

By Senator Clary

7-1049-99

See HB

1 A bill to be entitled
2 An act relating to Okaloosa County and the
3 Mid-Bay Bridge Authority; codifying chapter
4 86-465, Laws of Florida, as amended; providing
5 additional powers; repealing all prior special
6 acts relating to the Mid-Bay Bridge Authority;
7 providing an effective date.

8

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

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11 Section 1. Chapter 86-465, Laws of Florida, as amended
12 by chapter 88-542, Laws of Florida, is codified, reenacted,
13 amended, and repealed as herein provided.

14 Section 2. The Mid-Bay Bridge Authority is re-created
15 and reenacted to read:

16 Section 1. Purpose.--There is hereby created in
17 Okaloosa County an independent special district for the
18 purpose of planning for, constructing, operating,
19 coordinating, and maintaining one or more bridges or spans
20 traversing Choctawhatchee Bay, and the roads, roadways,
21 traffic exchanges, intersections, methods of ingress and
22 egress thereonto, together with the system as defined herein,
23 the necessary or desirable facilities and equipment relating
24 to the control of traffic thereon, and the necessary or
25 desirable facilities and equipment relating to the
26 administration and management thereof. The governmental body
27 shall be known as the Mid-Bay Bridge Authority, hereinafter
28 referred to as "authority."

29 Section 2. Definitions.--As used in this act:

30 (1) "Bond" includes bonds, debentures, notes,
31 certificates of indebtedness, mortgage certificates, or other

1 obligations or evidences of indebtedness of any type or
2 character.

3 (2) "Revenue bonds" means obligations of the authority
4 which are payable from revenues derived from sources other
5 than ad valorem taxes on real or tangible personal property
6 and which do not pledge the property, credit, or general tax
7 revenue of the authority.

8 (3) "Refunding bonds" means bonds issued to refinance
9 outstanding bonds of any type and the interest and redemption
10 premium thereon. Refunding bonds shall be issuable and payable
11 in the same manner as the refinanced bonds, except that no
12 approval by the electorate shall be required unless required
13 by the State Constitution.

14 (4) "Department" means the Florida Department of
15 Transportation.

16 (5) "System" means the countywide system of integrated
17 streets, roads, roadways, rights-of-way, approaches,
18 connections, improvements, additions, expansions, avenues of
19 access, and all other transportation facilities of whatsoever
20 nature in Okaloosa County, relating in part to the Mid-Bay
21 Bridge and to means of efficiently and safely traversing and
22 traveling around Choctawhatchee Bay.

23 Section 3. Membership; terms of office; officers;
24 quorum; meetings; removal.--

25 (1) The authority shall consist of five members.

26 (2) The Governor shall appoint two members to initial
27 terms of 2 years, one member to an initial term of 1 year, and
28 two members for initial terms of 3 years.

29 (3) The terms of office for each member shall be 3
30 years. Each term shall expire on June 30 in the year of
31 expiration of the term.

1 (4) A chair, vice chair, and secretary/treasurer shall
2 be chosen by and from the authority membership. The term of
3 office for the chair, vice chair, and secretary/treasurer
4 shall be 1 year, and no member shall hold the same office for
5 more than two consecutive terms.

6 (5) A quorum shall consist of three members, and
7 action shall be taken by a majority vote.

8 (6) A member may be removed by the Governor, but only
9 for grounds constituting misfeasance, neglect of duty,
10 incompetence, permanent inability to perform his or her
11 official duties, or commission of a felony. The unexcused
12 failure to attend three consecutive regular meetings of the
13 authority shall be deemed neglect of duty, without limiting
14 the meaning of that term.

15 (7) Except as otherwise provided, vacancies in office
16 shall be filled by the Governor, as appropriate, for the
17 balance of the term. In such cases, the appointment shall be
18 made by the appropriate entity not later than 30 days after
19 the office has become vacant.

20 (8) No person who has transacted business with the
21 authority is eligible for appointment to the authority until 3
22 years after the last transaction. No person who has served on
23 the authority is eligible to transact business with the
24 authority until 3 years after his or her last date of service.
25 Said transactions include transactions either for oneself or
26 as an employee of, agent for, or consultant to any other
27 person or legal entity.

