

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.

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

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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. Each project financed with the
29 proceeds of the bonds issued under this section in the
30 2003-2004 fiscal year is approved as required by s. 11(f),
31 Art. VII of the State Constitution. In the 2004-2005 fiscal

1 year and thereafter, legislative approval of the department's
2 tentative work program specifying the State Infrastructure
3 Bank project loans constitutes approval to issue bonds as
4 required by s. 11(f), Art. VII of the State Constitution. The
5 Division of Bond Finance is authorized to consider innovative
6 financing techniques, which may include, but are not limited
7 to, innovative bidding and structures of potential financings
8 that may result in negotiated transactions.

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

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

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

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

27 (6) Any complaint for validation of bonds issued
28 pursuant to this section shall be filed in the circuit court
29 of the county where the seat of state government is situated,
30 the notice required to be published by s. 75.06 shall be
31 published only in the county where the complaint is filed, and

1 the complaint and order of the circuit court shall be served
2 only on the state attorney of the circuit in which the action
3 is pending.

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

6 338.165 Continuation of tolls.--

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

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

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

14 338.2275 Approved turnpike projects.--

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

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

29 338.231 Turnpike tolls, fixing; pledge of tolls and
 30 other revenues.--The department shall at all times fix,
 31 adjust, charge, and collect such tolls for the use of the

1 turnpike system as are required in order to provide a fund
2 sufficient with other revenues of the turnpike system to pay
3 the cost of maintaining, improving, repairing, and operating
4 such turnpike system; to pay the principal of and interest on
5 all bonds issued to finance or refinance any portion of the
6 turnpike system as the same become due and payable; and to
7 create reserves for all such purposes.

8 (8) Notwithstanding any other provision of law or
9 rule, the department shall advance the toll rate increase
10 currently planned for July 1, 2004, to become effective July
11 1, 2003.

12 Section 5. Paragraph (c) of subsection (4) of section
13 339.12, Florida Statutes, is amended to read:

14 339.12 Aid and contributions by governmental entities
15 for department projects; federal aid.--

16 (4)

17 (c) The department may enter into agreements under
18 this subsection for a project or project phase not included in
19 the adopted work program. As used in this paragraph, the term
20 "project phase" means acquisition of rights-of-way,
21 construction, construction inspection, and related support
22 phases. The project or project phase must be a high priority
23 of the governmental entity. Reimbursement for a project or
24 project phase must be made from funds appropriated by the
25 Legislature pursuant to s. 339.135(5). All other provisions of
26 this subsection apply to agreements entered into under this
27 paragraph. The total amount of project agreements for projects
28 or project phases not included in the adopted work program may
29 not at any time exceed \$100 million. However, notwithstanding
30 such \$100-million limit and any similar limit in s. 334.30,
31 project advances for any inland county with a population

1 greater than 500,000 dedicating amounts equal to \$500 million
2 or more of its Local Infrastructure Sales Tax pursuant to s.
3 212.055(2) for improvements to the State Highway System which
4 are included in the local metropolitan planning organization's
5 or the department's long-range transportation plans shall be
6 excluded from the calculation of the statewide limit of
7 project advances.

8 Section 6. Section 373.4139, Florida Statutes, is
9 created to read:

10 373.4139 Local government transportation
11 infrastructure mitigation requirements.--

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

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

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

4 (a) By May 1 of each year of the transportation
5 initiative, the participating governments shall prepare an
6 inventory of all wetland and surface-water resources, subject
7 to this part and 33 U.S.C. s. 1344, which may be impacted in
8 the next 3 years of the participating government's plan of
9 construction for each transportation project and shall submit
10 the environmental inventory to the responsible government.
11 The environmental inventory shall include the information
12 required in s. 373.4137(2)(b).

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

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

29 (d) The responsible government shall submit the
30 mitigation plan to all appropriate federal agencies that
31 require permitting or approval of wetland and surface-water

1 mitigation. The responsible government shall seek to obtain
2 formal approval of the mitigation plan from the federal
3 agencies.

4 (e) Specific transportation projects may be excluded
5 from the mitigation plan and shall not be subject to this
6 section upon agreement by the responsible government and the
7 participating governments if the inclusion of the project
8 would hamper the efficiency and timeliness of the mitigation
9 planning and permitting process, or the responsible government
10 is unable to identify mitigation that would offset the impacts
11 of the project.

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

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

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

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

20 (7) The mitigation plans shall be updated annually to
21 reflect the most current plan of construction of the
22 participating governments and may be amended throughout the
23 year to anticipate schedule changes or additional projects
24 that may arise.

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

30 Section 8. This act shall take effect upon becoming a
31 law.