

By the Committee on Transportation and Economic Development
Appropriations; and Senator Sebesta

606-2009-06

1 A bill to be entitled

2 An act relating to the Department of

3 Transportation; amending s. 215.615, F.S.;

4 revising matching requirements for revenue

5 bonds issued for fixed-guideway transportation

6 systems; amending s. 337.11, F.S.; amending

7 notification requirements for construction

8 contracts; amending s. 337.14, F.S.; providing

9 exemptions from prequalification requirements

10 for certain projects; amending s. 337.18, F.S.;

11 revising requirements for surety bonds for

12 certain construction projects; amending s.

13 338.161, F.S.; providing that toll agencies may

14 enter into agreements to promote additional

15 uses of the electronic toll collection system;

16 amending s. 338.2275, F.S.; deleting obsolete

17 provisions; revising the maximum amount of

18 bonds that are available for turnpike projects;

19 providing an effective date.

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

22

23 Section 1. Subsection (1) of section 215.615, Florida

24 Statutes, is amended to read:

25 215.615 Fixed-guideway transportation systems

26 funding.--

27 (1) The issuance of revenue bonds by the Division of

28 Bond Finance, on behalf of the Department of Transportation,

29 pursuant to s. 11, Art. VII of the State Constitution, is

30 authorized, pursuant to the State Bond Act, to finance or

31 refinance fixed capital expenditures for fixed-guideway

1 transportation systems, as defined in s. 341.031, including
2 facilities appurtenant thereto, costs of issuance, and other
3 amounts relating to such financing or refinancing. ~~Such~~
4 ~~revenue bonds shall be matched on a 50-50 basis with funds~~
5 ~~from sources other than revenues of the Department of~~
6 ~~Transportation, in a manner acceptable to the Department of~~
7 ~~Transportation.~~ The Division of Bond Finance is authorized to
8 consider innovative financing techniques, ~~technologies~~ which
9 may include, but are not limited to, innovative bidding and
10 structures of potential financings ~~findings~~ that may result in
11 negotiated transactions.

12 (a) The department and any participating commuter rail
13 authority or regional transportation authority established
14 under chapter 343, local governments, or local governments
15 collectively by interlocal agreement having jurisdiction of a
16 fixed-guideway transportation system may enter into an
17 interlocal agreement to promote the efficient and
18 cost-effective financing or refinancing of fixed-guideway
19 transportation system projects by revenue bonds issued
20 pursuant to this subsection. The terms of such interlocal
21 agreements shall include provisions for the Department of
22 Transportation to request the issuance of the bonds on behalf
23 of the parties; shall provide that the department's share may
24 be up to 50 percent of the eligible project cost, which may
25 include a share of annual ~~each party to the agreement is~~
26 ~~contractually liable for an equal share of funding an amount~~
27 ~~equal to the~~ debt service requirements of such bonds; and
28 shall include any other terms, provisions, or covenants
29 necessary to the making of and full performance under such
30 interlocal agreement. Repayments made to the department under
31 any interlocal agreement are not pledged to the repayment of

1 | bonds issued hereunder, and failure of the local governmental
2 | authority to make such payment shall not affect the obligation
3 | of the department to pay debt service on the bonds.

4 | (b) Revenue bonds issued pursuant to this subsection
5 | shall not constitute a general obligation of, or a pledge of
6 | the full faith and credit of, the State of Florida. Bonds
7 | issued pursuant to this section shall be payable from funds
8 | available pursuant to s. 206.46(3), subject to annual
9 | appropriation. The amount of revenues available for debt
10 | service shall never exceed a maximum of 2 percent of all state
11 | revenues deposited into the State Transportation Trust Fund.

12 | (c) The projects to be financed or refinanced with the
13 | proceeds of the revenue bonds issued hereunder are designated
14 | as state fixed capital outlay projects for purposes of s.
15 | 11(d), Art. VII of the State Constitution, and the specific
16 | projects to be financed or refinanced shall be determined by
17 | the Department of Transportation in accordance with state law
18 | and appropriations from the State Transportation Trust Fund.
19 | Each project to be financed with the proceeds of the bonds
20 | issued pursuant to this subsection must first be approved by
21 | the Legislature by an act of general law.

