

By the Committee on Appropriations; the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senators Hooper and Gruters

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1 A bill to be entitled
2 An act relating to transportation; amending s. 206.46,
3 F.S.; prohibiting the Department of Transportation
4 from annually committing more than a certain
5 percentage of revenues derived from state fuel taxes
6 and motor vehicle license-related fees to public
7 transit projects; providing exceptions; amending s.
8 288.9606, F.S.; conforming provisions to changes made
9 by the act; making technical changes; amending s.
10 318.14, F.S.; increasing the number of times a driver
11 may elect to attend a basic driver improvement course
12 approved by the Department of Highway Safety and Motor
13 Vehicles in lieu of a court appearance; amending ss.
14 318.1451 and 322.095, F.S.; requiring the department
15 to annually review changes made to certain laws and to
16 require that course content for specified driving
17 courses be modified in accordance with relevant
18 changes; amending s. 334.30, F.S.; authorizing the
19 Department of Transportation to enter into
20 comprehensive agreements with private entities or the
21 consortia thereof for the building, operation,
22 ownership, or financing of transportation facilities;
23 conforming provisions to changes made by the act;
24 replacing the term "public-private partnership
25 agreement" with the term "comprehensive agreement";
26 requiring a private entity to provide an independent
27 traffic and revenue study prepared by a certain
28 expert; providing a requirement for such study;
29 revising the timeframe within which the department

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30 must publish a certain notice of receipt of an
31 unsolicited proposal for a public-private
32 transportation project; authorizing the department to
33 enter into an interim agreement with a private entity
34 regarding a qualifying project; providing that an
35 interim agreement does not obligate the department to
36 enter into a comprehensive agreement and is not
37 required under certain circumstances; providing
38 requirements for an interim agreement; authorizing the
39 secretary of the department to authorize comprehensive
40 agreements for a term of up to 75 years for certain
41 projects; making technical changes; requiring the
42 department to notify the Division of Bond Finance of
43 the State Board of Administration before entering into
44 an interim agreement or a comprehensive agreement;
45 amending s. 336.044, F.S.; prohibiting a local
46 governmental entity from adopting certain standards or
47 specifications concerning asphalt pavement material;
48 amending s. 337.11, F.S.; requiring the department to
49 receive three letters of interest before proceeding
50 with requests for proposals for certain contracts;
51 making technical changes; amending s. 337.18, F.S.;
52 authorizing the department to allow the issuance of
53 multiple contract performance and payment bonds in
54 succession to meet certain requirements; revising the
55 timeframe for certain actions against the contractor
56 or the surety; specifying a timeframe for when an
57 action for recovery of retainage must be instituted;
58 amending s. 337.195, F.S.; revising a presumption

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59 regarding the proximate cause of death, injury, or
60 damage in a civil suit against the department;
61 defining terms; providing for immunity for contractors
62 under certain circumstances; conforming provisions
63 related to certain limitations on liability relating
64 to traffic control plans; making technical changes;
65 providing construction; providing that certain
66 provisions do not preclude liability when the
67 contractor's negligence is the proximate cause of the
68 personal injury, property damage, or death; revising a
69 presumption regarding a design engineer's degree of
70 care and skill; deleting immunity for certain persons
71 and entities; amending s. 338.26, F.S.; revising the
72 date by which fees generated from tolls deposited into
73 the State Transportation Trust Fund must be used to
74 reimburse a local government entity for certain costs
75 of operating a specified fire station; requiring that
76 the interlocal agreement which authorizes such
77 reimbursement to control for a specified time until
78 the local governmental entity and the department enter
79 into a new agreement or agree to extend the agreement;
80 specifying the amount of reimbursement for the 2024-
81 2025 fiscal year; requiring the local governmental
82 entity, by a specified date and at specified intervals
83 thereafter, to provide a maintenance and operations
84 comprehensive plan to the department, which includes a
85 current inventory of assets; requiring the local
86 government entity and the department to review and
87 adopt the comprehensive plan as part of the interlocal

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88 agreement; requiring the department to program
89 corresponding funding needs into the department's work
90 program; requiring that ownership and title of certain
91 equipment purchased with state funds and used at the
92 fire station during the term of the interlocal
93 agreement transfer to the state at the end of the term
94 of the agreement; creating s. 339.2820, F.S.; creating
95 within the department a local agency program for a
96 specified purpose; requiring the department to update
97 certain project cost estimates at a specified time and
98 include a contingency amount as part of the project
99 cost estimate; authorizing the department to oversee
100 certain projects; requiring local agencies to
101 prioritize budgeting certain local projects through
102 their respective M.P.O.'s or governing boards for a
103 specified purpose; specifying that certain funds are
104 available only to local agencies that are certified by
105 the department; requiring local agencies to include in
106 certain contracts a specified document and a
107 contingency amount for costs incurred due to
108 unforeseen conditions; amending ss. 339.2825 and
109 627.06501, F.S.; conforming provisions to changes made
110 by the act; providing an effective date.

