

26 appearance; amending ss. 318.1451 and 322.095, F.S.;

27 requiring the department to annually review changes

28 made to certain laws and to require course content for

29 specified driving courses to be modified in accordance

30 with relevant changes; amending s. 334.30, F.S.;

31 authorizing the Department of Transportation to enter

32 into comprehensive agreements with private entities

33 for certain purposes; revising provisions relating to

34 a traffic and revenue study provided by a private

35 entity; revising the time period during which the

36 department will accept additional proposals after

37 receiving an unsolicited proposal, based on project

38 complexity; authorizing the department to enter into

39 an interim agreement with a private entity before or

40 in connection with negotiating a comprehensive

41 agreement; providing requirements; authorizing the

42 department secretary to authorize an agreement term of

43 up to 75 years for certain projects; amending s.

44 337.11, F.S.; requiring the department to receive at

45 least three letters of interest in order to proceed

46 with a request for proposals for design-build

47 contracts and phased design-build contracts; requiring

48 a motor vehicle used for specified work on a

49 department project to be registered in compliance with

50 certain provisions; amending s. 337.18, F.S.;

51 authorizing the department to determine whether to
52 reduce bonding requirements; revising the time periods
53 within which certain actions must be instituted by a
54 claimant; amending s. 337.195, F.S.; providing
55 definitions; providing a presumption that if a death,
56 injury, or damage results from a motor vehicle crash
57 within a construction zone in which the driver of a
58 vehicle was under the influence of certain marijuana,
59 the driver's operation of such vehicle was the
60 proximate cause of his or her own death, injury, or
61 damage; revising conditions under which a contractor
62 is immune from liability; conforming provisions to
63 changes made by the act; amending s. 337.401, F.S.;
64 requiring certain utility permits or relocation
65 agreements to contain a reasonable utility relocation
66 schedule; specifying requirements for such permits or
67 agreements; requiring such permits or agreements to
68 hold a utility responsible for damage resulting from
69 work performed under such a permit or agreement;
70 amending s. 337.403, F.S.; requiring a utility owner
71 to provide a reasonable utility relocation schedule to
72 specified authorities and initiate required work
73 within specified timeframes; providing requirements
74 for the notice from specified authorities; requiring a
75 utility owner to pay certain costs resulting from the

76 utility owner's failure or refusal to timely perform
 77 the work; creating s. 339.28201, F.S.; creating a
 78 Local Agency Program within the department for certain
 79 funding purposes; requiring oversight by the
 80 department; providing requirements for the
 81 department's project cost estimate; providing for
 82 prioritization and budget of certain local projects;
 83 providing funding eligibility requirements; providing
 84 contract requirements; amending ss. 339.2825 and
 85 627.06501, F.S.; conforming provisions to changes made
 86 by the act; providing an effective date.

87

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

89

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

92 206.46 State Transportation Trust Fund.—

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

98 (a) Funds used for federal matching.

99 (b) Projects included in an M.P.O.'s transportation
 100 improvement program adopted pursuant to s. 339.175(8) and

101 approved by a supermajority vote of the board of county
 102 commissioners of the county in which the project is located.

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

105 316.003 Definitions.—The following words and phrases, when
 106 used in this chapter, shall have the meanings respectively
 107 ascribed to them in this section, except where the context
 108 otherwise requires:

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

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

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

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

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

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

126 (f) Is licensed to operate a motor vehicle by a United
 127 States jurisdiction.

