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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/25/2013	.	
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The Committee on Appropriations (Gardiner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2388 - 2610
and insert:
secure bonds; and all other expenditures of the authority
incident to and necessary or convenient to carry out its
corporate purposes and powers.

(2) (a) Bonds issued by an authority pursuant to paragraph
(1) (a) or paragraph (1) (b) must be authorized by resolution of
the members of the authority and must bear such date or dates;
mature at such time or times, not exceeding 30 years after their
respective dates; bear interest at such rate or rates, not



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13 exceeding the maximum rate fixed by general law for authorities;
14 be in such denominations; be in such form, either coupon or
15 fully registered; carry such registration, exchangeability and
16 interchangeability privileges; be payable in such medium of
17 payment and at such place or places; be subject to such terms of
18 redemption; and be entitled to such priorities of lien on the
19 revenues and other available moneys as such resolution or any
20 resolution subsequent to the bonds' issuance may provide. The
21 bonds shall be executed either by manual or facsimile signature
22 by such officers as the authority shall determine, provided that
23 such bonds shall bear at least one signature that is manually
24 executed thereon. The coupons attached to such bonds shall bear
25 the facsimile signature or signatures of such officer or
26 officers as designated by the authority. Such bonds shall have
27 the seal of the authority affixed, imprinted, reproduced, or
28 lithographed thereon.

29 (b) Bonds issued pursuant to paragraph (1) (a) or paragraph
30 (1) (b) must be sold at public sale in the same manner provided
31 in the State Bond Act. Pending the preparation of definitive
32 bonds, temporary bonds or interim certificates may be issued to
33 the purchaser or purchasers of such bonds and may contain such
34 terms and conditions as the authority may determine.

35 (3) A resolution that authorizes any bonds may contain
36 provisions that must be part of the contract with the holders of
37 the bonds, as to:

38 (a) The pledging of all or any part of the revenues,
39 available municipal or county funds, or other charges or
40 receipts of the authority derived from the regional system.

41 (b) The construction, reconstruction, improvement,



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42 extension, repair, maintenance, and operation of the system, or
43 any part or parts of the system, and the duties and obligations
44 of the authority with reference thereto.

45 (c) Limitations on the purposes to which the proceeds of
46 the bonds, then or thereafter issued, or of any loan or grant by
47 any federal agency or the state or any political subdivision of
48 the state may be applied.

49 (d) The fixing, charging, establishing, revising,
50 increasing, reducing, and collecting of tolls, rates, fees,
51 rentals, or other charges for use of the services and facilities
52 of the system or any part of the system.

53 (e) The setting aside of reserves or of sinking funds and
54 the regulation and disposition of the reserves or sinking funds.

55 (f) Limitations on the issuance of additional bonds.

56 (g) The terms and provisions of any deed of trust or
57 indenture securing the bonds, or under which the bonds may be
58 issued.

59 (h) Any other or additional matters, of like or different
60 character, which in any way affect the security or protection of
61 the bonds.

62 (4) The authority may enter into any deeds of trust,
63 indentures, or other agreements with any bank or trust company
64 within or without the state, as security for such bonds, and
65 may, under such agreements, assign and pledge any of the
66 revenues and other available moneys, including any available
67 municipal or county funds, pursuant to the terms of this
68 chapter. The deed of trust, indenture, or other agreement may
69 contain provisions that are customary in such instruments or
70 that the authority may authorize, including, but without



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71 limitation, provisions that:

72 (a) Pledge any part of the revenues or other moneys
73 lawfully available therefor.

74 (b) Apply funds and safeguard funds on hand or on deposit.

75 (c) Provide for the rights and remedies of the trustee and
76 the holders of the bonds.

77 (d) Provide for the terms and provisions of the bonds or
78 for resolutions authorizing the issuance of the bonds.

79 (e) Provide for any other or additional matters, of like or
80 different character, which affect the security or protection of
81 the bonds.

82 (5) Any bonds issued pursuant to this act are negotiable
83 instruments and have all the qualities and incidents of
84 negotiable instruments under the law merchant and the negotiable
85 instruments law of the state.

86 (6) A resolution that authorizes the issuance of authority
87 bonds and pledges the revenues of the system must require that
88 revenues of the system be periodically deposited into
89 appropriate accounts in such sums as are sufficient to pay the
90 costs of operation and maintenance of the system for the current
91 fiscal year as set forth in the annual budget of the authority
92 and to reimburse the department for any unreimbursed costs of
93 operation and maintenance of the system from prior fiscal years
94 before revenues of the system are deposited into accounts for
95 the payment of interest or principal owing or that may become
96 owing on such bonds.

