



703922

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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The Committee on Transportation (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

206.46 State Transportation Trust Fund.—

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



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

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

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

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

23 288.9606 Issue of revenue bonds.—

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

94

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



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



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

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

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

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

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

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



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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

313 Section 4. Paragraph (e) of subsection (7) and subsection
314 (13) of section 337.11, Florida Statutes, are amended to read:

315 337.11 Contracting authority of department; bids; emergency
316 repairs, supplemental agreements, and change orders; combined
317 design and construction contracts; progress payments; records;
318 requirements of vehicle registration.-

319 (7)

320 (e) For design-build contracts and phased design-build
321 contracts, the department must receive at least three letters of
322 interest in order to proceed with a request for proposals. The
323 department shall request proposals from no fewer than three of
324 the ~~design-build~~ firms submitting letters of interest. If a
325 ~~design-build~~ firm withdraws from consideration after the
326 department requests proposals, the department may continue if at
327 least two proposals are received.

328 (13) Any motor vehicle used in ~~Each contract let by the~~
329 ~~department for~~ the performance of road or bridge construction or



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330 maintenance work on a department project must ~~shall require all~~
331 ~~motor vehicles that the contractor operates or causes to be~~
332 ~~operated in this state to~~ be registered in compliance with
333 chapter 320.

334 Section 5. Paragraph (d) of subsection (1) of section
335 337.18, Florida Statutes, is amended to read:

336 337.18 Surety bonds for construction or maintenance
337 contracts; requirement with respect to contract award; bond
338 requirements; defaults; damage assessments.—

339 (1)

340 (d) An action, except for an action for recovery of
341 retainage, must be instituted by a claimant, whether in privity
342 with the contractor or not, against the contractor or the surety
343 on the payment bond or the payment provisions of a combined
344 payment and performance bond within 365 days after the
345 performance of the labor or completion of delivery of the
346 materials or supplies. An action for recovery of retainage must
347 be instituted against the contractor or the surety within 365
348 days after final acceptance of the contract work by the
349 department. A claimant may not waive in advance his or her right
350 to bring an action under the bond against the surety. In any
351 action brought to enforce a claim against a payment bond under
352 this section, the prevailing party is entitled to recover a
353 reasonable fee for the services of his or her attorney for trial
354 and appeal or for arbitration, in an amount to be determined by
355 the court, which fee must be taxed as part of the prevailing
356 party's costs, as allowed in equitable actions.

357 Section 6. Section 337.195, Florida Statutes, is amended to
358 read:



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359 337.195 Limits on liability.—

360 (1) In a civil action for the death of or injury to a
361 person, or for damage to property, against the Department of
362 Transportation or its agents, consultants, or contractors for
363 work performed on a highway, road, street, bridge, or other
364 transportation facility when the death, injury, or damage
365 resulted from a motor vehicle crash within a construction zone
366 in which the driver of one of the vehicles was under the
367 influence of alcoholic beverages as set forth in s. 316.193,
368 under the influence of any chemical substance as set forth in s.
369 877.111, or illegally under the influence of any substance
370 controlled under chapter 893, excluding low-THC cannabis, to the
371 extent that her or his normal faculties were impaired or that
372 she or he operated a vehicle recklessly as defined in s.
373 316.192, it is presumed that the driver's operation of the
374 vehicle was the sole proximate cause of her or his own death,
375 injury, or damage. This presumption can be overcome if the gross
376 negligence or intentional misconduct of the Department of
377 Transportation, or of its agents, consultants, or contractors,
378 was a proximate cause of the driver's death, injury, or damage.

379 (2) (a) For purposes of this section:

380 1. "Contract documents" has the same meaning as in the
381 department's Standard Specifications for Road and Bridge
382 Construction applicable under the contract between the
383 department and the contractor.

384 2. "Contractor" means a person or an entity, at any
385 contractual tier, including any member of a design-build team
386 pursuant to s. 337.11, who constructs, maintains, or repairs a
387 highway, road, street, bridge, or other transportation facility



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388 for the department in connection with a department project.

389 3. "Design engineer" means a person or an entity, including
390 the design consultant of a design-build team, who contracts at
391 any tier to prepare or provide engineering plans, including
392 traffic control plans, for the construction or repair of a
393 highway, road, street, bridge, or other department
394 transportation facility for the department or in connection with
395 a department project.

396 4. "Traffic control plans" means the maintenance of traffic
397 plans designed by a professional engineer, or otherwise in
398 accordance with the department's standard plans, and approved by
399 the department.

