

1 A bill to be entitled
2 An act relating to transportation funding; amending s.
3 201.15, F.S.; revising amount of funds from certain taxes
4 distributed to the State Transportation Trust Fund;
5 directing the Department of Transportation to ensure that
6 certain projects are not impacted; amending s. 215.615,
7 F.S.; revising the Department of Transportation's
8 requirement to share certain costs of fixed-guideway
9 system projects; revising criteria for an interlocal
10 agreement to establish bond financing for fixed-guideway
11 system projects; revising provisions for sources of funds
12 for the payment of bonds; amending s. 337.11, F.S.;
13 providing that certain construction projects be advertised
14 for bids in local newspapers; amending s. 337.14, F.S.;
15 authorizing the department to waive specified
16 prequalification requirements for certain transportation
17 projects under certain conditions; amending s. 337.18,
18 F.S.; revising surety bond requirements for construction
19 or maintenance contracts; providing for incremental annual
20 surety bonds for multiyear maintenance contracts under
21 certain conditions; revising the threshold for
22 transportation projects eligible for a waiver of surety
23 bond requirements; authorizing the department to provide
24 for phased surety bond coverage or an alternate means of
25 security for a portion of the contract amount in lieu of
26 the surety bond; amending s. 338.2275, F.S.; raising the
27 limit on outstanding bonds to fund turnpike projects;
28 providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.--All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(d) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), and (c), shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of \$441.75 ~~\$541.75~~ million in each fiscal year, to be paid in quarterly installments and used for the following specified purposes, notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, 10 percent of these funds;

56 b. For the purposes of the Small County Outreach Program
57 specified in s. 339.2818, 5 percent of these funds;

58 c. For the purposes of the Strategic Intermodal System
59 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
60 of these funds after allocating for the New Starts Transit
61 Program described in sub-subparagraph a. and the Small County
62 Outreach Program described in sub-subparagraph b.; and

63 d. For the purposes of the Transportation Regional
64 Incentive Program specified in s. 339.2819, 25 percent of these
65 funds after allocating for the New Starts Transit Program
66 described in sub-subparagraph a. and the Small County Outreach
67 Program described in sub-subparagraph b.

68 e. Notwithstanding sub-subparagraphs a.-d. and s.
69 339.135(4)(a)1., in fiscal year 2007-2008 only, the Department
70 of Transportation shall ensure, to the maximum extent
71 practicable, that projects that have been advertised for
72 contract lettings for the fiscal year beginning July 1, 2007,
73 are not impacted by revised funding levels provided in this
74 subsection.

75 2. The Water Protection and Sustainability Program Trust
76 Fund in the Department of Environmental Protection in the amount
77 of \$100 million in each fiscal year, to be paid in quarterly
78 installments and used as required by s. 403.890.

79 3. The Public Education Capital Outlay and Debt Service
80 Trust Fund in the Department of Education in the amount of \$105
81 million in each fiscal year, to be paid in monthly installments
82 with \$75 million used to fund the Classrooms for Kids Program
83 created in s. 1013.735, and \$30 million to be used to fund the

HB 7075

2007

84 High Growth County District Capital Outlay Assistance Grant
 85 Program created in s. 1013.738. If required, new facilities
 86 constructed under the Classrooms for Kids Program must meet the
 87 requirements of s. 1013.372.

88 4. The Grants and Donations Trust Fund in the Department
 89 of Community Affairs in the amount of \$3.25 million in each
 90 fiscal year to be paid in monthly installments, with \$3 million
 91 to be used to fund technical assistance to local governments and
 92 school boards on the requirements and implementation of this act
 93 and \$250,000 to be used to fund the Century Commission
 94 established in s. 163.3247.

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 96 Moneys distributed pursuant to this paragraph may not be pledged
 97 for debt service unless such pledge is approved by referendum of
 98 the voters.

99 Section 2. Subsection (1) of section 215.615, Florida
 100 Statutes, is amended to read:

101 215.615 Fixed-guideway transportation systems funding.--

102 (1) The issuance of revenue bonds by the Division of Bond
 103 Finance, on behalf of the Department of Transportation, pursuant
 104 to s. 11, Art. VII of the State Constitution, is authorized,
 105 pursuant to the State Bond Act, to finance or refinance fixed
 106 capital expenditures for fixed-guideway transportation systems,
 107 as defined in s. 341.031, including facilities appurtenant
 108 thereto, costs of issuance, and other amounts relating to such
 109 financing or refinancing. ~~Such revenue bonds shall be matched on~~
 110 ~~a 50-50 basis with funds from sources other than revenues of the~~
 111 ~~Department of Transportation, in a manner acceptable to the~~

HB 7075

2007

112 ~~Department of Transportation.~~ The Division of Bond Finance is
113 authorized to consider innovative financing techniques that
114 ~~technologies which~~ may include, but are not limited to,
115 innovative bidding and structures of potential financings
116 ~~findings~~ that may result in negotiated transactions.

