

26 | authorizing the Department of Transportation to enter
27 | into comprehensive agreements with private entities
28 | for certain purposes; revising provisions relating to
29 | a traffic and revenue study provided by a private
30 | entity; revising the time period during which the
31 | department will accept additional proposals after
32 | receiving an unsolicited proposal, based on project
33 | complexity; authorizing the department to enter into
34 | an interim agreement with a private entity before or
35 | in connection with negotiating a comprehensive
36 | agreement; providing requirements; authorizing the
37 | department secretary to authorize an agreement term of
38 | up to 75 years for certain projects; amending s.
39 | 337.11, F.S.; requiring the department to receive at
40 | least three letters of interest in order to proceed
41 | with a request for proposals for design-build
42 | contracts and phased design-build contracts; requiring
43 | a motor vehicle used for specified work on a
44 | department project to be registered in compliance with
45 | certain provisions; amending s. 337.18, F.S.;

46 | authorizing the department to determine whether to
47 | reduce bonding requirements; revising the time periods
48 | within which certain actions must be instituted by a
49 | claimant; amending s. 337.195, F.S.; providing
50 | definitions; providing a presumption that if a death,

51 injury, or damage results from a motor vehicle crash
52 within a construction zone in which the driver of a
53 vehicle was under the influence of certain marijuana,
54 the driver's operation of such vehicle was the
55 proximate cause of his or her own death, injury, or
56 damage; revising conditions under which a contractor
57 is immune from liability; conforming provisions to
58 changes made by the act; amending s. 337.401, F.S.;
59 requiring certain utility permits or relocation
60 agreements to contain a reasonable utility relocation
61 schedule; specifying requirements for such permits or
62 agreements; requiring such permits or agreements to
63 hold a utility responsible for damage resulting from
64 work performed under such a permit or agreement;
65 amending s. 337.403, F.S.; requiring a utility owner
66 to provide a reasonable utility relocation schedule to
67 specified authorities and initiate required work
68 within specified timeframes; providing requirements
69 for the notice from specified authorities; requiring a
70 utility owner to pay certain costs resulting from the
71 utility owner's failure or refusal to timely perform
72 the work; creating s. 339.28201, F.S.; creating a
73 Local Agency Program within the department for certain
74 funding purposes; requiring oversight by the
75 department; providing requirements for the

76 department's project cost estimate; providing for
 77 prioritization of certain local projects; providing
 78 agency eligibility requirements; providing contract
 79 requirements; amending ss. 339.2825 and 627.06501,
 80 F.S.; conforming provisions to changes made by the
 81 act; providing an effective date.

82
 83 Be It Enacted by the Legislature of the State of Florida:

84
 85 Section 1. Subsection (6) is added to section 206.46,
 86 Florida Statutes, to read:

87 206.46 State Transportation Trust Fund.—

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

93 (a) Funds used for federal matching.

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

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

100 316.003 Definitions.—The following words and phrases, when

101 used in this chapter, shall have the meanings respectively
 102 ascribed to them in this section, except where the context
 103 otherwise requires:

104 (95) TELEOPERATION SYSTEM.—The hardware and software
 105 installed in a motor vehicle which allow a remote human operator
 106 to supervise or perform aspects of, or the entirety of, the
 107 dynamic driving task. The term "remote human operator" means a
 108 natural person who:

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

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

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

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

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

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

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

125 316.303 Television receivers.—

126 (1) A motor vehicle may not be operated on the highways of
 127 this state if the vehicle is actively displaying moving
 128 television broadcast or pre-recorded video entertainment content
 129 that is visible from the driver's seat while the vehicle is in
 130 motion, unless the vehicle is being operated with the automated
 131 driving system or teleoperation system engaged.

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

134 316.85 Autonomous vehicles and motor vehicles equipped
 135 with teleoperation systems; operation; compliance with traffic
 136 and motor vehicle laws; testing.-

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

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

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

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

153 3. Uninsured and underinsured vehicle coverage as required
 154 by s. 627.727. A vehicle that is subject to this subsection must
 155 meet the requirements of s. 319.145 and is considered a vehicle
 156 that meets the definition provided in s. 316.003(3)(c) for the
 157 purposes of ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3),
 158 and 316.303(1).