28 (9) No member, officer, agent, or employee of the
29 authority, either for himself or herself or as agent for
30 anyone else, or as a stockholder or owner in any other legal
31 entity, shall participate or benefit directly or indirectly in

1 or from any sale, purchase, lease, franchise, contract, or
2 other transaction, entered into by the authority. The
3 provisions of this section shall be cumulative to any general
4 laws of the state which are from time to time applicable to
5 members, officers, agents, or employees of the authority and
6 which require the disclosure of, or prohibit, conflicts of
7 interest.

8 (10) At any time during a term that a member shall
9 become a constitutional officer of his or her respective
10 county, the member shall cease to be a member as of such time,
11 and the Governor shall appoint another member to serve the
12 remaining term of office; and a resignation from such office
13 shall not restore such person to the authority.

14 (11) The District Engineer of the Florida Department
15 of Transportation shall be an ex officio member of the
16 authority but shall have no voting privileges.

17 Section 4. Powers.--The authority shall have all power
18 and authority necessary, convenient, or desirable to
19 accomplish the purposes of this act, including, but not
20 limited to, the power to:

21 (1) Enter into contracts and to sue and be sued in its
22 own name.

23 (2) Employ necessary personnel, including the
24 appointment of an executive director, whose duties and
25 salaries shall be prescribed by authority.

26 (3) Adopt a budget annually, and to amend it during
27 the fiscal year.

28 (4) Adopt rules for the regulation of its affairs and
29 the conduct of its business, and rules for the operation of
30 the system, and to enforce and administer all such rules.

31 (5) Adopt and alter an official seal.

- 1 (6) Maintain an office within Okaloosa County.
2 (7) Plan for and study the feasibility of
3 constructing, operating, and maintaining a bridge traversing
4 Choctawhatchee Bay, including studying the environmental and
5 economic feasibility of such bridge, and such other
6 transportation facilities that become part of the system.
7 (8) Construct, operate, and maintain the system,
8 including a bridge traversing Choctawhatchee Bay and approach
9 roads and facilities appurtenant thereto.
10 (9) Coordinate and encourage public and private
11 development in connection with the system, including a bridge
12 traversing Choctawhatchee Bay.
13 (10) Construct, acquire, repair, and operate any
14 public development or project covered in this act, or
15 coordinate any of the foregoing among other governmental
16 agencies.
17 (11) Acquire, construct, reconstruct, equip, improve,
18 maintain, and repair the system or any portion thereof within
19 its area of operation.
20 (12) Fix, charge, and collect fees, tolls, rents, and
21 charges for the use of the system, any part thereof, and any
22 facilities furnished thereby, and of any property under its
23 control, and pledge such revenue to the payment of revenue
24 bonds issued by the authority.
25 (13) Accept grants and donations of any type of
26 property, labor, and other things of value from public and
27 private sources, and to expend the funds of the authority for
28 public purposes in its area of operation as a part of and in
29 cooperation with the system or any portion thereof.
30 (14) Acquire, by purchase, on such terms and
31 conditions and in such manner as it may deem proper, and to

1 own, convey, and otherwise dispose of and to lease as lessor
2 and lessee, any land and any other property, real or personal,
3 reasonably necessary in furtherance of its powers under this
4 act, and to grant and acquire licenses, easements, and options
5 with respect thereto.

6 (15) Exercise the power of eminent domain pursuant to
7 chapters 73 and 74, Florida Statutes.

8 (16) Borrow money and to issue notes for any purpose
9 or purposes for which bonds may be issued under this act and
10 to refund the same; to issue notes in anticipation of the
11 receipt of the proceeds of the sale of bonds.

12 (17) Employ or contract for technical experts,
13 consultants, or other staff as may be deemed necessary and to
14 determine their qualifications, duties, and compensation; and
15 may appoint any advisory committee deemed necessary.

16 (18) Issue revenue bonds or refunding bonds of the
17 authority pursuant to section 8.

18 (19) Pay operating and debt service costs of the
19 authority.

20 (20) Enter into and make lease-purchase agreements
21 with the department until any bonds secured by a pledge of
22 rentals hereunder and any refundings thereof are fully paid as
23 to both principal and interest.

24 (21) Do all acts necessary in order to carry out the
25 purposes of this act.

26 Section 5. Compensation and travel expenses.--The
27 members of the authority shall receive no salary or other
28 compensation for their services. The authority shall,
29 however, be authorized to pay reasonable costs and expenses
30 necessarily incurred by the members in performance of their
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1 duties. The rate for travel expenses shall not exceed the
2 rate for state employees.

