

1                                   A bill to be entitled  
2           An act relating to transportation; creating s.  
3           215.617, F.S.; authorizing the Department of  
4           Transportation to issue revenue bonds financed  
5           by the repayment of loans from the state-funded  
6           infrastructure bank; amending s. 338.165, F.S.;  
7           authorizing the department to request the  
8           Division of Bond Finance to issue bonds secured  
9           by toll revenues collected on the Sunshine  
10          Skyway Bridge, the Beeline-East Expressway, the  
11          Navarre Bridge, and the Pinellas Bayway toll  
12          facilities to provide funding for  
13          transportation projects on the State Highway  
14          System; amending s. 338.2275, F.S.; increasing  
15          the cap on the amount of bonds that may be  
16          issued to fund approved turnpike projects;  
17          amending s. 339.12, F.S.; removing the limit  
18          for transportation project advances for certain  
19          inland counties for certain improvements to the  
20          State Highway System; creating s. 373.4139,  
21          F.S.; providing for mitigation planning for  
22          transportation projects; providing for an  
23          annual inventory of wetland and surface water  
24          resources; requiring notice to other government  
25          participants; requiring responsible governments  
26          to submit the mitigation to appropriate federal  
27          agencies; providing that certain transportation  
28          projects may be excluded from the mitigation  
29          plan; deeming an approved mitigation plan as  
30          satisfying mitigation requirements of other  
31          governmental agencies; authorizing the creation

1 of an escrow account to fund mitigation  
2 projects; providing for construction of the act  
3 in pari materia with laws enacted during the  
4 2003 Regular Session of the Legislature;  
5 providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
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9 Section 1. Section 215.617, Florida Statutes, is  
10 created to read:

11 215.617 Bonds for state-funded infrastructure bank.--

12 (1) Upon the request of the Department of  
13 Transportation, the Division of Bond Finance is authorized  
14 pursuant to s. 11, Art. VII of the State Constitution and the  
15 State Bond Act to issue revenue bonds, for and on behalf of  
16 the Department of Transportation, for the purpose of financing  
17 or refinancing the construction, reconstruction, and  
18 improvement of projects that are eligible to receive  
19 assistance from the state-funded infrastructure bank as  
20 provided in s. 339.55. The facilities to be financed with the  
21 proceeds of such bonds are designated as state fixed capital  
22 outlay projects for the purposes of s. 11(d), Art. VII of the  
23 State Constitution, and the specific facilities to be financed  
24 shall be determined by the Department of Transportation in  
25 accordance with s. 339.55. Each project financed with the  
26 proceeds of the bonds issued under this section in the  
27 2003-2004 fiscal year is approved as required by s. 11(f),  
28 Art. VII of the State Constitution. In the 2004-2005 fiscal  
29 year and thereafter, legislative approval of the department's  
30 tentative work program specifying the State Infrastructure  
31 Bank project loans constitutes approval to issue bonds as

1 required by s. 11(f), Art. VII of the State Constitution. The  
2 Division of Bond Finance is authorized to consider innovative  
3 financing techniques, which may include, but are not limited  
4 to, innovative bidding and structures of potential financings  
5 that may result in negotiated transactions.

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

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

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

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

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

1 Section 2. Subsection (3) of section 338.165, Florida  
2 Statutes, is amended to read:

3 338.165 Continuation of tolls.--

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

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

17 338.2275 Approved turnpike projects.--

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

30 Section 4. Paragraph (c) of subsection (4) of section  
31 339.12, Florida Statutes, is amended to read:

1           339.12 Aid and contributions by governmental entities  
2 for department projects; federal aid.--

3           (4)

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

26           Section 5. Section 373.4139, Florida Statutes, is  
27 created to read:

28           373.4139 Local government transportation  
29 infrastructure mitigation requirements.--

30           (1) The Legislature finds that environmental  
31 mitigation for the impact of transportation projects proposed

1 as part of a coordinated multijurisdiction initiative  
2 undertaken with substantial funding from a discretionary sales  
3 surtax levied under s. 212.055 may be more effectively  
4 achieved by long-range mitigation planning by a responsible  
5 government rather than on a case-by-case basis.

6 (2) As used in this section, the county levying the  
7 surtax must be the government responsible for developing,  
8 permitting, and implementing the long-range mitigation plans,  
9 unless the county chooses not to be the responsible government  
10 and a responsible government is otherwise designated by an  
11 interlocal agreement executed by and between all local  
12 governments participating in the transportation initiative.  
13 This environmental mitigation process is not mandatory but may  
14 be initiated by the county levying the discretionary sales  
15 surtax, upon notice to the appropriate water management  
16 districts.

