

By Senator Sebesta

16-863C-03

1                                   A bill to be entitled  
2           An act relating to the Department of  
3           Transportation; creating s. 215.617, F.S.;  
4           authorizing the department to issue revenue  
5           bonds financed by the repayment of loans from  
6           the state-funded infrastructure bank; amending  
7           s. 334.30, F.S.; providing for public-private  
8           partnership agreements for transportation  
9           facilities without prior legislative approval;  
10          authorizing the department to adopt rules;  
11          providing requirements for projects advanced by  
12          a public-private partnership or private entity;  
13          authorizing the department to request  
14          proposals; requiring notice; providing  
15          requirements for ranking proposals; amending s.  
16          338.165, F.S.; authorizing the department to  
17          request the Division of Bond Finance to issue  
18          bonds secured by toll revenues collected on the  
19          Beeline-East Expressway, the Sunshine Skyway  
20          Bridge, and the Pinellas Bayway toll facilities  
21          to provide funding for transportation projects  
22          on the State Highway System in the counties in  
23          which the projects are located; amending s.  
24          338.2275, F.S.; increasing the cap on the  
25          amount of bonds that may be issued to fund  
26          approved turnpike projects; amending s.  
27          338.235, F.S.; authorizing the turnpike  
28          enterprise to secure products, business  
29          opportunities, and services by competitive  
30          solicitation; providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 215.617, Florida Statutes, is  
4 created to read:

5 215.617 Bonds for state-funded infrastructure bank.--

6 (1) Upon the request of the Department of

7 Transportation, the Division of Bond Finance is authorized  
8 pursuant to s. 11, Art. VII of the State Constitution and the  
9 State Bond Act to issue revenue bonds, for and on behalf of  
10 the Department of Transportation, for the purpose of financing  
11 or refinancing the construction, reconstruction, and  
12 improvement of projects that are eligible to receive  
13 assistance from the state-funded infrastructure bank as  
14 provided in s. 339.55. The facilities to be financed with the  
15 proceeds of such bonds are designated as state fixed capital  
16 outlay projects for the purposes of s. 11(d), Art. VII of the  
17 State Constitution, and the specific facilities to be financed  
18 shall be determined by the Department of Transportation in  
19 accordance with s. 339.55. Each project to be financed with  
20 the proceeds of the bonds issued pursuant to this section is  
21 hereby approved as required by s. 11(f), Art. VII of the State  
22 Constitution. The Division of Bond Finance is authorized to  
23 consider innovative financing techniques, which may include,  
24 but are not limited to, innovative bidding and structures of  
25 potential financings that may result in negotiated  
26 transactions.

27 (2) Bonds issued pursuant to this section shall be  
28 payable primarily from a prior and superior claim on all  
29 state-funded infrastructure bank repayments received each year  
30 with respect to state-funded infrastructure bank projects  
31 undertaken in accordance with s. 339.55.

1           (3) The duration of each series of bonds may not  
2 exceed 30 annual maturities.

3           (4) The bonds issued under this section shall not  
4 constitute a general obligation or debt of the state or a  
5 pledge of the full faith and credit or taxing power of the  
6 state. The bonds shall be secured by and are payable from the  
7 revenues pledged in accordance with this section and the  
8 resolution authorizing their issuance.

9           (5) The state does covenant with the holders of bonds  
10 issued under this section that it will not take any action  
11 that will materially and adversely affect the rights of such  
12 bondholders as long as the bonds authorized by this section  
13 are outstanding.

14           (6) Any complaint for validation of bonds issued  
15 pursuant to this section shall be filed in the circuit court  
16 of the county where the seat of state government is situated,  
17 the notice required to be published by s. 75.06 shall be  
18 published only in the county where the complaint is filed, and  
19 the complaint and order of the circuit court shall be served  
20 only on the state attorney of the circuit in which the action  
21 is pending.

22           Section 2. Section 334.30, Florida Statutes, is  
23 amended to read:

24           334.30 Private transportation facilities.--The  
25 Legislature hereby finds and declares that there is a public  
26 need for rapid construction of safe and efficient  
27 transportation facilities for the purpose of travel within the  
28 state, and that it is in the public's interest to provide for  
29 public-private partnership agreements to effectuate the  
30 construction of additional safe, convenient, and economical  
31 transportation facilities.