159 (6) It is the intent of the Legislature to provide for
 160 uniformity of laws governing autonomous vehicles and motor
 161 vehicles equipped with teleoperation systems throughout the
 162 state. A local government may not impose any tax, fee, for-hire
 163 vehicle requirement, or other requirement on automated driving
 164 systems or autonomous vehicles; teleoperation systems or motor
 165 vehicles equipped with teleoperation systems; ~~or on~~ a person who
 166 operates an autonomous vehicle, including, but not limited to, a
 167 person who operates an autonomous vehicle for purposes of
 168 providing passenger transportation services; or a remote human
 169 operator of a motor vehicle with a teleoperation system engaged.
 170 This subsection does not prohibit an airport or a seaport from
 171 charging reasonable fees consistent with any fees charged to
 172 companies that provide similar services at that airport or
 173 seaport for their use of the airport's or seaport's facilities,
 174 nor does it prohibit the airport or seaport from designating
 175 locations for staging, pickup, or other similar operations at

176 the airport or seaport.

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

179 318.14 Noncriminal traffic infractions; exception;
180 procedures.—

181 (9) Any person who does not hold a commercial driver
182 license or commercial learner's permit and who is cited while
183 driving a noncommercial motor vehicle for an infraction under
184 this section other than a violation of s. 316.183(2), s.
185 316.187, or s. 316.189 when the driver exceeds the posted limit
186 by 30 miles per hour or more, s. 320.0605, s. 320.07(3) (a) or
187 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
188 lieu of a court appearance, elect to attend in the location of
189 his or her choice within this state a basic driver improvement
190 course approved by the Department of Highway Safety and Motor
191 Vehicles. In such a case, adjudication must be withheld, any
192 civil penalty that is imposed by s. 318.18(3) must be reduced by
193 18 percent, and points, as provided by s. 322.27, may not be
194 assessed. However, a person may not make an election under this
195 subsection if the person has made an election under this
196 subsection in the preceding 12 months. A person may not make
197 more than eight ~~five~~ elections within his or her lifetime under
198 this subsection. The requirement for community service under s.
199 318.18(8) is not waived by a plea of nolo contendere or by the
200 withholding of adjudication of guilt by a court.

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

206 334.30 Public-private transportation facilities.—The
207 Legislature finds and declares that there is a public need for
208 the rapid construction of safe and efficient transportation
209 facilities for the purpose of traveling within the state, and
210 that it is in the public's interest to provide for the
211 construction of additional safe, convenient, and economical
212 transportation facilities.

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

226 | under this section. The fee must be sufficient to pay the costs
 227 | of evaluating the proposals. The department may engage the
 228 | services of private consultants to assist in the evaluation.
 229 | Before approval, the department must determine that the proposed
 230 | project:

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

245 |
 246 | The department shall ensure that all reasonable costs to the
 247 | state, related to transportation facilities that are not part of
 248 | the State Highway System, are borne by the private entity. The
 249 | department shall also ensure that all reasonable costs to the
 250 | state and substantially affected local governments and

251 utilities, related to the private transportation facility, are
252 borne by the private entity for transportation facilities that
253 are owned by private entities. For projects on the State Highway
254 System, the department may use state resources to participate in
255 funding and financing the project as provided for under the
256 department's enabling legislation. Because the Legislature
257 recognizes that private entities or consortia thereof would
258 perform a governmental or public purpose or function when they
259 enter into comprehensive agreements with the department to
260 design, build, operate, own, or finance transportation
261 facilities, the transportation facilities, including leasehold
262 interests thereof, are exempt from ad valorem taxes as provided
263 in chapter 196 to the extent property is owned by the state or
264 other government entity, and from intangible taxes as provided
265 in chapter 199 and special assessments of the state, any city,
266 town, county, special district, political subdivision of the
267 state, or any other governmental entity. The private entities or
268 consortia thereof are exempt from tax imposed by chapter 201 on
269 all documents or obligations to pay money which arise out of the
270 comprehensive agreements to design, build, operate, own, lease,
271 or finance transportation facilities. Any private entities or
272 consortia thereof must pay any applicable corporate taxes as
273 provided in chapter 220, and reemployment assistance taxes as
274 provided in chapter 443, and sales and use tax as provided in
275 chapter 212 shall be applicable. The private entities or

