

26 private entity before or in connection with
27 negotiating a comprehensive agreement; providing
28 requirements; authorizing the department secretary to
29 authorize an agreement term of up to 75 years for
30 certain projects; requiring the department to notify
31 the Division of Bond Finance before entering into an
32 interim or comprehensive agreement; amending s.
33 336.044, F.S.; prohibiting a local governmental entity
34 from deeming reclaimed asphalt pavement material as
35 solid waste; amending s. 337.11, F.S.; requiring the
36 department to receive at least three letters of
37 interest in order to proceed with a request for
38 proposals for design-build contracts and phased
39 design-build contracts; requiring a motor vehicle used
40 for specified work on a department project to be
41 registered in compliance with certain provisions;
42 amending s. 337.18, F.S.; authorizing the department
43 to allow the issuance of certain contract performance
44 and payment bonds for phased design-build contracts;
45 authorizing the department to determine whether to
46 reduce bonding requirements; revising the time periods
47 within which certain actions must be instituted by a
48 claimant; amending s. 337.195, F.S.; providing
49 definitions; providing a presumption that if a death,
50 injury, or damage results from a motor vehicle crash

51 within a construction zone in which the driver of a
52 vehicle was under the influence of certain marijuana,
53 the driver's operation of such vehicle was the
54 proximate cause of his or her own death, injury, or
55 damage; revising conditions under which a contractor
56 is immune from liability; conforming provisions to
57 changes made by the act; revising provisions relating
58 to a prohibition against naming the department or
59 certain entities on a jury verdict form if determined
60 to be immune from liability for injury, death, or
61 damage; amending s. 337.25, F.S.; requiring the
62 department to issue a right of first refusal to the
63 previous owner of certain property acquired by the
64 department if such previous owner provides written
65 notice to the department, within a specified
66 timeframe, of his or her interest in reacquiring such
67 property; requiring the department to acknowledge
68 receipt of such notice in writing within a specified
69 timeframe; amending s. 338.26, F.S.; providing that a
70 certain interlocal agreement for the fire station on
71 the Alligator Alley toll road controls until the local
72 governmental entity and the department extend the
73 agreement or enter into a new agreement; limiting the
74 amount of reimbursement; requiring the local
75 governmental entity to provide a specified periodic

76 comprehensive plan to the department; requiring the
 77 local governmental entity and the department to adopt
 78 such plan as part of the interlocal agreement;
 79 requiring certain funding needs to be included in the
 80 department's work program and in the local
 81 governmental entity's capital comprehensive plan and
 82 budget; requiring ownership and title of certain
 83 equipment purchased with state funds to transfer to
 84 the state at the end of the term of the interlocal
 85 agreement; creating s. 339.28201, F.S.; creating a
 86 Local Agency Program within the department for certain
 87 funding purposes; requiring oversight by the
 88 department; providing requirements for the
 89 department's project cost estimate; providing for
 90 prioritization and budget of certain local projects;
 91 providing funding eligibility requirements; providing
 92 contract requirements; amending ss. 339.2825 and
 93 627.06501, F.S.; conforming provisions to changes made
 94 by the act; providing an effective date.

95
 96 Be It Enacted by the Legislature of the State of Florida:

97
 98 Section 1. Subsection (6) is added to section 206.46,
 99 Florida Statutes, to read:

100 206.46 State Transportation Trust Fund.—

101 (6) The department may not annually commit more than 20
102 percent of the revenues derived from state fuel taxes and motor
103 vehicle license-related fees deposited into the State
104 Transportation Trust Fund to public transit projects, in
105 accordance with chapter 341, except as otherwise provided
106 herein. Notwithstanding the foregoing, the department may
107 annually commit more than 20 percent of such revenues for any of
108 the following:

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

112 (b) A public transit project included in the
113 transportation improvement program adopted pursuant to s.
114 339.175(8) and approved by a supermajority vote of the board of
115 county commissioners or the governing board of a consolidated
116 county and city government where the project is located.

117 (c) A bus rapid transit or rail project that would result
118 in maintaining or enhancing the level of service of the state
119 highway system along the corridor of the project, provided state
120 funds do not exceed 50 percent of the nonfederal share of the
121 costs and the percentage of the local share.

