

By Representative Russell

1 A bill to be entitled
 2 An act relating to transportation authorities;
 3 amending s. 318.18, F.S.; increasing penalties
 4 for exceeding speed limit within zone of toll
 5 collection facility under specified conditions;
 6 amending s. 348.0003, F.S.; authorizing a
 7 county governing body to set qualifications,
 8 terms of office, and obligations and rights for
 9 the members of expressway authorities within
 10 their jurisdictions; creating s. 348.545, F.S.,
 11 relating to the Tampa-Hillsborough County
 12 Expressway Authority; providing for financing
 13 bonds for improvements to toll collection
 14 facilities; amending s. 373.4137, F.S.;
 15 providing for certain expressway, bridge, or
 16 transportation authorities to create
 17 environmental impact inventories and
 18 participate in a mitigation program to offset
 19 adverse impacts caused by their transportation
 20 projects; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:
 23

24 Section 1. Paragraph (f) is added to subsection (3) of
 25 section 318.18, Florida Statutes, to read:

26 318.18 Amount of civil penalties.--The penalties
 27 required for a noncriminal disposition pursuant to s. 318.14
 28 are as follows:

29 (3)

30 (f) A person cited for exceeding the speed limit
 31 within a zone posted for any electronic or manual toll

1 collection facility will be assessed a fine double the amount
2 listed in paragraph (b). However, no person cited for
3 exceeding the speed limit in any toll collection zone shall be
4 subject to a doubled fine unless the government entity or
5 authority controlling the toll collection zone first installs
6 a traffic control device providing warning that speeding fines
7 are doubled. Any such traffic control device must meet the
8 requirements of the uniform system of traffic control devices.

9 Section 2. Paragraph (d) of subsection (2) of section
10 348.0003, Florida Statutes, is amended to read:

11 348.0003 Expressway authority; formation;
12 membership.--

13 (2) The governing body of an authority shall consist
14 of not fewer than five nor more than nine voting members. The
15 district secretary of the affected department district shall
16 serve as a nonvoting member of the governing body of each
17 authority located within the district. Each member of the
18 governing body must at all times during his or her term of
19 office be a permanent resident of the county which he or she
20 is appointed to represent.

21 (d) Notwithstanding any provision to the contrary in
22 this subsection, in any county as defined in s. 125.011(1),
23 the governing body of an authority shall consist of up to 13
24 members, and the following provisions of this paragraph shall
25 apply specifically to such authority. Except for the district
26 secretary of the department, the members must be residents of
27 the county. Seven voting members shall be appointed by the
28 governing body of the county. At the discretion of the
29 governing body of the county, up to two of the members
30 appointed by the governing body of the county may be elected
31 officials residing in the county. Five voting members of the

1 authority shall be appointed by the Governor. One member shall
2 be the district secretary of the department serving in the
3 district that contains such county. This member shall be an ex
4 officio voting member of the authority. If the governing board
5 of an authority includes any member originally appointed by
6 the governing body of the county as a nonvoting member, when
7 the term of such member expires, that member shall be replaced
8 by a member appointed by the Governor until the governing body
9 of the authority is composed of seven members appointed by the
10 governing body of the county and five members appointed by the
11 Governor. The qualifications, terms of office, and obligations
12 and rights of members of the authority shall be determined by
13 resolution or ordinance of the governing body of the county in
14 a manner that is consistent with subsections (3) and (4).

15 Section 3. Section 348.545, Florida Statutes, is
16 created to read:

17 348.545 Bond financing authority for
18 improvement.--Pursuant to s. 11(f), Art. VII of the State
19 Constitution, the Legislature hereby approves for bond
20 financing by the Tampa-Hillsborough County Expressway
21 Authority improvements to toll collection facilities,
22 interchanges to the legislatively approved expressway system,
23 and any other facility appurtenant, necessary, or incidental
24 to the approved system. Subject to terms and conditions of
25 applicable revenue bond resolutions and covenants, such
26 financing may be in whole or in part by revenue bonds
27 currently issued or issued in the future or by a combination
28 of such bonds.

29 Section 4. Section 373.4137, Florida Statutes, is
30 amended to read:

31 373.4137 Mitigation requirements.--

1 (1) The Legislature finds that environmental
2 mitigation for the impact of transportation projects proposed
3 by the Department of Transportation or a transportation
4 authority established pursuant to chapter 348 or chapter 349
5 can be more effectively achieved by regional, long-range
6 mitigation planning rather than on a project-by-project basis.
7 It is the intent of the Legislature that mitigation to offset
8 the adverse effects of these transportation projects be funded
9 by the Department of Transportation and be carried out by the
10 Department of Environmental Protection and the water
11 management districts, including the use of mitigation banks
12 established pursuant to this part.