3 Section 6. Budget.--

4 (1) Prior to preparation of the annual budget as
5 provided in subsection (2), the authority shall develop an
6 annual proposed budget according to the provisions set forth
7 in this section by May 31 of each year, for a public hearing
8 before the citizens of Okaloosa County.

9 (2) The authority, in each fiscal year, shall prepare
10 an annual budget for operating revenue accounts and operating
11 expense accounts and such other accounts as the authority
12 shall prescribe, for its operations in the ensuing fiscal
13 year. The fiscal year for the authority shall be concurrent
14 with the fiscal year of Okaloosa County. At the time the
15 authority prepares its annual budget, it shall adopt a
16 resolution determining and finding the estimated amounts to be
17 expended by the obligations of the authority, for acquiring,
18 establishing, constructing, enlarging, operating, and
19 maintaining the system, including the bridge and bridge
20 facilities and other facilities related thereto, or for any
21 other corporate purpose of the authority.

22 (3) All anticipated revenues to be derived from the
23 operation of the system, including the bridge and bridge
24 facilities shall be included in the budget of the authority.
25 However, any amounts of money, including funds in the
26 authority's budget for the preceding fiscal year, that remain
27 unexpended from the revenue derived under the budget for the
28 preceding fiscal year may, by resolution duly adopted by the
29 authority and approved by the board of county commissioners,
30 be set aside in a separate fund, to be known and described as
31 a "Renewal and Replacement Fund," and accumulated in said fund

1 from year to year for the purpose of purchasing real and
2 personal property, and building and constructing permanent
3 improvements, replacements, alterations, buildings, and other
4 structures, and such funds may be disbursed from time to time
5 out of the renewal and replacement fund, upon proper
6 resolution of the authority and approval by the board of
7 county commissioners, and solely for the payment of the cost
8 of purchasing real and tangible personal property, and
9 building and constructing permanent improvements,
10 replacements, alterations, buildings, and other structures.

11 (4) The authority shall adopt budget procedures to
12 establish the direct and indirect costs of operating and
13 maintaining the bridge authority and the system, as well as
14 the direct income derived therefrom.

15 Section 7. Notice of meetings.--The authority shall
16 give reasonable notice of all meetings at least 3 days prior
17 to the meetings, said notice to be published in a newspaper in
18 general circulation in Okaloosa County. Said notice shall
19 include agenda items whenever said items involve leasing of
20 all or any portion of the system. All meetings of the
21 authority shall be so noticed except emergency meetings which
22 shall only be called when there is an immediate danger to the
23 public health, safety, or welfare.

24 Section 8. Bonding power.--

25 (1) The authority is empowered and authorized to issue
26 revenue or refunding bonds. The purpose of the bonds shall be
27 to finance all or part of the cost of acquisition,
28 construction, and equipping of the system or for refunding of
29 bonds for the same purpose. Such bonds may be issued in one or
30 more series and shall bear such date or dates, be payable upon
31 demand or mature at such time or times, be in such

1 denomination or denominations, be in such form, registered or
2 not, with or without coupon, carry such conversion or
3 registration privileges, have such rank or priority, be
4 executed in such manner, be payable in such medium of payment,
5 at such place or places, and be subject to terms of
6 redemption, with or without premium, be secured in such
7 manner, and have such other characteristics as may be provided
8 by such resolution or ordinance or trust indenture or mortgage
9 issued pursuant thereto. Such bonds shall bear interest at
10 such rate or rates allowed by general law.

11 (2) Bonds issued under this section shall be
12 authorized by resolution of the authority. Any such resolution
13 or resolutions authorizing any bonds hereunder may contain
14 provisions, which shall be part of the contract with the
15 holders of such bonds, as to:

16 (a) The pledging of all or any part of the revenues,
17 rates, fees, rentals, or other charges or receipts of the
18 authority derived from the system.

19 (b) The completion, improvement, operation, extension,
20 maintenance, repair, lease, or lease-purchase of such system
21 and with duties of the authority and others, including the
22 department, with reference thereto.

23 (c) Limitations on the purposes to which the proceeds
24 of the bonds, then or thereafter to be issued, or of any loan
25 or grant by the United States or the state may be applied.