400 (b) A contractor is immune from liability for personal
401 injury, property damage, or death arising from any of the
402 following:

403 1. The performance of the construction, maintenance, or
404 repair of the transportation facility, if, at the time the
405 personal injury, property damage, or death occurred, the
406 contractor was in compliance with the contract documents
407 material to the personal injury, property damage, or death.

408 2. Acts or omissions of a third party that furnishes or
409 contracts at any contractual level to furnish services or
410 materials to the transportation facility, including any
411 subcontractor; sub-subcontractor; laborer; materialman; owner,
412 lessor, or driver of a motor vehicle, trailer, semitrailer,
413 truck, heavy truck, truck tractor, or commercial motor vehicle,
414 as those terms are defined in s. 320.01; or any person who
415 performs services as an architect, a landscape architect, an
416 interior designer, an engineer, or a surveyor and mapper.



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

421 4. Acts or omissions of a third party who damages,
422 modifies, moves, or removes any traffic control device, warning
423 device, barrier, or other facility or device used for the
424 public's safety and convenience ~~who constructs, maintains, or~~
425 ~~repairs a highway, road, street, bridge, or other transportation~~
426 ~~facility for the Department of Transportation is not liable to a~~
427 ~~claimant for personal injury, property damage, or death arising~~
428 ~~from the performance of the construction, maintenance, or repair~~
429 ~~if, at the time of the personal injury, property damage, or~~
430 ~~death, the contractor was in compliance with contract documents~~
431 ~~material to the condition that was the proximate cause of the~~
432 ~~personal injury, property damage, or death.~~

433 (c)-(a) The limitations ~~limitation~~ on liability contained in
434 this subsection do ~~does~~ not apply when the proximate cause of
435 the personal injury, property damage, or death is a latent
436 condition, defect, error, or omission that was created by the
437 contractor and not a defect, error, or omission in the contract
438 documents; or when the proximate cause of the personal injury,
439 property damage, or death was the contractor's failure to
440 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic
441 control plans ~~safety plan~~ as required by the contract documents.

442 (d)-(b) ~~Nothing in~~ This subsection may not ~~shall~~ be
443 interpreted or construed as relieving the contractor of any
444 obligation to provide the department ~~of Transportation~~ with
445 written notice of any apparent error or omission in the contract



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446 documents.

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

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

454 (3) In all cases involving personal injury, property
455 damage, or death, a design engineer is ~~person or entity who~~
456 ~~contracts to prepare or provide engineering plans for the~~
457 ~~construction or repair of a highway, road, street, bridge, or~~
458 ~~other transportation facility for the Department of~~
459 ~~Transportation shall be~~ presumed to have prepared such
460 engineering plans using the degree of care and skill ordinarily
461 exercised by other engineers in the field under similar
462 conditions and in similar localities and with due regard for
463 acceptable engineering standards and principles if the
464 engineering plans conformed to the department's ~~Department of~~
465 ~~Transportation's~~ design standards material to the condition or
466 defect that was the proximate cause of the personal injury,
467 property damage, or death. This presumption can be overcome only
468 upon a showing of the design engineer's ~~person's or entity's~~
469 gross negligence in the preparation of the engineering plans and
470 may shall not be interpreted or construed to alter or affect any
471 claim of the department ~~of Transportation~~ against such design
472 engineer ~~person or entity~~. The limitation on liability contained
473 in this subsection does shall not apply to any hidden or
474 undiscoverable condition created by the design engineer. This



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475 subsection does not affect any claim of any entity against such
476 design engineer ~~or engineering firm~~, which claim is associated
477 with such entity's facilities on or in department of
478 ~~Transportation~~ roads or other transportation facilities.

479 ~~(4) In any civil action for death, injury, or damages~~
480 ~~against the Department of Transportation or its agents,~~
481 ~~consultants, engineers, or contractors for work performed on a~~
482 ~~highway, road, street, bridge, or other transportation facility,~~
483 ~~if the department, its agents, consultants, engineers, or~~
484 ~~contractors are immune from liability pursuant to this section~~
485 ~~or are not parties to the litigation, they may not be named on~~
486 ~~the jury verdict form or be found to be at fault or responsible~~
487 ~~for the injury, death, or damage that gave rise to the damages.~~

488 Section 7. Subsection (2) of section 337.401, Florida
489 Statutes, is amended to read:

490 337.401 Use of right-of-way for utilities subject to
491 regulation; permit; fees.-