13 (2) Environmental impact inventories for
14 transportation projects proposed by the Department of
15 Transportation or a transportation authority established
16 pursuant to chapter 348 or chapter 349 shall be developed as
17 follows:

18 (a) By May 1 of each year, the Department of
19 Transportation or a transportation authority established
20 pursuant to chapter 348 or chapter 349 shall submit to the
21 Department of Environmental Protection and the water
22 management districts a copy of its adopted work program and an
23 inventory of habitats addressed in the rules tentatively,
24 pursuant to this part and s. 404 of the Clean Water Act, 33
25 U.S.C. s. 1344, which may be impacted by its plan of
26 construction for transportation projects in the next 3 years
27 of the tentative work program. The Department of
28 Transportation or a transportation authority established
29 pursuant to chapter 348 or chapter 349 may also include in its
30 inventory the habitat impacts of any future transportation
31 project identified in the tentative work program.

1 (b) The environmental impact inventory shall include a
2 description of these habitat impacts, including their
3 location, acreage, and type; state water quality
4 classification of impacted wetlands and other surface waters;
5 any other state or regional designations for these habitats;
6 and a survey of threatened species, endangered species, and
7 species of special concern affected by the proposed project.

8 (3)(a) To fund the mitigation plan for the projected
9 impacts identified in the inventory described in subsection
10 (2), the Department of Transportation shall identify funds
11 quarterly in an escrow account within the State Transportation
12 Trust Fund for the environmental mitigation phase of projects
13 budgeted by the Department of Transportation for the current
14 fiscal year. The escrow account shall be maintained by the
15 Department of Transportation for the benefit of the Department
16 of Environmental Protection and the water management
17 districts. Any interest earnings from the escrow account shall
18 remain with the Department of Transportation.

19 (b) Each transportation authority established pursuant
20 to chapter 348 or chapter 349 that chooses to participate in
21 this program shall create an escrow account within its
22 financial structure and deposit funds in the account to pay
23 for the environmental mitigation phase of projects budgeted
24 for the current fiscal year. The escrow account shall be
25 maintained by the authority for the benefit of the Department
26 of Environmental Protection and the water management
27 districts. Any interest earnings from the escrow account shall
28 remain with the authority.

29 (c) The Department of Environmental Protection or
30 water management districts may request a transfer of funds
31 from an ~~the~~ escrow account no sooner than 30 days prior to the

1 date the funds are needed to pay for activities associated
2 with development or implementation of the approved mitigation
3 plan described in subsection (4) for the current fiscal year,
4 including, but not limited to, design, engineering,
5 production, and staff support. Actual conceptual plan
6 preparation costs incurred before plan approval may be
7 submitted to the Department of Transportation or the
8 appropriate transportation authority and the Department of
9 Environmental Protection by November 1 of each year with the
10 plan. The conceptual plan preparation costs of each water
11 management district will be paid based on the amount approved
12 on the mitigation plan and allocated to the current fiscal
13 year projects identified by the water management district. The
14 amount transferred to the escrow accounts ~~account~~ each year by
15 the Department of Transportation and participating
16 transportation authorities established pursuant to chapter 348
17 or chapter 349 shall correspond to a cost per acre of \$75,000
18 multiplied by the projected acres of impact identified in the
19 inventory described in subsection (2). However, the \$75,000
20 cost per acre does not constitute an admission against
21 interest by the state or its subdivisions nor is the cost
22 admissible as evidence of full compensation for any property
23 acquired by eminent domain or through inverse condemnation.
24 Each July 1, the cost per acre shall be adjusted by the
25 percentage change in the average of the Consumer Price Index
26 issued by the United States Department of Labor for the most
27 recent 12-month period ending September 30, compared to the
28 base year average, which is the average for the 12-month
29 period ending September 30, 1996. At the end of each year, the
30 projected acreage of impact shall be reconciled with the
31 acreage of impact of projects as permitted, including permit

1 modifications, pursuant to this part and s. 404 of the Clean
2 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of
3 funds shall be adjusted accordingly to reflect the
4 overtransfer or undertransfer of funds from the preceding
5 year. The Department of Transportation and participating
6 transportation authorities established pursuant to chapter 348
7 or chapter 349 are ~~is~~ authorized to transfer such funds from
8 the escrow accounts ~~account~~ to the Department of Environmental
9 Protection and the water management districts to carry out the
10 mitigation programs.

