

Senate Bill No. 24-A

An act relating to transportation; creating s. 215.617, F.S.; authorizing the Department of Transportation to issue revenue bonds financed by the repayment of loans from the state-funded infrastructure bank; amending s. 338.165, F.S.; authorizing the department to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway toll facilities to provide funding for transportation projects on the State Highway System; amending s. 338.2275, F.S.; increasing the cap on the amount of bonds that may be issued to fund approved turnpike projects; amending s. 339.12, F.S.; removing the limit for transportation project advances for certain inland counties for certain improvements to the State Highway System; creating s. 373.4139, F.S.; providing for mitigation planning for transportation projects; providing for an annual inventory of wetland and surface water resources; requiring notice to other government participants; requiring responsible governments to submit the mitigation to appropriate federal agencies; providing that certain transportation projects may be excluded from the mitigation plan; deeming an approved mitigation plan as satisfying mitigation requirements of other governmental agencies; authorizing the creation of an escrow account to fund mitigation projects; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session of the Legislature; providing an effective date.

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

Section 1. Section 215.617, Florida Statutes, is created to read:

215.617 Bonds for state-funded infrastructure bank.—

(1) Upon the request of the Department of Transportation, the Division of Bond Finance is authorized pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act to issue revenue bonds, for and on behalf of the Department of Transportation, for the purpose of financing or refinancing the construction, reconstruction, and improvement of projects that are eligible to receive assistance from the state-funded infrastructure bank as provided in s. 339.55. The facilities to be financed with the proceeds of such bonds are designated as state fixed capital outlay projects for the purposes of s. 11(d), Art. VII of the State Constitution, and the specific facilities to be financed shall be determined by the Department of Transportation in accordance with s. 339.55. Each project financed with the proceeds of the bonds issued under this section in the 2003-2004 fiscal year is approved as required by s. 11(f), Art. VII of the State Constitution. In the 2004-2005 fiscal year and thereafter, legislative approval of the department's tentative work program specifying the State Infrastructure Bank project loans constitutes approval to issue bonds as required by s. 11(f), Art. VII of the State Constitution. The Division of Bond Finance is authorized to consider innovative

financing techniques, which may include, but are not limited to, innovative bidding and structures of potential financings that may result in negotiated transactions.

(2) Bonds issued pursuant to this section shall be payable primarily from a prior and superior claim on all state-funded infrastructure bank repayments received each year with respect to state-funded infrastructure bank projects undertaken in accordance with s. 339.55.

(3) The duration of each series of bonds may not exceed 30 annual maturities.

(4) The bonds issued under this section shall not constitute a general obligation or debt of the state or a pledge of the full faith and credit or taxing power of the state. The bonds shall be secured by and are payable from the revenues pledged in accordance with this section and the resolution authorizing their issuance.

(5) The state does covenant with the holders of bonds issued under this section that it will not take any action that will materially and adversely affect the rights of such bondholders as long as the bonds authorized by this section are outstanding.

(6) Any complaint for validation of bonds issued pursuant to this section shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 2. Subsection (3) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(3) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection(2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the 1993-1994 Adopted Work Program or in any subsequent adopted work program of the department.

Section 3. Subsection (1) of section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—

(1) Legislative approval of the department's tentative work program that contains the turnpike project constitutes approval to issue bonds as required by s. 11(f), Art. VII of the State Constitution. Turnpike projects approved to

be included in future tentative work programs include, but are not limited to, projects contained in the ~~2003-2004 1997-1998~~ tentative work program and ~~potential expansion projects listed in the January 25, 1997, report submitted to the Florida Transportation Commission titled "Florida's Turnpike Building on the Past - Preparing for the Future."~~ A maximum of ~~\$4.5~~ \$3 billion of bonds may be issued to fund approved turnpike projects.

Section 4. Paragraph (c) of subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program may not at any time exceed \$100 million. However, notwithstanding such \$100 million limit and any similar limit in s. 334.30, project advances for any inland county with a population greater than 500,000 dedicating amounts equal to \$500 million or more of its Local Government Infrastructure Surtax pursuant to s. 212.055(2) for improvements to the State Highway System which are included in the local metropolitan planning organization's or the department's long-range transportation plans shall be excluded from the calculation of the statewide limit of project advances.