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

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

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

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

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

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

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

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

318 (f) The private entity shall provide an independent
 319 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~
 320 ~~internationally recognized~~ traffic and revenue expert as part of
 321 the private entity proposal. The private entity shall provide a
 322 traffic and revenue study that is accepted by the national bond
 323 rating agencies for the financing that supports the
 324 comprehensive agreement at financial close for the public-
 325 private partnership project. The private entity shall also

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

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

343 (a) The department may request proposals from private
344 entities for public-private transportation projects or, if the
345 department receives an unsolicited proposal, the department
346 shall publish a notice in the Florida Administrative Register
347 and a newspaper of general circulation at least once a week for
348 2 weeks stating that the department has received the proposal
349 and will accept, between 30 and ~~for~~ 120 days after the initial
350 date of publication as determined by the department based on the

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

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

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

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

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

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

- 392 1. Before ~~Prior to~~ moving forward with the procurement;
393 and
394 2. If the procurement moves forward, before ~~prior to~~
395 awarding the contract.

396 (8) Before or in connection with the negotiation of a
397 comprehensive agreement, the department may enter into an
398 interim agreement with the private entity proposing the
399 development or operation of the qualifying project. An interim
400 agreement does not obligate the department to enter into a

401 comprehensive agreement. The interim agreement is discretionary
 402 with the parties and is not required on a qualifying project for
 403 which the parties may proceed directly to a comprehensive
 404 agreement without the need for an interim agreement. An interim
 405 agreement must be limited to provisions that:

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

413 (b) Establish the process and timing of the negotiation of
 414 the comprehensive agreement.

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

418 (9)-(8) The department may enter into a comprehensive
 419 agreement ~~public-private partnership agreements~~ that includes
 420 ~~include~~ extended terms providing annual payments for performance
 421 based on the availability of service or the facility being open
 422 to traffic or based on the level of traffic using the facility.
 423 In addition to other provisions in this section, the following
 424 provisions shall apply:

425 (a) The annual payments under such comprehensive agreement

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

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

438 ~~(11)-(10)~~ Before ~~Prior to~~ entering into such comprehensive
439 agreement where funds are committed from the State
440 Transportation Trust Fund, the project must be prioritized as
441 follows:

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

446 (b) The department, in coordination with the local
447 metropolitan planning organization or local government where
448 there is no metropolitan planning organization, shall prioritize
449 projects, for facilities not on the Strategic Intermodal System,
450 included in the metropolitan planning organization cost-feasible

451 transportation improvement plan and long-range transportation
 452 plan.

453 ~~(12)-(11) Comprehensive Public-private partnership~~
 454 agreements under this section shall be limited to a term not
 455 exceeding 50 years. Upon making written findings that a
 456 comprehensive ~~an~~ agreement under this section requires a term in
 457 excess of 50 years, the secretary of the department may
 458 authorize a term of up to 75 years for projects that are
 459 partially or completely funded from project user fees.

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

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

469 337.11 Contracting authority of department; bids;
 470 emergency repairs, supplemental agreements, and change orders;
 471 combined design and construction contracts; progress payments;
 472 records; requirements of vehicle registration.-

473 (7)

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

476 interest in order to proceed with a request for proposals. The
 477 department shall request proposals from no fewer than three of
 478 the ~~design-build~~ firms submitting letters of interest. If a
 479 ~~design-build~~ firm withdraws from consideration after the
 480 department requests proposals, the department may continue if at
 481 least two proposals are received.

482 (13) A motor vehicle used ~~Each contract let by the~~
 483 ~~department~~ for the performance of road or bridge construction or
 484 maintenance work on a department project must ~~shall require all~~
 485 ~~motor vehicles that the contractor operates or causes to be~~
 486 ~~operated in this state to be registered in compliance with~~
 487 chapter 320.

