

By Senator Clary

7-1177-00

See HB

1 A bill to be entitled
2 An act relating to the Mid-Bay Bridge
3 Authority, Okaloosa County; providing
4 legislative intent; amending, codifying, and
5 reenacting chapters 86-465 and 88-542, Laws of
6 Florida; providing for the repeal of all prior
7 special acts related to the Mid-Bay Bridge
8 Authority; providing an effective date.

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

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12 Section 1. Pursuant to chapter 97-255, Laws of
13 Florida, this act constitutes the codification of all special
14 acts relating to the Mid-Bay Bridge Authority. It is the
15 intent of the Legislature in enacting this law to provide a
16 single, comprehensive special act charter for the district,
17 including all current legislative authority granted to the
18 district by its several legislative enactments and any
19 additional authority granted by this act. It is further the
20 intent of this act to preserve all district authority.

21 Section 2. Chapters 86-465 and 88-542, Laws of
22 Florida, relating to the Mid-Bay Bridge Authority, are
23 codified, reenacted, amended, and repealed as herein provided.

24 Section 3. The charter of the Mid-Bay Bridge Authority
25 is re-created and reenacted to read:

26 Section 1. Purpose.--There is hereby created in
27 Okaloosa County a dependent special district for the purpose
28 of planning, constructing, operating, and maintaining a bridge
29 transversing Choctawhatchee Bay. The governmental body shall
30 be known as the Mid-Bay Bridge Authority, hereinafter referred
31 to as "authority."

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

2 (1) "Bond" includes bonds, debentures, notes,
3 certificates of indebtedness, mortgage, certificates, or other
4 obligations or evidences of indebtedness of any type or
5 character.

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

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

17 (4) "Department" means the Florida Department of
18 Transportation.

19 (5) "System" means the bridge traversing
20 Choctawhatchee Bay to be constructed pursuant to this act
21 together with all additions, improvements, connections,
22 extensions, approaches, streets, roads, avenues of access, and
23 transportation facilities appurtenant thereto.

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

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

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

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

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

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

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

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

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

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1 (9) No member, officer, agent, or employee of the
2 authority, either for himself or herself or as agent for
3 anyone else, or as a stockholder or owner in any other legal
4 entity, shall participate or benefit directly or indirectly in
5 or from any sale, purchase, lease, franchise, contract, or
6 other transaction, entered into by the authority. The
7 provisions of this section shall be cumulative to any general
8 laws of the state which are from time to time applicable to
9 members, officers, agents, or employees of the authority and
10 which require the disclosure of, or prohibit, conflicts of
11 interest.

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

18 (11) The District Engineer of the Florida Department
19 of Transportation shall be an ex-officio member of the
20 authority but shall have no voting privileges.

21 Section 4. Powers.--The authority shall have all power
22 and authority necessary, convenient, or desirable to
23 accomplish the purposes of this act, including, but not
24 limited to, the power to:

25 (1) Enter into contracts and to sue and be sued in its
26 own name;

27 (2) Employ necessary personnel, including the
28 appointment of an executive director, whose duties and
29 salaries shall be prescribed by authority;

30 (3) Adopt a budget annually, and to amend it during
31 the fiscal year;

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

1 public purposes in its area of operation as a part of and in
2 cooperation with the system or any portion thereof;

3 (14) Acquire, by purchase, on such terms and
4 conditions and in such manner as it may deem proper, and to
5 own, convey, and otherwise dispose of and to lease as lessor
6 and lessee, any land and any other property, real or personal,
7 reasonably necessary in furtherance of its powers under this
8 act, and to grant and acquire licenses, easements, and options
9 with respect thereto;

10 (15) Exercise the power of eminent domain pursuant to
11 chapters 73 and 74, Florida Statutes;

12 (16) Borrow money and to issue notes for any purpose
13 or purposes for which bonds may be issued under this act and
14 to refund the same; to issue notes in anticipation of the
15 receipt of the proceeds of the sale of bonds;

16 (17) Employ or contract for technical experts,
17 consultants, or other staff as may be deemed necessary and to
18 determine their qualifications, duties, and compensation; and
19 may appoint any advisory committee deemed necessary;

20 (18) Issue revenue bonds or refunding bonds of the
21 authority pursuant to section 8;

22 (19) Pay operating and debt service costs of the
23 authority;

24 (20) Enter into and make lease-purchase agreements
25 with the department until any bonds secured by a pledge of
26 rentals hereunder and any refundings thereof are fully paid as
27 to both principal and interest; and

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

30 Section 5. Compensation and travel expenses.--The
31 members of the authority shall receive no salary or other

1 compensation for their services. The authority shall,
2 however, be authorized to pay reasonable costs and expenses
3 necessarily incurred by the members in performance of their
4 duties. The rate for travel expenses shall not exceed the
5 rate for state employees.