492 (2) The authority may grant to any person who is a resident
493 of this state, or to any corporation that ~~which~~ is organized
494 under the laws of this state or licensed to do business within
495 this state, the use of a right-of-way for the utility in
496 accordance with such rules or regulations as the authority may
497 adopt. A utility may not be installed, located, or relocated
498 unless authorized by a written permit issued by the authority.
499 However, for public roads or publicly owned rail corridors under
500 the jurisdiction of the department, a ~~utility relocation~~
501 ~~schedule and~~ relocation agreement may be executed in lieu of a
502 written permit. The permit or relocation agreement must require
503 the utility owner ~~permitholder~~ to be responsible for any damage



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504 resulting from the work performed under issuance of such permit
505 or relocation agreement. The relocation agreement must contain a
506 reasonable utility relocation schedule to expedite the
507 completion of the department's construction or maintenance
508 project and specify a reasonable liquidated damage amount for
509 each day the work remains incomplete beyond the completion date
510 specified in the permit or relocation agreement. The authority
511 may initiate injunctive proceedings as provided in s. 120.69 to
512 enforce provisions of this subsection or any rule or order
513 issued or entered into pursuant thereto. A permit application
514 required under this subsection by a county or municipality
515 having jurisdiction and control of the right-of-way of any
516 public road must be processed and acted upon in accordance with
517 the timeframes provided in subparagraphs (7)(d)7., 8., and 9.

518 Section 8. Subsections (1) and (3) of section 337.403,
519 Florida Statutes, are amended to read:

520 337.403 Interference caused by utility; expenses.—

521 (1) If a utility that is placed upon, under, over, or
522 within the right-of-way limits of any public road or publicly
523 owned rail corridor is found by the authority to be unreasonably
524 interfering in any way with the convenient, safe, or continuous
525 use, or the maintenance, improvement, extension, or expansion,
526 of such public road or publicly owned rail corridor, the utility
527 owner shall, upon 30 days' written notice to the utility or its
528 agent by the authority, provide to the authority a reasonable
529 utility relocation schedule to expedite the completion of the
530 authority's construction or maintenance project identified in
531 the notice, and initiate the work necessary to alleviate the
532 interference within 60 days after receipt of the written notice



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533 from the authority at its own expense except as provided in
534 paragraphs (a)-(j). The notice must specify a reasonable
535 liquidated damage amount for each day the work remains
536 incomplete if not ~~The work must be~~ completed within such
537 reasonable time as stated in the notice or such time as agreed
538 to by the authority and the utility owner.

539 (a) If the relocation of utility facilities, as referred to
540 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
541 84-627, is necessitated by the construction of a project on the
542 federal-aid interstate system, including extensions thereof
543 within urban areas, and the cost of the project is eligible and
544 approved for reimbursement by the Federal Government to the
545 extent of 90 percent or more under the Federal-Aid Highway Act,
546 or any amendment thereof, then in that event the utility owning
547 or operating such facilities shall perform any necessary work
548 upon notice from the department, and the state shall pay the
549 entire expense properly attributable to such work after
550 deducting therefrom any increase in the value of a new facility
551 and any salvage value derived from an old facility.

552 (b) When a joint agreement between the department and the
553 utility is executed for utility work to be accomplished as part
554 of a contract for construction of a transportation facility, the
555 department may participate in those utility work costs that
556 exceed the department's official estimate of the cost of the
557 work by more than 10 percent. The amount of such participation
558 is limited to the difference between the official estimate of
559 all the work in the joint agreement plus 10 percent and the
560 amount awarded for this work in the construction contract for
561 such work. The department may not participate in any utility



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562 work costs that occur as a result of changes or additions during
563 the course of the contract.

564 (c) When an agreement between the department and utility is
565 executed for utility work to be accomplished in advance of a
566 contract for construction of a transportation facility, the
567 department may participate in the cost of clearing and grubbing
568 necessary to perform such work.

569 (d) If the utility facility was initially installed to
570 exclusively serve the authority or its tenants, or both, the
571 authority shall bear the costs of the utility work. However, the
572 authority is not responsible for the cost of utility work
573 related to any subsequent additions to that facility for the
574 purpose of serving others. For a county or municipality, if such
575 utility facility was installed in the right-of-way as a means to
576 serve a county or municipal facility on a parcel of property
577 adjacent to the right-of-way and if the intended use of the
578 county or municipal facility is for a use other than
579 transportation purposes, the obligation of the county or
580 municipality to bear the costs of the utility work shall extend
581 only to utility work on the parcel of property on which the
582 facility of the county or municipality originally served by the
583 utility facility is located.