488 Section 8. Paragraphs (a) and (d) of subsection (1) of
 489 section 337.18, Florida Statutes, are amended to read:

490 337.18 Surety bonds for construction or maintenance
 491 contracts; requirement with respect to contract award; bond
 492 requirements; defaults; damage assessments.—

493 (1)(a) A surety bond shall be required of the successful
 494 bidder in an amount equal to the awarded contract price.
 495 However, the department may choose, in its discretion and
 496 applicable only to multiyear maintenance contracts, to allow for
 497 incremental annual contract bonds that cumulatively total the
 498 full, awarded, multiyear contract price.

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

501 a. The contract price is \$250,000 or less and the
 502 department determines that the project is of a noncritical
 503 nature and that nonperformance will not endanger public health,
 504 safety, or property;

505 b. The prime contractor is a qualified nonprofit agency
 506 for the blind or for the other severely handicapped under s.
 507 413.036(2); or

508 c. The prime contractor is using a subcontractor that is a
 509 qualified nonprofit agency for the blind or for the other
 510 severely handicapped under s. 413.036(2). However, the
 511 department may not waive more than the amount of the
 512 subcontract.

513 2. If the department ~~Secretary of Transportation or the~~
 514 ~~secretary's designee~~ determines that it is in the best interests
 515 of the department to reduce the bonding requirement for a
 516 project and that to do so will not endanger public health,
 517 safety, or property, the department may waive the requirement of
 518 a surety bond in an amount equal to the awarded contract price
 519 for a project having a contract price of \$250 million or more
 520 and, in its place, may set a surety bond amount that is a
 521 portion of the total contract price and provide an alternate
 522 means of security for the balance of the contract amount that is
 523 not covered by the surety bond or provide for incremental surety
 524 bonding and provide an alternate means of security for the
 525 balance of the contract amount that is not covered by the surety

526 | bond. Such alternative means of security may include letters of
527 | credit, United States bonds and notes, parent company
528 | guarantees, and cash collateral. The department may require
529 | alternate means of security if a surety bond is waived. The
530 | surety on such bond shall be a surety company authorized to do
531 | business in the state. All bonds shall be payable to the
532 | department and conditioned for the prompt, faithful, and
533 | efficient performance of the contract according to plans and
534 | specifications and within the time period specified, and for the
535 | prompt payment of all persons defined in s. 713.01 furnishing
536 | labor, material, equipment, and supplies for work provided in
537 | the contract; however, whenever an improvement, demolition, or
538 | removal contract price is \$25,000 or less, the security may, in
539 | the discretion of the bidder, be in the form of a cashier's
540 | check, bank money order of any state or national bank, certified
541 | check, or postal money order. The department shall adopt rules
542 | to implement this subsection. Such rules shall include
543 | provisions under which the department shall refuse to accept
544 | bonds on contracts when a surety wrongfully fails or refuses to
545 | settle or provide a defense for claims or actions arising under
546 | a contract for which the surety previously furnished a bond.

547 | (d) An action, except an action for recovery of retainage,
548 | must be instituted by a claimant, regardless of whether in
549 | privity with the contractor ~~or not~~, against the contractor or
550 | the surety on the payment bond or the payment provisions of a

551 combined payment and performance bond within 365 days after the
 552 performance of the labor or completion of delivery of the
 553 materials or supplies. An action for recovery of retainage must
 554 be instituted against the contractor or the surety within 365
 555 days after final acceptance of the contract work by the
 556 department. A claimant may not waive in advance his or her right
 557 to bring an action under the bond against the surety. In any
 558 action brought to enforce a claim against a payment bond under
 559 this section, the prevailing party is entitled to recover a
 560 reasonable fee for the services of his or her attorney for trial
 561 and appeal or for arbitration, in an amount to be determined by
 562 the court, which fee must be taxed as part of the prevailing
 563 party's costs, as allowed in equitable actions.