6 Section 6. Budget.--

7 (1)(a) Prior to preparation of the annual budget as
8 provided in paragraph (b), the authority shall develop an
9 annual proposed budget according to the provisions set forth
10 in this section by May of each year, for a public hearing
11 before the citizens of Okaloosa County.

12 (b) The authority, in each fiscal year, shall prepare
13 an annual budget for operating revenue accounts and operating
14 expense accounts and such other accounts as the board of
15 county commissioners shall prescribe, for its operations in
16 the ensuing fiscal year and, on or before the first day of
17 June of each year, the chair of the authority shall submit
18 such budget to the board of county commissioners. The fiscal
19 year for the authority shall be concurrent with the fiscal
20 year of Okaloosa County. At the time the authority prepares
21 its annual budget, it shall adopt a resolution determining and
22 finding the estimated amounts to be expended by the
23 obligations of the authority, for acquiring, establishing,
24 constructing, enlarging, operating, and maintaining the
25 system, including the bridge and bridge facilities and other
26 facilities related thereto, or for any other corporate purpose
27 of the authority. A certified copy of the resolution shall be
28 submitted to the board of county commissioners at the same
29 time that it submits its annual budget referred to above.

30 (c) The board of county commissioners shall examine
31 the budget and the certified copy of the resolution, and may

1 increase or reduce the total amount requested under the
2 provisions in the budget and resolution for the expenditures
3 in such an amount as the board of county commissioners deems
4 advisable in its sole discretion. Thereafter, the board of
5 county commissioners shall approve the budget of the
6 authority, either as submitted or as increased or reduced, as
7 aforsaid.

8 (d) Any budget amendment adopted by the authority that
9 increases the total budget shall be approved by the board of
10 county commissioners prior to becoming effective.

11 (e) All anticipated revenues to be derived from the
12 operation of the system, including the bridge and bridge
13 facilities shall be included in the budget of the authority.
14 However, any amounts of money, including funds in the
15 authority's budget for the preceding fiscal year, that remain
16 unexpended from the revenue derived under the budget for the
17 preceding fiscal year may, by resolution duly adopted by the
18 authority and approved by the board of county commissioners,
19 be set aside in a separate fund, to be known and described as
20 a "Renewal and Replacement Fund," and accumulated in said fund
21 from year to year for the purpose of purchasing real and
22 personal property, and building and constructing permanent
23 improvements, replacements, alterations, buildings, and other
24 structures, and such funds may be disbursed from time to time
25 out of the renewal and replacement fund, upon proper
26 resolution of the authority and approval by the board of
27 county commissioners, and solely for the payment of the cost
28 of purchasing real and tangible personal property, and
29 building and constructing permanent improvements,
30 replacements, alterations, buildings, and other structures.

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1 (f) The authority shall adopt budget procedures to
2 establish the direct and indirect costs of operating and
3 maintaining the bridge authority and the system, as well as
4 the direct income derived therefrom.

5 Section 7. Notice of meetings.--The authority shall
6 give reasonable notice of all meetings at least 3 days prior
7 to the meetings, said notice to be published in a newspaper in
8 general circulation in Okaloosa County. Said notice shall
9 include agenda items whenever said items involve leasing of
10 all or any portion of the system. All meetings of the
11 authority shall be so noticed except emergency meetings which
12 shall be called only when there is an immediate danger to the
13 public health, safety, or welfare.

