The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1436

INTRODUCER: Senator Broxson

SUBJECT: Garcon Point Bridge

DATE: January 23, 2018 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	**Pre-meeting**
2.			ATD	
3.			AP	

I. Summary:

SB 1436 authorizes the Florida Department of Transportation (FDOT) to acquire the Garcon Point Bridge located in Santa Rosa County, subject to a determination of economic feasibility, and as part of such acquisition, to purchase outstanding Santa Rosa Bay Bridge Authority (SRBBA) bonds. The FDOT is authorized to enter into any agreement necessary to implement the acquisition and to specify the terms and conditions of such agreement. The bill expressly approves the issuance of revenue bonds to finance the acquisition.

The bill requires the acquisition price paid by the FDOT to first be used to settle all claims of bondholders of certain SRBBA bonds and prohibits the SRBBA, the FDOT, or the trustee for the bondholders from imposing a toll rate increase for use in connection with the bridge acquisition. After acquisition, the bill prohibits any increase in tolls for use of the bridge except as required by law or as required to comply with any bond covenants.

In addition, the bill provides that the FDOT nor the state incurs any financial obligation for the bridge acquisition in excess of forecasted gross revenues from operation of the bridge; *i.e.*, the total acquisition price may not exceed the present value of the gross revenues anticipated to be collected from operation of the bridge between the date of any purchase agreement and the end of the anticipated remaining useful life of the bridge, determined as of the date of the agreement.

Upon the FDOT's acquisition of the bridge, the bill provides:
- The bridge becomes a part of the turnpike system;
- The lease-purchase agreement between the FDOT and the SRBBA is terminated; and
- Part IV of chapter 348, F.S., creating the SRBBA, is repealed.

The bill takes effect upon becoming law.

The fiscal impact of the bill is indeterminate. See the "Fiscal Impact Statement" heading below.

II. Present Situation:

In 2017, the Legislature required the FDOT to undertake an economic feasibility study relating to the acquisition of the Garcon Point Bridge and to submit the completed study to the Governor, Senate President, and House Speaker by January 1, 2018.[1] The FDOT, in consultation with the Division of Bond Finance (DBF), recently completed the study, detailing the history of the bridge and its debt, and exploring potential avenues for its acquisition.[2]

History of the Santa Rosa Bay Bridge Authority/Garcon Point Bridge

The SRBBA is an agency of the state and an independent district, created in 1984 under part IV of ch. 348, F.S.[3] The SRBBA has the right to acquire, hold, construct, improve, maintain, operate, own, and lease all or any part of the Santa Rosa Bay Bridge System.[4] The "system" is comprised of the bridge[5] and its related infrastructure, such as toll booths and access roads.[6] The SRBBA may also fix, alter, charge establish, and collect tolls, rates, fees, rentals and other charges for the service and facilities of the system,[7] and may borrow money and make and issue bonds.[8] The SRBBA governing body consists of seven members,[9] but has not held a meeting since June of 2014.[10]

Financing and Construction

The SRBBA began initial preparations for the bridge with funds loaned by the FDOT (from 1989 through 1994) totaling $8.5 million from the Toll Facility Revolving Trust Fund (TFRTF) loan program. The funds were used for preliminary expenditures relating to planning, engineering, permitting, acquisition of right-of-way, and bridge design. The loans are non-interest bearing. Repayment of the principal is subordinate to the SRRBA's debt service and administrative costs. The SRBBA was to fully repay the balance of the loans in 2006 but made no payment since August of 1999. The majority of the payments the SRBBA did make were made with unexpended funds from the loans or from bond issue proceeds that funded construction, rather than paying with toll revenues generated by the bridge.[11]