Section 5. Section 373.4139, Florida Statutes, is created to read:

373.4139 Local government transportation infrastructure mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed as part of a coordinated multijurisdiction initiative undertaken with substantial funding from a discretionary sales surtax levied under s. 212.055 may be more effectively achieved by long-range mitigation planning by a responsible government rather than on a case-by-case basis.

(2) As used in this section, the county levying the surtax must be the government responsible for developing, permitting, and implementing the long-range mitigation plans, unless the county chooses not to be the responsible government and a responsible government is otherwise designated by an interlocal agreement executed by and between all local governments participating in the transportation initiative. This environmental mitigation process is not mandatory but may be initiated by the county levying the

discretionary sales surtax, upon notice to the appropriate water management districts.

(3) The responsible government must develop its long-range mitigation plan for multijurisdictional transportation initiatives as follows:

(a) By May 1 of each year of the transportation initiative, the participating governments shall prepare an inventory of all wetland and surface water resources, subject to this part and 33 U.S.C. s. 1344, which may be impacted in the next 3 years of the participating government's plan of construction for each transportation project and shall submit the environmental inventory to the responsible government. The environmental inventory shall include the information required in s. 373.4137(2)(b).

(b) Upon receipt of the environmental inventory, the responsible government shall develop a mitigation plan in consultation with the other participating governments, as well as with the appropriate water management districts, the United States Army Corps of Engineers, and other appropriate federal and state governments. The responsible government shall submit the mitigation plan to the water management districts having jurisdiction over the mitigation or impact areas.

(c) The water management district having jurisdiction over the impact area shall review the mitigation plan for compliance with rules adopted pursuant to this part. When more than one water management district has responsibility for regulation of the transportation initiative, the water management districts shall enter into an agreement pursuant to s. 373.046(6) to designate a single water management district to review and approve the mitigation plan.

(d) The responsible government shall submit the mitigation plan to all appropriate federal agencies that require permitting or approval of wetland and surface water mitigation. The responsible government shall seek to obtain formal approval of the mitigation plan from the federal agencies.

(e) Specific transportation projects may be excluded from the mitigation plan and shall not be subject to this section upon agreement by the responsible government and the participating governments if the inclusion of the project would hamper the efficiency and timeliness of the mitigation planning and permitting process or the responsible government is unable to identify mitigation that would offset the impacts of the project.

(4) Upon the water management district's approval, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part and any other mitigation requirements imposed by local, regional, and state agencies for impacts identified in the environmental inventory. The approval of the appropriate water management district authorizes the environmental mitigation activities proposed in the mitigation plan, and no additional state, regional, or local permit or approval is necessary.

(5)(a) Concurrent with, or subsequent to, the approval of the mitigation plan, the participating governments shall make any necessary permit applications to the appropriate water management district that will be solely

responsible for review and final action on the application required by this chapter. The responsible government must ensure that mitigation requirements specified by 33 U.S.C. s. 1344 are met for the impacts identified in the wetland inventory by implementing the mitigation plan approved by the water management district to the extent that the funding is provided by the participating governments.

(b) This section does not eliminate the need for the participating governments to comply with requirements to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate impacts of the transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part.

(6) To fund the long-range mitigation plan, the responsible government shall create an escrow account. The participating governments shall deposit funds into the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The responsible government shall maintain the escrow account for mitigation purposes only. Any interest earned from the escrow account may be used to offset the cost of the mitigation plan and must be credited to the participating governments' transportation projects. The responsible government shall reimburse the water management district the actual costs it incurs in reviewing the mitigation plan.

(7) The mitigation plans shall be updated annually to reflect the most current plan of construction of the participating governments and may be amended throughout the year to anticipate schedule changes or additional projects that may arise.

Section 6. If any law that is amended by this act was also amended by a law enacted at the 2003 Regular Session of the Legislature, such laws shall be construed as if they had been enacted during the same session of the Legislature, and full effect should be given to each if that is possible.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 27, 2003.

Filed in Office Secretary of State June 27, 2003.