117 (a) The department and any participating commuter rail
118 authority or regional transportation authority established under
119 chapter 343, local governments, or local governments
120 collectively by interlocal agreement having jurisdiction of a
121 fixed-guideway transportation system may enter into an
122 interlocal agreement to promote the efficient and cost-effective
123 financing or refinancing of fixed-guideway transportation system
124 projects by revenue bonds issued pursuant to this subsection.
125 The terms of such interlocal agreements shall include provisions
126 for the Department of Transportation to request the issuance of
127 the bonds on behalf of the parties; shall provide that the
128 department's share may be up to 50 percent of the eligible
129 project cost, which may include a share of the annual ~~each party~~
130 ~~to the agreement is contractually liable for an equal share of~~
131 ~~funding an amount equal to the~~ debt service requirements of such
132 bonds; and shall include any other terms, provisions, or
133 covenants necessary to the making of and full performance under
134 such interlocal agreement. Repayments made to the department
135 under any interlocal agreement are not pledged to the repayment
136 of bonds issued hereunder, and failure of the local governmental
137 authority to make such payment shall not affect the obligation
138 of the department to pay debt service on the bonds.

HB 7075

2007

139 (b) Revenue bonds issued pursuant to this subsection shall
140 not constitute a general obligation of, or a pledge of the full
141 faith and credit of, the State of Florida. Bonds issued pursuant
142 to this section shall be payable from funds available pursuant
143 to s. 206.46(3), or other funds available to the project,
144 subject to annual appropriation. The amount of revenues
145 available for debt service shall never exceed a maximum of 2
146 percent of all state revenues deposited into the State
147 Transportation Trust Fund.

148 (c) The projects to be financed or refinanced with the
149 proceeds of the revenue bonds issued hereunder are designated as
150 state fixed capital outlay projects for purposes of s. 11(d),
151 Art. VII of the State Constitution, and the specific projects to
152 be financed or refinanced shall be determined by the Department
153 of Transportation in accordance with state law and
154 appropriations from the State Transportation Trust Fund. Each
155 project to be financed with the proceeds of the bonds issued
156 pursuant to this subsection must first be approved by the
157 Legislature by an act of general law.

158 (d) Any complaint for validation of bonds issued pursuant
159 to this section shall be filed in the circuit court of the
160 county where the seat of state government is situated, the
161 notice required to be published by s. 75.06 shall be published
162 only in the county where the complaint is filed, and the
163 complaint and order of the circuit court shall be served only on
164 the state attorney of the circuit in which the action is
165 pending.

166 (e) The state does hereby covenant with holders of such
 167 revenue bonds or other instruments of indebtedness issued
 168 hereunder, that it will not repeal or impair or amend these
 169 provisions in any manner that will materially and adversely
 170 affect the rights of such holders as long as bonds authorized by
 171 this subsection are outstanding.

172 (f) This subsection supersedes any inconsistent provisions
 173 in existing law.

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 175 Notwithstanding this subsection, the lien of revenue bonds
 176 issued pursuant to this subsection on moneys deposited into the
 177 State Transportation Trust Fund shall be subordinate to the lien
 178 on such moneys of bonds issued under ss. 215.605, 320.20, and
 179 215.616, and any pledge of such moneys to pay operating and
 180 maintenance expenses under s. 206.46(5) and chapter 348, as may
 181 be amended.

182 Section 3. Paragraph (a) of subsection (3) of section
 183 337.11, Florida Statutes, is amended to read:

184 337.11 Contracting authority of department; bids;
 185 emergency repairs, supplemental agreements, and change orders;
 186 combined design and construction contracts; progress payments;
 187 records; requirements of vehicle registration.--

188 (3) (a) On all construction contracts of \$250,000 or less,
 189 as well as any construction contract of less than \$500,000 for
 190 which the department has waived prequalification pursuant to s.
 191 337.14, the department shall advertise for bids in a newspaper
 192 having general circulation in the county where the proposed work
 193 is located. Publication shall be at least once a week for no

HB 7075

2007

194 less than 2 consecutive weeks, and the first publication shall
195 be no less than 14 days prior to the date on which bids are to
196 be received.