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

130 316.303 Television receivers.—

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

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

139 316.85 Autonomous vehicles and motor vehicles equipped
 140 with teleoperation systems; operation; compliance with traffic
 141 and motor vehicle laws; testing.—

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

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

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

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

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

164 (6) It is the intent of the Legislature to provide for
 165 uniformity of laws governing autonomous vehicles and motor
 166 vehicles equipped with teleoperation systems throughout the
 167 state. A local government may not impose any tax, fee, for-hire
 168 vehicle requirement, or other requirement on automated driving
 169 systems or autonomous vehicles; teleoperation systems or motor
 170 vehicles equipped with teleoperation systems; ~~or~~ ~~on~~ a person who
 171 operates an autonomous vehicle, including, but not limited to, a
 172 person who operates an autonomous vehicle for purposes of
 173 providing passenger transportation services; or a remote human
 174 operator of a motor vehicle with a teleoperation system engaged.
 175 This subsection does not prohibit an airport or a seaport from

176 charging reasonable fees consistent with any fees charged to
177 companies that provide similar services at that airport or
178 seaport for their use of the airport's or seaport's facilities,
179 nor does it prohibit the airport or seaport from designating
180 locations for staging, pickup, or other similar operations at
181 the airport or seaport.

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

184 318.14 Noncriminal traffic infractions; exception;
185 procedures.—

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

201 subsection in the preceding 12 months. A person may not make
202 more than eight ~~five~~ elections within his or her lifetime under
203 this subsection. The requirement for community service under s.
204 318.18(8) is not waived by a plea of nolo contendere or by the
205 withholding of adjudication of guilt by a court.

206 Section 6. Paragraph (d) of subsection (6) of section
207 318.1451, Florida Statutes, is amended to read:

208 318.1451 Driver improvement schools.—

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

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

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

223 322.095 Traffic law and substance abuse education program
224 for driver license applicants.—

225 (7) Courses approved under this section must be updated at

226 the department's request. The department shall annually review
227 changes made to major traffic laws of this state, including s.
228 316.126(1)(b), and shall require course content for courses
229 referenced in this section to be modified in accordance with
230 changes relevant to the courses. Failure of a course provider to
231 update the course within 90 days after the department's request
232 shall result in the suspension of the course approval until such
233 time that the updates are submitted and approved by the
234 department.

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

240 334.30 Public-private transportation facilities.—The
241 Legislature finds and declares that there is a public need for
242 the rapid construction of safe and efficient transportation
243 facilities for the purpose of traveling within the state, and
244 that it is in the public's interest to provide for the
245 construction of additional safe, convenient, and economical
246 transportation facilities.

247 (1) The department may receive or solicit proposals and,
248 with legislative approval as evidenced by approval of the
249 project in the department's work program, enter into
250 comprehensive agreements with private entities, or consortia

251 thereof, for the building, operation, ownership, or financing of
252 transportation facilities. The department may advance projects
253 programmed in the adopted 5-year work program or projects
254 increasing transportation capacity and greater than \$500 million
255 in the 10-year Strategic Intermodal Plan using funds provided by
256 public-private partnerships or private entities to be reimbursed
257 from department funds for the project as programmed in the
258 adopted work program. The department shall by rule establish an
259 application fee for the submission of unsolicited proposals
260 under this section. The fee must be sufficient to pay the costs
261 of evaluating the proposals. The department may engage the
262 services of private consultants to assist in the evaluation.
263 Before approval, the department must determine that the proposed
264 project:

- 265 (a) Is in the public's best interest;
- 266 (b) Would not require state funds to be used unless the
267 project is on the State Highway System;
- 268 (c) Would have adequate safeguards in place to ensure that
269 no additional costs or service disruptions would be realized by
270 the traveling public and residents of the state in the event of
271 default or cancellation of the comprehensive agreement by the
272 department;
- 273 (d) Would have adequate safeguards in place to ensure that
274 the department or the private entity has the opportunity to add
275 capacity to the proposed project and other transportation

276 facilities serving similar origins and destinations; and
 277 (e) Would be owned by the department upon completion or
 278 termination of the comprehensive agreement.