26 (d) The fixing, charging, establishing, and collecting
27 of rates, fees, rentals, or other charges for use of the
28 services and facilities of the system or any part thereof.

29 (e) The setting aside of reserves or sinking funds or
30 repair and replacement funds and the regulation and
31 disposition thereof.

1 (f) Limitations on the issuance of additional bonds.

2 (g) The terms and provisions of any lease-purchase
3 agreement, deed of trust, or indenture securing the bonds, or
4 under which the same may be issued.

5 (h) Any other or additional agreements with the
6 holders of the bonds which the authority may deem desirable
7 and proper.

8 (3) The authority may employ fiscal agents as provided
9 by this part, or the State Board of Administration may, upon
10 request of the authority, act as fiscal agent for the
11 authority in the issuance of any bonds which may be issued
12 pursuant to this act; and the State Board of Administration
13 may, upon request of the authority, take over the management,
14 control, administration, custody, and payment of any or all
15 debt services of funds or assets now or hereafter available
16 for any bonds issued pursuant to this act. The authority may
17 enter into deeds of trust, indentures, or other agreements
18 within or without the state as security for such bonds and
19 may, under such agreements, sign and pledge all or any of the
20 revenues, rates, fees, rentals, or other charges or receipts
21 of the authority, as provided herein. Any such deed of trust,
22 indenture, or other agreement may contain such provisions as
23 are customary in such instruments or as the authority may
24 authorize, including, but without limitation, provisions as
25 to:

26 (a) The completion, improvement, operation, extension,
27 maintenance, repair, and lease of, or lease-purchase agreement
28 relating to the system and the duties of the authority and
29 others, including the department, with reference thereto.

30 (b) The application of funds and the safeguarding of
31 funds on hand or on deposit.

1 (c) The rights and remedies of the trustee and the
2 holders of the bonds.

3 (d) The terms and provisions of the bonds or the
4 resolutions authorizing the issuance of same.

5 (4) Any of the bonds issued pursuant to this act are,
6 and are hereby declared to be, negotiable instruments and
7 shall have all the qualities and incidents of negotiable
8 instruments under the law merchant and the Uniform Commercial
9 Code of the state.

10 (5) The authority shall determine the terms and manner
11 of sale and distribution or other disposition of any and all
12 bonds it may issue and shall have any and all powers necessary
13 or convenient to such disposition.

14 (6) The authority may establish and administer such
15 sinking funds as it deems necessary or convenient for the
16 payment, purchase, or redemption of any outstanding bonded
17 indebtedness of the authority.

18 Section 9. Bonding rights.--The State of Florida does
19 pledge to, and agree with, the Federal Government and any
20 person, or corporation, subscribing to, or acquiring the
21 bonds to be issued by the authority for the construction,
22 acquisition, extension, improvement, or enlargement of the
23 system, or any part thereof, that the state will not limit or
24 alter the rights hereby vested in the authority and the
25 department until all bonds at any time issued, together with
26 the interest therein, are fully paid and discharged or until
27 provision is made therefor. The State of Florida does further
28 pledge to, and agree with, the Federal Government that in the
29 event that the Federal Government shall construct or
30 contribute any funds for the construction, acquisition,
31 extension, improvement, or enlargement of the system, or any

1 part thereof, the state will not alter or limit the rights and
2 powers of the authority in any manner which would be
3 inconsistent with the continued maintenance and operation of
4 the system, or any part thereof, or the improvement thereof,
5 or which would be inconsistent with the due performance of any
6 agreement between the authority and the Federal Government,
7 and the authority shall continue to have and may exercise all
8 powers herein granted, so long as the same may be necessary or
9 desirable for the carrying out of the purposes of this act and
10 the purposes of the Federal Government in the construction, or
11 acquisition or improvement or enlargement of the system, or
12 any part thereof.

13 Section 10. Powers granted, supplemental.--The powers
14 granted by this act shall be regarded as supplemental and
15 additional to powers conferred by other laws, and, unless
16 inconsistent with such powers, shall not be regarded as in
17 derogation of or as repealing any powers now existing under
18 any other law, whether general, special or local.

19 Section 11. The Department of Transportation is
20 directed to cooperate with the authority to the maximum extent
21 possible.

22 Section 12. The financial records of the authority
23 shall be audited by an independent certified public accountant
24 at least once each fiscal year.