584 (e) If, under an agreement between a utility and the
585 authority entered into after July 1, 2009, the utility conveys,
586 subordinates, or relinquishes a compensable property right to
587 the authority for the purpose of accommodating the acquisition
588 or use of the right-of-way by the authority, without the
589 agreement expressly addressing future responsibility for the
590 cost of necessary utility work, the authority shall bear the



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591 cost of removal or relocation. This paragraph does not impair or
592 restrict, and may not be used to interpret, the terms of any
593 such agreement entered into before July 1, 2009.

594 (f) If the utility is an electric facility being relocated
595 underground in order to enhance vehicular, bicycle, and
596 pedestrian safety and in which ownership of the electric
597 facility to be placed underground has been transferred from a
598 private to a public utility within the past 5 years, the
599 department shall incur all costs of the necessary utility work.

600 (g) An authority may bear the costs of utility work
601 required to eliminate an unreasonable interference when the
602 utility is not able to establish that it has a compensable
603 property right in the particular property where the utility is
604 located if:

605 1. The utility was physically located on the particular
606 property before the authority acquired rights in the property;

607 2. The utility demonstrates that it has a compensable
608 property right in adjacent properties along the alignment of the
609 utility or, after due diligence, certifies that the utility does
610 not have evidence to prove or disprove that it has a compensable
611 property right in the particular property where the utility is
612 located; and

613 3. The information available to the authority does not
614 establish the relative priorities of the authority's and the
615 utility's interests in the particular property.

616 (h) If a municipally owned utility or county-owned utility
617 is located in a rural area of opportunity, as defined in s.
618 288.0656(2), and the department determines that the utility is
619 unable, and will not be able within the next 10 years, to pay



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620 for the cost of utility work necessitated by a department
621 project on the State Highway System, the department may pay, in
622 whole or in part, the cost of such utility work performed by the
623 department or its contractor.

624 (i) If the relocation of utility facilities is necessitated
625 by the construction of a commuter rail service project or an
626 intercity passenger rail service project and the cost of the
627 project is eligible and approved for reimbursement by the
628 Federal Government, then in that event the utility owning or
629 operating such facilities located by permit on a department-
630 owned rail corridor shall perform any necessary utility
631 relocation work upon notice from the department, and the
632 department shall pay the expense properly attributable to such
633 utility relocation work in the same proportion as federal funds
634 are expended on the commuter rail service project or an
635 intercity passenger rail service project after deducting
636 therefrom any increase in the value of a new facility and any
637 salvage value derived from an old facility. In no event shall
638 the state be required to use state dollars for such utility
639 relocation work. This paragraph does not apply to any phase of
640 the Central Florida Commuter Rail project, known as SunRail.

641 (j) If a utility is lawfully located within an existing and
642 valid utility easement granted by recorded plat, regardless of
643 whether such land was subsequently acquired by the authority by
644 dedication, transfer of fee, or otherwise, the authority must
645 bear the cost of the utility work required to eliminate an
646 unreasonable interference. The authority shall pay the entire
647 expense properly attributable to such work after deducting any
648 increase in the value of a new facility and any salvage value



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649 derived from an old facility.

650 (3) Whenever a notice from the authority requires such
651 utility work and the owner thereof fails to perform the work at
652 his or her own expense within the time stated in the notice or
653 such other time as agreed to by the authority and the utility
654 owner, the authority shall proceed to cause the utility work to
655 be performed. The utility shall pay to the authority reasonable
656 costs resulting from the utility's failure or refusal to timely
657 perform the work, including payment of any liquidated damages
658 assessed by the authority ~~The expense thereby incurred shall be~~
659 ~~paid out of any money available therefor, and such expense~~
660 ~~shall, except as provided in subsection (1), be charged against~~
661 ~~the owner and levied and collected and paid into the fund from~~
662 ~~which the expense of such relocation was paid.~~

663 Section 9. Section 339.2820, Florida Statutes, is created
664 to read:

665 339.2820 Local agency program.-

666 (1) There is created within the department a local agency
667 program for the purpose of providing assistance to subrecipient
668 agencies, which include counties, municipalities,
669 intergovernmental agencies, and other eligible governmental
670 entities, to develop, design, and construct transportation
671 facilities using federal funds allocated to the department from
672 federal agencies which are suballocated to local agencies. The
673 department shall update the project cost estimate in the year
674 the project is granted to the local agency and include a
675 contingency amount as part of the project cost estimate.