279
 280 The department shall ensure that all reasonable costs to the
 281 state, related to transportation facilities that are not part of
 282 the State Highway System, are borne by the private entity. The
 283 department shall also ensure that all reasonable costs to the
 284 state and substantially affected local governments and
 285 utilities, related to the private transportation facility, are
 286 borne by the private entity for transportation facilities that
 287 are owned by private entities. For projects on the State Highway
 288 System, the department may use state resources to participate in
 289 funding and financing the project as provided for under the
 290 department's enabling legislation. Because the Legislature
 291 recognizes that private entities or consortia thereof would
 292 perform a governmental or public purpose or function when they
 293 enter into comprehensive agreements with the department to
 294 design, build, operate, own, or finance transportation
 295 facilities, the transportation facilities, including leasehold
 296 interests thereof, are exempt from ad valorem taxes as provided
 297 in chapter 196 to the extent property is owned by the state or
 298 other government entity, and from intangible taxes as provided
 299 in chapter 199 and special assessments of the state, any city,
 300 town, county, special district, political subdivision of the

301 state, or any other governmental entity. The private entities or
 302 consortia thereof are exempt from tax imposed by chapter 201 on
 303 all documents or obligations to pay money which arise out of the
 304 comprehensive agreements to design, build, operate, own, lease,
 305 or finance transportation facilities. Any private entities or
 306 consortia thereof must pay any applicable corporate taxes as
 307 provided in chapter 220, and reemployment assistance taxes as
 308 provided in chapter 443, and sales and use tax as provided in
 309 chapter 212 shall be applicable. The private entities or
 310 consortia thereof must also register and collect the tax imposed
 311 by chapter 212 on all their direct sales and leases that are
 312 subject to tax under chapter 212. The comprehensive agreement
 313 between the private entity or consortia thereof and the
 314 department establishing a transportation facility under this
 315 chapter constitutes documentation sufficient to claim any
 316 exemption under this section.

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

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

326 | accordance with department standards.

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

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

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

342 | (e) The department shall include provisions in the
 343 | comprehensive ~~public-private partnership~~ agreement that ensure a
 344 | negotiated portion of revenues from tolled or fare generating
 345 | projects is ~~are~~ returned to the department over the life of the
 346 | comprehensive ~~public-private partnership~~ agreement. In the case
 347 | of a lease of an existing toll facility, the department shall
 348 | receive a portion of funds upon closing on the comprehensive
 349 | agreements and shall also include provisions in the
 350 | comprehensive agreement to receive payment of a portion of

351 excess revenues over the life of the public-private partnership.

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

367 (6) The procurement of public-private partnerships by the
368 department shall follow the provisions of this section. Sections
369 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
370 337.185, 337.19, 337.221, and 337.251 shall not apply to
371 procurements under this section unless a provision is included
372 in the procurement documents. The department shall ensure that
373 generally accepted business practices for exemptions provided by
374 this subsection are part of the procurement process or are
375 included in the comprehensive ~~public-private partnership~~

376 agreement.

377 (a) The department may request proposals from private
378 entities for public-private transportation projects or, if the
379 department receives an unsolicited proposal, the department
380 shall publish a notice in the Florida Administrative Register
381 and a newspaper of general circulation at least once a week for
382 2 weeks stating that the department has received the proposal
383 and will accept, between 30 and ~~for~~ 120 days after the initial
384 date of publication as determined by the department based on the
385 complexity of the project, other proposals for the same project
386 purpose. A copy of the notice must be mailed to each local
387 government in the affected area.

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

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

401 partnership that ensures performance and payment of
402 subcontractors with the cost of the security to ensure the most
403 efficient pricing.

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

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

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

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

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

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

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

449 (c) Contain such other provisions that the department and
 450 the private entity deem appropriate related to an aspect of the

451 development or operation of a qualifying project.

