

By the Committee on Transportation and Senator Sebesta

306-1761-01

1 A bill to be entitled
2 An act relating to the Tampa-Hillsborough
3 County Expressway System; amending s. 348.565,
4 F.S.; authorizing the finance of a specified
5 project through issuance of revenue bonds;
6 amending s. 373.4137, F.S.; providing
7 mitigation requirements on certain expressway
8 authorities; amending s. 348.0012, F.S.;
9 providing an exemption to the Florida
10 Expressway Authority Act; amending ss. 348.754,
11 348.7543, F.S.; expanding the use of bond
12 financing; amending ss. 348.7544, 348.7545,
13 F.S.; authorizing refinancing with bonds;
14 amending s. 348.755, F.S.; authorizing the
15 issuance of bonds; amending s. 348.765, F.S.;
16 providing the section does not repeal, rescind,
17 or modify s. 215.821, F.S.; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 348.565, Florida Statutes, is
23 amended to read:

24 348.565 Revenue bonds for specified projects.--The
25 existing facilities that constitute the Tampa-Hillsborough
26 County Expressway System are hereby approved to be refinanced
27 by the issuance of revenue bonds by the Division of Bond
28 Finance of the State Board of Administration pursuant to s.
29 11(f), Art. VII of the State Constitution. In addition, the
30 following projects of the Tampa-Hillsborough County Expressway
31 Authority are approved to be financed or refinanced by the

1 issuance of revenue bonds pursuant to s. 11(f), Art. VII of
2 the State Constitution:

3 (1) Brandon area feeder roads;

4 (2) Capital improvements to the expressway system,
5 including safety and operational improvements and toll
6 collection equipment; ~~and~~

7 (3) Lee Roy Selmon Crosstown Expressway System
8 widening; ~~and-~~

9 (4) The connector highway linking the Lee Roy Selmon
10 Crosstown Expressway to Interstate 4.

11 Section 2. Subsections (1), (2), (3), (4), (5), (6),
12 and (8) of section 373.4137, Florida Statutes, are amended and
13 subsection (9) is added to that section to read:

14 373.4137 Mitigation requirements.--

15 (1) The Legislature finds that environmental
16 mitigation for the impact of transportation projects proposed
17 by the Department of Transportation or a transportation
18 authority established under chapter 348 or chapter 349 can be
19 more effectively achieved by regional, long-range mitigation
20 planning rather than on a project-by-project basis. It is the
21 intent of the Legislature that mitigation to offset the
22 adverse effects of these transportation projects be funded by
23 the Department of Transportation and be carried out by the
24 Department of Environmental Protection and the water
25 management districts, including the use of mitigation banks
26 established pursuant to this part.

27 (2) Environmental impact inventories for
28 transportation projects proposed by the Department of
29 Transportation or a transportation authority established under
30 chapter 348 or chapter 349 shall be developed as follows:

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1 (a) By May 1 of each year, the Department of
2 Transportation, or a transportation authority created under
3 chapter 348 or chapter 349 shall submit to the Department of
4 Environmental Protection and the water management districts a
5 copy of its adopted work program and an inventory of habitats
6 addressed in the rules tentatively, pursuant to this part and
7 s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be
8 impacted by its plan of construction for transportation
9 projects in the next 3 years of the tentative work program.
10 The Department of Transportation may also include in its
11 inventory the habitat impacts of any future transportation
12 project identified in the tentative work program.

13 (b) The environmental impact inventory shall include a
14 description of these habitat impacts, including their
15 location, acreage, and type; state water quality
16 classification of impacted wetlands and other surface waters;
17 any other state or regional designations for these habitats;
18 and a survey of threatened species, endangered species, and
19 species of special concern affected by the proposed project.

20 (3)(a) To fund the mitigation plan for the projected
21 impacts identified in the inventory described in subsection
22 (2), the Department of Transportation shall identify funds
23 quarterly in an escrow account within the State Transportation
24 Trust Fund for the environmental mitigation phase of projects
25 budgeted by the Department of Transportation for the current
26 fiscal year. The escrow account will be maintained by the
27 Department of Transportation for the benefit of the Department
28 of Environmental Protection and the water management
29 districts. Any interest earnings from the escrow account
30 shall remain with the Department of Transportation.