11 (4) Prior to December 1 of each year, each water
12 management district, in consultation with the Department of
13 Environmental Protection, the United States Army Corps of
14 Engineers, the Department of Transportation, transportation
15 authorities established pursuant to chapter 348 or chapter
16 349,and other appropriate federal, state, and local
17 governments, and other interested parties, including entities
18 operating mitigation banks, shall develop a plan for the
19 primary purpose of complying with the mitigation requirements
20 adopted pursuant to this part and 33 U.S.C. s. 1344. This plan
21 shall also address significant invasive plant problems within
22 wetlands and other surface waters. In developing such plans,
23 the districts shall utilize sound ecosystem management
24 practices to address significant water resource needs and
25 shall focus on activities of the Department of Environmental
26 Protection and the water management districts, such as surface
27 water improvement and management (SWIM) waterbodies and lands
28 identified for potential acquisition for preservation,
29 restoration, and enhancement, to the extent that such
30 activities comply with the mitigation requirements adopted
31 under this part and 33 U.S.C. s. 1344. In determining the

1 activities to be included in such plans, the districts shall
2 also consider the purchase of credits from public or private
3 mitigation banks permitted under s. 373.4136 and associated
4 federal authorization and shall include such purchase as a
5 part of the mitigation plan when such purchase would offset
6 the impact of the transportation project, provide equal
7 benefits to the water resources than other mitigation options
8 being considered, and provide the most cost-effective
9 mitigation option. The mitigation plan shall be preliminarily
10 approved by the water management district governing board and
11 shall be submitted to the secretary of the Department of
12 Environmental Protection for review and final approval. The
13 preliminary approval by the water management district
14 governing board does not constitute a decision that affects
15 substantial interests as provided by s. 120.569. At least 30
16 days prior to preliminary approval, the water management
17 district shall provide a copy of the draft mitigation plan to
18 any person who has requested a copy.

19 (a) For each transportation project with a funding
20 request for the next fiscal year, the mitigation plan must
21 include a brief explanation of why a mitigation bank was or
22 was not chosen as a mitigation option, including an estimation
23 of identifiable costs of the mitigation bank and nonbank
24 options to the extent practicable.

25 (b) Specific projects may be excluded from the
26 mitigation plan and shall not be subject to this section upon
27 the agreement of the Department of Transportation, a
28 transportation authority if applicable, the Department of
29 Environmental Protection, and the appropriate water management
30 district that the inclusion of such projects would hamper the
31 efficiency or timeliness of the mitigation planning and

1 permitting process, or the Department of Environmental
2 Protection and the water management district are unable to
3 identify mitigation that would offset the impacts of the
4 project.

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

24 (5) The water management district shall be responsible
25 for ensuring that mitigation requirements pursuant to 33
26 U.S.C. s. 1344 are met for the impacts identified in the
27 inventory described in subsection (2), by implementation of
28 the approved plan described in subsection (4) to the extent
29 funding is provided by the Department of Transportation, or a
30 transportation authority established pursuant to chapter 348
31 or chapter 349, if applicable. During the federal permitting

1 process, the water management district may deviate from the
2 approved mitigation plan in order to comply with federal
3 permitting requirements.

4 (6) The mitigation plans ~~plan~~ shall be updated
5 annually to reflect the most current Department of
6 Transportation work program and project list of a
7 transportation authority established pursuant to chapter 348
8 or chapter 349, if applicable, and may be amended throughout
9 the year to anticipate schedule changes or additional projects
10 which may arise. Each update and amendment of the mitigation
11 plan shall be submitted to the secretary of the Department of
12 Environmental Protection for approval. However, such approval
13 shall not be applicable to a deviation as described in
14 subsection (5).

15 (7) Upon approval by the secretary of the Department
16 of Environmental Protection, the mitigation plan shall be
17 deemed to satisfy the mitigation requirements under this part
18 and any other mitigation requirements imposed by local,
19 regional, and state agencies for impacts identified in the
20 inventory described in subsection (2). The approval of the
21 secretary shall authorize the activities proposed in the
22 mitigation plan, and no other state, regional, or local permit
23 or approval shall be necessary.

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

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

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

19 Section 5. This act shall take effect July 1, 2002.

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21 HOUSE SUMMARY

22
23 Increases fines for exceeding speed limit within zone of
24 toll collection facility under specified circumstances.
25 Authorizes a county governing body to set qualifications,
26 terms of office, and obligations and rights for the
27 members of expressway authorities. Provides for financing
28 bonds for improvements to toll collection facilities by
29 the Tampa-Hillsborough County Expressway Authority.
30 Provides for certain authorities to create environmental
31 impact inventories and participate in mitigation
programs.