

House Bill No. 1093

An act relating to the Mid-Bay Bridge Authority, Okaloosa County; providing legislative intent; amending, codifying, and reenacting chapters 86-465 and 88-542, Laws of Florida; providing for the repeal of all prior special acts related to the Mid-Bay Bridge Authority; providing an effective date.

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

Section 1. Pursuant to chapter 97-255, Laws of Florida, this act constitutes the codification of all special acts relating to the Mid-Bay Bridge Authority. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act. It is further the intent of this act to preserve all district authority.

Section 2. Chapters 86-465 and 88-542, Laws of Florida, relating to the Mid-Bay Bridge Authority, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Mid-Bay Bridge Authority is re-created and reenacted to read:

Section 1. Purpose.—There is hereby created in Okaloosa County a dependent special district for the purpose of planning, constructing, operating, and maintaining a bridge transversing Choctawhatchee Bay. The governmental body shall be known as the Mid-Bay Bridge Authority, hereinafter referred to as “authority.”

Section 2. Definitions.—As used in this act:

(1) “Bond” includes bonds, debentures, notes, certificates of indebtedness, mortgage, certificates, or other obligations or evidences of indebtedness of any type or character.

(2) “Revenue bonds” means obligations of the authority which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the authority.

(3) “Refunding bonds” means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(4) “Department” means the Florida Department of Transportation.

(5) “System” means the bridge traversing Choctawhatchee Bay to be constructed pursuant to this act together with all additions, improvements,

connections, extensions, approaches, streets, roads, avenues of access, and transportation facilities appurtenant thereto.

Section 3. Membership; terms of office; officers; quorum; meetings; removal.—

(1) The authority shall consist of five members.

(2) The Governor shall appoint two members to initial terms of 2 years, one member to an initial term of 1 year, and two members for initial terms of 3 years.

(3) The terms of office for each member shall be 3 years. Each term shall expire on June 30 in the year of expiration of the term.

(4) A chair, vice chair, and secretary/treasurer shall be chosen by and from the authority membership. The term of office for the chair, vice chair, and secretary/treasurer shall be 1 year, and no member shall hold the same office for more than two consecutive terms.

(5) A quorum shall consist of three members, and action shall be taken by a majority vote.

(6) A member may be removed by the Governor, but only for grounds constituting misfeasance, neglect of duty, incompetence, permanent inability to perform his or her official duties, or commission of a felony. The unexcused failure to attend three consecutive regular meetings of the authority shall be deemed neglect of duty, without limiting the meaning of that term.

(7) Except as otherwise provided, vacancies in office shall be filled by the Governor, as appropriate, for the balance of the term. In such cases, the appointment shall be made by the appropriate entity not later than 30 days after the office has become vacant.

(8) No person who has transacted business with the authority is eligible for appointment to the authority until 3 years after the last transaction. No person who has served on the authority is eligible to transact business with the authority until 3 years after his or her last date of service. Said transactions include transactions either for oneself or as an employee of, agent for, or consultant to any other person or legal entity.

(9) No member, officer, agent, or employee of the authority, either for himself or herself or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate or benefit directly or indirectly in or from any sale, purchase, lease, franchise, contract, or other transaction, entered into by the authority. The provisions of this section shall be cumulative to any general laws of the state which are from time to time applicable to members, officers, agents, or employees of the authority and which require the disclosure of, or prohibit, conflicts of interest.

(10) At any time during a term that a member shall become a constitutional officer of his or her respective county, the member shall cease to be

a member as of such time, and the Governor shall appoint another member to serve the remaining term of office; and a resignation from such office shall not restore such person to the authority.

(11) The District Engineer of the Florida Department of Transportation shall be an ex-officio member of the authority but shall have no voting privileges.