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

199 337.14 Application for qualification; certificate of
200 qualification; restrictions; request for hearing.--

201 (1) Any person desiring to bid for the performance of any
202 construction contract in excess of \$250,000 which the department
203 proposes to let must first be certified by the department as
204 qualified pursuant to this section and rules of the department.
205 The rules of the department shall address the qualification of
206 persons to bid on construction contracts in excess of \$250,000
207 and shall include requirements with respect to the equipment,
208 past record, experience, financial resources, and organizational
209 personnel of the applicant necessary to perform the specific
210 class of work for which the person seeks certification. The
211 department is authorized to limit the dollar amount of any
212 contract upon which a person is qualified to bid or the
213 aggregate total dollar volume of contracts such person is
214 allowed to have under contract at any one time. Each applicant
215 seeking qualification to bid on construction contracts in excess
216 of \$250,000 shall furnish the department a statement under oath,
217 on such forms as the department may prescribe, setting forth
218 detailed information as required on the application. Each
219 application for certification shall be accompanied by the latest
220 annual financial statement of the applicant completed within the
221 last 12 months. If the annual financial statement shows the

222 financial condition of the applicant more than 4 months prior to
 223 the date on which the application is received by the department,
 224 then an interim financial statement must also be submitted. The
 225 interim financial statement must cover the period from the end
 226 date of the annual statement and must show the financial
 227 condition of the applicant no more than 4 months prior to the
 228 date on which the application is received by the department.
 229 Each required annual or interim financial statement must be
 230 audited and accompanied by the opinion of a certified public
 231 accountant or a public accountant approved by the department.
 232 The information required by this subsection is confidential and
 233 exempt from the provisions of s. 119.07(1). The department shall
 234 act upon the application for qualification within 30 days after
 235 the department determines that the application is complete. The
 236 department may waive the requirements of this subsection for
 237 projects having a contract price of \$500,000 or less if the
 238 department determines that the project is of a noncritical
 239 nature and noncompliance with the subsection will not endanger
 240 public health, safety, or property.

241 Section 5. Paragraph (a) of subsection (1) of section
 242 337.18, Florida Statutes, is amended to read:

243 337.18 Surety bonds for construction or maintenance
 244 contracts; requirement with respect to contract award; bond
 245 requirements; defaults; damage assessments.--

246 (1) (a) A surety bond shall be required of the successful
 247 bidder in an amount equal to the awarded contract price.
 248 However, the department may choose, in its discretion and
 249 applicable only to multiyear maintenance contracts, to allow for

250 incremental annual contract bonds that cumulatively total the
 251 full, awarded multiyear contract price. For a project for which
 252 the contract price is \$250,000 ~~\$150,000~~ or less, the department
 253 may waive the requirement for all or a portion of a surety bond
 254 if it determines the project is of a noncritical nature and
 255 nonperformance will not endanger public health, safety, or
 256 property. If the Secretary of Transportation or the secretary's
 257 designee determines that it is in the best interests of the
 258 department to do so and that a reduced bonding requirement for a
 259 project will not endanger public health, safety, or property,
 260 the department may waive the requirement of a surety bond in an
 261 amount equal to the awarded contract price for a project having
 262 a contract price of \$250 million or more, and, in its place, may
 263 set a surety bond amount that is a portion of the total contract
 264 price and provide an alternate means of security for the balance
 265 of the contract amount which is not covered by the surety bond
 266 or provide for incremental surety bonding and provide an
 267 alternate means of security for the balance of the contract
 268 amount which is not covered by the surety bond. Such alternate
 269 means of security may include letters of credit, United States
 270 bonds and notes, parent company guarantees, and cash collateral.
 271 The department may require alternate means of security if a
 272 surety bond is waived. The surety on such bond shall be a surety
 273 company authorized to do business in the state. All bonds shall
 274 be payable to the department and conditioned for the prompt,
 275 faithful, and efficient performance of the contract according to
 276 plans and specifications and within the time period specified,
 277 and for the prompt payment of all persons defined in s. 713.01

HB 7075

2007

278 furnishing labor, material, equipment, and supplies for work
 279 provided in the contract; however, whenever an improvement,
 280 demolition, or removal contract price is \$25,000 or less, the
 281 security may, in the discretion of the bidder, be in the form of
 282 a cashier's check, bank money order of any state or national
 283 bank, certified check, or postal money order. The department
 284 shall adopt rules to implement this subsection. Such rules shall
 285 include provisions under which the department shall refuse to
 286 accept bonds on contracts when a surety wrongfully fails or
 287 refuses to settle or provide a defense for claims or actions
 288 arising under a contract for which the surety previously
 289 furnished a bond.

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

292 338.2275 Approved turnpike projects.--

293 (1) Legislative approval of the department's tentative
 294 work program that contains the turnpike project constitutes
 295 approval to issue bonds as required by s. 11(f), Art. VII of the
 296 State Constitution. No more than \$10 Turnpike projects approved
 297 ~~to be included in future tentative work programs include, but~~
 298 ~~are not limited to, projects contained in the 2003-2004~~
 299 ~~tentative work program. A maximum of \$4.5 billion of bonds may~~
 300 ~~be outstanding issued to fund approved turnpike projects.~~

301 Section 7. This act shall take effect July 1, 2007.