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1 (b) Each transportation authority established under
2 chapter 348 or chapter 349 which chooses to participate in
3 this program shall create an escrow account within its
4 financial structure and deposit funds in it to pay for the
5 environmental mitigation phase of projects budgeted for the
6 current fiscal year. The escrow account will be maintained by
7 the authority for the benefit of the Department of
8 Environmental Protection and the water management districts.
9 Any interest earnings from the escrow account shall remain
10 with the authority.

11 (c) The Department of Environmental Protection or
12 water management districts may request a transfer of funds
13 from ~~an the~~ escrow account no sooner than 30 days prior to the
14 date the funds are needed to pay for activities associated
15 with development or implementation of the approved mitigation
16 plan described in subsection (4) for the current fiscal year,
17 including, but not limited to, design, engineering,
18 production, and staff support. Actual conceptual plan
19 preparation costs incurred before plan approval may be
20 submitted to the Department of Transportation, ~~or the~~
21 appropriate transportation authority, and the Department of
22 Environmental Protection by November 1 of each year with the
23 plan. The conceptual plan preparation costs of each water
24 management district will be paid based on the amount approved
25 on the mitigation plan and allocated to the current fiscal
26 year projects identified by the water management district.
27 The amount transferred to the escrow ~~accounts~~ ~~account~~ each
28 year by the Department of Transportation and participating
29 transportation authorities established under chapter 348 or
30 chapter 349 shall correspond to a cost per acre of \$75,000
31 multiplied by the projected acres of impact identified in the

1 inventory described in subsection (2). However, the \$75,000
2 cost per acre does not constitute an admission against
3 interest by the state or its subdivisions nor is the cost
4 admissible as evidence of full compensation for any property
5 acquired by eminent domain or through inverse condemnation.
6 Each July 1, the cost per acre shall be adjusted by the
7 percentage change in the average of the Consumer Price Index
8 issued by the United States Department of Labor for the most
9 recent 12-month period ending September 30, compared to the
10 base year average, which is the average for the 12-month
11 period ending September 30, 1996. At the end of each year,
12 the projected acreage of impact shall be reconciled with the
13 acreage of impact of projects as permitted, including permit
14 modifications, pursuant to this part and s. 404 of the Clean
15 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of
16 funds shall be adjusted accordingly to reflect the
17 overtransfer or undertransfer of funds from the preceding
18 year. The Department of Transportation is authorized to
19 transfer such funds from the escrow account to the Department
20 of Environmental Protection and the water management districts
21 to carry out the mitigation programs.

22 (4) Prior to December 1 of each year, each water
23 management district, in consultation with the Department of
24 Environmental Protection, the United States Army Corps of
25 Engineers, the Department of Transportation, participating
26 transportation authorities established under chapter 348 or
27 chapter 349,and other appropriate federal, state, and local
28 governments, and other interested parties, including entities
29 operating mitigation banks, shall develop a plan for the
30 primary purpose of complying with the mitigation requirements
31 adopted pursuant to this part and 33 U.S.C. s. 1344. This

1 plan shall also address significant invasive plant problems
2 within wetlands and other surface waters. In developing such
3 plans, the districts shall utilize sound ecosystem management
4 practices to address significant water resource needs and
5 shall focus on activities of the Department of Environmental
6 Protection and the water management districts, such as surface
7 water improvement and management (SWIM) waterbodies and lands
8 identified for potential acquisition for preservation,
9 restoration, and enhancement, to the extent that such
10 activities comply with the mitigation requirements adopted
11 under this part and 33 U.S.C. s. 1344. In determining the
12 activities to be included in such plans, the districts shall
13 also consider the purchase of credits from public or private
14 mitigation banks permitted under s. 373.4136 and associated
15 federal authorization and shall include such purchase as a
16 part of the mitigation plan when such purchase would offset
17 the impact of the transportation project, provide equal
18 benefits to the water resources than other mitigation options
19 being considered, and provide the most cost-effective
20 mitigation option. The mitigation plan shall be preliminarily
21 approved by the water management district governing board and
22 shall be submitted to the secretary of the Department of
23 Environmental Protection for review and final approval. The
24 preliminary approval by the water management district
25 governing board does not constitute a decision that affects
26 substantial interests as provided by s. 120.569. At least 30
27 days prior to preliminary approval, the water management
28 district shall provide a copy of the draft mitigation plan to
29 any person who has requested a copy.