111
112 Be It Enacted by the Legislature of the State of Florida:

113
114 Section 1. Subsection (6) is added to section 206.46,
115 Florida Statutes, to read:
116 206.46 State Transportation Trust Fund.—

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117 (6) The department may not annually commit more than 20
118 percent of the revenues derived from state fuel taxes and motor
119 vehicle license-related fees deposited into the State
120 Transportation Trust Fund to public transit projects, in
121 accordance with chapter 341. However, this subsection does not
122 apply to any of the following:

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

126 (b) A public transit project included in the transportation
127 improvement program adopted pursuant to s. 339.175(8) and
128 approved by a supermajority vote of the board of county
129 commissioners or the governing board of a consolidated county
130 and city government where the project is located.

131 (c) A bus rapid transit or rail project that would result
132 in maintaining or enhancing the level of service of the State
133 Highway System along the corridor of the project, provided state
134 funds do not exceed 50 percent of the nonfederal share of the
135 costs and the percentage of the local share.

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

138 288.9606 Issue of revenue bonds.—

139 (6) The proceeds of any bonds of the corporation may not be
140 used, in any manner, to acquire any building or facility that
141 will be, during the pendency of the financing, used by, occupied
142 by, leased to, or paid for by any state, county, or municipal
143 agency or entity. This subsection does not prohibit the use of
144 proceeds of bonds of the corporation for the purpose of
145 financing the acquisition or construction of a transportation

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146 facility under a comprehensive ~~public-private partnership~~
147 agreement authorized by s. 334.30.

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

152 (a) Finance the undertaking of any project within the state
153 that promotes renewable energy as defined in s. 366.91 or s.
154 377.803;

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

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

160 (d) Finance the costs of acquisition or construction of a
161 transportation facility by a private entity or consortium of
162 private entities under a comprehensive ~~public-private~~
163 ~~partnership~~ agreement authorized by s. 334.30.

164 Section 3. Subsection (9) of section 318.14, Florida
165 Statutes, is amended to read:

166 318.14 Noncriminal traffic infractions; exception;
167 procedures.-

168 (9) Any person who does not hold a commercial driver
169 license or commercial learner's permit and who is cited while
170 driving a noncommercial motor vehicle for an infraction under
171 this section other than a violation of s. 316.183(2), s.
172 316.187, or s. 316.189 when the driver exceeds the posted limit
173 by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or
174 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in

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175 lieu of a court appearance, elect to attend in the location of
176 his or her choice within this state a basic driver improvement
177 course approved by the Department of Highway Safety and Motor
178 Vehicles. In such a case, adjudication must be withheld, any
179 civil penalty ~~that is~~ imposed by s. 318.18(3) must be reduced by
180 18 percent, and points, as provided by s. 322.27, may not be
181 assessed. However, a person may not make an election under this
182 subsection if the person has made an election under this
183 subsection in the preceding 12 months. A person may not make
184 more than eight ~~five~~ elections within his or her lifetime under
185 this subsection. The requirement for community service under s.
186 318.18(8) is not waived by a plea of nolo contendere or by the
187 withholding of adjudication of guilt by a court.

188 Section 4. Subsection (6) of section 318.1451, Florida
189 Statutes, is amended to read:

190 318.1451 Driver improvement schools.—

191 (6) The department shall adopt rules establishing and
192 maintaining policies and procedures to implement the
193 requirements of this section. These policies and procedures may
194 include, but shall not be limited to, the following:

195 (a) *Effectiveness studies.*—The department shall conduct
196 effectiveness studies on each type of driver improvement course
197 pertaining to ss. 318.14(9), 322.0261, and 322.291 on a
198 recurring 5-year basis, including in the study process the
199 consequence of failed studies.

200 (b) *Required updates.*—The department may require that
201 courses approved under this section be updated at the
202 department's request. Failure of a course provider to update the
203 course under this section shall result in the suspension of the

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204 course approval until the course is updated and approved by the
205 department.

206 (c) *Course conduct.*—The department shall require that the
207 approved course providers ensure their driver improvement
208 schools are conducting the approved course fully and to the
209 required time limit and content requirements.

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

218 (e) *Course duration.*—The department shall set the duration
219 of all course types.