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

124 288.9606 Issue of revenue bonds.—

125 (6) The proceeds of any bonds of the corporation may not

126 be used, in any manner, to acquire any building or facility that
127 will be, during the pendency of the financing, used by, occupied
128 by, leased to, or paid for by any state, county, or municipal
129 agency or entity. This subsection does not prohibit the use of
130 proceeds of bonds of the corporation for the purpose of
131 financing the acquisition or construction of a transportation
132 facility under a comprehensive ~~public-private partnership~~
133 agreement authorized by s. 334.30.

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

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

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

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

146 (d) Finance the costs of acquisition or construction of a
147 transportation facility by a private entity or consortium of
148 private entities under a comprehensive ~~public-private~~
149 ~~partnership~~ agreement authorized by s. 334.30.

150 Section 3. Subsection (9) of section 318.14, Florida

151 Statutes, is amended to read:

152 318.14 Noncriminal traffic infractions; exception;
153 procedures.—

154 (9) Any person who does not hold a commercial driver
155 license or commercial learner's permit and who is cited while
156 driving a noncommercial motor vehicle for an infraction under
157 this section other than a violation of s. 316.183(2), s.
158 316.187, or s. 316.189 when the driver exceeds the posted limit
159 by 30 miles per hour or more, s. 320.0605, s. 320.07(3) (a) or
160 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
161 lieu of a court appearance, elect to attend in the location of
162 his or her choice within this state a basic driver improvement
163 course approved by the Department of Highway Safety and Motor
164 Vehicles. In such a case, adjudication must be withheld, any
165 civil penalty that is imposed by s. 318.18(3) must be reduced by
166 18 percent, and points, as provided by s. 322.27, may not be
167 assessed. However, a person may not make an election under this
168 subsection if the person has made an election under this
169 subsection in the preceding 12 months. A person may not make
170 more than eight ~~five~~ elections within his or her lifetime under
171 this subsection. The requirement for community service under s.
172 318.18(8) is not waived by a plea of nolo contendere or by the
173 withholding of adjudication of guilt by a court.

174 Section 4. Paragraph (d) of subsection (6) of section
175 318.1451, Florida Statutes, is amended to read:

176 318.1451 Driver improvement schools.—

177 (6) The department shall adopt rules establishing and
178 maintaining policies and procedures to implement the
179 requirements of this section. These policies and procedures may
180 include, but shall not be limited to, the following:

181 (d) Course content.—The department shall set and modify
182 course content requirements to keep current with laws and safety
183 information. The department shall annually review changes made
184 to major traffic laws of this state, including s. 316.126(1) (b),
185 and shall require course content for courses referenced in this
186 section to be modified in accordance with changes relevant to
187 the courses. Course content includes all items used in the
188 conduct of the course.

189 Section 5. Subsection (7) of section 322.095, Florida
190 Statutes, is amended to read:

191 322.095 Traffic law and substance abuse education program
192 for driver license applicants.—

193 (7) Courses approved under this section must be updated at
194 the department's request. The department shall annually review
195 changes made to major traffic laws of this state, including s.
196 316.126(1) (b), and shall require course content for courses
197 referenced in this section to be modified in accordance with
198 changes relevant to the courses. Failure of a course provider to
199 update the course within 90 days after the department's request
200 shall result in the suspension of the course approval until such

201 time that the updates are submitted and approved by the
202 department.

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

208 334.30 Public-private transportation facilities.—The
209 Legislature finds and declares that there is a public need for
210 the rapid construction of safe and efficient transportation
211 facilities for the purpose of traveling within the state, and
212 that it is in the public's interest to provide for the
213 construction of additional safe, convenient, and economical
214 transportation facilities.

215 (1) The department may receive or solicit proposals and,
216 with legislative approval as evidenced by approval of the
217 project in the department's work program, enter into
218 comprehensive agreements with private entities, or consortia
219 thereof, for the building, operation, ownership, or financing of
220 transportation facilities. The department may advance projects
221 programmed in the adopted 5-year work program or projects
222 increasing transportation capacity and greater than \$500 million
223 in the 10-year Strategic Intermodal Plan using funds provided by
224 public-private partnerships or private entities to be reimbursed
225 from department funds for the project as programmed in the

226 adopted work program. The department shall by rule establish an
 227 application fee for the submission of unsolicited proposals
 228 under this section. The fee must be sufficient to pay the costs
 229 of evaluating the proposals. The department may engage the
 230 services of private consultants to assist in the evaluation.
 231 Before approval, the department must determine that the proposed
 232 project:

- 233 (a) Is in the public's best interest;
- 234 (b) Would not require state funds to be used unless the
 235 project is on the State Highway System;
- 236 (c) Would have adequate safeguards in place to ensure that
 237 no additional costs or service disruptions would be realized by
 238 the traveling public and residents of the state in the event of
 239 default or cancellation of the comprehensive agreement by the
 240 department;
- 241 (d) Would have adequate safeguards in place to ensure that
 242 the department or the private entity has the opportunity to add
 243 capacity to the proposed project and other transportation
 244 facilities serving similar origins and destinations; and
- 245 (e) Would be owned by the department upon completion or
 246 termination of the comprehensive agreement.