564 Section 9. Section 337.195, Florida Statutes, is amended
 565 to read:

566 337.195 Limits on liability.—

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

568 (a) "Contract documents" means those contract documents
 569 defined in Section 1-3 of the department's Standard
 570 Specifications for Road and Bridge Construction which are
 571 applicable under the contract between the department and the
 572 contractor.

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

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

578 (c) "Design engineer" means a person or entity, including
 579 the design consultant of a design-build team, who contracts at
 580 any tier to prepare or provide engineering plans, including
 581 traffic control plans, for the construction or repair of a
 582 highway, road, street, bridge, or other department
 583 transportation facility.

584 (d) "Traffic control plans" means maintenance of traffic
 585 plans designed by a professional engineer, or otherwise in
 586 accordance with the department's standard plans, and approved by
 587 the department.

588 (2)-(1) In a civil action for the death of or injury to a
 589 person, or for damage to property, against the department ~~of~~
 590 ~~Transportation~~ or its agents, consultants, or contractors for
 591 work performed on a highway, road, street, bridge, or other
 592 transportation facility when the death, injury, or damage
 593 resulted from a motor vehicle crash within a construction zone
 594 in which the driver of one of the vehicles was under the
 595 influence of alcoholic beverages as set forth in s. 316.193,
 596 under the influence of any chemical substance as set forth in s.
 597 877.111, under the influence of marijuana authorized by s.
 598 381.986, excluding low-THC cannabis, or illegally under the
 599 influence of any substance controlled under chapter 893 to the
 600 extent that her or his normal faculties were impaired or that

601 she or he operated a vehicle recklessly as defined in s.
 602 316.192, it is presumed that the driver's operation of the
 603 vehicle was the sole proximate cause of her or his own death,
 604 injury, or damage. This presumption can be overcome if the gross
 605 negligence or intentional misconduct of the department of
 606 ~~Transportation~~, or of its agents, consultants, or contractors,
 607 was a proximate cause of the driver's death, injury, or damage.

608 (3)(a)-(2) A contractor is immune from liability for who
 609 ~~constructs, maintains, or repairs a highway, road, street,~~
 610 ~~bridge, or other transportation facility for the Department of~~
 611 ~~Transportation is not liable to a claimant for personal injury,~~
 612 ~~property damage, or death arising from the performance of the~~
 613 ~~construction, maintenance, or repair if, at the time of the~~
 614 ~~personal injury, property damage, or death, the contractor was~~
 615 ~~in compliance with contract documents material to the condition~~
 616 ~~that was the proximate cause of the personal injury, property~~
 617 ~~damage, or death arising from:~~

618 1. The performance of the construction, maintenance, or
 619 repair of the transportation facility if, at the time the
 620 personal injury, property damage, or death occurred, the
 621 contractor was in compliance with the contract documents
 622 material to the personal injury, property damage, or death.

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

626 subcontractor; sub-subcontractor; laborer; materialman; owner,
 627 lessor, or operator of a motor vehicle, trailer, semitrailer,
 628 truck, heavy truck, truck tractor, or commercial motor vehicle
 629 as those terms are defined in s. 320.01; or person who performs
 630 services as an architect, a landscape architect, an interior
 631 designer, an engineer, or a surveyor and mapper.

632 3. Acts or omissions of a third party who trespasses
 633 within the limits of the transportation facility or otherwise is
 634 not authorized to enter the area of the transportation facility
 635 in which the personal injury, property damage, or death was
 636 caused.

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

641 (b)(a) The limitations ~~limitation~~ on liability contained
 642 in this subsection do ~~does~~ not apply when the proximate cause of
 643 the personal injury, property damage, or death is a latent
 644 condition, defect, error, or omission that was created by the
 645 contractor and not a defect, error, or omission in the contract
 646 documents; or when the proximate cause of the personal injury,
 647 property damage, or death was the contractor's failure to
 648 ~~perform, update, or comply with the maintenance of the~~ traffic
 649 control plans ~~safety plan~~ as required by the contract documents.

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

651 ~~be interpreted or construed as relieving~~ the contractor of any
 652 obligation to provide the department ~~of Transportation~~ with
 653 written notice of any apparent error or omission in the contract
 654 documents.