452 (9)-(8) The department may enter into a comprehensive
453 agreement ~~public-private partnership agreements~~ that includes
454 ~~include~~ extended terms providing annual payments for performance
455 based on the availability of service or the facility being open
456 to traffic or based on the level of traffic using the facility.
457 In addition to other provisions in this section, the following
458 provisions shall apply:

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

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

472 (11)-(10) Before ~~Prior to~~ entering into such comprehensive
473 agreement where funds are committed from the State
474 Transportation Trust Fund, the project must be prioritized as
475 follows:

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

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

487 ~~(12)-(11)~~ Comprehensive Public-private partnership
 488 agreements under this section shall be limited to a term not
 489 exceeding 50 years. Upon making written findings that a
 490 comprehensive ~~an~~ agreement under this section requires a term in
 491 excess of 50 years, the secretary of the department may
 492 authorize a term of up to 75 years for projects that are
 493 partially or completely funded from project user fees.
 494 Comprehensive agreements under this section shall not have a
 495 term in excess of 75 years unless specifically approved by the
 496 Legislature. The department shall identify each new project
 497 under this section with a term exceeding 75 years in the
 498 transmittal letter that accompanies the submittal of the
 499 tentative work program to the Governor and the Legislature in
 500 accordance with s. 339.135.

501 Section 9. Paragraph (e) of subsection (7) and subsection
 502 (13) of section 337.11, Florida Statutes, are amended to read:

503 337.11 Contracting authority of department; bids;
 504 emergency repairs, supplemental agreements, and change orders;
 505 combined design and construction contracts; progress payments;
 506 records; requirements of vehicle registration.-

507 (7)

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

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

522 Section 10. Paragraphs (a) and (d) of subsection (1) of
 523 section 337.18, Florida Statutes, are amended to read:

524 337.18 Surety bonds for construction or maintenance
 525 contracts; requirement with respect to contract award; bond

526 requirements; defaults; damage assessments.—

527 (1)(a) A surety bond shall be required of the successful
528 bidder in an amount equal to the awarded contract price.

529 However, the department may choose, in its discretion and
530 applicable only to multiyear maintenance contracts, to allow for
531 incremental annual contract bonds that cumulatively total the
532 full, awarded, multiyear contract price.

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

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

539 b. The prime contractor is a qualified nonprofit agency
540 for the blind or for the other severely handicapped under s.
541 413.036(2); or

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

547 2. If the department ~~Secretary of Transportation or the~~
548 ~~secretary's designee~~ determines that it is in the best interests
549 of the department to reduce the bonding requirement for a
550 project and that to do so will not endanger public health,

551 safety, or property, the department may waive the requirement of
552 a surety bond in an amount equal to the awarded contract price
553 for a project having a contract price of \$250 million or more
554 and, in its place, may set a surety bond amount that is a
555 portion of the total contract price and provide an alternate
556 means of security for the balance of the contract amount that is
557 not covered by the surety bond or provide for incremental surety
558 bonding and provide an alternate means of security for the
559 balance of the contract amount that is not covered by the surety
560 bond. Such alternative means of security may include letters of
561 credit, United States bonds and notes, parent company
562 guarantees, and cash collateral. The department may require
563 alternate means of security if a surety bond is waived. The
564 surety on such bond shall be a surety company authorized to do
565 business in the state. All bonds shall be payable to the
566 department and conditioned for the prompt, faithful, and
567 efficient performance of the contract according to plans and
568 specifications and within the time period specified, and for the
569 prompt payment of all persons defined in s. 713.01 furnishing
570 labor, material, equipment, and supplies for work provided in
571 the contract; however, whenever an improvement, demolition, or
572 removal contract price is \$25,000 or less, the security may, in
573 the discretion of the bidder, be in the form of a cashier's
574 check, bank money order of any state or national bank, certified
575 check, or postal money order. The department shall adopt rules

576 to implement this subsection. Such rules shall include
 577 provisions under which the department shall refuse to accept
 578 bonds on contracts when a surety wrongfully fails or refuses to
 579 settle or provide a defense for claims or actions arising under
 580 a contract for which the surety previously furnished a bond.

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

598 Section 11. Section 337.195, Florida Statutes, is amended
 599 to read:

600 337.195 Limits on liability.—

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

602 (a) "Contract documents" means those contract documents
603 defined in Section 1-3 of the department's Standard
604 Specifications for Road and Bridge Construction which are
605 applicable under the contract between the department and the
606 contractor.

