

By Senator Webster

9-2564C-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. 338.165, F.S.; providing for toll rate
8 adjustments for certain toll roads; authorizing
9 the department to request the Division of Bond
10 Finance to issue bonds secured by toll revenues
11 collected on the Beeline-East Expressway, the
12 Sunshine Skyway Bridge, the Navarre Bridge, and
13 the Pinellas Bayway toll facilities to provide
14 funding for transportation projects on the
15 State Highway System; amending s. 338.2275,
16 F.S.; increasing the cap on the amount of bonds
17 that may be issued to fund approved turnpike
18 projects; amending s. 338.231, F.S.; advancing
19 a toll rate adjustment; amending s. 339.12,
20 F.S.; removing the limit for transportation
21 project advances for certain inland counties
22 for certain improvements to the State Highway
23 System; creating s. 373.4139, F.S.; providing
24 for mitigation planning for transportation
25 projects; providing for an annual inventory of
26 wetland and surface-water resources; requiring
27 notice to other government participants;
28 requiring responsible governments to submit the
29 mitigation to appropriate federal agencies;
30 providing that certain transportation projects
31 may be excluded from the mitigation plan;

1 deeming an approved mitigation plan as
2 satisfying mitigation requirements of other
3 governmental agencies; authorizing the creation
4 of an escrow account to fund mitigation
5 projects; providing for construction of the act
6 in pari materia with laws enacted during the
7 Regular Session of the Legislature; providing
8 an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 215.617, Florida Statutes, is
13 created to read:

14 215.617 Bonds for state-funded infrastructure bank.--

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

1 The Division of Bond Finance is authorized to consider
2 innovative financing techniques, which may include, but are
3 not limited to, innovative bidding and structures of potential
4 financings that may result in negotiated transactions.

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

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

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

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

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

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1 Section 2. Subsections (2) and (3) of section 338.165,
2 Florida Statutes, are amended to read:

3 338.165 Continuation of tolls.--

4 (2) If the revenue-producing project is on the State
5 Highway System, any remaining toll revenue shall be used for
6 the construction, maintenance, or improvement of any road on
7 the State Highway System within the county or counties in
8 which the revenue-producing project is located, except as
9 provided in s. 348.0004. Notwithstanding any other provision
10 of law or rule, the department shall increase toll rates
11 effective July 1, 2003, on the Sunshine Skyway Bridge, the
12 Navarre Bridge, the Mid-Bay Bridge, the Beeline-East
13 Expressway, and the Alligator Alley toll facilities after
14 consultation with a nationally recognized traffic engineer to
15 ensure that the proposed toll rate is appropriate in the
16 context of established statewide norms for toll facilities of
17 a similar type. Any toll revenue or bond proceeds generated by
18 these increased toll rates shall be used in the county or
19 counties where the existing toll facility is located. Priority
20 consideration shall be given to future revenue-producing
21 projects, the advance acquisition of rights-of-way, and
22 projects that significantly increase mobility. Toll rate
23 increases on Mid-Bay Bridge shall be reviewed and approved by
24 the Mid-Bay Bridge Authority. The Mid-Bay Bridge Authority in
25 cooperation with the department shall develop a plan to use
26 any toll revenue or bond proceeds generated by these increased
27 toll rates.

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

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

8 Section 3. Subsection (1) of section 338.2275, Florida
9 Statutes, is amended to read:

10 338.2275 Approved turnpike projects.--

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

23 Section 4. Subsection (8) is added to section 338.231,
24 Florida Statutes, to read:

25 338.231 Turnpike tolls, fixing; pledge of tolls and
26 other revenues.--The department shall at all times fix,
27 adjust, charge, and collect such tolls for the use of the
28 turnpike system as are required in order to provide a fund
29 sufficient with other revenues of the turnpike system to pay
30 the cost of maintaining, improving, repairing, and operating
31 such turnpike system; to pay the principal of and interest on

1 all bonds issued to finance or refinance any portion of the
2 turnpike system as the same become due and payable; and to
3 create reserves for all such purposes.

4 (8) Notwithstanding any other provision of law or
5 rule, the department shall advance the toll rate increase
6 currently planned for July 1, 2004, to become effective July
7 1, 2003.

8 Section 5. Paragraph (c) of subsection (4) of section
9 339.12, Florida Statutes, is amended to read:

10 339.12 Aid and contributions by governmental entities
11 for department projects; federal aid.--

12 (4)

13 (c) The department may enter into agreements under
14 this subsection for a project or project phase not included in
15 the adopted work program. As used in this paragraph, the term
16 "project phase" means acquisition of rights-of-way,
17 construction, construction inspection, and related support
18 phases. The project or project phase must be a high priority
19 of the governmental entity. Reimbursement for a project or
20 project phase must be made from funds appropriated by the
21 Legislature pursuant to s. 339.135(5). All other provisions of
22 this subsection apply to agreements entered into under this
23 paragraph. The total amount of project agreements for projects
24 or project phases not included in the adopted work program may
25 not at any time exceed \$100 million. However, notwithstanding
26 such \$100-million limit and any similar limit in s. 334.30,
27 project advances for any inland county with a population
28 greater than 500,000 dedicating amounts equal to \$500 million
29 or more of its Local Infrastructure Sales Tax pursuant to s.
30 212.055(2) for improvements to the State Highway System which
31 are included in the local metropolitan planning organization's

1 or the department's long-range transportation plans shall be
2 excluded from the calculation of the statewide limit of
3 project advances.