1           (1) The department may receive or solicit proposals  
2 and, ~~with legislative approval by a separate bill for each~~  
3 ~~facility,~~ enter into agreements with private entities, or  
4 consortia thereof, for the building, operation, ownership, or  
5 financing of transportation facilities. The department may  
6 adopt rules to administer this section and shall by rule  
7 establish an application fee for the submission of proposals  
8 under this section. The fee must be sufficient to pay the  
9 costs of evaluating the proposals. The department may engage  
10 the services of private consultants to assist in the  
11 evaluation. ~~Before seeking legislative approval,~~The  
12 department must determine that the proposed project:

- 13           (a) Is in the public's best interest;  
14           (b) Would not require state funds to be used unless  
15 there is an overriding state interest; and  
16           (c) Would have adequate safeguards in place to ensure  
17 that no additional costs or service disruptions would be  
18 realized by the traveling public and citizens of the state in  
19 the event of default or cancellation of the agreement by the  
20 department.

21  
22 The department shall ensure that all reasonable costs to the  
23 state related to transportation facilities that are not part  
24 of the State Highway System are borne by the public-private  
25 entity. The department shall also ensure that all reasonable  
26 costs to the state and substantially affected local  
27 governments and utilities, related to the private  
28 transportation facility, are borne by the public-private  
29 private entity for transportation facilities which are owned  
30 by private entities.

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1           (2)(a) Public-private partnerships or private entities  
2 may advance projects programmed in the first 3 years of the  
3 adopted work program to be reimbursed from department funds  
4 for the project as programmed in the adopted work program.

5           (b) Public-private partnerships or private entities  
6 may advance projects programmed in the 4th and 5th years of  
7 the adopted work program to be reimbursed from department  
8 funds for the project as programmed in the adopted work  
9 program. The total capital costs for all projects advanced  
10 under this paragraph may not exceed \$50 million without  
11 specific project approval by the Legislature.

12           (c) Public-private partnerships or private entities  
13 may advance projects on the Florida Intrastate Highway System  
14 programmed in the adopted 5-year work program to be reimbursed  
15 from department funds for the project as programmed in the  
16 adopted work program.

17           (d) Public-private partnerships or private entities  
18 may advance projects that are not programmed in the adopted  
19 5-year work program but are on the State Highway System and  
20 included in the local metropolitan planning organization's or  
21 the department's long-range transportation plans, to be  
22 reimbursed from department funds beyond the adopted 5-year  
23 work program. The total capital costs for all projects  
24 advanced under this paragraph may not exceed \$50 million  
25 without specific project approval by the Legislature.

26           (3) The department may request proposals from  
27 public-private transportation projects or, if the department  
28 receives an unsolicited proposal, the department shall publish  
29 a notice in the Florida Administrative Weekly and a newspaper  
30 of general circulation at least once a week for 2 weeks  
31 stating that the department has received the proposal and will

1 accept, for 60 days after the initial date of publication,  
2 other proposals for the same project purpose. A copy of the  
3 notice must be mailed to each local government in the affected  
4 area. After the public notification period has expired, the  
5 department shall rank the proposals in order of preference. In  
6 ranking the proposals the department may consider the  
7 following factors, including, but not limited to, professional  
8 qualification, general business terms, innovative engineering  
9 or cost-reduction terms, finance plans, and the need for state  
10 funds to deliver the proposal. The department shall negotiate  
11 with the top-ranked proposer in good faith, and if the  
12 department is not satisfied with the results of the  
13 negotiations, the department may, at its sole discretion,  
14 terminate negotiations with the proposer. If these  
15 negotiations are unsuccessful, the department may go to the  
16 second and lower-ranked firms, in order, using this same  
17 procedure. If only one proposal is received, the department  
18 may negotiate in good faith, and, if the department is not  
19 satisfied with the results of the negotiations, the department  
20 may, at its sole discretion, terminate negotiations with the  
21 proposers. Notwithstanding this subsection, the department  
22 may, at its discretion, reject all proposals at any point in  
23 the process up to completion of a contract with the proposer.

24 (4)(2) Agreements entered into pursuant to this  
25 section may authorize the private entity to impose tolls or  
26 fares for the use of the facility. However, the amount and  
27 use of toll or fare revenues may be regulated by the  
28 department to avoid unreasonable costs to users of the  
29 facility.

30 (5)(3) Each private transportation facility  
31 constructed pursuant to this section shall comply with all

1 requirements of federal, state, and local laws; state,  
2 regional, and local comprehensive plans; department rules,  
3 policies, procedures, and standards for transportation  
4 facilities; and any other conditions which the department  
5 determines to be in the public's best interest.

6 (6)~~(4)~~ The department may exercise any power possessed  
7 by it, including eminent domain, with respect to the  
8 development and construction of state transportation projects  
9 to facilitate the development and construction of  
10 transportation projects pursuant to this section. The  
11 department may provide services to the private entity.  
12 Agreements for maintenance, law enforcement, and other  
13 services entered into pursuant to this section shall provide  
14 for full reimbursement for services rendered.