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[1] *See* Chapter 2017-42, s. 7, Laws of Fla.
[2] *See* the FDOT's *Economic Feasibility Study: State Acquisition of the Garcon Point Bridge*, December 2017, available at: https://assets.sourcemedia.com/0e/5e/3afb7ef5421c88b5eef18031a557/feasibility-study-fl-garcon-point-bridge-acquisition-unlocked.pdf. (Last visited January 21, 2018.)
[3] Specifically, s. 348.967, F.S.
[4] Section 348.968(1)(a), F.S.
[5] A 3.5-mile bridge spanning Pensacola/East Bay between Garcon Point and Redfish Point in southwest Santa Rosa County.
[6] *Feasibility Study* at p. 11.
[7] Section 348.968(2)(f), F.S.
[8] Section 348.968(2)(g), F.S.
[9] Section 348.967(2)(a), F.S.
[10] See the *Feasibility Study* at pp. 17 and B-4 for details on board member resignations.
[11] *Supra* note 6.

In 1996, the SRBBA financed construction of the bridge by issuing $95 million of revenue bonds, structured with a final maturity date of 2028 and secured by the gross toll revenues[12] generated by the bridge, as well as a debt service reserve funded with $9.2 million in cash from proceeds of the bonds.

According to the study, the bridge faced almost immediate financial difficulty because the original traffic and revenue projections used to structure the 1996 bond issue were not achieved, and toll collection revenues continue to fall short of required debt service payments.[13] The outstanding balance on the TFRTF loans as of June 30, 2017, is $7.9 million.[14] The outstanding amount owed to bondholders as of July 1, 2017, is $135.2 million.

The Lease-Purchase Agreement

Simultaneously with the bond issuance, the SRBBA and the FDOT entered into a lease-purchase agreement (LPA), granting the FDOT exclusive possession and use of the bridge and requiring the FDOT to pay the costs of operating, maintaining, repairing, and insuring (O&M) the bridge. The LPA, as amended, requires the FDOT to collect tolls on the bridge and remit them to the bond trustee as lease payments. The LPA term extends through the date on which all of the bonds and all amounts due to the FDOT (including the TFRTF loans and all O&M costs paid by the FDOT) have been repaid. The final payoff of the bonds is currently anticipated to extend well beyond 2028.

The LPA requires the SRBBA to reimburse the FDOT for all O&M costs it incurs from available excess toll revenues. Under the LPA, the SRBBA's obligation to reimburse the FDOT for O&M costs is subordinate to all debt service, administrative costs, and repayment of the TFRTF loans. According to the study, the SRBBA has not reimbursed any of the FDOT's incurred O&M costs.[15] The outstanding balance of the O&M costs as of June 30, 2017, is $25.3 million.

In addition, according to the FDOT's study, if the bridge wears out before the bonds are fully paid, the state is also obligated to cover the cost of a substantial renovation or rebuilding of the bridge. The DBF estimates that if toll revenues remain at Fiscal year 2017 levels, the SRBBA would be unable to pay off all amounts due to bondholders until Fiscal year 2064, which is beyond the expected useful life of the bridge.[16]

The FDOT projects incurring an additional $16.2 million of O&M costs over the next 11 years, "resulting in a total long-term liability of $41.5 million in 2028 (the original termination date of the LPA)."[17] However, because the FDOT is committed to pay O&M expenses through the final

[12] According to the study, toll roads and other revenue bonds are typically secured by *net* revenues, which are those remaining after paying the cost of operations and maintenance. For more details, see the *Feasibility Study* at 14.
[13] *Feasibility Study* at 1.
[14] *Id.* at 11.
[15] *Id.*
[16] *Feasibility Study*, Question and Answer 7, at p. 6.
[17] *Id.* at 14. An amendment to the original agreement also requires the FDOT to pay certain SRBBA administrative expenses, for which the FDOT is to be reimbursed "in the same manner that [the SRBBA] is required to reimburse the accrued O&M expenses."

payoff of the bonds, currently anticipated to extend well beyond 2028, the FDOT will likely be responsible for covering additional O&M costs.[18]

