

By the Committees on Finance and Taxation; Transportation; and  
Senator Sebesta

314-2434-03

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; amending s. 335.02, F.S.;  
31          defining the term "jurisdiction and control";

1 providing that local governmental ordinances  
2 and regulations are not applicable to state  
3 projects to build designated transportation  
4 facilities to the extent of any conflict with a  
5 rule of the Department of Transportation;  
6 providing an effective date.  
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8 Be It Enacted by the Legislature of the State of Florida:  
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10 Section 1. Section 215.617, Florida Statutes, is  
11 created to read:

12 215.617 Bonds for state-funded infrastructure bank.--

13 (1) Upon the request of the Department of  
14 Transportation, the Division of Bond Finance is authorized  
15 pursuant to s. 11, Art. VII of the State Constitution and the  
16 State Bond Act to issue revenue bonds, for and on behalf of  
17 the Department of Transportation, for the purpose of financing  
18 or refinancing the construction, reconstruction, and  
19 improvement of projects that are eligible to receive  
20 assistance from the state-funded infrastructure bank as  
21 provided in s. 339.55. The facilities to be financed with the  
22 proceeds of such bonds are designated as state fixed capital  
23 outlay projects for the purposes of s. 11(d), Art. VII of the  
24 State Constitution, and the specific facilities to be financed  
25 shall be determined by the Department of Transportation in  
26 accordance with s. 339.55. Legislative approval of the  
27 department's tentative work program that contains the  
28 state-funded infrastructure bank projects constitutes approval  
29 as required by s. 11(f), Art. VII of the State Constitution.  
30 The Division of Bond Finance is authorized to consider  
31 innovative financing techniques, which may include, but are

1 not limited to, innovative bidding and structures of potential  
2 financings that may result in negotiated transactions.

3 (2) Bonds issued pursuant to this section shall be  
4 payable primarily from a prior and superior claim on all  
5 state-funded infrastructure bank repayments received each year  
6 with respect to state-funded infrastructure bank projects  
7 undertaken in accordance with s. 339.55.

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

10 (4) The bonds issued under this section shall not  
11 constitute a general obligation or debt of the state or a  
12 pledge of the full faith and credit or taxing power of the  
13 state. The bonds shall be secured by and are payable from the  
14 revenues pledged in accordance with this section and the  
15 resolution authorizing their issuance.

16 (5) The state does covenant with the holders of bonds  
17 issued under this section that it will not take any action  
18 that will materially and adversely affect the rights of such  
19 bondholders as long as the bonds authorized by this section  
20 are outstanding.

21 (6) Any complaint for validation of bonds issued  
22 pursuant to this section shall be filed in the circuit court  
23 of the county where the seat of state government is situated,  
24 the notice required to be published by s. 75.06 shall be  
25 published only in the county where the complaint is filed, and  
26 the complaint and order of the circuit court shall be served  
27 only on the state attorney of the circuit in which the action  
28 is pending.

29 Section 2. Section 334.30, Florida Statutes, is  
30 amended to read:

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1           334.30 Private transportation facilities.--The  
2 Legislature hereby finds and declares that there is a public  
3 need for rapid construction of safe and efficient  
4 transportation facilities for the purpose of travel within the  
5 state, and that it is in the public's interest to provide for  
6 public-private partnership agreements to effectuate the  
7 construction of additional safe, convenient, and economical  
8 transportation facilities.

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

22           (a) Is in the public's best interest;

23           (b) Complies with the provisions of subsection (2)  
24 ~~Would not require state funds to be used unless there is an~~  
25 ~~overriding state interest;~~ and

26           (c) Would have adequate safeguards in place to ensure  
27 that no additional costs or service disruptions would be  
28 realized by the traveling public and citizens of the state in  
29 the event of default or cancellation of the agreement by the  
30 department.

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1 The department shall ensure that all reasonable costs to the  
2 state related to transportation facilities that are not part  
3 of the State Highway System are borne by the public-private  
4 entity. The department shall also ensure that all reasonable  
5 costs to the state and substantially affected local  
6 governments and utilities, related to the private  
7 transportation facility, are borne by the public-private  
8 private entity for transportation facilities which are owned  
9 by private entities.

