

By Senator Margolis

35-1093B-07

1 A bill to be entitled
2 An act relating to transportation funding;
3 amending s. 212.055, F.S.; authorizing a
4 charter county or consolidated local government
5 to adopt a transportation system surtax by
6 referendum; redesignating the transit surtax as
7 the "transportation surtax"; amending s.
8 320.072, F.S.; requiring a specified portion of
9 the additional fee imposed on certain motor
10 vehicle transactions to be used to fund the
11 County Incentive Grant Program; amending s.
12 336.025, F.S.; authorizing a local government
13 to issue bonds secured by revenue from local
14 option fuel taxes more than once per year;
15 amending s. 337.11, F.S.; requiring the
16 Department of Transportation to advertise for
17 bids on all construction contracts of less than
18 a specified amount under certain circumstances;
19 amending s. 337.14, F.S.; authorizing the
20 department to waive qualification requirements
21 for contractors under certain circumstances;
22 amending s. 337.18, F.S.; authorizing the
23 department to reduce bond requirements under
24 certain circumstances; providing for the use of
25 incremental surety bonds under certain
26 circumstances; amending s. 338.2275, F.S.;
27 removing a provision setting a minimum amount
28 of bonds that may be issued to fund approved
29 turnpike projects; removing a provision
30 authorizing certain projects to be included in
31 future tentative work programs; amending s.

1 339.2819, F.S.; revising the percentage of
2 matching funds provided under the
3 Transportation Regional Incentive Program;
4 providing exceptions to project requirements
5 for certain local projects; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Subsection (1) of section 212.055, Florida
11 Statutes, is amended to read:

12 212.055 Discretionary sales surtaxes; legislative
13 intent; authorization and use of proceeds.--It is the
14 legislative intent that any authorization for imposition of a
15 discretionary sales surtax shall be published in the Florida
16 Statutes as a subsection of this section, irrespective of the
17 duration of the levy. Each enactment shall specify the types
18 of counties authorized to levy; the rate or rates which may be
19 imposed; the maximum length of time the surtax may be imposed,
20 if any; the procedure which must be followed to secure voter
21 approval, if required; the purpose for which the proceeds may
22 be expended; and such other requirements as the Legislature
23 may provide. Taxable transactions and administrative
24 procedures shall be as provided in s. 212.054.

25 (1) CHARTER COUNTY TRANSPORTATION ~~TRANSIT~~ SYSTEM
26 SURTAX.--

27 (a) Each charter county ~~which adopted a charter prior~~
28 ~~to January 1, 1984,~~ and each county the government of which is
29 consolidated with that of one or more municipalities, may levy
30 a discretionary sales surtax, subject to approval by a
31 majority vote of the electorate of the county or by a charter

1 amendment approved by a majority vote of the electorate of the
2 county.

3 (b) The rate shall be up to 1 percent.

4 (c) The proposal to adopt a discretionary sales surtax
5 as provided in this subsection and to create a trust fund
6 within the county accounts shall be placed on the ballot in
7 accordance with law at a time to be set at the discretion of
8 the governing body.

9 (d) Proceeds from the surtax shall be applied to as
10 many or as few of the uses enumerated below in whatever
11 combination the county commission deems appropriate:

12 1. Deposited by the county in the trust fund and shall
13 be used for the purposes of development, construction,
14 equipment, maintenance, operation, supportive services,
15 including a countywide bus system, and related costs of a
16 fixed guideway rapid transit system;

17 2. Remitted by the governing body of the county to a
18 transit ~~an~~ expressway or transportation authority created by
19 law to be used, at the discretion of such authority, for the
20 development, construction, operation, or maintenance of roads
21 or bridges in the county, for the operation and maintenance of
22 a bus system, for the payment of principal and interest on
23 existing bonds issued for the construction of such roads or
24 bridges, and, upon approval by the county commission, such
25 proceeds may be pledged for bonds issued to refinance existing
26 bonds or new bonds issued for the construction of such roads
27 or bridges;

28 3. Used by the charter county for the development,
29 construction, operation, and maintenance of roads and bridges
30 in the county; for the expansion, operation, and maintenance
31 of bus and fixed guideway systems; and for the payment of

1 principal and interest on bonds issued for the construction of
2 fixed guideway rapid transit systems, bus systems, roads, or
3 bridges; and such proceeds may be pledged by the governing
4 body of the county for bonds issued to refinance existing
5 bonds or new bonds issued for the construction of such fixed
6 guideway rapid transit systems, bus systems, roads, or bridges
7 and no more than 25 percent used for nontransit uses; and