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

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

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

622 (2)-(1) In a civil action for the death of or injury to a
623 person, or for damage to property, against the department ~~of~~
624 ~~Transportation~~ or its agents, consultants, or contractors for
625 work performed on a highway, road, street, bridge, or other

626 transportation facility when the death, injury, or damage
 627 resulted from a motor vehicle crash within a construction zone
 628 in which the driver of one of the vehicles was under the
 629 influence of alcoholic beverages as set forth in s. 316.193,
 630 under the influence of any chemical substance as set forth in s.
 631 877.111, under the influence of marijuana authorized by s.
 632 381.986, excluding low-THC cannabis, or illegally under the
 633 influence of any substance controlled under chapter 893 to the
 634 extent that her or his normal faculties were impaired or that
 635 she or he operated a vehicle recklessly as defined in s.
 636 316.192, it is presumed that the driver's operation of the
 637 vehicle was the sole proximate cause of her or his own death,
 638 injury, or damage. This presumption can be overcome if the gross
 639 negligence or intentional misconduct of the department of
 640 ~~Transportation~~, or of its agents, consultants, or contractors,
 641 was a proximate cause of the driver's death, injury, or damage.
 642 (3)(a)(2) A contractor is immune from liability for who
 643 ~~constructs, maintains, or repairs a highway, road, street,~~
 644 ~~bridge, or other transportation facility for the Department of~~
 645 ~~Transportation is not liable to a claimant for personal injury,~~
 646 ~~property damage, or death arising from the performance of the~~
 647 ~~construction, maintenance, or repair if, at the time of the~~
 648 ~~personal injury, property damage, or death, the contractor was~~
 649 ~~in compliance with contract documents material to the condition~~
 650 ~~that was the proximate cause of the personal injury, property~~

651 damage, or death arising from:

652 1. The performance of the construction, maintenance, or
 653 repair of the transportation facility if, at the time the
 654 personal injury, property damage, or death occurred, the
 655 contractor was in compliance with the contract documents
 656 material to the personal injury, property damage, or death.

657 2. Acts or omissions of a third party who furnishes, or
 658 contracts at any contractual tier to furnish, services or
 659 materials to the transportation facility, including a
 660 subcontractor; sub-subcontractor; laborer; materialman; owner,
 661 lessor, or operator of a motor vehicle, trailer, semitrailer,
 662 truck, heavy truck, truck tractor, or commercial motor vehicle
 663 as those terms are defined in s. 320.01; or person who performs
 664 services as an architect, a landscape architect, an interior
 665 designer, an engineer, or a surveyor and mapper.

666 3. Acts or omissions of a third party who trespasses
 667 within the limits of the transportation facility or otherwise is
 668 not authorized to enter the area of the transportation facility
 669 in which the personal injury, property damage, or death was
 670 caused.

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

675 (b)-(a) The limitations ~~limitation~~ on liability contained

676 in this subsection do ~~does~~ not apply when the proximate cause of
677 the personal injury, property damage, or death is a latent
678 condition, defect, error, or omission that was created by the
679 contractor and not a defect, error, or omission in the contract
680 documents; or when the proximate cause of the personal injury,
681 property damage, or death was the contractor's failure to
682 ~~perform, update, or comply with the maintenance of the traffic~~
683 control plans ~~safety plan~~ as required by the contract documents.

684 ~~(c)(b) Nothing in This subsection~~ does not relieve ~~shall~~
685 ~~be interpreted or construed as relieving~~ the contractor of any
686 obligation to provide the department ~~of Transportation~~ with
687 written notice of any apparent error or omission in the contract
688 documents.

