CHAPTER 2024-173

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 287

An act relating to transportation; amending s. 206.46, F.S.; limiting the amount of certain revenues in the State Transportation Trust Fund which the Department of Transportation may annually commit to public transit projects; providing exceptions; amending s. 288.9606, F.S.; conforming provisions to changes made by the act; amending s. 318.14, F.S.; increasing the number of times a driver may elect to attend a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles in lieu of a court appearance; amending ss. 318.1451 and 322.095, F.S.; requiring the department to annually review changes made to certain laws and to require course content for specified driving courses to be modified in accordance with relevant changes; amending s. 334.30, F.S.; authorizing the Department of Transportation to enter into comprehensive agreements with private entities for certain purposes; revising provisions relating to a traffic and revenue study provided by a private entity; revising the time period during which the department will accept additional proposals after receiving an unsolicited proposal, based on project complexity; authorizing the department to enter into an interim agreement with a private entity before or in connection with negotiating a comprehensive agreement; providing requirements; authorizing the department secretary to authorize an agreement term of up to 75 years for certain projects; requiring the department to notify the Division of Bond Finance before entering into an interim or comprehensive agreement; amending s. 336.044, F.S.; prohibiting a local governmental entity from deeming reclaimed asphalt pavement material as solid waste; amending s. 337.11, F.S.; requiring the department to receive at least three letters of interest in order to proceed with a request for proposals for design-build contracts and phased design-build contracts; requiring a motor vehicle used for specified work on a department project to be registered in compliance with certain provisions; amending s. 337.18, F.S.; authorizing the department to allow the issuance of certain contract performance and payment bonds for phased design-build contracts; authorizing the department to determine whether to reduce bonding requirements; revising the time periods within which certain actions must be instituted by a claimant; amending s. 337.195, F.S.; providing definitions; providing a presumption that if a death, injury, or damage results from a motor vehicle crash within a construction zone in which the driver of a vehicle was under the influence of certain marijuana, the driver's operation of such vehicle was the proximate cause of his or her own death, injury, or damage; revising conditions under which a contractor is immune from liability; conforming provisions to changes made by the act; revising provisions relating to a prohibition against naming the department or certain entities on a jury verdict form if determined to be immune from liability for injury, death, or damage;

amending s. 337.25, F.S.; requiring the department to issue a right of first refusal to the previous owner of certain property acquired by the department if such previous owner provides written notice to the department, within a specified timeframe, of his or her interest in reacquiring such property; requiring the department to acknowledge receipt of such notice in writing within a specified timeframe; amending s. 338.26, F.S.; providing that a certain interlocal agreement for the fire station on the Alligator Alley toll road controls until the local governmental entity and the department extend the agreement or enter into a new agreement; limiting the amount of reimbursement; requiring the local governmental entity to provide a specified periodic comprehensive plan to the department; requiring the local governmental entity and the department to adopt such plan as part of the interlocal agreement; requiring certain funding needs to be included in the department's work program and in the local governmental entity's capital comprehensive plan and budget; requiring ownership and title of certain equipment purchased with state funds to transfer to the state at the end of the term of the interlocal agreement; creating s. 339.28201, F.S.; creating a Local Agency Program within the department for certain funding purposes; requiring oversight by the department; providing requirements for the department's project cost estimate; providing for prioritization and budget of certain local projects; providing funding eligibility requirements; providing contract requirements; amending ss. 339.2825 and 627.06501, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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

206.46 State Transportation Trust Fund.—

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

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

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

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

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

288.9606 Issue of revenue bonds.—

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

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

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

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

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

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

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

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for an infraction under this section other than a violation of s. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and

Motor Vehicles. In such a case, adjudication must be withheld, any civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent, and points, as provided by s. 322.27, may not be assessed. However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than eight ~~five~~ elections within his or her lifetime under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