8 4. Used by the charter county for the planning,
9 development, construction, operation, and maintenance of roads
10 and bridges in the county; for the planning, development,
11 expansion, operation, and maintenance of bus and fixed
12 guideway systems; and for the payment of principal and
13 interest on bonds issued for the construction of fixed
14 guideway rapid transit systems, bus systems, roads, or
15 bridges; and such proceeds may be pledged by the governing
16 body of the county for bonds issued to refinance existing
17 bonds or new bonds issued for the construction of such fixed
18 guideway rapid transit systems, bus systems, roads, or
19 bridges. Pursuant to an interlocal agreement entered into
20 pursuant to chapter 163, the governing body of the charter
21 county may distribute proceeds from the tax to a municipality,
22 or an expressway or transportation authority created by law to
23 be expended for the purpose authorized by this paragraph.

24 Section 2. Subsection (4) of section 320.072, Florida
25 Statutes, is amended to read:

26 320.072 Additional fee imposed on certain motor
27 vehicle registration transactions.--

28 (4) A tax collector or other duly authorized agent of
29 the department shall promptly remit all moneys collected
30 pursuant to this section, less any refunds granted pursuant to
31 subsection (3), to the department to be deposited. The

1 department shall deposit such moneys as they are received into
2 the State Transportation Trust Fund. Thirty percent of all
3 such moneys shall be used to fund the County Incentive Grant
4 Program provided in s. 339.2817.

5 Section 3. Paragraph (c) of subsection (1) of section
6 336.025, Florida Statutes, is amended to read:

7 336.025 County transportation system; levy of local
8 option fuel tax on motor fuel and diesel fuel.--

9 (1)

10 (c) Local governments may use the services of the
11 Division of Bond Finance of the State Board of Administration
12 pursuant to the State Bond Act to issue any bonds through the
13 provisions of this section and may pledge the revenues from
14 local option fuel taxes to secure the payment of the bonds. ~~In~~
15 ~~no case may a jurisdiction issue bonds pursuant to this~~
16 ~~section more frequently than once per year.~~ Counties and
17 municipalities may join together for the issuance of bonds
18 issued pursuant to this section.

19 Section 4. Paragraph (a) of subsection (3) of section
20 337.11, Florida Statutes, is amended to read:

21 337.11 Contracting authority of department; bids;
22 emergency repairs, supplemental agreements, and change orders;
23 combined design and construction contracts; progress payments;
24 records; requirements of vehicle registration.--

25 (3)(a) On all construction contracts of \$250,000 or
26 less, and any construction contract of less than \$500,000 for
27 which the department has waived prequalification under s.
28 337.14, the department shall advertise for bids in a newspaper
29 having general circulation in the county where the proposed
30 work is located. Publication shall be at least once a week
31 for no less than 2 consecutive weeks, and the first

1 publication shall be no less than 14 days prior to the date on
2 which bids are to be received.

3 Section 5. Subsection (1) of section 337.14, Florida
4 Statutes, is amended to read:

5 337.14 Application for qualification; certificate of
6 qualification; restrictions; request for hearing.--

7 (1) Any person desiring to bid for the performance of
8 any construction contract in excess of \$250,000 which the
9 department proposes to let must first be certified by the
10 department as qualified pursuant to this section and rules of
11 the department. The rules of the department shall address the
12 qualification of persons to bid on construction contracts in
13 excess of \$250,000 and shall include requirements with respect
14 to the equipment, past record, experience, financial
15 resources, and organizational personnel of the applicant
16 necessary to perform the specific class of work for which the
17 person seeks certification. The department is authorized to
18 limit the dollar amount of any contract upon which a person is
19 qualified to bid or the aggregate total dollar volume of
20 contracts such person is allowed to have under contract at any
21 one time. Each applicant seeking qualification to bid on
22 construction contracts in excess of \$250,000 shall furnish the
23 department a statement under oath, on such forms as the
24 department may prescribe, setting forth detailed information
25 as required on the application. Each application for
26 certification shall be accompanied by the latest annual
27 financial statement of the applicant completed within the last
28 12 months. If the annual financial statement shows the
29 financial condition of the applicant more than 4 months prior
30 to the date on which the application is received by the
31 department, then an interim financial statement must also be

1 submitted. The interim financial statement must cover the
2 period from the end date of the annual statement and must show
3 the financial condition of the applicant no more than 4 months
4 prior to the date on which the application is received by the
5 department. Each required annual or interim financial
6 statement must be audited and accompanied by the opinion of a
7 certified public accountant or a public accountant approved by
8 the department. The information required by this subsection
9 is confidential and exempt from the provisions of s.
10 119.07(1). The department shall act upon the application for
11 qualification within 30 days after the department determines
12 that the application is complete. The department may waive the
13 requirements of this subsection for projects having a contract
14 price of \$500,000 or less if the department determines that
15 the project is of a noncritical nature and the waiver will not
16 endanger public health, safety, or property.