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

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

696 ~~(4)(3)~~ In all cases involving personal injury, property
697 damage, or death, a design engineer ~~person or entity who~~
698 ~~contracts to prepare or provide engineering plans for the~~
699 ~~construction or repair of a highway, road, street, bridge, or~~
700 ~~other transportation facility for the Department of~~

701 ~~Transportation~~ shall be presumed to have prepared such
 702 engineering plans using the degree of care and skill ordinarily
 703 exercised by other engineers in the field under similar
 704 conditions and in similar localities and with due regard for
 705 acceptable engineering standards and principles if the
 706 engineering plans conformed to the department's ~~Department of~~
 707 ~~Transportation's~~ design standards material to the condition or
 708 defect that was the proximate cause of the personal injury,
 709 property damage, or death. This presumption can be overcome only
 710 upon a showing of the design engineer's ~~person's or entity's~~
 711 gross negligence in the preparation of the engineering plans and
 712 does ~~shall not be interpreted or construed to~~ alter or affect
 713 any claim of the department ~~of Transportation~~ against such
 714 design engineer ~~person or entity~~. The limitation on liability
 715 contained in this subsection does ~~shall~~ not apply to any hidden
 716 or undiscoverable condition created by the design engineer. This
 717 subsection does not affect any claim of any entity against such
 718 design engineer ~~or engineering firm~~, which claim is associated
 719 with such entity's facilities on or in department ~~of~~
 720 ~~Transportation~~ roads or other transportation facilities.

721 ~~(4) In any civil action for death, injury, or damages~~
 722 ~~against the Department of Transportation or its agents,~~
 723 ~~consultants, engineers, or contractors for work performed on a~~
 724 ~~highway, road, street, bridge, or other transportation facility,~~
 725 ~~if the department, its agents, consultants, engineers, or~~

726 ~~contractors are immune from liability pursuant to this section~~
727 ~~or are not parties to the litigation, they may not be named on~~
728 ~~the jury verdict form or be found to be at fault or responsible~~
729 ~~for the injury, death, or damage that gave rise to the damages.~~

730 Section 12. Subsection (2) of section 337.401, Florida
731 Statutes, is amended to read:

732 337.401 Use of right-of-way for utilities subject to
733 regulation; permit; fees.—

734 (2) (a) The authority may grant to any person who is a
735 resident of this state, or to any corporation that ~~which~~ is
736 organized under the laws of this state or licensed to do
737 business within this state, the use of a right-of-way for the
738 utility in accordance with such rules or regulations as the
739 authority may adopt. A utility may not be installed, located, or
740 relocated unless authorized by a written permit issued by the
741 authority, except as provided in paragraph (b).

742 (b) ~~However,~~ For public roads or publicly owned rail
743 corridors under the jurisdiction of the department, a utility
744 ~~relocation schedule and~~ relocation agreement may be executed in
745 lieu of a written permit. The permit or relocation agreement
746 must contain a reasonable utility relocation schedule to
747 expedite the completion of the department's construction or
748 maintenance project and must specify a reasonable liquidated
749 damage amount for each day the work remains incomplete beyond
750 the timeframe specified in the permit or relocation agreement.

751 (c) A ~~The permit or relocation agreement~~ must require the
 752 ~~utility permitholder~~ to be responsible for any damage resulting
 753 from the work performed under such permit or relocation
 754 agreement issuance of such permit.

755 (d) The authority may initiate injunctive proceedings as
 756 provided in s. 120.69 to enforce provisions of this subsection
 757 or any rule or order issued or entered into pursuant thereto. A
 758 permit application required under this subsection by a county or
 759 municipality having jurisdiction and control of the right-of-way
 760 of any public road must be processed and acted upon in
 761 accordance with the timeframes provided in subparagraphs
 762 (7)(d)7., 8., and 9.