220 (f) *Submission of records.*—The department shall require
221 that all course providers submit course completion information
222 to the department through the department's Driver Improvement
223 Certificate Issuance System within 5 days. Course providers must
224 also submit course completion information together with the
225 citation number through the Florida Courts E-Filing Portal
226 governed by the Florida Courts E-Filing Authority to the clerk
227 of the circuit court of the county where the citation is issued
228 within 3 days after receipt of the unique course completion
229 certificate number from the Driver Improvement Certificate
230 Issuance System.

231 (g) *Sanctions.*—The department shall develop the criteria to
232 sanction a course provider for any violation of this section or

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233 any other law that pertains to the approval and use of driver
234 improvement courses.

235 (h) *Miscellaneous requirements.*—The department shall
236 require that all course providers:

237 1. Disclose all fees associated with courses offered by the
238 provider and associated driver improvement schools and not
239 charge any fees that are not disclosed during registration.

240 2. Provide proof of ownership, copyright, or written
241 permission from the course owner to use the course in this
242 state.

243 3. Ensure that any course that is offered in a classroom
244 setting, by the provider or a school authorized by the provider
245 to teach the course, is offered at locations that are free from
246 distractions and reasonably accessible to most applicants.

247 4. Issue a certificate to persons who successfully complete
248 the course.

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

251 322.095 Traffic law and substance abuse education program
252 for driver license applicants.—

253 (7) Courses approved under this section must be updated at
254 the department's request. The department shall annually review
255 changes made to major traffic laws of this state, including s.
256 316.126(1)(b), and shall require course content for courses
257 referenced in this section to be modified in accordance with
258 changes relevant to the courses. Failure of a course provider to
259 update the course within 90 days after the department's request
260 shall result in the suspension of the course approval until such
261 time that the updates are submitted and approved by the

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262 department.

263 Section 6. Present subsections (8) through (13) of section
264 334.30, Florida Statutes, are redesignated as subsections (9)
265 through (14), respectively, a new subsection (8) is added to
266 that section, and subsections (1), (2), and (6) and present
267 subsections (8), (10), (11), and (13) of that section are
268 amended, to read:

269 334.30 Public-private transportation facilities.—The
270 Legislature finds and declares that there is a public need for
271 the rapid construction of safe and efficient transportation
272 facilities for the purpose of traveling within the state, and
273 that it is in the public's interest to provide for the
274 construction of additional safe, convenient, and economical
275 transportation facilities.

276 (1) The department may receive or solicit proposals and,
277 with legislative approval as evidenced by approval of the
278 project in the department's work program, enter into
279 comprehensive agreements with private entities, or consortia
280 thereof, for the building, operation, ownership, or financing of
281 transportation facilities. The department may advance projects
282 programmed in the adopted 5-year work program or projects
283 increasing transportation capacity and greater than \$500 million
284 in the 10-year Strategic Intermodal Plan using funds provided by
285 public-private partnerships or private entities to be reimbursed
286 from department funds for the project as programmed in the
287 adopted work program. The department shall by rule establish an
288 application fee for the submission of unsolicited proposals
289 under this section. The fee must be sufficient to pay the costs
290 of evaluating the proposals. The department may engage the

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291 services of private consultants to assist in the evaluation.
292 Before approval, the department must determine that the proposed
293 project:

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

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

297 (c) Would have adequate safeguards in place to ensure that
298 no additional costs or service disruptions would be realized by
299 the traveling public and residents of the state in the event of
300 default or cancellation of the comprehensive agreement by the
301 department;

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

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

308

309 The department shall ensure that all reasonable costs to the
310 state, related to transportation facilities that are not part of
311 the State Highway System, are borne by the private entity. The
312 department shall also ensure that all reasonable costs to the
313 state and substantially affected local governments and
314 utilities, related to the private transportation facility, are
315 borne by the private entity for transportation facilities that
316 are owned by private entities. For projects on the State Highway
317 System, the department may use state resources to participate in
318 funding and financing the project as provided for under the
319 department's enabling legislation. Because the Legislature

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320 recognizes that private entities or consortia thereof would
321 perform a governmental or public purpose or function when they
322 enter into comprehensive agreements with the department to
323 design, build, operate, own, or finance transportation
324 facilities, the transportation facilities, including leasehold
325 interests thereof, are exempt from ad valorem taxes as provided
326 in chapter 196 to the extent property is owned by the state or
327 other government entity, and from intangible taxes as provided
328 in chapter 199 and special assessments of the state, any city,
329 town, county, special district, political subdivision of the
330 state, or any other governmental entity. The private entities or
331 consortia thereof are exempt from tax imposed by chapter 201 on
332 all documents or obligations to pay money which arise out of the
333 comprehensive agreements to design, build, operate, own, lease,
334 or finance transportation facilities. Any private entities or
335 consortia thereof must pay any applicable corporate taxes as
336 provided in chapter 220, and reemployment assistance taxes as
337 provided in chapter 443, and sales and use tax as provided in
338 chapter 212 shall be applicable. The private entities or
339 consortia thereof must also register and collect the tax imposed
340 by chapter 212 on all their direct sales and leases that are
341 subject to tax under chapter 212. The comprehensive agreement
342 between the private entity or consortia thereof and the
343 department establishing a transportation facility under this
344 chapter constitutes documentation sufficient to claim any
345 exemption under this section.