30 (a) For each transportation project with a funding
31 request for the next fiscal year, the mitigation plan must

1 include a brief explanation of why a mitigation bank was or
2 was not chosen as a mitigation option, including an estimation
3 of identifiable costs of the mitigation bank and nonbank
4 options to the extent practicable.

5 (b) Specific projects may be excluded from the
6 mitigation plan and shall not be subject to this section upon
7 the agreement of the Department of Transportation, a
8 transportation authority, if applicable,the Department of
9 Environmental Protection, and the appropriate water management
10 district that the inclusion of such projects would hamper the
11 efficiency or timeliness of the mitigation planning and
12 permitting process, or the Department of Environmental
13 Protection and the water management district are unable to
14 identify mitigation that would offset the impacts of the
15 project.

16 (c) Surface water improvement and management or
17 invasive plant control projects undertaken using the \$12
18 million advance transferred from the Department of
19 Transportation to the Department of Environmental Protection
20 in fiscal year 1996-1997 which meet the requirements for
21 mitigation under this part and 33 U.S.C. s. 1344 shall remain
22 available for mitigation until the \$12 million is fully
23 credited up to and including fiscal year 2004-2005. When these
24 projects are used as mitigation, the \$12 million advance shall
25 be reduced by \$75,000 per acre of impact mitigated. For any
26 fiscal year through and including fiscal year 2004-2005, to
27 the extent the cost of developing and implementing the
28 mitigation plans is less than the amount transferred pursuant
29 to subsection (3), the difference shall be credited towards
30 the \$12 million advance. Except as provided in this paragraph,
31 any funds not directed to implement the mitigation plan

1 should, to the greatest extent possible, be directed to fund
2 invasive plant control within wetlands and other surface
3 waters.

4 (5) The water management district shall be responsible
5 for ensuring that mitigation requirements pursuant to 33
6 U.S.C. s. 1344 are met for the impacts identified in the
7 inventory described in subsection (2), by implementation of
8 the approved plan described in subsection (4) to the extent
9 funding is provided by the Department of Transportation or a
10 transportation authority established under chapter 348 or
11 chapter 349. During the federal permitting process, the water
12 management district may deviate from the approved mitigation
13 plan in order to comply with federal permitting requirements.

14 (6) The mitigation plans ~~plan~~ shall be updated
15 annually to reflect the most current Department of
16 Transportation work program and project list of a
17 transportation authority established under chapter 348 or
18 chapter 349, if applicable, and may be amended throughout the
19 year to anticipate schedule changes or additional projects
20 which may arise. Each update and amendment of the mitigation
21 plan shall be submitted to the secretary of the Department of
22 Environmental Protection for approval. However, such approval
23 shall not be applicable to a deviation as described in
24 subsection (5).

25 (8) This section shall not be construed to eliminate
26 the need for the Department of Transportation or a
27 transportation authority established under chapter 348 or
28 chapter 349 to comply with the requirement to implement
29 practicable design modifications, including realignment of
30 transportation projects, to reduce or eliminate the impacts of
31 its transportation projects on wetlands and other surface

1 waters as required by rules adopted pursuant to this part, or
2 to diminish the authority under this part to regulate other
3 impacts, including water quantity or water quality impacts, or
4 impacts regulated under this part that are not identified in
5 the inventory described in subsection (2).

6 (9) The process for environmental mitigation for the
7 impact of transportation projects under this section shall be
8 available to an expressway, bridge, or transportation
9 authority established under chapter 348 or chapter 349. Use of
10 this process may be initiated by an authority depositing the
11 requisite funds into an escrow account set up by the authority
12 and filing an environmental impact inventory with the
13 appropriate water management district. An authority that
14 initiates the environmental mitigation process established by
15 the section shall comply with subsection (6) by timely
16 providing the appropriate water management district and the
17 Department of Environmental Protection with the requisite
18 work-program information. A water management district may draw
19 down funds from the escrow account in the manner and on the
20 bases provided in subsection (5).

21 Section 3. Section 348.0012, Florida Statutes, is
22 amended to read:

23 348.0012 Exemptions from applicability.--The Florida
24 Expressway Authority Act does not apply:

25 (1) ~~To in a county in which~~ an expressway authority
26 that has been created pursuant to parts II-IX of this chapter;
27 or

28 (2) To a transportation authority created pursuant to
29 chapter 349.