97 (7) State funds may not be used or pledged to pay the
98 principal or interest of any authority bonds, and all such bonds
99 must contain a statement on their face to this effect.



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100 345.0006 Remedies of bondholders.-

101 (1) The rights and the remedies granted to authority
102 bondholders under this chapter are in addition to and not in
103 limitation of any rights and remedies lawfully granted to such
104 bondholders by the resolution or indenture providing for the
105 issuance of bonds, or by any deed of trust, indenture, or other
106 agreement under which the bonds may be issued or secured. If an
107 authority defaults in the payment of the principal of or
108 interest on any of the bonds issued pursuant to this chapter
109 after such principal of or interest on the bonds becomes due,
110 whether at maturity or upon call for redemption, as provided in
111 the resolution or indenture, and such default continues for 30
112 days, or in the event that the authority fails or refuses to
113 comply with the provisions of this chapter or any agreement made
114 with, or for the benefit of, the holders of the bonds, the
115 holders of 25 percent in aggregate principal amount of the bonds
116 then outstanding shall be entitled as of right to the
117 appointment of a trustee to represent such bondholders for the
118 purposes of the default provided that the holders of 25 percent
119 in aggregate principal amount of the bonds then outstanding
120 first gave written notice of their intention to appoint a
121 trustee, to the authority and to the department.

122 (2) The trustee, and any trustee under any deed of trust,
123 indenture, or other agreement, may, and upon written request of
124 the holders of 25 percent, or such other percentages specified
125 in any deed of trust, indenture, or other agreement, in
126 principal amount of the bonds then outstanding, shall, in any
127 court of competent jurisdiction, in his, her, or its own name:

128 (a) By mandamus or other suit, action, or proceeding at



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129 law, or in equity, enforce all rights of the bondholders,
130 including the right to require the authority to fix, establish,
131 maintain, collect, and charge rates, fees, rentals, and other
132 charges, adequate to carry out any agreement as to, or pledge
133 of, the revenues, and to require the authority to carry out any
134 other covenants and agreements with or for the benefit of the
135 bondholders, and to perform its and their duties under this
136 chapter.

137 (b) Bring suit upon the bonds.

138 (c) By action or suit in equity, require the authority to
139 account as if it were the trustee of an express trust for the
140 bondholders.

141 (d) By action or suit in equity, enjoin any acts or things
142 that may be unlawful or in violation of the rights of the
143 bondholders.

144 (3) A trustee, if appointed pursuant to this section or
145 acting under a deed of trust, indenture, or other agreement, and
146 whether or not all bonds have been declared due and payable,
147 shall be entitled as of right to the appointment of a receiver.
148 The receiver may enter upon and take possession of the system or
149 the facilities or any part or parts of the system, the revenues
150 and other pledged moneys, for and on behalf of and in the name
151 of, the authority and the bondholders. The receiver may collect
152 and receive all revenues and other pledged moneys in the same
153 manner as the authority might do. The receiver shall deposit all
154 such revenues and moneys in a separate account and apply all
155 such revenues and moneys remaining after allowance for payment
156 of all costs of operation and maintenance of the system in such
157 manner as the court directs. In a suit, action, or proceeding by



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158 the trustee, the fees, counsel fees, and expenses of the
159 trustee, and said receiver, if any, and all costs and
160 disbursements allowed by the court must be a first charge on any
161 revenues after payment of the costs of operation and maintenance
162 of the system. The trustee also has all other powers necessary
163 or appropriate for the exercise of any functions specifically
164 set forth in this section or incident to the representation of
165 the bondholders in the enforcement and protection of their
166 rights.

167 (4) This section or any other section of this chapter does
168 not authorize a receiver appointed pursuant to this section for
169 the purpose of operating and maintaining the system or any
170 facilities or parts thereof to sell, assign, mortgage, or
171 otherwise dispose of any of the assets belonging to the
172 authority. The powers of such receiver are limited to the
173 operation and maintenance of the system, or any facility or
174 parts thereof and to the collection and application of revenues
175 and other moneys due the authority, in the name and for and on
176 behalf of the authority and the bondholders. A holder of bonds
177 or any trustee does not have the right in any suit, action, or
178 proceeding, at law or in equity, to compel a receiver, or a
179 receiver may not be authorized or a court may not direct a
180 receiver to, sell, assign, mortgage, or otherwise dispose of any
181 assets of whatever kind or character belonging to the authority.