247
 248 The department shall ensure that all reasonable costs to the
 249 state, related to transportation facilities that are not part of
 250 the State Highway System, are borne by the private entity. The

251 department shall also ensure that all reasonable costs to the
252 state and substantially affected local governments and
253 utilities, related to the private transportation facility, are
254 borne by the private entity for transportation facilities that
255 are owned by private entities. For projects on the State Highway
256 System, the department may use state resources to participate in
257 funding and financing the project as provided for under the
258 department's enabling legislation. Because the Legislature
259 recognizes that private entities or consortia thereof would
260 perform a governmental or public purpose or function when they
261 enter into comprehensive agreements with the department to
262 design, build, operate, own, or finance transportation
263 facilities, the transportation facilities, including leasehold
264 interests thereof, are exempt from ad valorem taxes as provided
265 in chapter 196 to the extent property is owned by the state or
266 other government entity, and from intangible taxes as provided
267 in chapter 199 and special assessments of the state, any city,
268 town, county, special district, political subdivision of the
269 state, or any other governmental entity. The private entities or
270 consortia thereof are exempt from tax imposed by chapter 201 on
271 all documents or obligations to pay money which arise out of the
272 comprehensive agreements to design, build, operate, own, lease,
273 or finance transportation facilities. Any private entities or
274 consortia thereof must pay any applicable corporate taxes as
275 provided in chapter 220, and reemployment assistance taxes as

276 provided in chapter 443, and sales and use tax as provided in
 277 chapter 212 shall be applicable. The private entities or
 278 consortia thereof must also register and collect the tax imposed
 279 by chapter 212 on all their direct sales and leases that are
 280 subject to tax under chapter 212. The comprehensive agreement
 281 between the private entity or consortia thereof and the
 282 department establishing a transportation facility under this
 283 chapter constitutes documentation sufficient to claim any
 284 exemption under this section.

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

289 (a) With the exception of the Florida Turnpike System, the
 290 department may lease existing toll facilities through public-
 291 private partnerships. The comprehensive ~~public-private~~
 292 ~~partnership~~ agreement must ensure that the transportation
 293 facility is properly operated, maintained, and renewed in
 294 accordance with department standards.

295 (b) The department may develop new toll facilities or
 296 increase capacity on existing toll facilities through public-
 297 private partnerships. The comprehensive ~~public-private~~
 298 ~~partnership~~ agreement must ensure that the toll facility is
 299 properly operated, maintained, and renewed in accordance with
 300 department standards.

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

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

310 (e) The department shall include provisions in the
 311 comprehensive ~~public-private partnership~~ agreement that ensure a
 312 negotiated portion of revenues from tolled or fare generating
 313 projects is ~~are~~ returned to the department over the life of the
 314 comprehensive ~~public-private partnership~~ agreement. In the case
 315 of a lease of an existing toll facility, the department shall
 316 receive a portion of funds upon closing on the comprehensive
 317 agreements and shall also include provisions in the
 318 comprehensive agreement to receive payment of a portion of
 319 excess revenues over the life of the public-private partnership.

320 (f) The private entity shall provide an independent
 321 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~
 322 ~~internationally recognized~~ traffic and revenue expert as part of
 323 the private entity proposal. The private entity shall provide a
 324 traffic and revenue study that is accepted by the national bond
 325 rating agencies for the financing that supports the

326 comprehensive agreement at financial close for the public-
327 private partnership project. The private entity shall also
328 provide a finance plan that identifies the project cost,
329 revenues by source, financing, major assumptions, internal rate
330 of return on private investments, and whether any government
331 funds are assumed to deliver a cost-feasible project, and a
332 total cash flow analysis beginning with implementation of the
333 project and extending for the term of the comprehensive
334 agreement.