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

30 | (e) The state does hereby covenant with holders of
31 | such revenue bonds or other instruments of indebtedness issued

1 hereunder, that it will not repeal or impair or amend these
2 provisions in any manner that will materially and adversely
3 affect the rights of such holders as long as bonds authorized
4 by this subsection are outstanding.

5 (f) This subsection supersedes any inconsistent
6 provisions in existing law.

7
8 Notwithstanding this subsection, the lien of revenue bonds
9 issued pursuant to this subsection on moneys deposited into
10 the State Transportation Trust Fund shall be subordinate to
11 the lien on such moneys of bonds issued under ss. 215.605,
12 320.20, and 215.616, and any pledge of such moneys to pay
13 operating and maintenance expenses under s. 206.46(5) and
14 chapter 348, as may be amended.

15 Section 2. Paragraph (a) of subsection (3) of section
16 337.11, Florida Statutes, is amended to read:

17 337.11 Contracting authority of department; bids;
18 emergency repairs, supplemental agreements, and change orders;
19 combined design and construction contracts; progress payments;
20 records; requirements of vehicle registration.--

21 (3)(a) On all construction contracts of \$500,000
22 ~~\$250,000~~ or less, as well as any construction contract of less
23 than \$500,000 which the department has pursuant to s. 337.14
24 waived prequalification, the department shall advertise for
25 bids in a newspaper having general circulation in the county
26 where the proposed work is located. Publication shall be at
27 least once a week for no less than 2 consecutive weeks, and
28 the first publication shall be no less than 14 days prior to
29 the date on which bids are to be received.

30 Section 3. Subsection (1) of section 337.14, Florida
31 Statutes, is amended to read:

1 337.14 Application for qualification; certificate of
2 qualification; restrictions; request for hearing.--

3 (1) Any person desiring to bid for the performance of
4 any construction contract in excess of \$250,000 which the
5 department proposes to let must first be certified by the
6 department as qualified pursuant to this section and rules of
7 the department. The rules of the department shall address the
8 qualification of persons to bid on construction contracts in
9 excess of \$250,000 and shall include requirements with respect
10 to the equipment, past record, experience, financial
11 resources, and organizational personnel of the applicant
12 necessary to perform the specific class of work for which the
13 person seeks certification. The department is authorized to
14 limit the dollar amount of any contract upon which a person is
15 qualified to bid or the aggregate total dollar volume of
16 contracts such person is allowed to have under contract at any
17 one time. Each applicant seeking qualification to bid on
18 construction contracts in excess of \$250,000 shall furnish the
19 department a statement under oath, on such forms as the
20 department may prescribe, setting forth detailed information
21 as required on the application. Each application for
22 certification shall be accompanied by the latest annual
23 financial statement of the applicant completed within the last
24 12 months. If the annual financial statement shows the
25 financial condition of the applicant more than 4 months prior
26 to the date on which the application is received by the
27 department, then an interim financial statement must also be
28 submitted. The interim financial statement must cover the
29 period from the end date of the annual statement and must show
30 the financial condition of the applicant no more than 4 months
31 prior to the date on which the application is received by the

1 department. Each required annual or interim financial
2 statement must be audited and accompanied by the opinion of a
3 certified public accountant or a public accountant approved by
4 the department. The information required by this subsection
5 is confidential and exempt from the provisions of s.
6 119.07(1). The department shall act upon the application for
7 qualification within 30 days after the department determines
8 that the application is complete. The department may waive the
9 requirements of this subsection for projects having a contract
10 price of \$500,000 or less if the department determines that
11 the project is of a noncritical nature and noncompliance with
12 the subsection will not endanger public health, safety, or
13 property.