182 345.0007 Department to construct, operate, and maintain
183 facilities.-

184 (1) The department is the agent of each authority for the
185 purpose of performing all phases of a project, including, but
186 not limited to, constructing improvements and extensions to the



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187 system. The authority shall provide to the department complete
188 copies of the documents, agreements, resolutions, contracts, and
189 instruments that relate to the project and shall request that
190 the department perform the construction work, including the
191 planning, surveying, design, and actual construction of the
192 completion, extensions, and improvements to the system. After
193 the issuance of bonds to finance construction of an improvement
194 or addition to the system, the authority shall transfer to the
195 credit of an account of the department in the State Treasury the
196 necessary funds for construction. The department shall proceed
197 with construction and use the funds for the purpose authorized
198 and as otherwise provided by law for construction of roads and
199 bridges. An authority may alternatively, with the consent and
200 approval of the department, elect to appoint a local agency
201 certified by the department to administer federal aid projects
202 in accordance with federal law as the authority's agent for the
203 purpose of performing each phase of a project.

204 (2) Notwithstanding the provisions of subsection (1), the
205 department is the agent of each authority for the purpose of
206 operating and maintaining the system. The department shall
207 operate and maintain the system, and the costs incurred by the
208 department for operation and maintenance shall be reimbursed
209 from revenues of the system. The appointment of the department
210 as agent for each authority does not create an independent
211 obligation of the department to operate and maintain a system.
212 Each authority shall remain obligated as principal to operate
213 and maintain its system, and an authority's bondholders do not
214 have an independent right to compel the department to operate or
215 maintain the authority's system.



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216 (3) Each authority shall fix, alter, charge, establish, and
217 collect tolls, rates, fees, rentals, and other charges for the
218 authority's facilities, as otherwise provided in this chapter.

219 345.0008 Department contributions to authority projects.-

220 (1) The department may agree with an authority to provide
221 for or contribute to the payment of costs of financial or
222 engineering and traffic feasibility studies and the design,
223 financing, acquisition, or construction of an authority project
224 or system included in the 10-year Strategic Intermodal Plan,
225 subject to appropriation by the Legislature.

226 (a) In the manner required by chapter 216, the department
227 shall include any issue or issues in its legislative budget
228 request for funding the payment of costs of financial or
229 engineering and traffic feasibility studies and the design,
230 financing, acquisition, or construction of an authority project
231 or system. The request for funding may be included as part of
232 the 5-year Tentative Work Program; however, it will be decided
233 upon separately as a distinct funding item for consideration by
234 the Legislature. The department must include a financial
235 feasibility test to accompany such legislative budget request
236 for consideration of funding any authority project.

237 (b) As determined by the Legislature in the General
238 Appropriations Act, funding provided for authority projects
239 shall be appropriated in a specific fixed capital outlay
240 appropriation category that clearly identifies the authority
241 project.

242 (c) The department may not request legislative approval of
243 acquisition or construction of a proposed authority project
244 unless the estimated net revenues of the proposed project will



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245 be sufficient to pay at least 50 percent of the annual debt
246 service on the bonds associated with the project by the end of
247 the 12th year of operation and to pay at least 100 percent of
248 the debt service on the bonds by the end of the 30th year of
249 operation.

250 (2) The department may use its engineering and other
251 personnel, including consulting engineers and traffic engineers,
252 to conduct feasibility studies under subsection (1). The
253 department may participate in authority-funded projects that, at
254 a minimum:

255 (a) Serve national, statewide, or regional functions and
256 function as part of an integrated regional transportation
257 system.

258 (b) Are identified in the capital improvements element of a
259 comprehensive plan that has been determined to be in compliance
260 with part II of chapter 163. Further, the project shall be in
261 compliance with local government comprehensive plan policies
262 relative to corridor management.

263 (c) Are consistent with the Strategic Intermodal System
264 Plan developed under s. 339.64.

265 (d) Have a commitment for local, regional, or private
266 financial matching funds as a percentage of the overall project
267 cost.

268 (3) Before approval, the department must determine that the
269 proposed project:

270 (a) Is in the public's best interest;

271 (b) Would not require state funds to be used unless the
272 project is on the State Highway System;

273 (c) Would have adequate safeguards in place to ensure that



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274 no additional costs or service disruptions would be realized by
275 the traveling public and residents of the state in the event of
276 default or cancellation of the agreement by the department; and
277 (d) Would have adequate safeguards in place to ensure that the
278 department and the regional transportation finance authority
279 have the opportunity to add capacity to the proposed project and
280 other transportation facilities serving similar origins and
281 destinations.

282
283 ===== T I T L E A M E N D M E N T =====

284 And the title is amended as follows:

285 Delete lines 267 - 270

286 and insert:

287 10-year Strategic Intermodal Plan, if included in a
288 specific plan and approved by the Legislature;
289 providing for feasibility studies; requiring certain
290 criteria to be met before department approval;
291 providing for payment of