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

318.1451 Driver improvement schools.—

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

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

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

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

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

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

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling within the

state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into comprehensive agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department may advance projects programmed in the adopted 5-year work program or projects increasing transportation capacity and greater than $500 million in the 10-year Strategic Intermodal Plan using funds provided by public-private partnerships or private entities to be reimbursed from department funds for the project as programmed in the adopted work program. The department shall by rule establish an application fee for the submission of unsolicited proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed project:

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

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

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

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

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

The department shall ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. The department shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation. Because the Legislature recognizes that private entities or consortia thereof would perform a governmental or public purpose or function when they enter into comprehensive agreements with the department to design, build, operate, own, or finance transportation facilities, the transportation facilities, including

leasehold interests thereof, are exempt from ad valorem taxes as provided in chapter 196 to the extent property is owned by the state or other government entity, and from intangible taxes as provided in chapter 199 and special assessments of the state, any city, town, county, special district, political subdivision of the state, or any other governmental entity. The private entities or consortia thereof are exempt from tax imposed by chapter 201 on all documents or obligations to pay money which arise out of the comprehensive agreements to design, build, operate, own, lease, or finance transportation facilities. Any private entities or consortia thereof must pay any applicable corporate taxes as provided in chapter 220, and reemployment assistance taxes as provided in chapter 443, and sales and use tax as provided in chapter 212 shall be applicable. The private entities or consortia thereof must also register and collect the tax imposed by chapter 212 on all their direct sales and leases that are subject to tax under chapter 212. The comprehensive agreement between the private entity or consortia thereof and the department establishing a transportation facility under this chapter constitutes documentation sufficient to claim any exemption under this section.

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

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

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

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

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

(e) The department shall include provisions in the comprehensive ~~public-private partnership~~ agreement that ensure a negotiated portion of revenues from tolled or fare generating projects is ~~are~~ returned to the department over the life of the comprehensive ~~public-private partnership~~ agreement. In the

case of a lease of an existing toll facility, the department shall receive a portion of funds upon closing on the comprehensive agreements and shall also include provisions in the comprehensive agreement to receive payment of a portion of excess revenues over the life of the public-private partnership.

(f) The private entity shall provide an independent ~~investment grade~~ traffic and revenue study prepared by a ~~an internationally recognized~~ traffic and revenue expert as part of the private entity proposal. The private entity shall provide a traffic and revenue study that is accepted by the national bond rating agencies for the financing that supports the comprehensive agreement at financial close for the public-private partnership project. The private entity shall also provide a finance plan that identifies the project cost, revenues by source, financing, major assumptions, internal rate of return on private investments, and whether any government funds are assumed to deliver a cost-feasible project, and a total cash flow analysis beginning with implementation of the project and extending for the term of the comprehensive agreement.

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

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

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

(c) The department shall ensure that procurement documents include provisions for performance of the private entity and payment of subcontractors, including, but not limited to, surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. The department shall balance the structure of the security package for the public-private partnership that ensures performance and payment of

subcontractors with the cost of the security to ensure the most efficient pricing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12)~~(11)~~ Comprehensive ~~Public-private partnership~~ agreements under this section shall be limited to a term not exceeding 50 years. Upon making written findings that a comprehensive ~~an~~ agreement under this section requires a term in excess of 50 years, the secretary of the department may authorize a term of up to 75 years for projects that are partially or completely funded from project user fees. Comprehensive agreements under this section shall not have a term in excess of 75 years unless specifically approved by the Legislature. The department shall identify each new project under this section with a term exceeding 75 years in the transmittal letter that accompanies the submittal of the tentative work program to the Governor and the Legislature in accordance with s. 339.135.