14 Section 8. Bonding power.--

15 (1) The authority is empowered and authorized to issue
16 revenue or refunding bonds. The purpose of the bonds shall be
17 to finance all or part of the cost of acquisition,
18 construction, and equipping of the system or for refunding of
19 bonds for the same purpose. Such bonds may be issued in one or
20 more series and shall bear such date or dates, be payable upon
21 demand or mature at such time or times, be in such
22 denomination or denominations, be in such form, registered or
23 not, with or without coupon, carry such conversion or
24 registration privileges, have such rank or priority, be
25 executed in such manner, be payable in such medium of payment,
26 at such place or places, and be subject to terms of
27 redemption, with or without premium, be secured in such
28 manner, and have such other characteristics as may be provided
29 by such resolution or ordinance or trust indenture or mortgage
30 issued pursuant thereto. Such bonds shall bear interest at
31 such rate or rates allowed by general law.

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

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

9 (b) The completion, improvement, operation, extension,
10 maintenance, repair, lease, or lease-purchase of such system
11 and with duties of the authority and others, including the
12 department, with reference thereto.

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

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

19 (e) The setting aside of reserves or sinking funds or
20 repair and replacement funds and the regulation and
21 disposition thereof.

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

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

26 (h) Any other or additional agreements with the
27 holders of the bonds which the authority may deem desirable
28 and proper.

29 (3) The authority may employ fiscal agents as provided
30 by this part, or the State Board of Administration may, upon
31 request of the authority, act as fiscal agent for the

1 authority in the issuance of any bonds which may be issued
2 pursuant to this act; and the State Board of Administration
3 may, upon request of the authority, take over the management,
4 control, administration, custody, and payment of any or all
5 debt services of funds or assets now or hereafter available
6 for any bonds issued pursuant to this act. The authority may
7 enter into deeds of trust, indentures, or other agreements
8 within or without the state as security for such bonds and
9 may, under such agreements, sign and pledge all or any of the
10 revenues, rates, fees, rentals, or other charges or receipts
11 of the authority, as provided herein. Any such deed of trust,
12 indenture, or other agreement may contain such provisions as
13 are customary in such instruments or as the authority may
14 authorize, including, but without limitation, provisions as
15 to:
16 (a) The completion, improvement, operation, extension,
17 maintenance, repair, and lease of, or lease-purchase agreement
18 relating to the system and the duties of the authority and
19 others, including the department, with reference thereto.
20 (b) The application of funds and the safeguarding of
21 funds on hand or on deposit.
22 (c) The rights and remedies of the trustee and the
23 holders of the bonds.
24 (d) The terms and provisions of the bonds or the
25 resolutions authorizing the issuance of same.
26 (4) Any of the bonds issued pursuant to this act are,
27 and are hereby declared to be, negotiable instruments and
28 shall have all the qualities and incidents of negotiable
29 instruments under the law merchant and the Uniform Commercial
30 Code of the state.

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1 (5) The authority shall determine the terms and manner
2 of sale and distribution or other disposition of any and all
3 bonds it may issue and shall have any and all powers necessary
4 or convenient to such disposition.

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

9 Section 9. Bonding rights.--The State of Florida does
10 pledge to, and agree with, the Federal Government and any
11 person, or corporation, subscribing to, or acquiring the bonds
12 to be issued by the authority for the construction,
13 acquisition, extension, improvement, or enlargement of the
14 system, or any part thereof, that the state will not limit or
15 alter the rights hereby vested in the authority and the
16 department until all bonds at any time issued, together with
17 the interest therein, are fully paid and discharged or until
18 provision is made therefor. The State of Florida does further
19 pledge to, and agree with, the Federal Government that in the
20 event that the Federal Government shall construct or
21 contribute any funds for the construction, acquisition,
22 extension, improvement, or enlargement of the system, or any
23 part thereof, the state will not alter or limit the rights and
24 powers of the authority in any manner which would be
25 inconsistent with the continued maintenance and operation of
26 the system, or any part thereof, or the improvement thereof,
27 or which would be inconsistent with the due performance of any
28 agreement between the authority and the Federal Government,
29 and the authority shall continue to have and may exercise all
30 powers herein granted, so long as the same may be necessary or
31 desirable for the carrying out of the purposes of this act and

1 the purposes of the Federal Government in the construction, or
2 acquisition or improvement or enlargement of the system, or
3 any part thereof.

4 Section 10. Powers granted, supplemental.--The powers
5 granted by this act shall be regarded as supplemental and
6 additional to powers conferred by other laws, and, unless
7 inconsistent with such powers, shall not be regarded as in
8 derogation of or as repealing any powers now existing under
9 any other law, whether general, special, or local.