346 (2) Comprehensive agreements entered into pursuant to this
347 section may authorize the private entity to impose tolls or
348 fares for the use of the facility. The following provisions

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349 shall apply to such agreements:

350 (a) With the exception of the Florida Turnpike System, the
351 department may lease existing toll facilities through public-
352 private partnerships. The comprehensive ~~public-private~~
353 ~~partnership~~ agreement must ensure that the transportation
354 facility is properly operated, maintained, and renewed in
355 accordance with department standards.

356 (b) The department may develop new toll facilities or
357 increase capacity on existing toll facilities through public-
358 private partnerships. The comprehensive ~~public-private~~
359 ~~partnership~~ agreement must ensure that the toll facility is
360 properly operated, maintained, and renewed in accordance with
361 department standards.

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

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

370 (e) The department shall include provisions in the
371 comprehensive ~~public-private partnership~~ agreement which ~~that~~
372 ensure a negotiated portion of revenues from tolled or fare
373 generating projects are returned to the department over the life
374 of the comprehensive ~~public-private partnership~~ agreement. In
375 the case of a lease of an existing toll facility, the department
376 shall receive a portion of funds upon closing on the
377 comprehensive agreement ~~agreements~~ and shall also include

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378 provisions in the comprehensive agreement to receive payment of
379 a portion of excess revenues over the life of the public-private
380 partnership.

381 (f) The private entity shall provide an independent
382 ~~investment grade~~ traffic and revenue study prepared by a an
383 ~~internationally recognized~~ traffic and revenue expert as part of
384 the private entity proposal. The study must be that is accepted
385 by the national bond rating agencies before closing on the
386 financing that supports the comprehensive agreement for the
387 public-private partnership project. The private entity shall
388 also provide a finance plan that identifies the project cost,
389 revenues by source, financing, major assumptions, internal rate
390 of return on private investments, and whether any government
391 funds are assumed to deliver a cost-feasible project, and a
392 total cash flow analysis beginning with implementation of the
393 project and extending for the term of the comprehensive
394 agreement.

395 (6) The procurement of public-private partnerships by the
396 department shall follow the provisions of this section. Sections
397 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
398 337.185, 337.19, 337.221, and 337.251 may ~~shall~~ not apply to
399 procurements under this section unless a provision is included
400 in the procurement documents. The department shall ensure that
401 generally accepted business practices for exemptions provided by
402 this subsection are part of the procurement process or are
403 included in the comprehensive ~~public-private partnership~~
404 agreement.

405 (a) The department may request proposals from private
406 entities for public-private transportation projects or, if the

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407 department receives an unsolicited proposal, the department
408 shall publish a notice in the Florida Administrative Register
409 and a newspaper of general circulation at least once a week for
410 2 weeks stating that the department has received the proposal
411 and will accept, for between 30 and 120 days after the initial
412 date of publication as determined by the department based on the
413 complexity of the project, other proposals for the same project
414 purpose. A copy of the notice must be mailed to each local
415 government in the affected area.

416 (b) Public-private partnerships shall be qualified by the
417 department as part of the procurement process as outlined in the
418 procurement documents, provided such process ensures that the
419 private firm meets at least the minimum department standards for
420 qualification in department rule for professional engineering
421 services and road and bridge contracting prior to submitting a
422 proposal under the procurement.

423 (c) The department shall ensure that procurement documents
424 include provisions for performance of the private entity and
425 payment of subcontractors, including, but not limited to, surety
426 bonds, letters of credit, parent company guarantees, and lender
427 and equity partner guarantees. The department shall balance the
428 structure of the security package for the public-private
429 partnership that ensures performance and payment of
430 subcontractors with the cost of the security to ensure the most
431 efficient pricing.

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

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436 general business terms, innovative engineering or cost-reduction
437 terms, finance plans, and the need for state funds to deliver
438 the project. If the department is not satisfied with the results
439 of the negotiations, the department may, at its sole discretion,
440 terminate negotiations with the proposer. If these negotiations
441 are unsuccessful, the department may go to the second-ranked and
442 lower-ranked firms, in order, using this same procedure. If only
443 one proposal is received, the department may negotiate in good
444 faith and, if the department is not satisfied with the results
445 of the negotiations, the department may, at its sole discretion,
446 terminate negotiations with the proposer. Notwithstanding this
447 subsection, the department may, at its discretion, reject all
448 proposals at any point in the process up to completion of a
449 contract with the proposer.