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

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

662 (4)~~(3)~~ In all cases involving personal injury, property
 663 damage, or death, a design engineer ~~person or entity who~~
 664 ~~contracts to prepare or provide engineering plans for the~~
 665 ~~construction or repair of a highway, road, street, bridge, or~~
 666 ~~other transportation facility for the Department of~~
 667 ~~Transportation~~ shall be presumed to have prepared such
 668 engineering plans using the degree of care and skill ordinarily
 669 exercised by other engineers in the field under similar
 670 conditions and in similar localities and with due regard for
 671 acceptable engineering standards and principles if the
 672 engineering plans conformed to the department's ~~Department of~~
 673 ~~Transportation's~~ design standards material to the condition or
 674 defect that was the proximate cause of the personal injury,
 675 property damage, or death. This presumption can be overcome only

676 upon a showing of the design engineer's ~~person's or entity's~~
677 gross negligence in the preparation of the engineering plans and
678 does ~~shall not be interpreted or construed to~~ alter or affect
679 any claim of the department ~~of Transportation~~ against such
680 design engineer ~~person or entity~~. The limitation on liability
681 contained in this subsection does ~~shall~~ not apply to any hidden
682 or undiscoverable condition created by the design engineer. This
683 subsection does not affect any claim of any entity against such
684 design engineer ~~or engineering firm~~, which claim is associated
685 with such entity's facilities on or in department ~~of~~
686 ~~Transportation~~ roads or other transportation facilities.

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

696 Section 10. Subsection (2) of section 337.401, Florida
697 Statutes, is amended to read:

698 337.401 Use of right-of-way for utilities subject to
699 regulation; permit; fees.—

700 (2) (a) The authority may grant to any person who is a

701 resident of this state, or to any corporation ~~that~~ which is
 702 organized under the laws of this state or licensed to do
 703 business within this state, the use of a right-of-way for the
 704 utility in accordance with such rules or regulations as the
 705 authority may adopt. A utility may not be installed, located, or
 706 relocated unless authorized by a written permit issued by the
 707 authority, except as provided in paragraph (b).

708 (b) ~~However,~~ For public roads or publicly owned rail
 709 corridors under the jurisdiction of the department, a utility
 710 ~~relocation schedule and~~ relocation agreement may be executed in
 711 lieu of a written permit. The permit or relocation agreement
 712 must contain a reasonable utility relocation schedule to
 713 expedite the completion of the department's construction or
 714 maintenance project and must specify a reasonable liquidated
 715 damage amount for each day the work remains incomplete beyond
 716 the timeframe specified in the permit or relocation agreement.

717 (c) ~~A~~ The permit or relocation agreement must require the
 718 utility permitholder to be responsible for any damage resulting
 719 from the work performed under such permit or relocation
 720 agreement ~~issuance of such permit.~~

721 (d) The authority may initiate injunctive proceedings as
 722 provided in s. 120.69 to enforce provisions of this subsection
 723 or any rule or order issued or entered into pursuant thereto. A
 724 permit application required under this subsection by a county or
 725 municipality having jurisdiction and control of the right-of-way

726 of any public road must be processed and acted upon in
 727 accordance with the timeframes provided in subparagraphs
 728 (7)(d)7., 8., and 9.

729 Section 11. Subsections (1) and (3) of section 337.403,
 730 Florida Statutes, are amended to read:

731 337.403 Interference caused by utility; expenses.—

732 (1) If a utility that is placed upon, under, over, or
 733 within the right-of-way limits of any public road or publicly
 734 owned rail corridor is found by the authority to be unreasonably
 735 interfering in any way with the convenient, safe, or continuous
 736 use, or the maintenance, improvement, extension, or expansion,
 737 of such public road or publicly owned rail corridor, the utility
 738 owner shall, within 30 days after ~~upon 30 days'~~ written notice
 739 to the utility or its agent by the authority, provide the
 740 authority a reasonable utility relocation schedule to expedite
 741 the completion of the authority's construction or maintenance
 742 project identified in the notice and, within 60 days after the
 743 written notice from the authority, initiate the work necessary
 744 to alleviate the interference at its own expense except as
 745 provided in paragraphs (a)-(j). The notice from the authority
 746 must specify a reasonable liquidated damage amount for each day
 747 the work remains incomplete if not ~~The work must be completed~~
 748 within such reasonable time as stated in the notice or such time
 749 as agreed to by the authority and the utility owner.

