2) The working group shall consist of the following
729 members:

730 (a) Eight members designated by department, one of whom is
731 a representative of the department's central office and seven of
732 whom each represent one of the department's districts.

733 (b) One member designated by each investor-owned electric
734 utility in this state.

735 (c) One member designated by the Florida Municipal
736 Electric Association who is a representative of municipal
737 electric and gas utilities.

738 (d) One member designated by the Florida Electric
739 Cooperatives Association, Inc., who is a representative of the
740 electric cooperative industry.

741 (e) Two members designated by the telecommunications
742 industry, one of whom is a wireless provider.

743 (f) One member designated by Florida Internet & Television
744 Association, Inc., who is a representative of the cable and
745 television industry.

746 (g) One member designated by the department who provides
747 broadband services.

748 (h) One member designated by the Florida Natural Gas
749 Association who provides natural gas distribution.

750 (i) Four members designated by the Florida Transportation
751 Builders' Association, Inc., who are representatives of the road
752 and bridge contractor industry.

753 (3) By January 2, 2025, the Department of Transportation
754 shall provide a report to the Governor, the President of the
755 Senate, and the Speaker of the House of Representatives which
756 contains a list of recommendations mutually agreed upon by the
757 department and the working group, including, but not limited to,
758 recommendations regarding any changes to current law or
759 administrative rules, in furtherance of the purpose provided in
760 subsection (1).

761 Section 13. Section 339.28201, Florida Statutes, is
762 created to read:

763 339.28201 Local Agency Program.—

764 (1) There is created within the department a Local Agency
765 Program for the purpose of providing assistance to subrecipient
766 agencies, which include counties, municipalities,
767 intergovernmental agencies, and other eligible governmental
768 entities, to develop, design, and construct transportation
769 facilities using funds allocated by federal agencies to the
770 department which are then suballocated by the department to
771 local agencies.

772 (2) The department is responsible for oversight of funded
773 projects on behalf of the Federal Highway Administration. The
774 department shall update the project cost estimate in the year

775 the project is granted to the local agency and shall include a
 776 contingency amount as part of the project cost estimate.

777 (3) Local agencies shall prioritize and budget local
 778 projects through their respective metropolitan planning
 779 organizations or governing boards that are eligible for
 780 reimbursement for the services provided to the traveling public
 781 through compliance with applicable federal statutes, rules, and
 782 regulations.

783 (4) Federal-aid highway funds are available only to local
 784 agencies that are certified by the department based on their
 785 qualifications, experience, ability to comply with federal
 786 requirements, and ability to undertake and satisfactorily
 787 complete the work.

788 (5) At a minimum, such local agencies shall include in
 789 their contracts to develop, design, or construct transportation
 790 facilities the department's Division I General Requirements and
 791 Covenants for local agencies and a contingency amount in the
 792 project cost to account for unforeseen conditions.

793 Section 14. Subsection (3) of section 339.2825, Florida
 794 Statutes, is amended to read:

795 339.2825 Approval of contractor-financed projects.—

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

798 Section 15. Subsection (4) of section 627.06501, Florida
 799 Statutes, is amended to read:

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800 627.06501 Insurance discounts for certain persons
801 completing driver improvement course.—

802 (4) This section does not apply if the driver improvement
803 course is taken in lieu of a court appearance for a traffic
804 infraction as provided for in s. 318.14(9). However, the eight-
805 election ~~five-election~~ restriction enumerated in that section is
806 not applicable to taking the course for the purposes of
807 receiving insurance premium reductions.

808 Section 16. This act shall take effect July 1, 2024.