335 (6) The procurement of public-private partnerships by the
336 department shall follow the provisions of this section. Sections
337 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
338 337.185, 337.19, 337.221, and 337.251 shall not apply to
339 procurements under this section unless a provision is included
340 in the procurement documents. The department shall ensure that
341 generally accepted business practices for exemptions provided by
342 this subsection are part of the procurement process or are
343 included in the comprehensive ~~public-private partnership~~
344 agreement.

345 (a) The department may request proposals from private
346 entities for public-private transportation projects or, if the
347 department receives an unsolicited proposal, the department
348 shall publish a notice in the Florida Administrative Register
349 and a newspaper of general circulation at least once a week for
350 2 weeks stating that the department has received the proposal

351 and will accept, between 30 and ~~for~~ 120 days after the initial
352 date of publication as determined by the department based on the
353 complexity of the project, other proposals for the same project
354 purpose. A copy of the notice must be mailed to each local
355 government in the affected area.

356 (b) Public-private partnerships shall be qualified by the
357 department as part of the procurement process as outlined in the
358 procurement documents, provided such process ensures that the
359 private firm meets at least the minimum department standards for
360 qualification in department rule for professional engineering
361 services and road and bridge contracting before ~~prior to~~
362 submitting a proposal under the procurement.

363 (c) The department shall ensure that procurement documents
364 include provisions for performance of the private entity and
365 payment of subcontractors, including, but not limited to, surety
366 bonds, letters of credit, parent company guarantees, and lender
367 and equity partner guarantees. The department shall balance the
368 structure of the security package for the public-private
369 partnership that ensures performance and payment of
370 subcontractors with the cost of the security to ensure the most
371 efficient pricing.

372 (d) After the public notification period has expired, the
373 department shall rank the proposals in order of preference. In
374 ranking the proposals, the department may consider factors that
375 include, but are not limited to, professional qualifications,

376 general business terms, innovative engineering or cost-reduction
377 terms, finance plans, and the need for state funds to deliver
378 the project. If the department is not satisfied with the results
379 of the negotiations, the department may, at its sole discretion,
380 terminate negotiations with the proposer. If these negotiations
381 are unsuccessful, the department may go to the second-ranked and
382 lower-ranked firms, in order, using this same procedure. If only
383 one proposal is received, the department may negotiate in good
384 faith and, if the department is not satisfied with the results
385 of the negotiations, the department may, at its sole discretion,
386 terminate negotiations with the proposer. Notwithstanding this
387 subsection, the department may, at its discretion, reject all
388 proposals at any point in the process up to completion of a
389 contract with the proposer.

390 (e) The department shall provide an independent analysis
391 of the proposed public-private partnership that demonstrates the
392 cost-effectiveness and overall public benefit at the following
393 times:

394 1. Before ~~Prior to~~ moving forward with the procurement;

395 and

396 2. If the procurement moves forward, before ~~prior to~~
397 awarding the contract.

398 (8) Before or in connection with the negotiation of a
399 comprehensive agreement, the department may enter into an
400 interim agreement with the private entity proposing the

401 development or operation of the qualifying project. An interim
402 agreement does not obligate the department to enter into a
403 comprehensive agreement. The interim agreement is discretionary
404 with the parties and is not required on a qualifying project for
405 which the parties may proceed directly to a comprehensive
406 agreement without the need for an interim agreement. An interim
407 agreement must be limited to provisions that:

408 (a) Authorize the private entity to commence activities
409 for which it may be compensated related to the proposed
410 qualifying project, including, but not limited to, project
411 planning and development, design, environmental analysis and
412 mitigation, survey, other activities concerning any part of the
413 proposed qualifying project, and ascertaining the availability
414 of financing for the proposed facility or facilities.

415 (b) Establish the process and timing of the negotiation of
416 the comprehensive agreement.

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

420 (9)-(8) The department may enter into a comprehensive
421 agreement ~~public-private partnership agreements~~ that includes
422 ~~include~~ extended terms providing annual payments for performance
423 based on the availability of service or the facility being open
424 to traffic or based on the level of traffic using the facility.
425 In addition to other provisions in this section, the following

426 provisions shall apply:

427 (a) The annual payments under such comprehensive agreement
428 shall be included in the department's tentative work program
429 developed under s. 339.135 and the long-range transportation
430 plan for the applicable metropolitan planning organization
431 developed under s. 339.175. The department shall ensure that
432 annual payments on multiyear comprehensive ~~public-private~~
433 ~~partnership~~ agreements are prioritized ahead of new capacity
434 projects in the development and updating of the tentative work
435 program.