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



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678 (3) Local agencies shall prioritize budgeting local
679 projects through their respective M.P.O.'s or governing boards
680 so that those organizations or boards may receive reimbursement
681 for the services they provide to the public which are in
682 compliance with applicable federal laws, rules, and regulations.

683 (4) Federal-aid highway funds are available only to local
684 agencies that are certified by the department based on the
685 agencies' qualifications, experience, and ability to comply with
686 federal requirements, and their ability to undertake and
687 satisfactorily complete the work.

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

693 Section 10. Subsection (3) of section 339.2825, Florida
694 Statutes, is amended to read:

695 339.2825 Approval of contractor-financed projects.—

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

698 Section 11. This act shall take effect July 1, 2024.

699

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

701 And the title is amended as follows:

702 Delete everything before the enacting clause
703 and insert:

704 A bill to be entitled

705 An act relating to transportation; amending s. 206.46,

706 F.S.; prohibiting the Department of Transportation



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707 from annually committing more than a certain
708 percentage of revenues derived from state fuel taxes
709 and motor vehicle license-related fees to public
710 transit projects; providing exceptions; amending s.
711 288.9606, F.S.; conforming provisions to changes made
712 by the act; making technical changes; amending s.
713 334.30, F.S.; authorizing the department to enter into
714 comprehensive agreements with private entities or the
715 consortia thereof for the building, operation,
716 ownership, or financing of transportation facilities;
717 conforming provisions to changes made by the act;
718 replacing the term "public-private partnership
719 agreement" with the term "comprehensive agreement";
720 requiring a private entity to provide an independent
721 traffic and revenue study prepared by a certain
722 expert; providing a requirement for such study;
723 revising the timeframe within which the department
724 must publish a certain notice; authorizing the
725 department to enter into an interim agreement with a
726 private entity regarding a qualifying project;
727 providing that an interim agreement does not obligate
728 the department to enter into a comprehensive agreement
729 and is not required under certain circumstances;
730 providing requirements for an interim agreement;
731 authorizing the secretary of the department to
732 authorize comprehensive agreements for a term of up to
733 75 years for certain projects; making technical
734 changes; amending s. 337.11, F.S.; requiring the
735 department to receive three letters of interest before



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736 proceeding with requests for proposals for certain
737 contracts; requiring the department to pay interest at
738 a certain rate to contractors under certain
739 circumstances; making technical changes; amending s.
740 337.18, F.S.; revising the timeframe for certain
741 actions against the contractor or the surety;
742 specifying a timeframe for when an action for recovery
743 of retainage must be instituted; amending s. 337.195,
744 F.S.; revising a presumption regarding the proximate
745 cause of death, injury, or damage in a civil suit
746 against the department; defining terms; providing for
747 immunity for contractors under certain circumstances;
748 conforming provisions related to certain limitations
749 on liability relating to traffic control plans; making
750 technical changes; revising a presumption regarding a
751 design engineer's degree of care and skill; deleting
752 immunity for certain persons and entities; amending s.
753 337.401, F.S.; requiring that certain permits and
754 relocation agreements require the utility owner to be
755 responsible for certain damage; requiring that the
756 relocation agreement contain a utility relocation
757 schedule and specify a liquidated damage amount for
758 each day work remains incomplete beyond a certain
759 date; amending s. 337.403, F.S.; requiring a utility
760 owner to provide to the authority a reasonable utility
761 relocation schedule to expedite completion of the
762 authority's construction or maintenance project
763 identified in a specified notice and initiate
764 necessary work within a specified timeframe; requiring



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765 that the notice the authority gives the utility for
766 unreasonable interference on a public road or publicly
767 owned rail corridor specify a certain liquidated
768 damage amount for each day that work remains
769 incomplete; requiring the utility to pay certain costs
770 to the authority for untimely performance of the work;
771 amending s. 339.2820, F.S.; creating within the
772 department a local agency program for a specified
773 purpose; requiring the department to update certain
774 project cost estimates at a specified time and include
775 a contingency amount as part of the project cost
776 estimate; authorizing the department to oversee
777 certain projects; requiring local agencies to
778 prioritize budgeting certain local projects through
779 their respective M.P.O.'s or governing boards for a
780 specified purpose; specifying that certain funds are
781 available only to local agencies that are certified by
782 the department; requiring local agencies to include in
783 certain contracts a specified document and a
784 contingency amount for costs incurred due to
785 unforeseen conditions; amending s. 339.2825, F.S.;
786 conforming provisions to changes made by the act;
787 providing an effective date.