Default

Draws on the debt service reserve fund and insufficient surplus revenues with which to replenish it resulted in technical default in February of 2002.[19] After some initial toll rate increases scheduled between 1999 and 2011 in an attempt to address the bridge's financial status, no further toll rate increases have been implemented.[20] The bondholders, through their trustee, provided notice that toll revenues on hand and the remaining amount in the debt service reserve fund would be insufficient to make the debt service payment next due. On July 1, 2011, payment default occurred because the trustee was unable to make the full debt service payment due.[21] The outstanding principal of the bonds was declared immediately due and payable in 2013 and, since then, the trustee has used all available gross toll revenues for partial payments on each debt service payment date.[22]

Toll Increase Demand (2014 – Present)

A planned toll rate increase to $4.00 in 2014 contained in the SRBBA's original toll rate plan has never been implemented. Because no functioning SRBBA board is in place to authorize a toll increase, the trustee in March of 2015 demanded that the FDOT immediately increase the toll for use of the bridge in amounts recommended by the trustee's consultant. The FDOT disputes its legal obligation to increase the tolls.[23, 24]

Study Conclusions

The Feasibility Study reviews options and alternative methods for potential acquisition of the bridge. Among other conclusions, the Feasibility Study recommends authorizing the Florida Turnpike Enterprise (Turnpike) to issue revenue bonds in order to purchase the bridge directly from the bondholders at a negotiated price limited to an amount that could be supported by the current bridge revenues. This would protect against negative impacts to the Turnpike's credit rating. Precautions to insulate the Enterprise and the state from financial liability could include structuring the bonds so that current, rather than projected, toll revenues would represent at least 130-150% of the annual debt service requirements.

The DBF also recommends:

- Any Turnpike bonds used to fund the bridge acquisition should be issued in accordance with the State's Debt Management Policies, as closely as possible, particularly requiring a level annual debt service structure, as opposed to the ascending structure of the SRBBA bonds.[25]

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[18] *Id.*
[19] *Feasibility Study* at 17-18.
[20] *Id.* at 16-17.
[21] *Id.* at 18.
[22] *Id.* at 19.
[23] *Id.*
[24] Section 348.968(2)(f), F.S., requires tolls, rates, fees, rentals, and other charges to always be sufficient to comply with any covenants made with the bondholders. That right may be assigned or delegated by the SRBBA to the FDOT.
[25] For more details, see the *Feasibility Study* at p. 12.

- Issuing the Turnpike bonds with a traditional ten-year par call provision, which enables the Turnpike to prepay the bonds and refinance at lower interest rates when market rates are lower.[26]
- An exception from the state's debt management policies to allow a 30-year final maturity, instead of term-to-term refunding as is normally done, with the caveat that the FDOT verifies the maturity does not extend beyond the useful life of the bridge.[27]

As the proceeds from the described bonds would be insufficient to pay off the full par amount[28] of the outstanding bonds, the Turnpike could issue a subordinate limited obligation series of bonds, exclusively secured by excess toll revenues to the extent any are available after payment of debt service on the Turnpike acquisition bonds. According to the study, if no residual revenues are available in any given year, neither the Turnpike nor the state would be obligated to make any payment. If toll revenues are strong, the bondholders have the right to the increased revenues until they are fully paid. The limited obligation debt would be satisfied, and any further residual revenues could then be used to help cover ongoing O&M costs, reimburse the FDOT for previous O&M costs, and repay the TFRTF loans.

The study cautions no assurance exists that this scenario would occur prior to the end of the useful life of the bridge. "This means that the Bondholders and the State may never be fully repaid." [29]

The Turnpike System and Economic Feasibility per s. 338.221(8), F.S.

Current law defines "turnpike system" to mean "those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Enterprise Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature."[30] Section 338.223(1)(a), F.S., requires any proposed turnpike project to be constructed or acquired as part of the turnpike system and any turnpike improvements to be included in the tentative work program. Such project or projects may not be included unless determined to be economically feasible.