436 (b) The annual payments are subject to annual
437 appropriation by the Legislature as provided in the General
438 Appropriations Act in support of the first year of the tentative
439 work program.

440 ~~(11)-(10)~~ Before ~~Prior to~~ entering into such comprehensive
441 agreement where funds are committed from the State
442 Transportation Trust Fund, the project must be prioritized as
443 follows:

444 (a) The department, in coordination with the local
445 metropolitan planning organization, shall prioritize projects
446 included in the Strategic Intermodal System 10-year and long-
447 range cost-feasible plans.

448 (b) The department, in coordination with the local
449 metropolitan planning organization or local government where
450 there is no metropolitan planning organization, shall prioritize

451 projects, for facilities not on the Strategic Intermodal System,
 452 included in the metropolitan planning organization cost-feasible
 453 transportation improvement plan and long-range transportation
 454 plan.

455 (12) ~~(11)~~ Comprehensive ~~Public-private partnership~~
 456 agreements under this section shall be limited to a term not
 457 exceeding 50 years. Upon making written findings that a
 458 comprehensive ~~an~~ agreement under this section requires a term in
 459 excess of 50 years, the secretary of the department may
 460 authorize a term of up to 75 years for projects that are
 461 partially or completely funded from project user fees.

462 Comprehensive agreements under this section shall not have a
 463 term in excess of 75 years unless specifically approved by the
 464 Legislature. The department shall identify each new project
 465 under this section with a term exceeding 75 years in the
 466 transmittal letter that accompanies the submittal of the
 467 tentative work program to the Governor and the Legislature in
 468 accordance with s. 339.135.

469 (14) ~~(13)~~ In connection with a proposal to finance or
 470 refinance a transportation facility pursuant to this section,
 471 the department shall consult with the Division of Bond Finance
 472 of the State Board of Administration. The department shall
 473 notify the division before entering into an interim or
 474 comprehensive agreement and provide the division with the
 475 information necessary to provide timely consultation and

476 recommendations. The Division of Bond Finance may make an
 477 independent recommendation to the Executive Office of the
 478 Governor.

479 Section 7. Subsection (5) of section 336.044, Florida
 480 Statutes, is amended to read:

481 336.044 Use of recyclable materials in construction.—

482 (5) Notwithstanding any law, rule, or ordinance to the
 483 contrary, a local governmental entity may not adopt standards or
 484 specifications that are contrary to the department standards or
 485 specifications for permissible use of reclaimed asphalt pavement
 486 material and may not deem reclaimed asphalt pavement in
 487 ~~construction. For purposes of this section, such material as may~~
 488 ~~not be considered~~ solid waste.

489 Section 8. Paragraph (e) of subsection (7) and subsection
 490 (13) of section 337.11, Florida Statutes, are amended to read:

491 337.11 Contracting authority of department; bids;
 492 emergency repairs, supplemental agreements, and change orders;
 493 combined design and construction contracts; progress payments;
 494 records; requirements of vehicle registration.—

495 (7)

496 (e) For design-build contracts and phased design-build
 497 contracts, the department must receive at least three letters of
 498 interest in order to proceed with a request for proposals. The
 499 department shall request proposals from no fewer than three of
 500 the ~~design-build~~ firms submitting letters of interest. If a

501 ~~design-build~~ firm withdraws from consideration after the
502 department requests proposals, the department may continue if at
503 least two proposals are received.

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

510 Section 9. Paragraphs (a) and (d) of subsection (1) of
511 section 337.18, Florida Statutes, are amended to read:

512 337.18 Surety bonds for construction or maintenance
513 contracts; requirement with respect to contract award; bond
514 requirements; defaults; damage assessments.—

515 (1)(a) A surety bond shall be required of the successful
516 bidder in an amount equal to the awarded contract price.
517 However, the department may choose, in its discretion and
518 applicable only to multiyear maintenance contracts, to allow for
519 incremental annual contract bonds that cumulatively total the
520 full, awarded, multiyear contract price. The department may also
521 choose, in its discretion and applicable only to phased design-
522 build contracts under s. 337.11(7)(b), to allow the issuance of
523 multiple contract performance and payment bonds in succession to
524 align with each phase of the contract to meet the bonding
525 requirement in this subsection.