763 Section 13. Subsections (1) and (3) of section 337.403,
 764 Florida Statutes, are amended to read:

765 337.403 Interference caused by utility; expenses.—

766 (1) If a utility that is placed upon, under, over, or
 767 within the right-of-way limits of any public road or publicly
 768 owned rail corridor is found by the authority to be unreasonably
 769 interfering in any way with the convenient, safe, or continuous
 770 use, or the maintenance, improvement, extension, or expansion,
 771 of such public road or publicly owned rail corridor, the utility
 772 owner shall, within 30 days after ~~upon 30 days'~~ written notice
 773 to the utility or its agent by the authority, provide the
 774 authority a reasonable utility relocation schedule to expedite
 775 the completion of the authority's construction or maintenance

776 project identified in the notice and, within 60 days after the
777 written notice from the authority, initiate the work necessary
778 to alleviate the interference at its own expense except as
779 provided in paragraphs (a)-(j). The notice from the authority
780 must specify a reasonable liquidated damage amount for each day
781 the work remains incomplete if not ~~work must be~~ completed within
782 such reasonable time as stated in the notice or such time as
783 agreed to by the authority and the utility owner.

784 (a) If the relocation of utility facilities, as referred
785 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
786 84-627, is necessitated by the construction of a project on the
787 federal-aid interstate system, including extensions thereof
788 within urban areas, and the cost of the project is eligible and
789 approved for reimbursement by the Federal Government to the
790 extent of 90 percent or more under the Federal-Aid Highway Act,
791 or any amendment thereof, then in that event the utility owning
792 or operating such facilities shall perform any necessary work
793 upon notice from the department, and the state shall pay the
794 entire expense properly attributable to such work after
795 deducting therefrom any increase in the value of a new facility
796 and any salvage value derived from an old facility.

797 (b) When a joint agreement between the department and the
798 utility is executed for utility work to be accomplished as part
799 of a contract for construction of a transportation facility, the
800 department may participate in those utility work costs that

801 exceed the department's official estimate of the cost of the
802 work by more than 10 percent. The amount of such participation
803 is limited to the difference between the official estimate of
804 all the work in the joint agreement plus 10 percent and the
805 amount awarded for this work in the construction contract for
806 such work. The department may not participate in any utility
807 work costs that occur as a result of changes or additions during
808 the course of the contract.

809 (c) When an agreement between the department and utility
810 is executed for utility work to be accomplished in advance of a
811 contract for construction of a transportation facility, the
812 department may participate in the cost of clearing and grubbing
813 necessary to perform such work.

814 (d) If the utility facility was initially installed to
815 exclusively serve the authority or its tenants, or both, the
816 authority shall bear the costs of the utility work. However, the
817 authority is not responsible for the cost of utility work
818 related to any subsequent additions to that facility for the
819 purpose of serving others. For a county or municipality, if such
820 utility facility was installed in the right-of-way as a means to
821 serve a county or municipal facility on a parcel of property
822 adjacent to the right-of-way and if the intended use of the
823 county or municipal facility is for a use other than
824 transportation purposes, the obligation of the county or
825 municipality to bear the costs of the utility work shall extend

826 only to utility work on the parcel of property on which the
 827 facility of the county or municipality originally served by the
 828 utility facility is located.

829 (e) If, under an agreement between a utility and the
 830 authority entered into after July 1, 2009, the utility conveys,
 831 subordinates, or relinquishes a compensable property right to
 832 the authority for the purpose of accommodating the acquisition
 833 or use of the right-of-way by the authority, without the
 834 agreement expressly addressing future responsibility for the
 835 cost of necessary utility work, the authority shall bear the
 836 cost of removal or relocation. This paragraph does not impair or
 837 restrict, and may not be used to interpret, the terms of any
 838 such agreement entered into before July 1, 2009.

839 (f) If the utility is an electric facility being relocated
 840 underground in order to enhance vehicular, bicycle, and
 841 pedestrian safety and in which ownership of the electric
 842 facility to be placed underground has been transferred from a
 843 private to a public utility within the past 5 years, the
 844 department shall incur all costs of the necessary utility work.