With respect to turnpike projects,[31] section 338.221(8), F.S., defines "economically feasible," in general, to mean:

- The estimated net revenues of a "proposed project" will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of the 12th year of operation and to pay at least 100 percent of the debt service on the bonds by the

[26] *Id.* at 13.
[27] *Id.* at 23-24.
[28] The amount paid to the bondholder at maturity. See the *Investopedia* website available at: https://www.investopedia.com/ask/answers/050415/what-difference-between-par-value-and-face-value.asp. (Last visited January 21, 2018.)
[29] *Id.* at 24-25.
[30] Section 338.221(6), F.S.
[31] Section 338.221(9), F.S., defines "turnpike project" as any extension to or expansion of the existing turnpike system and new limited access toll highways and associated feeder roads, and other structure, interchanges, appurtenances, or rights as may be approved in accordance with the Florida Turnpike Enterprise Law."

end of the 30th year of operation. Up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.
- For a turnpike project financed from revenues of the turnpike system, the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

The study concludes that the recommended acquisition structure would satisfy the economic feasibility test contained in s. 338.221(8), F.S.[32]

III. Effect of Proposed Changes:

Section 1 of the bill creates a new subsection (4) of s. 338.2275, F.S, authorizing the FDOT, subject to a determination of economic feasibility pursuant to s. 338.221(8), F.S., to acquire the Garcon Point Bridge, including related assets; and, as part of such acquisition, to purchase outstanding SRBBA bonds. The FDOT may enter into any agreement necessary to implement the acquisition, including the purchase of SRBBA bonds, and may specify the terms and conditions of such agreement. The bill expressly approves the issuance of revenue bonds to finance the acquisition. Upon acquisition, the bridge becomes part of the turnpike system.

The bill requires use of the acquisition price paid by the FDOT to first settle all claims of the bondholders of SRBBA Bonds, Series 1996, and prohibits the SRBBA, the FDOT, or the trustee from imposing a toll rate increase for use of the bridge in connection with the FDOT's acquisition. The bill also prohibits any increase in tolls for use of the bridge after its acquisition, except as required by law or as required to comply with covenants contained in any resolution under which the bonds are issued.

The bill restricts the FDOT's authority by providing that neither the FDOT nor the state incurs any financial obligation for the acquisition of the bridge in excess of forecasted gross revenues from its operation; thus, the bill provides that the total acquisition price paid by the FDOT may not exceed the present value of the gross revenues (calculated without any toll rate increase) anticipated to be collected between the date of any authorized purchase agreement and the end of the anticipated useful life of the bridge, determined as of the date of the purchase agreement. Upon acquisition of the bridge, this section of the bill terminates the existing lease-purchase agreement, as amended, between the SRBBA and the FDOT.

Section 2 repeals part IV of chapter 348, F.S., upon acquisition of the bridge (consisting of ss. 348-965-348-9781, F.S.), thereby abolishing the SRBBA and its powers, duties, and related provisions.

Section 3 provides the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[32] *Feasibility Study* at 25.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of the bill is indeterminate because it is dependent upon the timing, terms, and conditions of any authorized agreement. However, to the extent that the bondholders' claims are satisfied, the bondholders will experience a positive fiscal impact.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate because it is dependent upon the timing, terms, and conditions of any authorized agreement.

If the SRBBA bonds are still outstanding at the end of the useful life of the bridge, the FDOT is responsible under the LPA to pay indeterminate costs for repairs and renovations to extend the useful life. Acquisition by the Turnpike may allow funding of repairs and renovations from toll proceeds and would give the Turnpike toll rate setting authority under existing provisions of law; *i.e.*, Consumer Price Indexing as required by s. 338.165(3), F.S.,[33] or as required to comply with covenants contained in any resolution under which the bonds are issued.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 338.2275.

[33] The FDOT, including the Turnpike, is required to index toll rates on existing toll facilities to the annual Consumer Price Index or similar inflation indicators. The adjustments must be made no more than one a year and no less than once every five years as necessary to accommodate cash toll rate schedules. Additionally, "Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to department administrative rule."

This bill repeals the following sections of the Florida Statutes: 348.965, 348.9781, 348.9771, 348.97, 348.971, 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.966, 348.967, 348.968, and 348.969.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.