

CHAPTER 98-155

Senate Bill No. 1750

An act relating to the Old Keys Bridges located in Monroe County; amending chapter 86-304, Laws of Florida; providing legislative intent; providing that title to the bridges shall be held by the Board of Trustees of the Internal Improvement Trust Fund; providing an exception; authorizing rather than requiring the board to offer certain leases with respect to the bridges; revising language with respect to such leases; limiting commercial use of the bridges; eliminating obsolete language with respect to appropriations; providing an effective date.

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

Section 1. Chapter 86-304, Laws of Florida, is amended to read:

Section 1. (1)(a) Title to those bridges identified as Old Keys Bridges shall be held by the Board of Trustees of the Internal Improvement Trust Fund, except for that portion of Seven Mile bridge from Knights Key to Pigeon Key. Title to this bridge shall remain with the Department of Transportation. The Department of Transportation shall transfer title to those bridges identified as Old Keys Bridges, including the Old Bahia Honda Bridge, by the State Bridge Management Committee created by chapter 83-357, Laws of Florida, to the Board of Trustees of the Internal Improvement Trust Fund to manage, through agreements with other public and private entities, in accordance with the recommendations of the State Bridge Management Committee. If, after such transfer, the Department of Transportation determines that any Old Keys Bridge or associated right-of-way is needed for transportation purposes, the board shall lease said facility back to the Department of Transportation.

(b) It is the express intent of the Legislature that the provisions of chapter 86-304, Laws of Florida, expressed in the Whereas Clauses of that act, are hereby repealed, rescinded, and nullified by the adoption of this act and may no longer be considered as evidence of the intent of the Legislature in adopting chapter 86-304, Laws of Florida, or any amendments thereto.

(2) The board of trustees ~~may shall~~ offer for lease, through direct negotiation with ~~governmental or nonprofit historic preservation organizations or~~ competitive request for sealed proposals with other public or private entities, ~~or competitive bids~~, one or more of the Old Keys Bridges and associated approach rights-of-way located in Monroe County in order to provide recreational, tourist, ~~restaurant~~, commercial, or public service facilities for the use or benefit of the public. Any lease must be in compliance with the local comprehensive plan and applicable zoning requirements. When considering proposals, the board shall select the proposal which best satisfies the conditions of quality service and operation in keeping with the functional and historic qualities of the bridges. Commercial use of the bridges shall be only those uses that support the public recreational use without any permanent

structures. Any leasing shall be consistent with the recommendations of the Old Keys Bridges Task Force. The primary use shall be a public purpose and all other uses shall be secondary. Factors used in evaluating proposals shall include, but not be limited to, the following:

- (a) Financial capability of the provider;
- (b) Willingness to contribute toward the maintenance of the bridges, rights-of-way, and associated structures;
- (c) Type and quality of service or operation offered;
- (d) Pricing of the service or operation offered;
- (e) Management experience and capabilities;
- (f) The proposal's compatibility with ~~Originality of concept and its relationship to the~~ aesthetic, functional, and historic qualities of the bridges and the region;
- (g) Lease rates; and
- (h) Other factors as the board may deem pertinent.

Such leases shall not create any third party beneficiary rights in any person not a party to the lease. The board may adopt rules to implement this subsection.

~~(3) Pursuant to subsection (2), leases for the Old Keys Bridges and associated rights-of-way to other public or private entities shall contain provisions that allow for the use of the bridges and associated rights-of-way for transportation purposes in emergency situations to the extent practicable and shall contain provisions that allow for cancellation of the leases upon 6 months' notice if the Department of Transportation determines the facility is needed for transportation purposes.~~

(4) All leases of the Old Keys Bridges and associated rights-of-way shall be subject to all existing utility facilities located in, upon, over, or under the leased property, and throughout the term of a lease the utilities shall at all times have the right of ingress and egress to said property for the purpose of operating, removing, adding to, or relocating the existing facilities. However, the right of the utilities to place and maintain future facilities in, upon, over, or under the property shall be subject to approval by the entity holding title to the property.

(5) Before the transfer of title of the Old Keys Bridges as provided for in this act, the Department of Transportation, and after said transfer, the Board of Trustees of the Internal Improvement Trust Fund, shall post and maintain a permanent notice on any abandoned Old Keys Bridge which shall inform the public that the bridge is closed to all public use and the maintenance and inspection of the bridge have been discontinued. Upon the posting of such notice, the Department of Transportation or board shall be under no further duty to maintain or inspect the bridge or to warn of any hazard or danger, whether readily apparent or not.

(6) The Department of Environmental Protection Regulation, the Department of Transportation, and the Department of State shall cooperate with the board and agencies of the Federal Government in executing agreements for the feasible and prudent management of the Old Long Key and Seven Mile Bridges which are included in the National Register of Historic Places. The agreements shall provide for management plans for the two bridges, to include preservation of portions of the bridges for public pedestrian use and as historic and cultural resources. Preservation shall be consistent with recommended approaches for such historic structures; however, the extent of the portions of the bridges to be preserved shall be limited to prevent unreasonable or disproportionate maintenance costs and hazardous conditions for the public.

(7) As used in this section, "utility" includes any person or corporation providing utility facilities as defined in s. 337.401, Florida Statutes, and all agents, servants, and employees of said person or corporation.

(8) The provisions hereof shall not be deemed to create or increase the standard of care of any person.

(9) If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

~~Section 2. There is hereby appropriated \$46,378 and two Career Service positions from the General Revenue Fund to the Department of Natural Resources to accomplish the purposes of this act.~~

Section 2. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.