750 (a) If the relocation of utility facilities, as referred

751 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
752 84-627, is necessitated by the construction of a project on the
753 federal-aid interstate system, including extensions thereof
754 within urban areas, and the cost of the project is eligible and
755 approved for reimbursement by the Federal Government to the
756 extent of 90 percent or more under the Federal-Aid Highway Act,
757 or any amendment thereof, then in that event the utility owning
758 or operating such facilities shall perform any necessary work
759 upon notice from the department, and the state shall pay the
760 entire expense properly attributable to such work after
761 deducting therefrom any increase in the value of a new facility
762 and any salvage value derived from an old facility.

763 (b) When a joint agreement between the department and the
764 utility is executed for utility work to be accomplished as part
765 of a contract for construction of a transportation facility, the
766 department may participate in those utility work costs that
767 exceed the department's official estimate of the cost of the
768 work by more than 10 percent. The amount of such participation
769 is limited to the difference between the official estimate of
770 all the work in the joint agreement plus 10 percent and the
771 amount awarded for this work in the construction contract for
772 such work. The department may not participate in any utility
773 work costs that occur as a result of changes or additions during
774 the course of the contract.

775 (c) When an agreement between the department and utility

776 is executed for utility work to be accomplished in advance of a
777 contract for construction of a transportation facility, the
778 department may participate in the cost of clearing and grubbing
779 necessary to perform such work.

780 (d) If the utility facility was initially installed to
781 exclusively serve the authority or its tenants, or both, the
782 authority shall bear the costs of the utility work. However, the
783 authority is not responsible for the cost of utility work
784 related to any subsequent additions to that facility for the
785 purpose of serving others. For a county or municipality, if such
786 utility facility was installed in the right-of-way as a means to
787 serve a county or municipal facility on a parcel of property
788 adjacent to the right-of-way and if the intended use of the
789 county or municipal facility is for a use other than
790 transportation purposes, the obligation of the county or
791 municipality to bear the costs of the utility work shall extend
792 only to utility work on the parcel of property on which the
793 facility of the county or municipality originally served by the
794 utility facility is located.

795 (e) If, under an agreement between a utility and the
796 authority entered into after July 1, 2009, the utility conveys,
797 subordinates, or relinquishes a compensable property right to
798 the authority for the purpose of accommodating the acquisition
799 or use of the right-of-way by the authority, without the
800 agreement expressly addressing future responsibility for the

801 cost of necessary utility work, the authority shall bear the
 802 cost of removal or relocation. This paragraph does not impair or
 803 restrict, and may not be used to interpret, the terms of any
 804 such agreement entered into before July 1, 2009.

805 (f) If the utility is an electric facility being relocated
 806 underground in order to enhance vehicular, bicycle, and
 807 pedestrian safety and in which ownership of the electric
 808 facility to be placed underground has been transferred from a
 809 private to a public utility within the past 5 years, the
 810 department shall incur all costs of the necessary utility work.

811 (g) An authority may bear the costs of utility work
 812 required to eliminate an unreasonable interference when the
 813 utility is not able to establish that it has a compensable
 814 property right in the particular property where the utility is
 815 located if:

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

818 2. The utility demonstrates that it has a compensable
 819 property right in adjacent properties along the alignment of the
 820 utility or, after due diligence, certifies that the utility does
 821 not have evidence to prove or disprove that it has a compensable
 822 property right in the particular property where the utility is
 823 located; and

824 3. The information available to the authority does not
 825 establish the relative priorities of the authority's and the

826 utility's interests in the particular property.