845 (g) An authority may bear the costs of utility work
 846 required to eliminate an unreasonable interference when the
 847 utility is not able to establish that it has a compensable
 848 property right in the particular property where the utility is
 849 located if:

850 1. The utility was physically located on the particular

851 property before the authority acquired rights in the property;

852 2. The utility demonstrates that it has a compensable
853 property right in adjacent properties along the alignment of the
854 utility or, after due diligence, certifies that the utility does
855 not have evidence to prove or disprove that it has a compensable
856 property right in the particular property where the utility is
857 located; and

858 3. The information available to the authority does not
859 establish the relative priorities of the authority's and the
860 utility's interests in the particular property.

861 (h) If a municipally owned utility or county-owned utility
862 is located in a rural area of opportunity, as defined in s.
863 288.0656(2), and the department determines that the utility is
864 unable, and will not be able within the next 10 years, to pay
865 for the cost of utility work necessitated by a department
866 project on the State Highway System, the department may pay, in
867 whole or in part, the cost of such utility work performed by the
868 department or its contractor.

869 (i) If the relocation of utility facilities is
870 necessitated by the construction of a commuter rail service
871 project or an intercity passenger rail service project and the
872 cost of the project is eligible and approved for reimbursement
873 by the Federal Government, then in that event the utility owning
874 or operating such facilities located by permit on a department-
875 owned rail corridor shall perform any necessary utility

876 relocation work upon notice from the department, and the
877 department shall pay the expense properly attributable to such
878 utility relocation work in the same proportion as federal funds
879 are expended on the commuter rail service project or an
880 intercity passenger rail service project after deducting
881 therefrom any increase in the value of a new facility and any
882 salvage value derived from an old facility. In no event shall
883 the state be required to use state dollars for such utility
884 relocation work. This paragraph does not apply to any phase of
885 the Central Florida Commuter Rail project, known as SunRail.

886 (j) If a utility is lawfully located within an existing
887 and valid utility easement granted by recorded plat, regardless
888 of whether such land was subsequently acquired by the authority
889 by dedication, transfer of fee, or otherwise, the authority must
890 bear the cost of the utility work required to eliminate an
891 unreasonable interference. The authority shall pay the entire
892 expense properly attributable to such work after deducting any
893 increase in the value of a new facility and any salvage value
894 derived from an old facility.

895 (3) Whenever a notice from the authority requires such
896 utility work and the owner thereof fails to perform the work at
897 his or her own expense within the time stated in the notice or
898 such other time as agreed to by the authority and the utility
899 owner, the authority shall proceed to cause the utility work to
900 be performed. Except as provided in subsection (1), the utility

901 owner shall pay to the authority reasonable costs resulting from
 902 the utility owner's failure or refusal to timely perform the
 903 work, including payment of any liquidated damages assessed by
 904 the authority ~~The expense thereby incurred shall be paid out of~~
 905 ~~any money available therefor, and such expense shall, except as~~
 906 ~~provided in subsection (1), be charged against the owner and~~
 907 ~~levied and collected and paid into the fund from which the~~
 908 ~~expense of such relocation was paid.~~

909 Section 14. Section 339.28201, Florida Statutes, is
 910 created to read:

911 339.28201 Local Agency Program.—

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

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

925 (3) Local agencies shall prioritize and budget local

926 projects through their respective metropolitan planning
 927 organizations or governing boards that are eligible for
 928 reimbursement for the services provided to the traveling public
 929 through compliance with applicable federal statutes, rules, and
 930 regulations.

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

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

941 Section 15. Subsection (3) of section 339.2825, Florida
 942 Statutes, is amended to read:

943 339.2825 Approval of contractor-financed projects.—

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

946 Section 16. Subsection (4) of section 627.06501, Florida
 947 Statutes, is amended to read:

948 627.06501 Insurance discounts for certain persons
 949 completing driver improvement course.—

950 (4) This section does not apply if the driver improvement

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951 course is taken in lieu of a court appearance for a traffic
952 infraction as provided for in s. 318.14(9). However, the eight-
953 election ~~five-election~~ restriction enumerated in that section is
954 not applicable to taking the course for the purposes of
955 receiving insurance premium reductions.

956 Section 17. This act shall take effect July 1, 2024.