

By Senator Latvala

20-00390A-14

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1 A bill to be entitled
2 An act relating to leases for wireless communication
3 facilities on state property; creating s. 339.041,
4 F.S.; providing legislative intent; describing the
5 types of Department of Transportation property
6 eligible for factoring future revenues received by the
7 department from leases for communication facilities on
8 department property; authorizing the department to
9 enter into agreements with investors to purchase the
10 revenue streams from department leases of wireless
11 communication facilities on such property; prohibiting
12 the department from pledging state credit; allowing
13 the department to make certain covenants; providing
14 for the appropriation and payment of moneys received
15 from such agreements to investors; requiring the
16 proceeds from such leases to be used for capital
17 expenditures; providing an effective date.

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

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21 Section 1. Section 339.041, Florida Statutes, is created to
22 read:

23 339.041 Factoring of revenues from leases for wireless
24 communication facilities.-

25 (1) The Legislature finds that efforts to increase funding
26 for capital expenditures for the transportation system are
27 necessary for the protection of the public safety and general
28 welfare and for the preservation of transportation facilities in
29 this state. It is, therefore, the intent of the Legislature:

20-00390A-14

20141152__

30 (a) To create a mechanism for factoring future revenues
31 received by the department from leases for wireless
32 communication facilities on department property on a nonrecourse
33 basis;

34 (b) To fund fixed capital expenditures for the statewide
35 transportation system from proceeds generated through this
36 mechanism; and

37 (c) To maximize revenues from factoring by ensuring that
38 such revenues are exempt from income taxation under federal law
39 in order to increase funds available for capital expenditures.

40 (2) For the purposes of factoring revenues under this
41 section, department property includes real property located
42 within the department's limited access rights-of-way, property
43 located outside the current operating right-of-way limits which
44 is not needed to support current transportation facilities,
45 other property owned by the Board of Trustees of the Internal
46 Improvement Trust Fund and leased by the department, space on
47 department telecommunications facilities, and space on
48 department structures.

49 (3) The department may seek investors willing to enter into
50 agreements to purchase the revenue stream from one or more
51 existing department leases for wireless communication facilities
52 on property owned or controlled by the department. Such
53 agreements shall be structured as tax-exempt financings for
54 federal income tax purposes in order to result in the largest
55 possible payout and are exempt from chapter 287.

56 (4) The department may not pledge the credit, the general
57 revenues, or the taxing power of the state or of any political
58 subdivision of the state. The obligations of the department and

20-00390A-14

20141152__

59 investors under the agreement do not constitute a general
60 obligation of the state or a pledge of the full faith and credit
61 or taxing power of the state. The agreement is payable from and
62 secured solely by payments received from department leases for
63 wireless communication facilities on property owned or
64 controlled by the department, and neither the state nor any of
65 its agencies has any liability beyond such payments.

66 (5) The department may make any covenant or representation
67 necessary or desirable in connection with the agreement,
68 including a commitment by the department to take whatever
69 actions are necessary on behalf of investors to enforce the
70 department's rights to payments on property leased for wireless
71 communications facilities. However, the department may not
72 guarantee that revenues actually received in a future year will
73 be those anticipated in its leases for wireless communication
74 facilities. The department may agree to use its best efforts to
75 ensure that anticipated future-year revenues are protected. Any
76 risk that actual revenues received from department leases for
77 wireless communications facilities are lower than anticipated
78 shall be borne exclusively by investors.

79 (6) Subject to annual appropriation, the investors shall
80 collect the lease payments on a schedule and in a manner
81 established in the agreements entered into pursuant to this
82 section between the department and the investors. The agreements
83 may provide for lease payments to be made directly to investors
84 by lessees if the lease agreements entered into by the
85 department and the lessees pursuant to s. 365.172(12)(f) allow
86 direct payment.

87 (7) Proceeds received by the department from leases for

20-00390A-14

20141152__

88 wireless communication facilities shall be deposited in the
89 State Transportation Trust Fund created under s. 206.46 and used
90 for fixed capital expenditures for the statewide transportation
91 system.

92 Section 2. This act shall take effect July 1, 2014.