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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:
8

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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