450 (e) The department shall provide an independent analysis of
451 the proposed public-private partnership that demonstrates the
452 cost-effectiveness and overall public benefit at the following
453 times:

- 454 1. Prior to moving forward with the procurement; and
- 455 2. If the procurement moves forward, prior to awarding the
456 contract.

457 (8) Before or in connection with the negotiation of a
458 comprehensive agreement, the department may enter into an
459 interim agreement with the private entity proposing the
460 development or operation of a qualifying project. An interim
461 agreement does not obligate the department to enter into a
462 comprehensive agreement. The interim agreement is discretionary
463 with the parties and is not required on a project for which the
464 parties may proceed directly to a comprehensive agreement

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465 without the need for an interim agreement. An interim agreement
466 must be limited to any of the following provisions that:

467 (a) Authorize the private entity to commence activities for
468 which it may be compensated related to the proposed qualifying
469 project, including, but not limited to, project planning and
470 development, designing, environmental analysis and mitigation,
471 surveying, other activities concerning any part of the proposed
472 qualifying project, and ascertaining the availability of
473 financing for the proposed facility or facilities.

474 (b) Establish the process and timing for the negotiation of
475 the comprehensive agreement.

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

479 (9)(8) The department may enter into comprehensive ~~public-~~
480 ~~private partnership~~ agreements that include extended terms
481 providing annual payments for performance based on the
482 availability of service or the facility being open to traffic or
483 based on the level of traffic using the facility. In addition to
484 other provisions in this section, the following provisions ~~shall~~
485 apply:

486 (a) The annual payments under any such comprehensive
487 agreement ~~must shall~~ be included in the department's tentative
488 work program developed under s. 339.135 and the long-range
489 transportation plan for the applicable metropolitan planning
490 organization developed under s. 339.175. The department shall
491 ensure that annual payments on multiyear comprehensive ~~public-~~
492 ~~private partnership~~ agreements are prioritized ahead of new
493 capacity projects in the development and updating of the

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494 tentative work program.

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

498 (11)~~(10)~~ Before ~~Prior to~~ entering into any comprehensive
499 ~~such~~ agreement in which ~~where~~ funds are committed from the State
500 Transportation Trust Fund, the project must be prioritized as
501 follows:

502 (a) The department, in coordination with the local
503 metropolitan planning organization, shall prioritize projects
504 included in the Strategic Intermodal System 10-year and long-
505 range cost-feasible plans.

506 (b) The department, in coordination with the local
507 metropolitan planning organization or local government where
508 there is no metropolitan planning organization, shall prioritize
509 projects, for facilities not on the Strategic Intermodal System,
510 included in the metropolitan planning organization cost-feasible
511 transportation improvement plan and long-range transportation
512 plan.

513 (12)~~(11)~~ Comprehensive ~~Public-private partnership~~
514 agreements under this section are ~~shall be~~ limited to a term not
515 exceeding 50 years. Upon making written findings that a
516 comprehensive ~~an~~ agreement under this section requires a term in
517 excess of 50 years, the secretary of the department may
518 authorize a term of up to 75 years for projects that are
519 partially or completely funded from project user fees.

520 Comprehensive agreements under this section may ~~shall~~ not have a
521 term in excess of 75 years unless specifically approved by the
522 Legislature. The department shall identify each new project

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523 under this section with a term exceeding 75 years in the
524 transmittal letter that accompanies the submittal of the
525 tentative work program to the Governor and the Legislature in
526 accordance with s. 339.135.

527 (14)~~(13)~~ In connection with a proposal to finance or
528 refinance a transportation facility pursuant to this section,
529 the department shall consult with the Division of Bond Finance
530 of the State Board of Administration. The department shall
531 notify the division before entering into an interim agreement or
532 a comprehensive agreement and provide the division with the
533 information necessary to provide timely consultation and
534 recommendations. The Division of Bond Finance may make an
535 independent recommendation to the Executive Office of the
536 Governor.

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

539 336.044 Use of recyclable materials in construction.—

540 (5) Notwithstanding any law, rule, or ordinance to the
541 contrary, a local governmental entity may not adopt standards or
542 specifications that are contrary to the department standards or
543 specifications for permissible use of reclaimed asphalt pavement
544 material or deem reclaimed asphalt pavement material as in
545 ~~construction. For purposes of this section, such material may~~
546 ~~not be considered~~ solid waste.