30 Section 4. Paragraph (b) of subsection (1) of section
31 348.754, Florida Statutes, is amended to read:

1 348.754 Purposes and powers.--

2 (1)

3 (b) It is the express intention of this part that said
4 authority, in the construction of said Orlando-Orange County
5 Expressway System, shall be authorized to acquire, finance,
6 equip, and construct any extensions, additions or improvements
7 to said system or appurtenant facilities, including all
8 necessary approaches, roads, bridges and avenues of access as
9 the authority considers desirable and proper, together with
10 such changes, modifications, or revisions to the system or
11 appurtenant facilities of said project as the authority
12 considers ~~shall be deemed~~ desirable and proper.

13 Section 5. Section 348.7543, Florida Statutes, is
14 amended to read:

15 348.7543 Improvements, bond financing authority
16 for.--Pursuant to s. 11(e), Art. VII of the State
17 Constitution, the Legislature hereby approves for bond
18 financing by the Orlando-Orange County Expressway Authority
19 the cost of acquiring, constructing, equipping, improving, or
20 refurbishing an expressway system, including improvements to
21 toll collection facilities, interchanges, future extensions
22 and additions, necessary approaches, roads, bridges, and
23 avenues of access to the legislatively approved expressway
24 system, and any other facility appurtenant, necessary, or
25 incidental to the ~~approved~~ system, all as deemed desirable and
26 proper by the authority under s. 348.754(1)(b). Subject to
27 terms and conditions of applicable revenue bond resolutions
28 and covenants, such costs financing may be financial in whole
29 or in part by revenue bonds issued under s. 348.755(1)(a) or
30 (b) whether currently issued, issued in the future, or by a
31 combination of such bonds.

1 Section 6. Section 348.7544, Florida Statutes, is
2 amended to read:

3 348.7544 Northwest Beltway Part A, construction
4 authorized; financing.--Notwithstanding s. 338.2275, the
5 Orlando-Orange County Expressway Authority is hereby
6 authorized to construct, finance, operate, own, and maintain
7 that portion of the Western Beltway known as the Northwest
8 Beltway Part A, extending from Florida's Turnpike near Ocoee
9 north to U.S. 441 near Apopka, as part of the authority's
10 20-year capital projects plan. This project may be financed
11 with any funds available to the authority for such purpose or
12 revenue bonds issued by the Division of Bond Finance of the
13 State Board of Administration on behalf of the authority
14 pursuant to s. 11, Art. VII of the State Constitution and the
15 State Bond Act, ss. 215.57-215.83. This project may be
16 refinanced with bonds issued by the authority under s.
17 348.755(1)(d).

18 Section 7. Section 348.7545, Florida Statutes, is
19 amended to read:

20 348.7545 Western Beltway Part C, construction
21 authorized; financing.--Notwithstanding s. 338.2275, the
22 Orlando-Orange County Expressway Authority is authorized to
23 exercise its condemnation powers, construct, finance, operate,
24 own, and maintain that portion of the Western Beltway known as
25 the Western Beltway Part C, extending from Florida's Turnpike
26 near Ocoee in Orange County southerly through Orange and
27 Osceola Counties to an interchange with I-4 near the
28 Osceola-Polk County line, as part of the authority's 20-year
29 capital projects plan. This project may be financed with any
30 funds available to the authority for such purpose or revenue
31 bonds issued by the Division of Bond Finance of the State

1 Board of Administration on behalf of the authority pursuant to
2 s. 11, Art. VII of the State Constitution and the State Bond
3 Act, ss. 215.57-215.83. This project may be refinanced with
4 bonds issued by the authority under s. 348.755(1)(d).

5 Section 8. Subsection (1) of section 348.755, Florida
6 Statutes, is amended to read:

7 348.755 Bonds of the authority.--

8 (1)(a) Bonds may be issued on behalf of the authority
9 under the State Bond Act.~~The bonds of the authority issued~~
10 ~~pursuant to the provisions of this part,~~