25 Section 13. Lease-purchase agreement.--

26 (1) In order to effectuate the purposes of this act
27 and as authorized herein, the authority may enter into a
28 lease-purchase agreement with the department relating to and
29 covering the system of any portion thereof.

30 (2) The lease-purchase agreement shall provide for the
31 leasing of the system or any portion thereof by the authority,

1 as lessor, to the department, as lessee, and shall prescribe
2 the terms of such lease and the rentals to be paid thereunder.

3 (3) The lease-purchase agreement may include such
4 other provisions, agreements, and covenants as the authority
5 and the department deem advisable or required, including, but
6 not limited to, provisions as to the bonds to be issued under
7 and for the purposes of this act; the financing, extension,
8 improvement, operation, and maintenance of the system and the
9 expenses and costs of operation of the authority; the charging
10 and collection of tolls, rates, fees, rentals, or other
11 charges for the use of the services and facilities thereof;
12 the application of federal or state grants or aid which may be
13 made or given to assist the authority in the financing,
14 completion, extension, improvement, operation, and maintenance
15 of the system, which the authority is authorized to accept and
16 apply to such purposes; the enforcement of payment and
17 collection of tolls, rates, fees, and rentals; and any other
18 terms, provisions, or covenants necessary, incidental, or
19 appurtenant to the making of, and full performance under, such
20 lease-purchase agreement.

21 (4) The department, as lessee under such
22 lease-purchase agreement, is authorized to pay, as rentals
23 thereunder, any tolls, rates, fees, charges, funds, moneys,
24 receipts, or income accruing to the department from the
25 operation of the system and may also pay, as rentals, from any
26 moneys available to the department, such amounts as the
27 parties agree to accomplish the purposes of this act.

28 (5) In accordance with the provisions of s. 339.125,
29 Florida Statutes, the department may covenant in any
30 lease-purchase agreement that it will pay all or any part of
31 the operation and maintenance of the system, to the extent the

1 proceeds of the bonds issued therefore are insufficient, from
2 sources other than the revenues derived from the operation of
3 the system.

4 (6) Any lease-purchase agreement between the authority
5 and the department shall provide for the orderly repayment of
6 any and all costs incurred by the department in accordance
7 with terms, conditions, and repayment schedules to be mutually
8 agreeable to the authority and the department, which costs of
9 the department result from any covenants to complete or to
10 operate and maintain the systems authorized herein. The
11 agreement shall provide for a specified source for such
12 repayment which may be, but is not limited to, tolls or other
13 charges imposed for the use of all or a portion of the system
14 or other sources available to the authority not required for
15 the payment or provision for payment of principal, interest,
16 reserves, premium, other required deposits for any bonds or
17 series of bonds of the authority and for any required or
18 necessary or desirable reserves maintained to obtain or
19 maintain any credit rating of the authority.

20 Section 14. Eligibility for investments and
21 security.--Any bonds or other obligations issued pursuant to
22 this act shall be and constitute legal investments for banks,
23 savings banks, trustees, executors, administrators, and all
24 other fiduciaries, and for all state, municipal, and other
25 public funds, and shall also be and constitute securities
26 eligible for deposit and security for all state, municipal, or
27 other public funds, notwithstanding the provisions of any
28 other law or laws to the contrary.

29 Section 3. Except as specifically reenacted herein,
30 chapter 86-645, Laws of Florida, and chapter 88-542, Laws of
31 Florida, are repealed.

1 Section 4. It is intended that the provisions of this
2 act shall be liberally construed for accomplishing the work
3 authorized and provided for or intended to be provided for by
4 this act, and where strict construction would result in the
5 defeat of the accomplishment of any part of the work
6 authorized by this act, and a liberal construction would
7 permit or assist in the accomplishment of any part of the work
8 authorized by this act, the liberal construction shall be
9 chosen.

10 Section 5. If any section, subsection, sentence,
11 clause, or phrase of this act is held to be unconstitutional,
12 such holding shall not affect the validity of the remaining
13 portions of the act, the Legislature hereby declaring that it
14 would have passed this act and each section, subsection,
15 sentence, clause, and phrase thereof, irrespective of any
16 other separate section, subsection, sentence, clause, or
17 phrase thereof, and irrespective of the fact that any one or
18 more other sections, subsections, sentences, clauses, or
19 phrases thereof may be declared constitutional.

20 Section 6. This act shall take effect upon becoming a
21 law.
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