



128248

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
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The Committee on Appropriations (Latvala) recommended the following:

1           **Senate Amendment (with title amendment)**

2  
3           Between lines 123 and 124

4 insert:

5           Section 2. Section 339.041, Florida Statutes, is created to  
6 read:

7           339.041 Factoring of revenues from leases for wireless  
8 communication facilities.—

9           (1) The Legislature finds that efforts to increase funding



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10 for capital expenditures for the transportation system are  
11 necessary for the protection of the public safety and general  
12 welfare and for the preservation of transportation facilities in  
13 this state. It is, therefore, the intent of the Legislature:

14 (a) To create a mechanism for factoring future revenues  
15 received by the department from leases for wireless  
16 communication facilities on department property on a nonrecourse  
17 basis;

18 (b) To fund fixed capital expenditures for the statewide  
19 transportation system from proceeds generated through this  
20 mechanism; and

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

24 (2) For the purposes of factoring revenues under this  
25 section, department property includes real property located  
26 within the department's limited access rights-of-way, property  
27 located outside the current operating right-of-way limits which  
28 is not needed to support current transportation facilities,  
29 other property owned by the Board of Trustees of the Internal  
30 Improvement Trust Fund and leased by the department, space on  
31 department telecommunications facilities, and space on  
32 department structures.

33 (3) The department may solicit investors willing to enter  
34 into agreements to purchase the revenue stream from one or more  
35 existing department leases for wireless communication facilities  
36 on property owned or controlled by the department through the  
37 issuance of an invitation to negotiate. Such agreements shall be  
38 structured as tax-exempt financings for federal income tax



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39 purposes in order to result in the largest possible payout.

40 (4) The department may not pledge the credit, the general  
41 revenues, or the taxing power of the state or of any political  
42 subdivision of the state. The obligations of the department and  
43 investors under the agreement do not constitute a general  
44 obligation of the state or a pledge of the full faith and credit  
45 or taxing power of the state. The agreement is payable from and  
46 secured solely by payments received from department leases for  
47 wireless communication facilities on property owned or  
48 controlled by the department, and neither the state nor any of  
49 its agencies has any liability beyond such payments.

50 (5) The department may make any covenant or representation  
51 necessary or desirable in connection with the agreement,  
52 including a commitment by the department to take whatever  
53 actions are necessary on behalf of investors to enforce the  
54 department's rights to payments on property leased for wireless  
55 communications facilities. However, the department may not  
56 guarantee that revenues actually received in a future year will  
57 be those anticipated in its leases for wireless communication  
58 facilities. The department may agree to use its best efforts to  
59 ensure that anticipated future-year revenues are protected. Any  
60 risk that actual revenues received from department leases for  
61 wireless communications facilities will be lower than  
62 anticipated shall be borne exclusively by investors.

63 (6) Subject to annual appropriation, the investors shall  
64 collect the lease payments on a schedule and in a manner  
65 established in the agreements entered into pursuant to this  
66 section between the department and the investors. The agreements  
67 may provide for lease payments to be made directly to investors



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68 by lessees if the lease agreements entered into by the  
69 department and the lessees pursuant to s. 365.172(12)(f) allow  
70 direct payment.

71 (7) Proceeds received by the department from leases for  
72 wireless communication facilities shall be deposited in the  
73 State Transportation Trust Fund created under s. 206.46 and used  
74 for fixed capital expenditures for the statewide transportation  
75 system.

76  
77 ===== T I T L E A M E N D M E N T =====

78 And the title is amended as follows:

79 Delete line 9

80 and insert:

81 under certain circumstances; creating s. 339.041,  
82 F.S.; providing legislative intent; describing the  
83 types of department property eligible for factoring  
84 future revenues received by the department from leases  
85 for communication facilities on department property;  
86 authorizing the department to enter into agreements  
87 with investors to purchase the revenue streams from  
88 department leases of wireless communication facilities  
89 on such property pursuant to an invitation to  
90 negotiate; prohibiting the department from pledging  
91 state credit; allowing the department to make certain  
92 covenants; providing for the appropriation and payment  
93 of moneys received from such agreements to investors;  
94 requiring the proceeds from such leases to be used for  
95 capital expenditures; amending s. 479.16, F.S.;