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

20 (a) By May 1 of each year of the transportation  
21 initiative, the participating governments shall prepare an  
22 inventory of all wetland and surface water resources, subject  
23 to this part and 33 U.S.C. s. 1344, which may be impacted in  
24 the next 3 years of the participating government's plan of  
25 construction for each transportation project and shall submit  
26 the environmental inventory to the responsible government. The  
27 environmental inventory shall include the information required  
28 in s. 373.4137(2)(b).

29 (b) Upon receipt of the environmental inventory, the  
30 responsible government shall develop a mitigation plan in  
31 consultation with the other participating governments, as well

1 as with the appropriate water management districts, the United  
2 States Army Corps of Engineers, and other appropriate federal  
3 and state governments. The responsible government shall submit  
4 the mitigation plan to the water management districts having  
5 jurisdiction over the mitigation or impact areas.

6 (c) The water management district having jurisdiction  
7 over the impact area shall review the mitigation plan for  
8 compliance with rules adopted pursuant to this part. When more  
9 than one water management district has responsibility for  
10 regulation of the transportation initiative, the water  
11 management districts shall enter into an agreement pursuant to  
12 s. 373.046(6) to designate a single water management district  
13 to review and approve the mitigation plan.

14 (d) The responsible government shall submit the  
15 mitigation plan to all appropriate federal agencies that  
16 require permitting or approval of wetland and surface water  
17 mitigation. The responsible government shall seek to obtain  
18 formal approval of the mitigation plan from the federal  
19 agencies.

20 (e) Specific transportation projects may be excluded  
21 from the mitigation plan and shall not be subject to this  
22 section upon agreement by the responsible government and the  
23 participating governments if the inclusion of the project  
24 would hamper the efficiency and timeliness of the mitigation  
25 planning and permitting process or the responsible government  
26 is unable to identify mitigation that would offset the impacts  
27 of the project.

28 (4) Upon the water management district's approval, the  
29 mitigation plan shall be deemed to satisfy the mitigation  
30 requirements under this part and any other mitigation  
31 requirements imposed by local, regional, and state agencies

1 for impacts identified in the environmental inventory. The  
2 approval of the appropriate water management district  
3 authorizes the environmental mitigation activities proposed in  
4 the mitigation plan, and no additional state, regional, or  
5 local permit or approval is necessary.

6 (5)(a) Concurrent with, or subsequent to, the approval  
7 of the mitigation plan, the participating governments shall  
8 make any necessary permit applications to the appropriate  
9 water management district that will be solely responsible for  
10 review and final action on the application required by this  
11 chapter. The responsible government must ensure that  
12 mitigation requirements specified by 33 U.S.C. s. 1344 are met  
13 for the impacts identified in the wetland inventory by  
14 implementing the mitigation plan approved by the water  
15 management district to the extent that the funding is provided  
16 by the participating governments.

17 (b) This section does not eliminate the need for the  
18 participating governments to comply with requirements to  
19 implement practicable design modifications, including  
20 realignment of transportation projects, to reduce or eliminate  
21 impacts of the transportation projects on wetlands and other  
22 surface waters as required by rules adopted pursuant to this  
23 part.

24 (6) To fund the long-range mitigation plan, the  
25 responsible government shall create an escrow account. The  
26 participating governments shall deposit funds into the account  
27 to pay for the environmental mitigation phase of projects  
28 budgeted for the current fiscal year. The responsible  
29 government shall maintain the escrow account for mitigation  
30 purposes only. Any interest earned from the escrow account may  
31 be used to offset the cost of the mitigation plan and must be



1 credited to the participating governments' transportation  
2 projects. The responsible government shall reimburse the water  
3 management district the actual costs it incurs in reviewing  
4 the mitigation plan.

5 (7) The mitigation plans shall be updated annually to  
6 reflect the most current plan of construction of the  
7 participating governments and may be amended throughout the  
8 year to anticipate schedule changes or additional projects  
9 that may arise.

10 Section 6. If any law that is amended by this act was  
11 also amended by a law enacted at the 2003 Regular Session of  
12 the Legislature, such laws shall be construed as if they had  
13 been enacted during the same session of the Legislature, and  
14 full effect should be given to each if that is possible.

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

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