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

549 337.11 Contracting authority of department; bids; emergency
550 repairs, supplemental agreements, and change orders; combined
551 design and construction contracts; progress payments; records;

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552 requirements of vehicle registration.-

553 (7)

554 (e) For design-build contracts and phased design-build
555 contracts, the department must receive at least three letters of
556 interest in order to proceed with a request for proposals. The
557 department shall request proposals from no fewer than three of
558 the ~~design-build~~ firms submitting letters of interest. If a
559 ~~design-build~~ firm withdraws from consideration after the
560 department requests proposals, the department may continue if at
561 least two proposals are received.

562 (13) Any motor vehicle used in ~~Each contract let by the~~
563 ~~department for~~ the performance of road or bridge construction or
564 maintenance work on a department project must ~~shall require all~~
565 ~~motor vehicles that the contractor operates or causes to be~~
566 ~~operated in this state to~~ be registered in compliance with
567 chapter 320.

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

570 337.18 Surety bonds for construction or maintenance
571 contracts; requirement with respect to contract award; bond
572 requirements; defaults; damage assessments.-

573 (1) (a) A surety bond shall be required of the successful
574 bidder in an amount equal to the awarded contract price.
575 However, the department may choose, in its discretion and
576 applicable only to multiyear maintenance contracts, to allow for
577 incremental annual contract bonds that cumulatively total the
578 full, awarded, multiyear contract price. The department may also
579 choose, in its discretion and applicable only to phased design-
580 build construction contracts under s. 337.11(7)(b), to allow the

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581 issuance of multiple contract performance and payment bonds in
582 succession to align with each phase of the contract to meet the
583 bonding requirement in this subsection.

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

586 a. The contract price is \$250,000 or less and the
587 department determines that the project is of a noncritical
588 nature and that nonperformance will not endanger public health,
589 safety, or property;

590 b. The prime contractor is a qualified nonprofit agency for
591 the blind or for the other severely handicapped under s.
592 413.036(2); or

593 c. The prime contractor is using a subcontractor that is a
594 qualified nonprofit agency for the blind or for the other
595 severely handicapped under s. 413.036(2). However, the
596 department may not waive more than the amount of the
597 subcontract.

598 2. If the Secretary of Transportation or the secretary's
599 designee determines that it is in the best interests of the
600 department to reduce the bonding requirement for a project and
601 that to do so will not endanger public health, safety, or
602 property, the department may waive the requirement of a surety
603 bond in an amount equal to the awarded contract price for a
604 project having a contract price of \$250 million or more and, in
605 its place, may set a surety bond amount that is a portion of the
606 total contract price and provide an alternate means of security
607 for the balance of the contract amount that is not covered by
608 the surety bond or provide for incremental surety bonding and
609 provide an alternate means of security for the balance of the

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610 contract amount that is not covered by the surety bond. Such
611 alternative means of security may include letters of credit,
612 United States bonds and notes, parent company guarantees, and
613 cash collateral. The department may require alternate means of
614 security if a surety bond is waived. The surety on such bond
615 shall be a surety company authorized to do business in the
616 state. All bonds shall be payable to the department and
617 conditioned for the prompt, faithful, and efficient performance
618 of the contract according to plans and specifications and within
619 the time period specified, and for the prompt payment of all
620 persons defined in s. 713.01 furnishing labor, material,
621 equipment, and supplies for work provided in the contract;
622 however, whenever an improvement, demolition, or removal
623 contract price is \$25,000 or less, the security may, in the
624 discretion of the bidder, be in the form of a cashier's check,
625 bank money order of any state or national bank, certified check,
626 or postal money order. The department shall adopt rules to
627 implement this subsection. Such rules shall include provisions
628 under which the department shall refuse to accept bonds on
629 contracts when a surety wrongfully fails or refuses to settle or
630 provide a defense for claims or actions arising under a contract
631 for which the surety previously furnished a bond.

632 (d) An action, except for an action for recovery of
633 retainage, must be instituted by a claimant, whether in privity
634 with the contractor or not, against the contractor or the surety
635 on the payment bond or the payment provisions of a combined
636 payment and performance bond within 365 days after the
637 performance of the labor or completion of delivery of the
638 materials or supplies. An action for recovery of retainage must

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639 be instituted against the contractor or the surety within 365
640 days after final acceptance of the contract work by the
641 department. A claimant may not waive in advance his or her right
642 to bring an action under the bond against the surety. In any
643 action brought to enforce a claim against a payment bond under
644 this section, the prevailing party is entitled to recover a
645 reasonable fee for the services of his or her attorney for trial
646 and appeal or for arbitration, in an amount to be determined by
647 the court, which fee must be taxed as part of the prevailing
648 party's costs, as allowed in equitable actions.