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

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

21 (c) Public-private partnerships or private entities  
22 may advance projects on the Florida Intrastate Highway System  
23 programmed in the adopted 5-year work program to be reimbursed  
24 from department funds for the project as programmed in the  
25 adopted work program.

26 (d) Public-private partnerships or private entities  
27 may advance projects that are not programmed in the adopted  
28 5-year work program but are on the State Highway System and  
29 included in the local metropolitan planning organization's or  
30 the department's long-range transportation plans, to be  
31 reimbursed from department funds beyond the adopted 5-year

1 work program. The total capital costs to the department for  
2 all projects advanced under this paragraph may not exceed \$50  
3 million without specific project approval by the Legislature.

4 (3) The department may request proposals from  
5 public-private transportation projects or, if the department  
6 receives an unsolicited proposal, the department shall publish  
7 a notice in the Florida Administrative Weekly and a newspaper  
8 of general circulation at least once a week for 2 weeks  
9 stating that the department has received the proposal and will  
10 accept, for 60 days after the initial date of publication,  
11 other proposals for the same project purpose. A copy of the  
12 notice must be mailed to each local government in the affected  
13 area. After the public notification period has expired, the  
14 department shall rank the proposals in order of preference. In  
15 ranking the proposals the department may consider the  
16 following factors, including, but not limited to, professional  
17 qualification, general business terms, innovative engineering  
18 or cost-reduction terms, finance plans, and the need for state  
19 funds to deliver the proposal. The department shall negotiate  
20 with the top-ranked proposer in good faith, and if the  
21 department is not satisfied with the results of the  
22 negotiations, the department may, at its sole discretion,  
23 terminate negotiations with the proposer. If these  
24 negotiations are unsuccessful, the department may go to the  
25 second and lower-ranked firms, in order, using this same  
26 procedure. If only one proposal is received, the department  
27 may negotiate in good faith, and, if the department is not  
28 satisfied with the results of the negotiations, the department  
29 may, at its sole discretion, terminate negotiations with the  
30 proposers. Notwithstanding this subsection, the department

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1 may, at its discretion, reject all proposals at any point in  
2 the process up to completion of a contract with the proposer.

3 (4)~~(2)~~ Agreements entered into pursuant to this  
4 section may authorize the private entity to impose tolls or  
5 fares for the use of the facility. However, the amount and  
6 use of toll or fare revenues may be regulated by the  
7 department to avoid unreasonable costs to users of the  
8 facility.

9 (5)~~(3)~~ Each private transportation facility  
10 constructed pursuant to this section shall comply with all  
11 requirements of federal, state, and local laws; state,  
12 regional, and local comprehensive plans; department rules,  
13 policies, procedures, and standards for transportation  
14 facilities; and any other conditions which the department  
15 determines to be in the public's best interest.

16 (6)~~(4)~~ The department may exercise any power possessed  
17 by it, including eminent domain, with respect to the  
18 development and construction of state transportation projects  
19 to facilitate the development and construction of  
20 transportation projects pursuant to this section. The  
21 department may provide services to the private entity.  
22 Agreements for maintenance, law enforcement, and other  
23 services entered into pursuant to this section shall provide  
24 for full reimbursement for services rendered.

25 (7)~~(5)~~ Except as herein provided, the provisions of  
26 this section are not intended to amend existing laws by  
27 granting additional powers to, or further restricting, local  
28 governmental entities from regulating and entering into  
29 cooperative arrangements with the private sector for the  
30 planning, construction, and operation of transportation  
31 facilities.

1           ~~(8)(6)~~ A fixed-guideway transportation system  
2 authorized by the department to be wholly or partially within  
3 the department's right-of-way pursuant to a lease granted  
4 under s. 337.251 may operate at any safe speed.