4 Section 6. Section 373.4139, Florida Statutes, is
5 created to read:

6 373.4139 Local government transportation
7 infrastructure mitigation requirements.--

8 (1) The Legislature finds that environmental
9 mitigation for the impact of transportation projects proposed
10 as part of a coordinated multijurisdiction initiative
11 undertaken with substantial funding from a discretionary sales
12 surtax levied under s. 212.055 may be more effectively
13 achieved by long-range mitigation planning by a responsible
14 government rather than on a case-by-case basis.

15 (2) As used in this section, the county levying the
16 surtax must be the government responsible for developing,
17 permitting, and implementing the long-range mitigation plans,
18 unless the county chooses not to be the responsible government
19 and a responsible government is otherwise designated by an
20 interlocal agreement executed by and between all local
21 governments participating in the transportation initiative.
22 This environmental mitigation process is not mandatory but may
23 be initiated by the county levying the discretionary sales
24 surtax, upon notice to the appropriate water management
25 districts.

26 (3) The responsible government must develop its
27 long-range mitigation plan for multijurisdictional
28 transportation initiatives as follows:

29 (a) By May 1 of each year of the transportation
30 initiative, the participating governments shall prepare an
31 inventory of all wetland and surface-water resources, subject

1 to this part and 33 U.S.C. s. 1344, which may be impacted in
2 the next 3 years of the participating government's plan of
3 construction for each transportation project and shall submit
4 the environmental inventory to the responsible government.
5 The environmental inventory shall include the information
6 required in s. 373.4137(2)(b).

7 (b) Upon receipt of the environmental inventory, the
8 responsible government shall develop a mitigation plan in
9 consultation with the other participating governments, as well
10 as with the appropriate water management districts, the United
11 States Army Corps of Engineers, and other appropriate federal
12 and state governments. The responsible government shall
13 submit the mitigation plan to the water management districts
14 having jurisdiction over the mitigation or impact areas.

15 (c) The water management district having jurisdiction
16 over the impact area shall review the mitigation plan for
17 compliance with rules adopted pursuant to this part. When
18 more than one water management district has responsibility for
19 regulation of the transportation initiative, the water
20 management districts shall enter into an agreement pursuant to
21 s. 373.046(6) to designate a single water management district
22 to review and approve the mitigation plan.

23 (d) The responsible government shall submit the
24 mitigation plan to all appropriate federal agencies that
25 require permitting or approval of wetland and surface-water
26 mitigation. The responsible government shall seek to obtain
27 formal approval of the mitigation plan from the federal
28 agencies.

29 (e) Specific transportation projects may be excluded
30 from the mitigation plan and shall not be subject to this
31 section upon agreement by the responsible government and the

1 participating governments if the inclusion of the project
2 would hamper the efficiency and timeliness of the mitigation
3 planning and permitting process, or the responsible government
4 is unable to identify mitigation that would offset the impacts
5 of the project.

6 (4) Upon the water management district's approval, the
7 mitigation plan shall be deemed to satisfy the mitigation
8 requirements under this part and any other mitigation
9 requirements imposed by local, regional, and state agencies
10 for impacts identified in the environmental inventory. The
11 approval of the appropriate water management district
12 authorizes the environmental mitigation activities proposed in
13 the mitigation plan, and no additional state, regional, or
14 local permit or approval is necessary.

15 (5)(a) Concurrent with, or subsequent to, the approval
16 of the mitigation plan, the participating governments shall
17 make any necessary permit applications to the appropriate
18 water management district that will be solely responsible for
19 review and final action on the application required by this
20 chapter. The responsible government must ensure that
21 mitigation requirements specified by 33 U.S.C. s. 1344 are met
22 for the impacts identified in the wetland inventory by
23 implementing the mitigation plan approved by the water
24 management district to the extent that the funding is provided
25 by the participating governments.

26 (b) This section does not eliminate the need for the
27 participating governments to comply with requirements to
28 implement practicable design modifications, including
29 realignment of transportation projects, to reduce or eliminate
30 impacts of the transportation projects on wetlands and other
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1 surface waters as required by rules adopted pursuant to this
2 part.

3 (6) To fund the long-range mitigation plan, the
4 responsible government shall create an escrow account. The
5 participating governments shall deposit funds into the account
6 to pay for the environmental mitigation phase of projects
7 budgeted for the current fiscal year. The responsible
8 government shall maintain the escrow account for mitigation
9 purposes only. Any interest earned from the escrow account may
10 be used to offset the cost of the mitigation plan and must be
11 credited to the participating governments' transportation
12 projects. The responsible government shall reimburse the
13 water management district the actual costs it incurs in
14 reviewing the mitigation plan.

15 (7) The mitigation plans shall be updated annually to
16 reflect the most current plan of construction of the
17 participating governments and may be amended throughout the
18 year to anticipate schedule changes or additional projects
19 that may arise.

20 Section 7. If any law that is amended by this act was
21 also amended by a law enacted at the 2003 Regular Session of
22 the Legislature, such laws shall be construed as if they had
23 been enacted during the same session of the Legislature, and
24 full effect should be given to each if that is possible.

25 Section 8. This act shall take effect upon becoming a
26 law.

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SENATE SUMMARY

Authorizes the issuance of revenue bonds for projects eligible for funding assistance from the state-funded infrastructure bank. Requires the Department of Transportation to increase certain toll rates. Provides for an increase in toll rates which was scheduled to take effect on July 1, 2004, to take effect on July 1, 2003. Provides for certain improvements to the State Highway System to be excluded from the calculation of the statewide limit of project advances. Provides requirements for mitigation planning for transportation projects. Provides that an approved mitigation plan may satisfy the mitigation requirements of other governmental agencies. (See bill for details.)