

House Bill No. 5013

An act relating to transportation; amending s. 334.044, F.S.; revising the powers and duties of the Department of Transportation to provide for certain environmental conditions; amending s. 337.025, F.S.; exempting transportation projects funded by the American Recovery and Reinvestment Act of 2009 from specified caps on annual contract amounts; amending s. 337.0261, F.S.; recognizing that construction aggregate materials mining is an industry of critical importance and that the mining of construction aggregate materials is in the public interest; amending s. 339.2818, F.S., relating to the Small County Outreach Program; revising the purpose of the program to include certain program purposes; revising eligibility and prioritization criteria; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; revising the definition of the term “attraction”; removing provisions for permits to be awarded to the highest bidders; authorizing the department to implement a rotation-based logo program; revising contract provisions for related services; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for certain sign locations; providing for distribution and use of proceeds from such fees; amending s. 348.54, F.S.; authorizing the Tampa-Hillsborough County Expressway Authority to make and issue certain bonds and other evidences of indebtedness and obligations; specifying liability for the payment of the principal of or interest on such obligations; requiring the Department of Community Affairs, in consultation with the Department of Transportation, to implement the Energy Economic Zone Pilot Program for specified purposes; requiring that the Office of Tourism, Trade, and Economic Development and the Florida Energy and Climate Commission provide technical assistance; specifying intended goals of the program; providing an application process for a pilot project; requiring that the Department of Community Affairs and the Office of Tourism, Trade, and Economic Development provide the pilot community with certain assistance; requiring the Department of Community Affairs to submit reports to the Governor and the Legislature; authorizing the Northwest Florida Regional Transportation Planning Organization to conduct a study on advancing funds for certain construction projects; authorizing the Department of Transportation to assist with the study; requiring results of the study to be provided to the Governor, the Legislature, and certain entities; providing principles for the study; providing for content of the study; providing for legislative authorization prior to implementation of the study; providing an effective date.

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

Section 1. Subsection (26) of section 334.044, Florida Statutes, is amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(26) To provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the conservation of natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation, enhancement, stabilization, and beautification programs., and No less than 1.5 percent of the amount contracted for construction projects shall be allocated by the department for the purchase of plant materials, with, to beautification programs. ~~Except where prohibited by federal law or federal regulation and to the greatest extent practical, a minimum of 50 percent of these funds for shall be used to purchase large plant materials and with the remaining funds for other plant materials. All such plant materials shall be purchased from Florida commercial nursery Florida-based nurseryman stock in this state on a uniform competitive bid basis. The department will develop grades and standards for landscaping materials purchased through this process. To accomplish these activities, the department may contract with nonprofit organizations having the primary purpose of developing youth employment opportunities.~~

Section 2. In order to implement Specific Appropriations 1986 through 2095 of the 2009-2010 General Appropriations Act, section 337.025, Florida Statutes, is amended to read:

337.025 Innovative highway projects; department to establish program.—

(1) The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction and maintenance; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction and maintenance contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, prior to using an innovative technique that is inconsistent with another provision of law, the department must document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than \$120 million in contracts annually for the purposes authorized by this section.

(2) ~~However,~~ The annual cap on contracts provided in subsection (1) ~~this section~~ shall not apply to:

(a) Turnpike enterprise projects, and ~~nor shall~~ turnpike enterprise projects shall not be counted toward the department's annual cap.

(b) Transportation projects funded by the American Recovery and Reinvestment Act of 2009.

Section 3. Subsection (2) of section 337.0261, Florida Statutes, is amended to read:

337.0261 Construction aggregate materials.—

(2) **LEGISLATIVE INTENT.**—The Legislature finds that there is a strategic and critical need for an available supply of construction aggregate materials within the state and that a disruption of the supply would cause a significant detriment to the state's construction industry, transportation system, and overall health, safety, and welfare. In addition, the Legislature recognizes that construction aggregate materials mining is an industry of critical importance to the state and that the mining of construction aggregate materials is in the public interest.