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

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

532 b. The prime contractor is a qualified nonprofit agency
533 for the blind or for the other severely handicapped under s.
534 413.036(2); or

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

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

551 bonding and provide an alternate means of security for the
552 balance of the contract amount that is not covered by the surety
553 bond. Such alternative means of security may include letters of
554 credit, United States bonds and notes, parent company
555 guarantees, and cash collateral. The department may require
556 alternate means of security if a surety bond is waived. The
557 surety on such bond shall be a surety company authorized to do
558 business in the state. All bonds shall be payable to the
559 department and conditioned for the prompt, faithful, and
560 efficient performance of the contract according to plans and
561 specifications and within the time period specified, and for the
562 prompt payment of all persons defined in s. 713.01 furnishing
563 labor, material, equipment, and supplies for work provided in
564 the contract; however, whenever an improvement, demolition, or
565 removal contract price is \$25,000 or less, the security may, in
566 the discretion of the bidder, be in the form of a cashier's
567 check, bank money order of any state or national bank, certified
568 check, or postal money order. The department shall adopt rules
569 to implement this subsection. Such rules shall include
570 provisions under which the department shall refuse to accept
571 bonds on contracts when a surety wrongfully fails or refuses to
572 settle or provide a defense for claims or actions arising under
573 a contract for which the surety previously furnished a bond.

574 (d) An action, except an action for recovery of retainage,
575 must be instituted by a claimant, regardless of whether in

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

591 | Section 10. Section 337.195, Florida Statutes, is amended
 592 | to read:

593 | 337.195 Limits on liability.—

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

595 | (a) "Contract documents" has the same meaning as in the
 596 | applicable contract between the department and the contractor.

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

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

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

609 (d) "Traffic control plans" means the maintenance of
610 traffic plans designed by a professional engineer, or otherwise
611 in accordance with the department's standard plans, and approved
612 by 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 as 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)~~(2)~~ A contractor who constructs, maintains, or repairs
634 a highway, road, street, bridge, or other transportation
635 facility for the department ~~of Transportation~~ is not liable to a
636 claimant for personal injury, property damage, or death arising
637 from the performance of the construction, maintenance, or repair
638 if, at the time of the personal injury, property damage, or
639 death, the contractor was in compliance with contract documents
640 material to the condition that was the proximate cause of the
641 personal injury, property damage, or death.

642 (a) The limitations ~~limitation~~ on liability contained in
643 this subsection do ~~does~~ not apply when the proximate cause of
644 the personal injury, property damage, or death is a latent
645 condition, defect, error, or omission that was created by the
646 contractor and not a defect, error, or omission in the contract
647 documents; or when the proximate cause of the personal injury,
648 property damage, or death was the contractor's failure to

649 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic
650 control plans ~~safety plan~~ as required by the contract documents.

651 (b) ~~Nothing in~~ This subsection may not ~~shall~~ be
652 interpreted or construed as relieving the contractor of any
653 obligation to provide the department ~~of Transportation~~ with
654 written notice of any apparent error or omission in the contract
655 documents.

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

659 (d) This subsection does not affect any claim of any
660 entity against such contractor, which claim is associated with
661 such entity's facilities on or in department ~~of Transportation~~
662 roads or other transportation facilities.

663 ~~(4)-(3)~~ In all cases involving personal injury, property
664 damage, or death, a design engineer is ~~person or entity who~~
665 ~~contracts to prepare or provide engineering plans for the~~
666 ~~construction or repair of a highway, road, street, bridge, or~~
667 ~~other transportation facility for the Department of~~
668 ~~Transportation shall be~~ presumed to have prepared such
669 engineering plans using the degree of care and skill ordinarily
670 exercised by other engineers in the field under similar
671 conditions and in similar localities and with due regard for
672 acceptable engineering standards and principles if the
673 engineering plans conformed to the department's ~~Department of~~

674 ~~Transportation's~~ design standards material to the condition or
675 defect that was the proximate cause of the personal injury,
676 property damage, or death. This presumption can be overcome only
677 upon a showing of the design engineer's ~~person's or entity's~~
678 gross negligence in the preparation of the engineering plans and
679 may ~~shall~~ not be interpreted or construed to alter or affect any
680 claim of the department ~~of Transportation~~ against such design
681 engineer ~~person or entity~~. The limitation on liability contained
682 in this subsection does ~~shall~~ not apply to any hidden or
683 undiscoverable condition created by the design engineer. This
684 subsection does not affect any claim of any entity against such
685 design engineer ~~or engineering firm~~, which claim is associated
686 with such entity's facilities on or in department ~~of~~
687 ~~Transportation~~ roads or other transportation facilities.