649 Section 10. Section 337.195, Florida Statutes, is amended
650 to read:

651 337.195 Limits on liability.—

652 (1) In a civil action for the death of or injury to a
653 person, or for damage to property, against the Department of
654 Transportation or its agents, consultants, or contractors for
655 work performed on a highway, road, street, bridge, or other
656 transportation facility when the death, injury, or damage
657 resulted from a motor vehicle crash within a construction zone
658 in which the driver of one of the vehicles was under the
659 influence of alcoholic beverages as set forth in s. 316.193,
660 under the influence of any chemical substance as set forth in s.
661 877.111, under the influence of marijuana as authorized by s.
662 381.986, excluding low-THC cannabis, or illegally under the
663 influence of any substance controlled under chapter 893 to the
664 extent that her or his normal faculties were impaired or that
665 she or he operated a vehicle recklessly as defined in s.
666 316.192, it is presumed that the driver's operation of the
667 vehicle was the sole proximate cause of her or his own death,

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668 injury, or damage. This presumption can be overcome if the gross
669 negligence or intentional misconduct of the Department of
670 Transportation, or of its agents, consultants, or contractors,
671 was a proximate cause of the driver's death, injury, or damage.

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

673 1. "Contract documents" has the same meaning as in the
674 applicable contract between the department and the contractor.

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

680 3. "Design engineer" means a person or an entity, including
681 the design consultant of a design-build team, who contracts at
682 any tier to prepare or provide engineering plans, including
683 traffic control plans, for the construction or repair of a
684 highway, road, street, bridge, or other department
685 transportation facility for the department or in connection with
686 a department project.

687 4. "Traffic control plans" means the maintenance of traffic
688 plans designed by a professional engineer, or otherwise in
689 accordance with the department's standard plans, and approved by
690 the department.

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

693 1. The performance of the construction, maintenance, or
694 repair of the transportation facility, if, at the time the
695 personal injury, property damage, or death occurred, the
696 contractor was in compliance with the contract documents

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697 material to the personal injury, property damage, or death.

698 2. Acts or omissions of a third party that furnishes or
699 contracts at any contractual level to furnish services or
700 materials to the transportation facility, including any
701 subcontractor; sub-subcontractor; laborer; materialman; owner,
702 lessor, or driver of a motor vehicle, trailer, semitrailer,
703 truck, heavy truck, truck tractor, or commercial motor vehicle,
704 as those terms are defined in s. 320.01; or any person who
705 performs services as an architect, a landscape architect, an
706 interior designer, an engineer, or a surveyor and mapper.

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

711 4. Acts or omissions of a third party who damages,
712 modifies, moves, or removes any traffic control device, warning
713 device, barrier, or other facility or device used for the
714 public's safety and convenience ~~who constructs, maintains, or~~
715 ~~repairs a highway, road, street, bridge, or other transportation~~
716 ~~facility for the Department of Transportation is not liable to a~~
717 ~~claimant for personal injury, property damage, or death arising~~
718 ~~from the performance of the construction, maintenance, or repair~~
719 ~~if, at the time of the personal injury, property damage, or~~
720 ~~death, the contractor was in compliance with contract documents~~
721 ~~material to the condition that was the proximate cause of the~~
722 ~~personal injury, property damage, or death.~~

723 (c)(a) The limitations ~~limitation~~ on liability contained in
724 this subsection ~~do~~ does ~~not~~ apply when the proximate cause of
725 the personal injury, property damage, or death is a latent

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726 condition, defect, error, or omission that was created by the
727 contractor and not a defect, error, or omission in the contract
728 documents; or when the proximate cause of the personal injury,
729 property damage, or death was the contractor's failure to
730 ~~perform, update, or~~ comply with the ~~maintenance of the~~ traffic
731 control plans ~~safety plan~~ as required by the contract documents.

732 (d) ~~(b)~~ ~~Nothing in This subsection may not shall~~ be
733 interpreted or construed as relieving the contractor of any
734 obligation to provide the department ~~of Transportation~~ with
735 written notice of any apparent error or omission in the contract
736 documents, or as relieving the contractor of his or her contract
737 responsibility to manage the work of others performing under the
738 contract.

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

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

746 (g) This subsection may not be interpreted or construed to
747 alter or amend any of the provisions of chapter 440, which shall
748 take precedence in the event of any conflict with this
749 subsection.