Section 4. Powers.—The authority shall have all power and authority necessary, convenient, or desirable to accomplish the purposes of this act, including, but not limited to, the power to:

- (1) Enter into contracts and to sue and be sued in its own name;
- (2) Employ necessary personnel, including the appointment of an executive director, whose duties and salaries shall be prescribed by authority;
- (3) Adopt a budget annually, and to amend it during the fiscal year;
- (4) Adopt rules for the regulation of its affairs and the conduct of its business, and rules for the operation of the system, and to enforce and administer all such rules;
- (5) Adopt and alter an official seal;
- (6) Maintain an office within Okaloosa County;
- (7) Plan for and study the feasibility of constructing, operating, and maintaining a bridge transversing Choctawhatchee Bay, including studying the environmental and economic feasibility of such bridge, and such other transportation facilities that become part of the system;
- (8) Construct, operate, and maintain the system, including a bridge transversing Choctawhatchee Bay and approach roads and facilities appurtenant thereto;
- (9) Coordinate and encourage public and private development in connection with the system, including a bridge transversing Choctawhatchee Bay;
- (10) Construct, acquire, repair, and operate any public development or project covered in this act, or coordinate any of the foregoing among other governmental agencies;
- (11) Acquire, construct, reconstruct, equip, improve, maintain, and repair the system or any portion thereof within its area of operation;
- (12) Fix, charge, and collect fees, tolls, rents, and charges for the use of the system, any part thereof, and any facilities furnished thereby, and of any property under its control, and pledge such revenue to the payment of revenue bonds issued by the authority;
- (13) Accept grants and donations of any type of property, labor, and other things of value from public and private sources, and to expend the funds of the authority for public purposes in its area of operation as a part of and in cooperation with the system or any portion thereof;

(14) Acquire, by purchase, on such terms and conditions and in such manner as it may deem proper, and to own, convey, and otherwise dispose of and to lease as lessor and lessee, any land and any other property, real or personal, reasonably necessary in furtherance of its powers under this act, and to grant and acquire licenses, easements, and options with respect thereto;

(15) Exercise the power of eminent domain pursuant to chapters 73 and 74, Florida Statutes;

(16) Borrow money and to issue notes for any purpose or purposes for which bonds may be issued under this act and to refund the same; to issue notes in anticipation of the receipt of the proceeds of the sale of bonds;

(17) Employ or contract for technical experts, consultants, or other staff as may be deemed necessary and to determine their qualifications, duties, and compensation; and may appoint any advisory committee deemed necessary;

(18) Issue revenue bonds or refunding bonds of the authority pursuant to section 8;

(19) Pay operating and debt service costs of the authority;

(20) Enter into and make lease-purchase agreements with the department until any bonds secured by a pledge of rentals hereunder and any refundings thereof are fully paid as to both principal and interest; and

(21) Do all acts necessary in order to carry out the purposes of this act.

Section 5. Compensation and travel expenses.—The members of the authority shall receive no salary or other compensation for their services. The authority shall, however, be authorized to pay reasonable costs and expenses necessarily incurred by the members in performance of their duties. The rate for travel expenses shall not exceed the rate for state employees.

Section 6. Budget.—

(1)(a) Prior to preparation of the annual budget as provided in paragraph (b), the authority shall develop an annual proposed budget according to the provisions set forth in this section by May of each year, for a public hearing before the citizens of Okaloosa County.

(b) The authority, in each fiscal year, shall prepare an annual budget for operating revenue accounts and operating expense accounts and such other accounts as the board of county commissioners shall prescribe, for its operations in the ensuing fiscal year and, on or before the first day of June of each year, the chair of the authority shall submit such budget to the board of county commissioners. The fiscal year for the authority shall be concurrent with the fiscal year of Okaloosa County. At the time the authority prepares its annual budget, it shall adopt a resolution determining and finding the estimated amounts to be expended by the authority in the ensuing year, exclusive of any bonds or other obligations of the authority, for acquiring,

establishing, constructing, enlarging, operating, and maintaining the system, including the bridge and bridge facilities and other facilities related thereto, or for any other corporate purpose of the authority. A certified copy of the resolution shall be submitted to the board of county commissioners at the same time that it submits its annual budget referred to above.