17 Section 6. Paragraph (a) of subsection (1) of section
18 337.18, Florida Statutes, is amended to read:

19 337.18 Surety bonds for construction or maintenance
20 contracts; requirement with respect to contract award; bond
21 requirements; defaults; damage assessments.--

22 (1)(a) A surety bond shall be required of the
23 successful bidder in an amount equal to the awarded contract
24 price. However, with regard to a multiyear maintenance
25 contract, the department may choose to allow for incremental
26 annual contract bonds that cumulatively total the full,
27 awarded multiyear contract price. For a project for which the
28 contract price is ~~\$250,000~~ ~~\$150,000~~ or less, the department
29 may waive the requirement for all or a portion of a surety
30 bond if it determines the project is of a noncritical nature
31 and nonperformance will not endanger public health, safety, or

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

1 | this subsection. Such rules shall include provisions under
2 | which the department shall refuse to accept bonds on contracts
3 | when a surety wrongfully fails or refuses to settle or provide
4 | a defense for claims or actions arising under a contract for
5 | which the surety previously furnished a bond.

6 | Section 7. Subsection (1) of section 338.2275, Florida
7 | Statutes, is amended to read:

8 | 338.2275 Approved turnpike projects.--

9 | (1) Legislative approval of the department's tentative
10 | work program that contains the turnpike project constitutes
11 | approval to issue bonds as required by s. 11(f), Art. VII of
12 | the State Constitution. ~~Turnpike projects approved to be~~
13 | ~~included in future tentative work programs include, but are~~
14 | ~~not limited to, projects contained in the 2003-2004 tentative~~
15 | ~~work program. A maximum of \$4.5 billion of bonds may be issued~~
16 | ~~to fund approved turnpike projects.~~

17 | Section 8. Subsection (2) and paragraph (a) of
18 | subsection (4) of section 339.2819, Florida Statutes, are
19 | amended to read:

20 | 339.2819 Transportation Regional Incentive Program.--

21 | (2) The percentage of matching funds provided from the
22 | Transportation Regional Incentive Program shall be 50 percent
23 | of project costs, ~~or up to 50 percent of the nonfederal share~~
24 | ~~of the eligible project cost for a public transportation~~
25 | ~~facility project.~~

26 | (4)(a) Projects to be funded with Transportation
27 | Regional Incentive Program funds shall, at a minimum:

28 | 1. Support those transportation facilities that serve
29 | national, statewide, or regional functions and function as an
30 | integrated regional transportation system.

31 |

1 2. Be identified in the capital improvements element
2 of a comprehensive plan that has been determined to be in
3 compliance with part II of chapter 163, after July 1, 2005, or
4 to implement a long-term concurrency management system adopted
5 by a local government in accordance with s. 163.3180(9).
6 Further, the project shall be in compliance with local
7 government comprehensive plan policies relative to corridor
8 management.

9 3. Be consistent with the Strategic Intermodal System
10 Plan developed under s. 339.64.

11 4. Have a commitment for local, regional, or private
12 financial matching funds as a percentage of the overall
13 project cost.

14
15 Notwithstanding the provisions of this paragraph, projects
16 funded with these funds which are not part of the Strategic
17 Intermodal System or interstate highway system, or those
18 projects that are part of these systems and located in a rural
19 area of critical economic concern, need meet only the local
20 level-of-service requirements established by the local
21 government in accordance with chapter 163.

22 Section 9. This act shall take effect July 1, 2007.
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SENATE SUMMARY

Authorizes a charter county to adopt a local transportation surtax by referendum. Redesignates the term "transit surtax" as "transportation surcharge". Requires that a specified portion of the additional fee imposed on certain motor vehicle transactions be used to fund the County Incentive Grant Program. Authorizes local governments to issue bonds secured by revenue from local option fuel taxes more than once per year. Requires the Department of Transportation to advertise for bids on all construction contracts below a specified amount under certain circumstances. Authorizes the department to waive qualification requirements for contractors under certain circumstances. Provides the department with discretion to reduce bond requirements under certain circumstances. Provides for the use of incremental surety bonds under certain circumstances. Requires that a specified percent of matching funds be provided from the Transportation Regional Incentive Program. Provides exceptions to project requirements for certain projects.