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

7           338.165 Continuation of tolls.--

8           (3) Notwithstanding any other law to the contrary,  
9 pursuant to s. 11, Art. VII of the State Constitution, and  
10 subject to the requirements of subsection (2), the Department  
11 of Transportation may request the Division of Bond Finance to  
12 issue bonds secured by toll revenues collected on the  
13 Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East  
14 Expressway, and the Pinellas Bayway to fund transportation  
15 projects located within the county or counties in which the  
16 project is located and contained in the 1993-1994 Adopted Work  
17 Program or in any subsequent adopted work program of the  
18 department.

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

21           338.2275 Approved turnpike projects.--

22           (1) Legislative approval of the department's tentative  
23 work program that contains the turnpike project constitutes  
24 approval to issue bonds as required by s. 11(f), Art. VII of  
25 the State Constitution. Turnpike projects approved to be  
26 included in future tentative work programs include, but are  
27 not limited to, projects contained in the 2003-2004 ~~1997-1998~~  
28 tentative work program ~~and potential expansion projects listed~~  
29 ~~in the January 25, 1997, report submitted to the Florida~~  
30 ~~Transportation Commission titled "Florida's Turnpike Building~~  
31 ~~on the Past - Preparing for the Future."~~A maximum of \$4.5 ~~\$3~~



1 billion of bonds may be issued to fund approved turnpike  
2 projects.

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

5 338.235 Contracts with department for provision of  
6 services on the turnpike system.--

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

- 25 (a) The financial capacity of the provider;
- 26 (b) The willingness to contribute toward the cost of  
27 facility construction;
- 28 (c) The type and quality of the service or product  
29 offered;
- 30 (d) The price structure of the service or product  
31 offered;

- 1 (e) Management experience and capabilities;  
2 (f) The national brand names offered;  
3 (g) The originality of the concept and its  
4 relationship to the turnpike system;  
5 (h) The lease rate; and  
6 (i) Other factors that the department may deem  
7 pertinent.

8 Section 6. Subsection (1) of section 335.02, Florida  
9 Statutes, is amended to read:

10 335.02 Authority to designate transportation  
11 facilities and rights-of-way and establish lanes; procedure  
12 for redesignation and relocation.--

13 (1) The department shall have the authority to locate  
14 and designate certain transportation facilities as part of the  
15 State Highway System and to construct and maintain them with  
16 funds available to the department. Any transportation  
17 facility when so located and designated shall become the  
18 property of the state and shall be under the jurisdiction and  
19 control of the department. For purposes of Title XXVI, the  
20 phrase "jurisdiction and control" means that any local  
21 governmental ordinance or regulation is inapplicable to a  
22 state project to build a designated transportation facility to  
23 the extent that the ordinance or regulation conflicts with a  
24 rule adopted by the department or to the extent that the  
25 ordinance or regulation imposes any additional burden on the  
26 department with respect to the designated transportation  
27 facility, financial or otherwise, concerning the design,  
28 construction, or maintenance of the facility.Such a  
29 transportation facility may not be redesignated or relocated  
30 until after a public hearing is conducted by the department in  
31 each county affected. Reasonable notice of the hearing shall

1 be published in a newspaper of general circulation in such  
2 county 14 days prior to the hearing in addition to any other  
3 notice required by law. Any interested party shall have the  
4 opportunity to be heard either in person or by counsel and to  
5 introduce testimony in such person's behalf at the hearing.

6 Section 7. This act shall take effect upon becoming a  
7 law.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
10 COMMITTEE SUBSTITUTE FOR  
11 CS/SB 1752

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12 The committee substitute provides that Legislative approval of  
13 the department's tentative work program that contains the  
14 state-funded infrastructure bank projects constitutes approval  
as required by s. 11(f), Art. VII of the State Constitution.

15 The committee substitute defines the phrase "jurisdiction and  
16 control" to mean that local governmental ordinances and  
17 regulations are inapplicable to state projects to build  
18 designated transportation facilities to the extent that they  
conflict with any rules or regulations promulgated by the  
Department of Transportation or impose with regards to any  
designated transportation facility, any additional burden,  
financial or otherwise, on the department.

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