10 Section 11. Cooperation.--The Department of
11 Transportation is directed to cooperate with the authority to
12 the maximum extent possible.

13 Section 12. Audit.--The financial records of the
14 authority shall be audited by an independent certified public
15 accountant at least once each fiscal year.

16 Section 13. Lease-purchase agreement.--

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

21 (2) The lease-purchase agreement shall provide for the
22 leasing of the system or any portion thereof by the authority,
23 as lessor, to the department, as lessee, and shall prescribe
24 the terms of such lease and the rentals to be paid thereunder.

25 (3) The lease-purchase agreement may include such
26 other provisions, agreements, and covenants as the authority
27 and the department deem advisable or required, including, but
28 not limited to, provisions as to the bonds to be issued under
29 and for the purposes of this act; the financing, extension,
30 improvement, operation, and maintenance of the system and the
31 expenses and costs of operation of the authority; the charging

1 and collection of tolls, rates, fees, rentals, or other
2 charges for the use of the services and facilities thereof;
3 the application of federal or state grants or aid which may be
4 made or given to assist the authority in the financing,
5 completion, extension, improvement, operation, and maintenance
6 of the system, which the authority is authorized to accept and
7 apply to such purposes; the enforcement of payment and
8 collection of tolls, rates, fees, and rentals; and any other
9 terms, provisions, or covenants necessary, incidental, or
10 appurtenant to the making of, and full performance under, such
11 lease-purchase agreement.

12 (4) The department, as lessee under such
13 lease-purchase agreement, is authorized to pay, as rentals
14 thereunder, any tolls, rates, fees, charges, funds, moneys,
15 receipts, or income accruing to the department from the
16 operation of the system and may also pay, as rentals, from any
17 moneys available to the department, such amounts as the
18 parties agree to accomplish the purposes of this act.

19 (5) In accordance with the provisions of section
20 339.125, Florida Statutes, the department may covenant in any
21 lease-purchase agreement that it will pay all or any part of
22 the operation and maintenance of the system, to the extent the
23 proceeds of the bonds issued therefor are insufficient, from
24 sources other than the revenues derived from the operation of
25 the system.

26 (6) Any lease-purchase agreement between the authority
27 and the department shall provide for the orderly repayment of
28 any and all costs incurred by the department in accordance
29 with terms, conditions, and repayment schedules to be mutually
30 agreeable to the authority and the department, which costs of
31 the department result from any covenants to complete or to

1 operate and maintain the systems authorized herein. The
2 agreement shall provide for a specified source for such
3 repayment which may be, but is not limited to, tolls or other
4 charges imposed for the use of all or a portion of the system
5 or other sources available to the authority not required for
6 the payment or provision for payment of principal, interest,
7 reserves, premium, or other required deposits for any bonds or
8 series of bonds of the authority and for any required or
9 necessary or desirable reserves maintained to obtain or
10 maintain any credit rating of the authority.

11 Section 14. Eligibility for investments and
12 security.--Any bonds or other obligations issued pursuant to
13 this act shall be and constitute legal investments for banks,
14 savings banks, trustees, executors, administrators, and all
15 other fiduciaries, and for all state, municipal, and other
16 public funds, and shall also be and constitute securities
17 eligible for deposit and security for all state, municipal, or
18 other public funds, notwithstanding the provisions of any
19 other law or laws to the contrary.

20 Section 4. Chapters 86-465 and 88-542, Laws of
21 Florida, are repealed.

22 Section 5. It is intended that the provisions of this
23 act shall be liberally construed for accomplishing the work
24 authorized and provided for or intended to be provided for by
25 this act, and where strict construction would result in the
26 defeat of the accomplishment of any part of the work
27 authorized by this act, and a liberal construction would
28 permit or assist in the accomplishment of any part of the work
29 authorized by this act, the liberal construction shall be
30 chosen.

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1 Section 6. In the event that any section or provision
2 of this act is held to be invalid or unenforceable, such
3 determination shall not affect the validity of or
4 enforceability of the remaining portions of this act, the
5 Legislature hereby declaring that it would have passed this
6 act and each other section and provision of this act.

7 Section 7. In the event of a conflict of the
8 provisions of this act with the provisions of any other act,
9 the provisions of this act shall control to the extent of such
10 conflict.

11 Section 8. This act shall take effect upon becoming a
12 law.

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