(c) The board of county commissioners shall examine the budget and the certified copy of the resolution, and may increase or reduce the total amount requested under the provisions in the budget and resolution for the expenditures in such an amount as the board of county commissioners deems advisable in its sole discretion. Thereafter, the board of county commissioners shall approve the budget of the authority, either as submitted or as increased or reduced, as aforesaid.

(d) Any budget amendment adopted by the authority that increases the total budget shall be approved by the board of county commissioners prior to becoming effective.

(e) All anticipated revenues to be derived from the operation of the system, including the bridge and bridge facilities shall be included in the budget of the authority. However, any amounts of money, including funds in the authority's budget for the preceding fiscal year, that remain unexpended from the revenue derived under the budget for the preceding fiscal year may, by resolution duly adopted by the authority and approved by the board of county commissioners, be set aside in a separate fund, to be known and described as a "Renewal and Replacement Fund," and accumulated in said fund from year to year for the purpose of purchasing real and personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures, and such funds may be disbursed from time to time out of the renewal and replacement fund, upon proper resolution of the authority and approval by the board of county commissioners, and solely for the payment of the cost of purchasing real and tangible personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures.

(f) The authority shall adopt budget procedures to establish the direct and indirect costs of operating and maintaining the bridge authority and the system, as well as the direct income derived therefrom.

Section 7. Notice of meetings.—The authority shall give reasonable notice of all meetings at least 3 days prior to the meetings, said notice to be published in a newspaper in general circulation in Okaloosa County. Said notice shall include agenda items whenever said items involve leasing of all or any portion of the system. All meetings of the authority shall be so noticed except emergency meetings which shall only be called when there is an immediate danger to the public health, safety, or welfare.

Section 8. Bonding power.—

(1) The authority is empowered and authorized to issue revenue or refunding bonds. The purpose of the bonds shall be to finance all or part of the cost of acquisition, construction, and equipping of the system or for refunding of bonds for the same purpose. Such bonds may be issued in one or more

series and shall bear such date or dates, be payable upon demand or mature at such time or times, be in such denomination or denominations, be in such form, registered or not, with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or ordinance or trust indenture or mortgage issued pursuant thereto. Such bonds shall bear interest at such rate or rates allowed by section 215.84, Florida Statutes.

(2) Bonds issued under this section shall be authorized by resolution of the authority. Any such resolution or resolutions authorizing any bonds hereunder may contain provisions, which shall be part of the contract with the holders of such bonds, as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority derived from the system.

(b) The completion, improvement, operation, extension, maintenance, repair, lease, or lease-purchase of such system and with duties of the authority and others, including the department, with reference thereto.

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant by the United States or the state may be applied.

(d) The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities of the system or any part thereof.

(e) The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof.

(f) Limitations on the issuance of additional bonds.

(g) The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds, or under which the same may be issued.

(h) Any other or additional agreements with the holders of the bonds which the authority may deem desirable and proper.

(3) The authority may employ fiscal agents as provided by this part, or the State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds which may be issued pursuant to this act; and the State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any or all debt services of funds or assets now or hereafter available for any bonds issued pursuant to this act. The authority may enter into deeds of trust, indentures, or other agreements within or without the state as security for such bonds and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals,

or other charges or receipts of the authority, as provided herein. Any such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or as the authority may authorize, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to the system and the duties of the authority and others, including the department, with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of same.

(4) Any of the bonds issued pursuant to this act are, and are hereby declared to be, negotiable instruments and shall have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the state.

(5) The authority shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue and shall have any and all powers necessary or convenient to such disposition.

(6) The authority may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the authority.