688 (5)(4) If, in any civil action for death, injury, or
689 damages, ~~against~~ the Department of Transportation or a
690 contractor or design engineer is determined to be its agents,
691 ~~consultants, engineers, or contractors for work performed on a~~
692 ~~highway, road, street, bridge, or other transportation facility,~~
693 ~~if the department, its agents, consultants, engineers, or~~
694 ~~contractors are~~ immune from liability pursuant to this section
695 ~~or are not parties to the litigation,~~ the department,
696 contractor, or design engineer ~~they~~ may not be named on the jury
697 verdict form or be found to be at fault or responsible for the
698 injury, death, or damage that gave rise to the damages for the

699 theory of liability from which the department, contractor, or
700 design engineer was found to be immune.

701 Section 11. Subsection (4) of section 337.25, Florida
702 Statutes, is amended to read:

703 337.25 Acquisition, lease, and disposal of real and
704 personal property.—

705 (4) The department may convey, in the name of the state,
706 any land, building, or other property, real or personal, which
707 was acquired under subsection (1) and which the department has
708 determined is not needed for the construction, operation, and
709 maintenance of a transportation facility. When such a
710 determination has been made, property may be disposed of through
711 negotiations, sealed competitive bids, auctions, or any other
712 means the department deems to be in its best interest, with due
713 advertisement for property valued by the department at greater
714 than \$10,000. A sale may not occur at a price less than the
715 department's current estimate of value, except as provided in
716 paragraphs (a)-(d). The department may afford a right of first
717 refusal to the local government or other political subdivision
718 in the jurisdiction in which the parcel is situated, except in a
719 conveyance transacted under paragraph (a), paragraph (c), or
720 paragraph (e). Notwithstanding any provision of this section to
721 the contrary, before any conveyance under this subsection may be
722 made, except a conveyance under paragraph (a) or paragraph (c),
723 the department shall first afford a right of first refusal to

724 the previous property owner for the department's current
725 estimate of value of the property. The right of first refusal
726 must be made in writing and sent to the previous owner via
727 certified mail or hand delivery, effective upon receipt. The
728 right of first refusal must provide the previous owner with a
729 minimum of 30 days to exercise the right in writing and must be
730 sent to the originator of the offer by certified mail or hand
731 delivery, effective upon dispatch. If the previous owner
732 exercises his or her right of first refusal, the previous owner
733 has a minimum of 90 days to close on the property. The right of
734 first refusal set forth in this subsection may not be required
735 for the disposal of property acquired more than 10 years before
736 the date of disposition by the department. If, within 10 years
737 after the date of the department's acquisition of the property,
738 the previous property owner notifies the department, in writing
739 provided via certified mail to the department's district
740 secretary of the district in which the property is located, of
741 the previous property owner's interest in reacquiring the
742 property, the right to receive the right of first refusal vests
743 with such previous owner, and the department is thereafter
744 obligated to issue a right of first refusal to the previous
745 property owner in accordance with this subsection before
746 disposal or conveyance of the property, whenever that may occur.
747 Within 60 days after the department's receipt of the previous
748 property owner's notice of interest as provided in this

749 subsection, the department must acknowledge receipt of such
750 notice, in writing provided via certified mail, to the previous
751 property owner.

752 (a) If the property has been donated to the state for
753 transportation purposes and a transportation facility has not
754 been constructed for at least 5 years, plans have not been
755 prepared for the construction of such facility, and the property
756 is not located in a transportation corridor, the governmental
757 entity may authorize reconveyance of the donated property for no
758 consideration to the original donor or the donor's heirs,
759 successors, assigns, or representatives.

760 (b) If the property is to be used for a public purpose,
761 including, but not limited to, affordable housing as provided in
762 ss. 125.379 and 166.0451, the property may be conveyed without
763 consideration to a governmental entity.

764 (c) If the property was originally acquired specifically
765 to provide replacement housing for persons displaced by
766 transportation projects, the department may negotiate for the
767 sale of such property as replacement housing. As compensation,
768 the state shall receive at least its investment in such property
769 or the department's current estimate of value, whichever is
770 lower. It is expressly intended that this benefit be extended
771 only to persons actually displaced by the project. Dispositions
772 to any other person must be for at least the department's
773 current estimate of value.