14 Section 4. Paragraph (a) of subsection (1) of section
15 337.18, Florida Statutes, is amended to read:

16 337.18 Surety bonds for construction or maintenance
17 contracts; requirement with respect to contract award; bond
18 requirements; defaults; damage assessments.--

19 (1)(a) A surety bond shall be required of the
20 successful bidder in an amount equal to the awarded contract
21 price. However, the department may choose, in its discretion
22 and applicable only to multiyear maintenance contracts, to
23 allow for incremental annual contract bonds that cumulatively
24 total the full, awarded multiyear contract price. For a
25 project for which the contract price is ~~\$250,000~~~~\$150,000~~ or
26 less, the department may waive the requirement for all or a
27 portion of a surety bond if it determines the project is of a
28 noncritical nature and nonperformance will not endanger public
29 health, safety, or property. If the secretary or his designee
30 determines that it is in the best interests of the department
31 to do so and that a reduced bonding requirement for a project

1 will not endanger public health, safety, or property, the
2 department may waive the requirement of a surety bond in an
3 amount equal to the awarded contract price for a project
4 having a contract price of \$250 million or more, and, in its
5 place, may set a surety bond amount that is a portion of the
6 total contract price and provide an alternate means of
7 security for the balance of the contract amount which is not
8 covered by the surety bond or provide for incremental surety
9 bonding and provide an alternate means of security for the
10 balance of the contract amount which is not covered by the
11 surety bond. Such alternative means of security may include
12 letters of credit, United States bonds and notes, parent
13 company guaranties, and cash collateral. The department may
14 require alternate means of security if a surety bond is
15 waived. The surety on such bond shall be a surety company
16 authorized to do business in the state. All bonds shall be
17 payable to the department and conditioned for the prompt,
18 faithful, and efficient performance of the contract according
19 to plans and specifications and within the time period
20 specified, and for the prompt payment of all persons defined
21 in s. 713.01 furnishing labor, material, equipment, and
22 supplies for work provided in the contract; however, whenever
23 an improvement, demolition, or removal contract price is
24 \$25,000 or less, the security may, in the discretion of the
25 bidder, be in the form of a cashier's check, bank money order
26 of any state or national bank, certified check, or postal
27 money order. The department shall adopt rules to implement
28 this subsection. Such rules shall include provisions under
29 which the department shall refuse to accept bonds on contracts
30 when a surety wrongfully fails or refuses to settle or provide
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1 a defense for claims or actions arising under a contract for
2 which the surety previously furnished a bond.

3 Section 5. Subsection (3) is added to section 338.161,
4 Florida Statutes, to read:

5 338.161 Authority of department to advertise and
6 promote electronic toll collection.--

7 (3) If the department or any toll agency created by
8 statute finds that it can increase non-toll revenues or add
9 convenience or other value for its customers, the department
10 or toll agency may enter into agreements with private or
11 public entities in order to provide additional uses for its
12 electronic toll collection system. The department or toll
13 agency may incur expenses to advertise or promote its
14 electronic toll collection system to consumers for products or
15 services whether on or off the turnpike or toll system.

16 Section 6. Subsection (1) of section 338.2275, Florida
17 Statutes, is amended to read:

18 338.2275 Approved turnpike projects.--

19 (1) Legislative approval of the department's tentative
20 work program that contains the turnpike project constitutes
21 approval to issue bonds as required by s. 11(f), Art. VII of
22 the State Constitution. No more than \$6 billion of bonds may
23 be outstanding to fund approved turnpike projects. Turnpike
24 ~~projects approved to be included in future tentative work~~
25 ~~programs include, but are not limited to, projects contained~~
26 ~~in the 2003-2004 tentative work program. A maximum of \$4.5~~
27 ~~billion of bonds may be issued to fund approved turnpike~~
28 ~~projects.~~

29 Section 7. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1350
4 The committee substitute for Senate Bill 1350:
5 -- revises the matching fund formula for fixed-guideway
6 revenue bonds;
7 -- requires the Florida Department of Transportation (FDOT)
8 to expand the advertising of bids;
9 -- allows FDOT to waive the requirement for contractors to
10 be pre-qualified to bid on jobs under certain
11 circumstances;
12 -- allows maintenance contractors to bond incrementally on
13 long-term maintenance contracts;
14 -- revises surety bond requirements for FDOT contracts;
15 -- and allows FDOT or any toll agency created by statute to
16 contract with other public or private entities to provide
17 additional uses for its electronic toll collection
18 system.
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