Section 9. Bonding rights.—The State of Florida does pledge to, and agree with, the Federal Government and any person, or corporation, subscribing to, or acquiring the bonds to be issued by the authority for the construction, acquisition, extension, improvement, or enlargement of the system, or any part thereof, that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest therein, are fully paid and discharged or until provision is made therefor. The State of Florida does further pledge to, and agree with, the Federal Government that in the event that the Federal Government shall construct or contribute any funds for the construction, acquisition, extension, improvement, or enlargement of the system, or any part thereof, the state will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the system, or any part thereof, or the improvement thereof, or which would be inconsistent with the due performance of any agreement between the authority and the Federal Government, and the authority shall continue to have and may exercise all powers herein granted, so long as the same may be necessary or desirable for the carrying out of the purposes of this act and the purposes of the Federal Government in the construction, or acquisition or improvement or enlargement of the system, or any part thereof.

Section 10. Powers granted, supplemental.—The powers granted by this act shall be regarded as supplemental and additional to powers conferred by other laws, and, unless inconsistent with such powers, shall not be regarded as in derogation of or as repealing any powers now existing under any other law, whether general, special, or local.

Section 11. Cooperation.—The Department of Transportation is directed to cooperate with the authority to the maximum extent possible.

Section 12. Audit.—The financial records of the authority shall be audited by an independent certified public accountant at least once each fiscal year.

Section 13. Lease-purchase agreement.—

(1) In order to effectuate the purposes of this act and as authorized herein, the authority may enter into a lease-purchase agreement with the department relating to and covering the system of any portion thereof.

(2) The lease-purchase agreement shall provide for the leasing of the system or any portion thereof by the authority, as lessor, to the department, as lessee, and shall prescribe the terms of such lease and the rentals to be paid thereunder.

(3) The lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under and for the purposes of this act; the financing, extension, improvement, operation, and maintenance of the system and the expenses and costs of operation of the authority; the charging and collection of tolls, rates, fees, rentals, or other charges for the use of the services and facilities thereof; the application of federal or state grants or aid which may be made or given to assist the authority in the financing, completion, extension, improvement, operation, and maintenance of the system, which the authority is authorized to accept and apply to such purposes; the enforcement of payment and collection of tolls, rates, fees, and rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of, and full performance under, such lease-purchase agreement.

(4) The department, as lessee under such lease-purchase agreement, is authorized to pay, as rentals thereunder, any tolls, rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the system and may also pay, as rentals, from any moneys available to the department, such amounts as the parties agree to accomplish the purposes of this act.

(5) In accordance with the provisions of section 339.125, Florida Statutes, the department may covenant in any lease-purchase agreement that it will pay all or any part of the operation and maintenance of the system, to the extent the proceeds of the bonds issued therefor are insufficient, from sources other than the revenues derived from the operation of the system.

(6) Any lease-purchase agreement between the authority and the department shall provide for the orderly repayment of any and all costs incurred



by the department in accordance with terms, conditions, and repayment schedules to be mutually agreeable to the authority and the department, which costs of the department result from any covenants to complete or to operate and maintain the systems authorized herein. The agreement shall provide for a specified source for such repayment which may be, but is not limited to, tolls or other charges imposed for the use of all or a portion of the system or other sources available to the authority not required for the payment or provision for payment of principal, interest, reserves, premium, or other required deposits for any bonds or series of bonds of the authority and for any required or necessary or desirable reserves maintained to obtain or maintain any credit rating of the authority.

Section 14. Eligibility for investments and security.—Any bonds or other obligations issued pursuant to this act shall be and constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal, and other public funds, and shall also be and constitute securities eligible for deposit and security for all state, municipal, or other public funds, notwithstanding the provisions of any other law or laws to the contrary.

Section 4. Chapters 86-465 and 88-542, Laws of Florida, are repealed.

Section 5. It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this act, and where strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act, and a liberal construction would permit or assist in the accomplishment of any part of the work authorized by this act, the liberal construction shall be chosen.

Section 6. In the event that any section or provision of this act is held to be invalid or unenforceable, such determination shall not affect the validity of or enforceability of the remaining portions of this act, the Legislature hereby declaring that it would have passed this act and each other section and provision of this act.

Section 7. In the event of a conflict of the provisions of this act with the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.