

June 20, 2005

Ms. Glenda E. Hood
Secretary of State
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Hood:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby transmit to you with my concerns, House Bill 1681, enacted during the 107th Session of the Legislature of Florida since statehood in 1845, during the Regular Session of 2005, and entitled:

An act relating to transportation ...

House Bill 1681 contains a number of good provisions relating to transportation, including flexible business practices for the public and private sector and the creation of an interregional transportation entity for the Panhandle.

In addition, this bill includes provisions that grant limited tort immunity to the Department of Transportation and its business partners under specific circumstances. By granting immunity, the Legislature appropriately recognized that the Department and its partners provide invaluable services to their communities. Accordingly, the Legislature recognized that upon satisfaction of specific statutory criteria, these providers should not be held liable for damages.

While I applaud the policy rationale underlying these limits on liability, I do not support the provision in this bill that removes immune parties or non-parties from the verdict form. This provision removes the apportionment of fault under the cloak of immunity. Simply put, all defendants to a tort action deserve a complete allocation of fault among all wrongdoers—whether those wrongdoers are immune from suit or not. Florida must strive to create a civil justice system that allocates liability based on the percentage of fault of each participant to an accident, not on the basis of that participant's ability to pay for damages. This particular provision impedes that goal.

Further, this language was never debated on any transportation bills in the House or the Senate and was amended onto the bill late in the Session. While late amendments certainly are not precluded from approval, they do warrant extra scrutiny. Limited legislative review is not how controversial issues should be approached and resolved. I strongly urge the Legislature to reconsider this language and remove it from law during the 2006 Legislative Session.

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I hereby transmit House Bill 1681 with my signature and concerns as stated above.

Sincerely,

Jeb Bush