11 (b) Alternatively, the authority may issue its own
12 bonds under the provisions of this part at such times and in
13 principal amount as, in the opinion of the authority, is
14 necessary to provide sufficient moneys for achieving its
15 purpose; however, such bonds shall not pledge the full faith
16 and credit of the state. Bonds issued by the authority under
17 paragraphs (a) and (b), whether on original issuance or on
18 refunding, shall be authorized by resolution of the members
19 thereof and may be either term or serial bonds, shall bear
20 such date or dates, mature at such time or times, not
21 exceeding 40 years from their respective dates, bear interest
22 at such rate or rates, payable semiannually, be in such
23 denominations, be in such form, either coupon or fully
24 registered, shall carry such registration, exchangeability and
25 interchangeability privileges, be payable in such medium of
26 payment and at such place or places, be subject to such terms
27 of redemption and be entitled to such priorities on the
28 revenues, rates, fees, rentals or other charges or receipts of
29 the authority including the Orange County gasoline tax funds
30 received by the authority pursuant to the terms of any
31 lease-purchase agreement between the authority and the

1 department, as such resolution or any resolution subsequent
2 thereto may provide. The bonds shall be executed either by
3 manual or facsimile signature by such officers as the
4 authority shall determine, provided that such bonds shall bear
5 at least one signature which is manually executed thereon, and
6 the coupons attached to such bonds shall bear the facsimile
7 signature or signatures of such officer or officers as shall
8 be designated by the authority and shall have the seal of the
9 authority affixed, imprinted, reproduced or lithographed
10 thereon, all as may be prescribed in such resolution or
11 resolutions.

12 (c)(b) Bonds issued under paragraphs (a) and (b)~~Said~~
13 ~~bonds~~ shall be sold at public sale in the manner provided by
14 the State Bond Act. However, if the authority shall, by
15 official action at a public meeting, determine that a
16 negotiated sale of such ~~the~~ bonds is in the best interest of
17 the authority, the authority may negotiate the ~~for~~ sale of
18 such ~~the~~ bonds with the underwriter or underwriters designated
19 by the authority and the Division of Bond Finance of the State
20 Board of Administration with respect to bonds issued under
21 paragraph (a) or the authority with respect to bonds issued
22 under paragraph (b). The authority's determination to
23 negotiate the sale of such bonds may be based, in part, upon
24 the written advice of its financial advisor. Pending the
25 preparation of definitive bonds, interim certificates may be
26 issued to the purchaser or purchasers of such bonds and may
27 contain such terms and conditions as the authority may
28 determine.

29 (d) The authority may issue bonds under paragraph (b)
30 to refund any bonds previously issued regardless of whether
31 the bonds being refunded were issued by the authority under

1 this chapter or on behalf of the authority under the State
2 Bond Act.

3 Section 9. Section 348.765, Florida Statutes, are
4 amended to read:

5 348.765 This part complete and additional authority.--

6 (1) The powers conferred by this part shall be in
7 addition and supplemental to the existing powers of said board
8 and the department, and this part shall not be construed as
9 repealing any of the provisions, of any other law, general,
10 special or local, but to supersede such other laws in the
11 exercise of the powers provided in this part, and to provide a
12 complete method for the exercise of the powers granted in this
13 part. The extension and improvement of said Orlando-Orange
14 County Expressway System, and the issuance of bonds hereunder
15 to finance all or part of the cost thereof, may be
16 accomplished upon compliance with the provisions of this part
17 without regard to or necessity for compliance with the
18 provisions, limitations, or restrictions contained in any
19 other general, special or local law, including, but not
20 limited to, s. 215.821,and no approval of any bonds issued
21 under this part by the qualified electors or qualified
22 electors who are freeholders in the state or in said County of
23 Orange, or in said City of Orlando, or in any other political
24 subdivision of the state, shall be required for the issuance
25 of such bonds pursuant to this part.

26 (2) This part shall not be deemed to repeal, rescind,
27 or modify any other law or laws relating to said State Board
28 of Administration, said Department of Transportation, or the
29 Division of Bond Finance of the State Board of Administration,
30 but shall be deemed to and shall supersede such other law or
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1 laws as are inconsistent with the provisions of this part,
2 including, but not limited to, s. 215.821.

3 Section 10. This act shall take effect upon becoming a
4 law.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 1566

9 The CS authorizes expressway authorities to utilize the
10 process developed for the Florida Department of Transportation
11 to pay mitigation funds into escrow accounts, managed by the
12 Department of Environmental Protection, which finance the
13 water management districts mitigation projects to offset the
14 adverse environmental impacts of expressway projects.

15 The CS further authorizes the Orlando-Orange County Expressway
16 Authority to issue its own bonds. The CS provides the bonds
17 shall not pledge the full faith and credit of the state.
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