Section 4. Subsections (1) and (4) of section 339.2818, Florida Statutes, are amended to read:

339.2818 Small County Outreach Program.—

(1) There is created within the Department of Transportation the Small County Outreach Program. The purpose of this program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or ~~in~~ constructing capacity or safety improvements to county roads.

(4)(a) Small counties shall be eligible to compete for funds that have been designated for the Small County Outreach Program for projects on county roads. The department shall fund 75 percent of the cost of projects on county roads funded under the program.

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, which may be evidenced through an established pavement management plan.

(c) The following criteria shall be used to prioritize road projects for funding under the program:

1. The primary criterion is the physical condition of the road as measured by the department.

2. As secondary criteria the department may consider:

- a. Whether a road is used as an evacuation route.
- b. Whether a road has high levels of agricultural travel.
- c. Whether a road is considered a major arterial route.
- d. Whether a road is considered a feeder road.

e. Information as evidenced to the department through an established pavement management plan.

f.e. Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the department.

Section 5. Subsections (1), (3), (4), and (5) of section 479.261, Florida Statutes, are amended to read:

479.261 Logo sign program.—

(1) The department shall establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, and camping, attractions, and other services, as approved by the Federal Highway Administration, at interchanges, through the use of business logos, and may include additional interchanges under the program. ~~A logo sign for nearby attractions may be added to this program if allowed by federal rules.~~

(a) ~~As used in this chapter, the term An “ attraction” means as used in this chapter is defined as an establishment, site, facility, or landmark that which is open a minimum of 5 days a week for 52 weeks a year; that which charges an admission for entry; which has as its principal focus family-oriented entertainment, cultural, educational, recreational, scientific, or historical activities; and that which is publicly recognized as a bona fide tourist attraction. However, the permits for businesses seeking to participate in the attractions logo sign program shall be awarded by the department annually to the highest bidders, notwithstanding the limitation on fees in subsection (5), which are qualified for available space at each qualified location, but the fees therefor may not be less than the fees established for logo participants in other logo categories.~~

(b) The department shall incorporate the use of RV-friendly markers on specific information logo signs for establishments that cater to the needs of persons driving recreational vehicles. Establishments that qualify for participation in the specific information logo program and that also qualify as “RV-friendly” may request the RV-friendly marker on their specific information logo sign. An RV-friendly marker must consist of a design approved by the Federal Highway Administration. The department shall adopt rules in accordance with chapter 120 to administer this paragraph, including rules setting forth the minimum requirements that establishments must meet in order to qualify as RV-friendly. These requirements shall include large parking spaces, entrances, and exits that can easily accommodate recreational vehicles and facilities having appropriate overhead clearances, if applicable.

(c) The department may implement a 3-year, rotation-based logo program providing for the removal and addition of participating businesses in the program.

(3) Logo signs may be installed upon the issuance of an annual permit by the department or its agent and payment of a ~~an application and~~ permit fee to the department or its agent.

(4) The department may contract pursuant to s. 287.057 for the provision of services related to the logo sign program, including recruitment and qualification of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of logo signs. The department may reject all proposals and seek another request for proposals or otherwise perform the work. ~~If the department contracts for the provision of services for the logo sign program, the contract must require, unless the business owner declines, that businesses that previously entered into agreements with the department to privately fund logo sign construction and installation be reimbursed by the contractor for the cost of the signs which has not been recovered through a previously agreed upon waiver of fees.~~ The contract also may allow the contractor to retain a portion of the annual fees as compensation for its services.

(5) At a minimum, permit fees for businesses that participate in the program must be established in an amount sufficient to offset the total cost to the department for the program, including contract costs. The department shall provide the services in the most efficient and cost-effective manner through department staff or by contracting for some or all of the services. The department shall adopt rules that set reasonable rates based upon factors such as population, traffic volume, market demand, and costs for annual permit fees. However, annual permit fees for sign locations inside an urban area, as defined in s. 334.03(32), may not exceed \$5,000 and annual permit fees for sign locations outside an urban area, as defined in s. 334.03(32), may not exceed \$2,500. After recovering program costs, the proceeds from the annual permit fees shall be deposited into the State Transportation Trust Fund and used for transportation purposes. Such annual permit fee shall not exceed \$1,250.