774 (d) If the department determines that the property
 775 requires significant costs to be incurred or that continued
 776 ownership of the property exposes the department to significant
 777 liability risks, the department may use the projected
 778 maintenance costs over the next 10 years to offset the
 779 property's value in establishing a value for disposal of the
 780 property, even if that value is zero.

781 (e) If, at the discretion of the department, a sale to a
 782 person other than an abutting property owner would be
 783 inequitable, the property may be sold to the abutting owner for
 784 the department's current estimate of value.

785 Section 12. Paragraph (a) of subsection (3) of section
 786 338.26, Florida Statutes, is amended to read:

787 338.26 Alligator Alley toll road.—

788 (3)(a) Fees generated from tolls shall be deposited in the
 789 State Transportation Trust Fund and shall be used:

790 1. To reimburse outstanding contractual obligations;

791 2. To operate and maintain the highway and toll
 792 facilities, including reconstruction and restoration;

793 3. To pay for those projects that are funded with
 794 Alligator Alley toll revenues and that are contained in the
 795 1993-1994 adopted work program or the 1994-1995 tentative work
 796 program submitted to the Legislature on February 22, 1994; and

797 4. By interlocal agreement ~~effective July 1, 2019, through~~
 798 ~~no later than June 30, 2027,~~ to reimburse a local governmental

799 entity for the direct actual costs of operating the fire station
800 at mile marker 63 on Alligator Alley, which shall be used by the
801 local governmental entity to provide fire, rescue, and emergency
802 management services exclusively to the public on Alligator
803 Alley. The local governmental entity must contribute 10 percent
804 of the direct actual operating costs.

805 a. The interlocal agreement effective July 1, 2019,
806 through no later than June 30, 2027, shall control until such
807 time that the local governmental entity and the department enter
808 into a new agreement or agree to extend the existing agreement.
809 For the 2024-2025 fiscal year, the amount of reimbursement shall
810 not exceed \$2 million.

811 b. By December 31, 2024, and every 5 years thereafter, the
812 local governmental entity shall provide a maintenance and
813 operations comprehensive plan to the department. The
814 comprehensive plan must include a current inventory of assets,
815 including their projected service life, and area service needs;
816 the call and response history for emergency services provided in
817 the preceding 5 years on Alligator Alley, including costs; and
818 future projections for assets and equipment, including
819 replacement or purchase needs, and operating costs.

820 c. The local governmental entity and the department shall
821 review and adopt the comprehensive plan as part of the
822 interlocal agreement.

823 d. In accordance with projected incoming toll revenues for

824 Alligator Alley, the department shall include the corresponding
 825 funding needs of the comprehensive plan in the department's work
 826 program, and the local governmental entity shall include the
 827 same in its capital comprehensive plan and the appropriate
 828 fiscal year budget ~~The amount of reimbursement to the local~~
 829 ~~governmental entity may not exceed \$1.4 million in any state~~
 830 ~~fiscal year.~~

831 e. At the end of the term of the interlocal agreement, the
 832 ownership and title of all fire, rescue, and emergency equipment
 833 purchased with state funds and used at the fire station during
 834 the term of the interlocal agreement transfers to the state.

835 Section 13. Section 339.28201, Florida Statutes, is
 836 created to read:

837 339.28201 Local Agency Program.—

838 (1) There is created within the department a Local Agency
 839 Program for the purpose of providing assistance to subrecipient
 840 agencies, which include counties, municipalities,
 841 intergovernmental agencies, and other eligible governmental
 842 entities, to develop, design, and construct transportation
 843 facilities using funds allocated by federal agencies to the
 844 department which are then suballocated by the department to
 845 local agencies.

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

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

851 (3) Local agencies shall prioritize and budget local
 852 projects through their respective metropolitan planning
 853 organizations or governing boards that are eligible for
 854 reimbursement for the services provided to the traveling public
 855 through compliance with applicable federal statutes, rules, and
 856 regulations.

857 (4) Federal-aid highway funds are available only to local
 858 agencies that are certified by the department based on their
 859 qualifications, experience, ability to comply with federal
 860 requirements, and ability to undertake and satisfactorily
 861 complete the work.

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

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

869 339.2825 Approval of contractor-financed projects.—

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

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

874 627.06501 Insurance discounts for certain persons
875 completing driver improvement course.—

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

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