



745354

LEGISLATIVE ACTION

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

206.46 State Transportation Trust Fund.—

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



745354

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

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

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

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

23 288.9606 Issue of revenue bonds.—

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

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

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



745354

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

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

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

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

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

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



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

- 80 (a) Is in the public's best interest;
- 81 (b) Would not require state funds to be used unless the  
82 project is on the State Highway System;
- 83 (c) Would have adequate safeguards in place to ensure that  
84 no additional costs or service disruptions would be realized by  
85 the traveling public and residents of the state in the event of  
86 default or cancellation of the comprehensive agreement by the  
87 department;
- 88 (d) Would have adequate safeguards in place to ensure that  
89 the department or the private entity has the opportunity to add  
90 capacity to the proposed project and other transportation  
91 facilities serving similar origins and destinations; and
- 92 (e) Would be owned by the department upon completion or  
93 termination of the comprehensive agreement.

94  
95 The department shall ensure that all reasonable costs to the  
96 state, related to transportation facilities that are not part of  
97 the State Highway System, are borne by the private entity. The



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



745354

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.



745354

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



745354

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



745354

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.



745354

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:



745354

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



745354

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

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

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

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

325 336.044 Use of recyclable materials in construction.-

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



745354

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

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

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

339 (7)

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

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

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

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



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

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

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

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

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

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



745354

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



417 for which the surety previously furnished a bond.

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

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

437       337.195 Limits on liability.—

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



745354

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

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

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

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

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

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



745354

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

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

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

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

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

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



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

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

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

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

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



745354

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

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

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



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

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

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

576 339.2820 Local agency program.—

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

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

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



745354

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

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

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

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

606 339.2825 Approval of contractor-financed projects.—

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

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

610  
611 ===== T I T L E A M E N D M E N T =====

612 And the title is amended as follows:

613 Delete everything before the enacting clause  
614 and insert:

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



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



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



745354

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