Section 6. Subsections (7) and (8) of section 348.54, Florida Statutes, are amended to read:

348.54 Powers of the authority.—~~Except as otherwise limited herein, the authority shall have the power:~~

(7) To borrow money and to make and issue negotiable bonds, notes, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, hereinafter in this chapter referred to as “bonds of the authority,” for the purpose of financing all or part of the improvement or extension of the expressway system and appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access for the expressway system, and for any other purpose authorized by this part, and to provide for the rights of the holders thereof.

(8) To secure the payment of bonds by a pledge of all or any portion of the revenues or such other moneys legally available therefor and of all or any portion of the Hillsborough County gasoline tax funds in the manner provided by this part; and in general to provide for the security of the bonds and the rights and remedies of the holders thereof. Interest upon the amount of gasoline tax funds to be repaid to the county pursuant to s. 348.60 shall be payable, at the highest rate applicable to any outstanding bonds of the authority, out of revenues and other available moneys not required to meet

the authority's obligations to its bondholders. The authority shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof, including the city and the county, nor shall any of the authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or interest on such obligations.

Section 7. (1) The Department of Community Affairs, in consultation with the Department of Transportation, shall implement an Energy Economic Zone Pilot Program for the purpose of developing a model to help communities cultivate green economic development, encourage renewable electric energy generation, manufacture products that contribute to energy conservation and green jobs, and further implement chapter 2008-191, Laws of Florida, relative to discouraging sprawl and developing energy-efficient land use patterns and greenhouse gas reduction strategies. The Office of Tourism, Trade, and Economic Development and the Florida Energy and Climate Commission shall provide technical assistance to the departments in developing and administering the program.

(2)(a) The application for a pilot project shall:

1. Identify the proposed location of the energy economic zone, which must be within an adopted urban service area and may include a county landfill outside the urban service boundary;

2. Present a proposed strategic plan for development and redevelopment in the energy economic zone;

3. Demonstrate consistency of the strategic plan with the local comprehensive plan or include proposed plan amendments necessary to achieve consistency; and

4. Identify comprehensive plan amendments that will be proposed to implement chapter 2008-191, Laws of Florida.

(b) The strategic plan under subparagraph (a)1. must include mixed-use and form-based standards that integrate multimodal transportation facilities with land use and development patterns to reduce reliance on automobiles, encourage certified green building developments and renewable energy systems, encourage creation of green jobs, and demonstrate how local financial and regulatory incentives will be used in the energy economic zone.

(c) The Department of Community Affairs shall grant at least one application if the application meets the requirements of this subsection and the community has demonstrated a prior commitment to energy conservation, carbon reduction, green building, and economic development. The Department of Community Affairs and the Office of Tourism, Trade, and Economic Development shall provide the pilot community, including businesses within the energy economic zone, with technical assistance in identifying and qualifying for eligible grants and credits in job creation, energy, and other areas.

(3) The Department of Community Affairs, with the assistance of the Office of Tourism, Trade, and Economic Development, shall submit an interim report by February 15, 2010, to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the status of the pilot program. The report shall contain any recommendations deemed appropriate by the department for statutory changes to accomplish the goals of the pilot program community, including whether it would be beneficial to provide financial incentives similar to those offered to an enterprise zone.

(4) If the pilot project is ongoing, the Department of Community Affairs, with the assistance of the Office of Tourism, Trade, and Economic Development, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2012, evaluating whether the pilot program has demonstrated success. The report shall contain recommendations with regard to whether the program should be expanded for use by other local governments and whether state policies should be revised to encourage the goals of the program.