15 (7)~~(5)~~ Except as herein provided, the provisions of  
16 this section are not intended to amend existing laws by  
17 granting additional powers to, or further restricting, local  
18 governmental entities from regulating and entering into  
19 cooperative arrangements with the private sector for the  
20 planning, construction, and operation of transportation  
21 facilities.

22 (8)~~(6)~~ A fixed-guideway transportation system  
23 authorized by the department to be wholly or partially within  
24 the department's right-of-way pursuant to a lease granted  
25 under s. 337.251 may operate at any safe speed.

26 Section 3. Subsection (3) of section 338.165, Florida  
27 Statutes, is amended to read:

28 338.165 Continuation of tolls.--

29 (3) Notwithstanding any other law to the contrary,  
30 pursuant to s. 11, Art. VII of the State Constitution, and  
31 subject to the requirements of subsection (2), the Department

1 of Transportation may request the Division of Bond Finance to  
2 issue bonds secured by toll revenues collected on the  
3 Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East  
4 Expressway, and the Pinellas Bayway to fund transportation  
5 projects located within the county or counties in which the  
6 project is located and contained in the ~~1993-1994 Adopted Work~~  
7 ~~Program or in any subsequent~~ adopted work program of the  
8 department.

9 Section 4. Subsection (1) of section 338.2275, Florida  
10 Statutes, is amended to read:

11 338.2275 Approved turnpike projects.--

12 (1) Legislative approval of the department's tentative  
13 work program that contains the turnpike project constitutes  
14 approval to issue bonds as required by s. 11(f), Art. VII of  
15 the State Constitution. Turnpike projects approved to be  
16 included in future tentative work programs include, but are  
17 not limited to, projects contained in the 2003-2004 ~~1997-1998~~  
18 ~~tentative work program and potential expansion projects listed~~  
19 ~~in the January 25, 1997, report submitted to the Florida~~  
20 ~~Transportation Commission titled "Florida's Turnpike Building~~  
21 ~~on the Past -- Preparing for the Future."~~A maximum of \$4.5 ~~\$3~~  
22 billion of bonds may be issued to fund approved turnpike  
23 projects.

24 Section 5. Subsection (2) of section 338.235, Florida  
25 Statutes, is amended to read:

26 338.235 Contracts with department for provision of  
27 services on the turnpike system.--

28 (2) In order to secure high-quality products, business  
29 opportunities, and services on the turnpike system, products,  
30 business opportunities, and services authorized by s. 338.234  
31 may be secured by competitive solicitation for turnpike



1 ~~patrons, products and services authorized by s. 338.234(1) may~~  
2 ~~be secured through the request-for-proposal process. If the~~  
3 department receives an unsolicited proposal for products,  
4 services, or business opportunities which it wishes to  
5 consider, it shall publish a notice in a newspaper of general  
6 circulation at least once a week for 2 weeks, or may broadcast  
7 such notice by electronic media for 2 weeks, stating that it  
8 has received a proposal and will accept other proposals on the  
9 same subject for 30 days after the date of publication.The  
10 department may select offers that ~~the proposal and fee which~~  
11 best satisfy the conditions of a quality service, business  
12 opportunity, or ~~and~~ product operation for the turnpike system.  
13 The factors to be used in evaluating proposals include, but  
14 are not limited to:

- 15           (a) The financial capacity of the provider;  
16           (b) The willingness to contribute toward the cost of  
17 facility construction;  
18           (c) The type and quality of the service or product  
19 offered;  
20           (d) The price structure of the service or product  
21 offered;  
22           (e) Management experience and capabilities;  
23           (f) The national brand names offered;  
24           (g) The originality of the concept and its  
25 relationship to the turnpike system;  
26           (h) The lease rate; and  
27           (i) Other factors that the department may deem  
28 pertinent.

29           Section 6. This act shall take effect upon becoming a  
30 law.

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SENATE SUMMARY

Authorizes the Department of Transportation to issue revenue bonds to finance the construction, reconstruction, and improvement of projects eligible for assistance from the state-funded infrastructure bank. Authorizes certain public-private partnership agreements and provides rulemaking authority for the department with respect to such agreements. Authorizes revenue bonds secured by tolls collected on the Sunshine Skyway Bridge, the Beeline-East Expressway, and the Pinellas Bayway to fund highway projects. Increases the maximum amount of bonds that may be issued to fund turnpike projects. (See bill for details.)