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

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

336.044 Use of recyclable materials in construction.—

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

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

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

(7)

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

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

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

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

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

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

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

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

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

2. If the department ~~Secretary of Transportation or the secretary's designee~~ determines that it is in the best interests of the department to reduce the bonding requirement for a project and that to do so will not endanger public health, safety, or property, the department may waive the requirement of a surety bond in an amount equal to the awarded contract price for a project having a contract price of $250 million or more and, in its place, may set a surety bond amount that is a portion of the total contract price and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond or provide for incremental surety bonding and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond. Such alternative means of security may include letters of credit, United States bonds and notes, parent company guarantees, and cash collateral. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the department and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons defined in s. 713.01 furnishing labor, material, equipment, and supplies for work provided in the contract; however, whenever an improvement, demolition, or removal contract price is $25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order. The department shall adopt rules to implement this subsection. Such rules shall include provisions

under which the department shall refuse to accept bonds on contracts when a surety wrongfully fails or refuses to settle or provide a defense for claims or actions arising under a contract for which the surety previously furnished a bond.

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

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

337.195 Limits on liability.—

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

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

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

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

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

(2)~~(1)~~ In a civil action for the death of or injury to a person, or for damage to property, against the department ~~of Transportation~~ or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the

driver of one of the vehicles was under the influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, under the influence of marijuana as authorized by s. 381.986, excluding low-THC cannabis, or illegally under the influence of any substance controlled under chapter 893 to the extent that her or his normal faculties were impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole proximate cause of her or his own death, injury, or damage. This presumption can be overcome if the gross negligence or intentional misconduct of the department ~~of Transportation~~, or of its agents, consultants, or contractors, was a proximate cause of the driver's death, injury, or damage.

(3)~~(2)~~ A contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the department ~~of Transportation~~ is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.

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

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

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

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

(4)~~(3)~~ In all cases involving personal injury, property damage, or death, a design engineer is ~~person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be~~ presumed to have prepared ~~such~~ engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under

similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the department's ~~Department of Transportation's~~ design standards material to the condition or defect that was the proximate cause of the personal injury, property damage, or death. This presumption can be overcome only upon a showing of the design engineer's ~~person's or entity's~~ gross negligence in the preparation of the engineering plans and may ~~shall~~ not be interpreted or construed to alter or affect any claim of the department ~~of Transportation~~ against such design engineer ~~person or entity~~. The limitation on liability contained in this subsection does ~~shall~~ not apply to any hidden or undiscoverable condition created by the design engineer. This subsection does not affect any claim of any entity against such design engineer ~~or engineering firm~~, which claim is associated with such entity's facilities on or in department ~~of Transportation~~ roads or other transportation facilities.

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

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

337.25 Acquisition, lease, and disposal of real and personal property.

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

value of the property. The right of first refusal must be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt. The right of first refusal must provide the previous owner with a minimum of 30 days to exercise the right in writing and must be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch. If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. The right of first refusal set forth in this subsection may not be required for the disposal of property acquired more than 10 years before the date of disposition by the department. If, within 10 years after the date of the department's acquisition of the property, the previous property owner notifies the department, in writing provided via certified mail to the department's district secretary of the district in which the property is located, of the previous property owner's interest in reacquiring the property, the right to receive the right of first refusal vests with such previous owner, and the department is thereafter obligated to issue a right of first refusal to the previous property owner in accordance with this subsection before disposal or conveyance of the property, whenever that may occur. Within 60 days after the department's receipt of the previous property owner's notice of interest as provided in this subsection, the department must acknowledge receipt of such notice, in writing provided via certified mail, to the previous property owner.

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

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

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

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

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

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

338.26 Alligator Alley toll road.—

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

1. To reimburse outstanding contractual obligations;

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

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

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

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

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

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

d. In accordance with projected incoming toll revenues for Alligator Alley, the department shall include the corresponding funding needs of the comprehensive plan in the department's work program, and the local

governmental entity shall include the same in its capital comprehensive plan and the appropriate fiscal year budget ~~The amount of reimbursement to the local governmental entity may not exceed $1.4 million in any state fiscal year~~.

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

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

339.28201 Local Agency Program.—

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

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

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

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

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

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

339.2825 Approval of contractor-financed projects.—

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

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

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

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

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

Approved by the Governor May 10, 2024.

Filed in Office Secretary of State May 10, 2024.