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

753 (3) In all cases involving personal injury, property
754 damage, or death, a design engineer is ~~person or entity who~~

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755 ~~contracts to prepare or provide engineering plans for the~~
756 ~~construction or repair of a highway, road, street, bridge, or~~
757 ~~other transportation facility for the Department of~~
758 ~~Transportation shall be presumed to have prepared such~~
759 engineering plans using the degree of care and skill ordinarily
760 exercised by other engineers in the field under similar
761 conditions and in similar localities and with due regard for
762 acceptable engineering standards and principles if the
763 engineering plans conformed to the department's ~~Department of~~
764 ~~Transportation's~~ design standards material to the condition or
765 defect that was the proximate cause of the personal injury,
766 property damage, or death. This presumption can be overcome only
767 upon a showing of the design engineer's ~~person's or entity's~~
768 gross negligence in the preparation of the engineering plans and
769 may shall not be interpreted or construed to alter or affect any
770 claim of the department ~~of Transportation~~ against such design
771 engineer person or entity. The limitation on liability contained
772 in this subsection does shall not apply to any hidden or
773 undiscoverable condition created by the design engineer. This
774 subsection does not affect any claim of any entity against such
775 design engineer ~~or engineering firm~~, which claim is associated
776 with such entity's facilities on or in department ~~of~~
777 ~~Transportation~~ roads or other transportation facilities.

778 ~~(4) In any civil action for death, injury, or damages~~
779 ~~against the Department of Transportation or its agents,~~
780 ~~consultants, engineers, or contractors for work performed on a~~
781 ~~highway, road, street, bridge, or other transportation facility,~~
782 ~~if the department, its agents, consultants, engineers, or~~
783 ~~contractors are immune from liability pursuant to this section~~

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784 ~~or are not parties to the litigation, they may not be named on~~
785 ~~the jury verdict form or be found to be at fault or responsible~~
786 ~~for the injury, death, or damage that gave rise to the damages.~~

787 Section 11. Paragraph (a) of subsection (3) of section
788 338.26, Florida Statutes, is amended to read:

789 338.26 Alligator Alley toll road.—

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

792 1. To reimburse outstanding contractual obligations;
793 2. To operate and maintain the highway and toll facilities,
794 including reconstruction and restoration;

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

799 4. By interlocal agreement ~~effective July 1, 2019, through~~
800 ~~no later than June 30, 2027~~, to reimburse a local governmental
801 entity for the direct actual costs of operating the fire station
802 at mile marker 63 on Alligator Alley, which shall be used by the
803 local governmental entity to provide fire, rescue, and emergency
804 management services exclusively to the public on Alligator
805 Alley. The local governmental entity must contribute 10 percent
806 of the direct actual operating costs.

807 a. The interlocal agreement effective July 1, 2019, through
808 June 30, 2027, shall control until such time that the local
809 governmental entity and the department enter into a new
810 agreement or agree to extend the existing agreement. For the
811 2024-2025 fiscal year, the amount of reimbursement shall be \$2
812 million.

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813 b. Beginning no later than April 30, 2025, and every 5
814 years thereafter, the local governmental entity must provide a
815 maintenance and operations comprehensive plan to the department.
816 The comprehensive plan must include a current inventory of
817 assets, including their projected service life, and area service
818 needs; the call and response history for emergency services
819 provided in the preceding 5 years on Alligator Alley, including
820 costs; and future projections for assets and equipment,
821 including replacement or purchase needs, and operating costs.

822 c. The local government entity and the department shall
823 review and adopt the comprehensive plan as part of the
824 interlocal agreement.

825 d. In concurrence with projected incoming toll revenues for
826 Alligator Alley, the department shall include the corresponding
827 funding needs of the comprehensive plan into the department's
828 work program ~~The amount of reimbursement to the local~~
829 ~~governmental entity may not exceed \$1.4 million in any state~~
830 ~~fiscal year.~~

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

835 Section 12. Section 339.2820, Florida Statutes, is created
836 to read:

837 339.2820 Local agency program.—

838 (1) There is created within the department a local agency
839 program for the purpose of providing assistance to subrecipient
840 agencies, which include counties, municipalities,
841 intergovernmental agencies, and other eligible governmental

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842 entities, to develop, design, and construct transportation
843 facilities using federal funds allocated to the department from
844 federal agencies which are suballocated to local agencies. The
845 department shall update the project cost estimate in the year
846 the project is granted to the local agency and include a
847 contingency amount as part of the project cost estimate.

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

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

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

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

865 Section 13. Subsection (3) of section 339.2825, Florida
866 Statutes, is amended to read:

867 339.2825 Approval of contractor-financed projects.—

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

870 Section 14. Subsection (4) of section 627.06501, Florida

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871 Statutes, is amended to read:

872 627.06501 Insurance discounts for certain persons
873 completing driver improvement course.-

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

880 Section 15. This act shall take effect July 1, 2024.