827 (h) If a municipally owned utility or county-owned utility
 828 is located in a rural area of opportunity, as defined in s.
 829 288.0656(2), and the department determines that the utility is
 830 unable, and will not be able within the next 10 years, to pay
 831 for the cost of utility work necessitated by a department
 832 project on the State Highway System, the department may pay, in
 833 whole or in part, the cost of such utility work performed by the
 834 department or its contractor.

835 (i) If the relocation of utility facilities is
 836 necessitated by the construction of a commuter rail service
 837 project or an intercity passenger rail service project and the
 838 cost of the project is eligible and approved for reimbursement
 839 by the Federal Government, then in that event the utility owning
 840 or operating such facilities located by permit on a department-
 841 owned rail corridor shall perform any necessary utility
 842 relocation work upon notice from the department, and the
 843 department shall pay the expense properly attributable to such
 844 utility relocation work in the same proportion as federal funds
 845 are expended on the commuter rail service project or an
 846 intercity passenger rail service project after deducting
 847 therefrom any increase in the value of a new facility and any
 848 salvage value derived from an old facility. In no event shall
 849 the state be required to use state dollars for such utility
 850 relocation work. This paragraph does not apply to any phase of

851 the Central Florida Commuter Rail project, known as SunRail.

852 (j) If a utility is lawfully located within an existing
 853 and valid utility easement granted by recorded plat, regardless
 854 of whether such land was subsequently acquired by the authority
 855 by dedication, transfer of fee, or otherwise, the authority must
 856 bear the cost of the utility work required to eliminate an
 857 unreasonable interference. The authority shall pay the entire
 858 expense properly attributable to such work after deducting any
 859 increase in the value of a new facility and any salvage value
 860 derived from an old facility.

861 (3) Whenever a notice from the authority requires such
 862 utility work and the owner thereof fails to perform the work at
 863 his or her own expense within the time stated in the notice or
 864 such other time as agreed to by the authority and the utility
 865 owner, the authority shall proceed to cause the utility work to
 866 be performed. Except as provided in subsection (1), the utility
 867 owner shall pay to the authority reasonable costs resulting from
 868 the utility owner's failure or refusal to timely perform the
 869 work, including payment of any liquidated damages assessed by
 870 the authority. ~~The expense thereby incurred shall be paid out of~~
 871 ~~any money available therefor, and such expense shall, except as~~
 872 ~~provided in subsection (1), be charged against the owner and~~
 873 ~~levied and collected and paid into the fund from which the~~
 874 ~~expense of such relocation was paid.~~

875 Section 12. Section 339.28201, Florida Statutes, is

876 created to read:

877 339.28201 Local Agency Program.—

878 (1) There is created within the department a local agency
 879 program for the purpose of providing assistance to subrecipient
 880 agencies, which include counties, municipalities,
 881 intergovernmental agencies, and other eligible governmental
 882 entities, to develop, design, and construct transportation
 883 facilities using funds allocated by federal agencies to the
 884 department which are then suballocated by the department to
 885 local agencies.

886 (2) The department is responsible for oversight of funded
 887 projects on behalf of the Federal Highway Administration. The
 888 department shall update the project cost estimate in the year
 889 the project is granted to the local agency and shall include a
 890 contingency amount as part of the project cost estimate.

891 (3) Local agencies shall prioritize and budget local
 892 projects through their respective metropolitan planning
 893 organizations or governing boards that are eligible for
 894 reimbursement for the services provided to the traveling public
 895 through compliance with applicable federal statutes, rules, and
 896 regulations.

897 (4) Federal-aid highway funds are available only to local
 898 agencies that are certified by the department based on their
 899 qualifications, experience, ability to comply with federal
 900 requirements, and ability to undertake and satisfactorily

901 complete the work.

902 (5) At a minimum, local agencies shall include in their
 903 contracts to develop, design, or construct transportation
 904 facilities the department's Division I General Requirements and
 905 Covenants for local agencies and a contingency amount in the
 906 project cost to account for unforeseen conditions.

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

909 339.2825 Approval of contractor-financed projects.-

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

912 Section 14. Subsection (4) of section 627.06501, Florida
 913 Statutes, is amended to read:

914 627.06501 Insurance discounts for certain persons
 915 completing driver improvement course.-

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

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