Section 8. (1) The Northwest Florida Regional Transportation Planning Organization, an interlocal agency under part I of chapter 163, Florida Statutes, is authorized to study the feasibility of advance-funding the costs of capacity projects in its member counties and making recommendations to the Legislature by February 1, 2010. The Department of Transportation may assist the organization in conducting the study.

(2) Results of any study authorized by this section shall be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, the department, any metropolitan planning organization in any county served by the organization, and the counties served by the organization and shall discuss the financial feasibility of advance-funding the costs of capacity projects in the Northwest Florida Regional Transportation Planning Organization's member counties. The study must be based on the following assumptions:

(a) Any advanced projects must be consistent with the Northwest Florida Regional Transportation Planning Organization's 5-year plan and the department's work program.

(b) Any bonds shall have a maturity not to exceed 30 years.

(c) A maximum of 25 percent of the department's capacity funds allocated annually to the counties served by the Northwest Florida Regional Transportation Planning Organization may be used to pay debt service on the bonds.

(d) Bond proceeds may only be used for the following components of a construction project on a state road: planning, engineering, design, right-of-way acquisition, and construction.

(e) The cost of the projects must be balanced with the proceeds available from the bonds.

(f) The department shall have final approval of the projects financed through the sale of bonds.

(3) The study shall contain:

(a) An analysis of the financial feasibility of advancing capacity projects in the Northwest Florida Regional Transportation Planning Organization's member counties.

(b) A long-range, cost-feasible finance plan that identifies the project cost, revenues by source, financing, major assumptions, and a total cash flow analysis beginning with implementation of the project and extending through final completion of the project.

(c) A tentative list of capacity projects and the priority in which they would be advanced. These projects must be consistent with the criteria in s. 339.135(2)(b), Florida Statutes.

(d) A 5-year work program of the projects to be advanced. This program must be consistent with chapter 339, Florida Statutes.

(e) A report of any statutory changes, including a draft bill, needed to give the Northwest Florida Regional Transportation Planning Organization the ability to advance construction projects. The draft bill language shall address, at a minimum:

1. Developing a list of road projects to be advanced, consistent with the organization's 5-year plan.

2. Giving the department the authority to review projects to determine consistency with its current work program.

3. Giving the organization the authority to issue bonds with a maturity of not greater than 30 years.

4. Requiring proceeds of the bonds to be delivered to the department to pay the cost of completing the projects.

5. Requiring the road projects to be consistent with the organization's 5-year plan.

6. Permitting any participating county to elect to undertake responsibility for the payment of a portion of the cost of any project in the county pursuant to an agreement with the organization and the department.

7. Providing that, in each year that the bonds are outstanding, no more than 25 percent of the state transportation funds appropriated for capacity projects advanced pursuant to the terms of this section and within the area of operation of the organization shall be paid over to the organization for the purpose of paying debt service on bonds the organization issued for such capacity projects. Such payments shall be made in lieu of programming any new projects in the work program.

8. Providing that, in the event that the capacity funds allocated to the member counties of the organization are less than the amount needed to

satisfy the payment requirements under the contract, the department shall defer the funded capacity on any other projects in the member counties of the organization to the extent necessary to make up such deficiency, so as to enable the organization to make the required debt service payments on the bonds or to replenish the reserves established for the bonds which may have been used to make up such deficiency. Under no circumstances shall the department provide any funds for these capacity projects in excess of the amount that would be allocated to the member counties pursuant to statutory formula and legislative appropriation.

9. Providing that the bonds shall state on their face that they do not constitute a pledge of the full faith or taxing power of the state, and no holder of any bond shall have the right to compel payment of the bonds from any funds of the state, other than amounts required to be paid to the organization under the contract. The bonds shall be limited and special obligations payable solely from the sources described herein.

10. Establishing such other terms and provisions as may be deemed reasonable and necessary to enable the organization to market the bonds at the most advantageous rates possible.

(4) The Legislature may authorize the implementation of the Northwest Florida Regional Transportation Planning Organization's study after a satisfactory showing that these prerequisites have been met and that any source of funding for any bonds to be issued has been approved by the Department of Transportation.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.