

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Transportation and Economic Development Appropriations Committee

BILL: CS/SB 718

SPONSOR: Transportation and Economic Development Appropriations Committee and Senator Sebesta

SUBJECT: Department of Transportation

DATE: April 12, 2005 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Favorable</u>
3.	<u>Weaver</u>	<u>Martin</u>	<u>TA</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute provides that the Florida Department of Transportation (FDOT) may adopt rules implementing existing statutes allowing the lease of FDOT property for joint public-private development. The committee substitute provides county governments with the same authority to issue permits for the “display of advertising of any sort” as currently exists for municipalities, and expands the prohibition of issuing permits for “display of advertising of any sort” by local governmental entities from the interstate highway system to all limited access facilities. The committee substitute establishes a maximum limitation on internal loans to the State Transportation Trust Fund through the State Infrastructure Bank. The committee substitute revises the reconciliation process for escrow accounts set up to fund environmental mitigation for the impact of transportation projects.

This committee substitute substantially amends sections 337.251, 337.406, 339.55 and 373.4137 of the Florida Statutes.

II. Present Situation:

Section 337.251, F.S., authorizes FDOT to lease FDOT property to public agencies and private entities for joint public-private transportation purposes to further economic development and generate revenue. When s. 337.251, F.S., was enacted, there was no specific rulemaking authority included. The department nevertheless promulgated an administrative rule (Ch. 14-109, F.A.C.) to provide information to applicants for joint public-private development projects about specifics of how to make application and pursue this type of land transaction. Subsequently, the legislature mandated that an agency cannot promulgate rules unless there is specific authority granted within the statute.

Subsection 337.406(1) F.S., authorizes municipalities, but not counties, to issue permits for "display of advertising of any sort" (banners) on roads within their municipal limits, except for interstates. Under this subsection, municipalities have independent statutory authority to allow banners on limited access facilities within their municipal limits.

Subsection 337.407(1) F.S., prohibits all "signs" (advertising) on the state and federal highway system. FDOT is given rulemaking authority to allow the placement of such signs and "overhanging encroachments" (banners) over state roads within municipalities or outside municipalities where there is curb or gutter construction. Under this subsection, FDOT could prohibit all banners on all limited access facilities and allow counties the same banner authority as municipalities by administrative rule.

Section 339.55, F.S., creates the State-Funded Infrastructure Bank (SIB) within FDOT to provide loans and credit enhancements to government units and private entities for use in constructing transportation facilities. The SIB can leverage funds through loans and credit enhancement assistance to improve project feasibility. The SIB cannot provide assistance in the form of a grant. The amount of any loan or other assistance may be subordinated to other debt financing for a project with an investment grade rating of "BBB" or higher. Loans from the SIB may bear interest at or below market interest rates, as determined by FDOT. SIB loans are repaid and the funds deposited back into the SIB program. This allows these repayments to be revolved to pay debt service and future loans. The repayment stream provides the ability to loan significantly more than the amount initially deposited using funds leveraged through bonding. FDOT has made loans for internal and external project applicants from the infrastructure bank accounts. External loans are made to qualified entities with loan repayments from revenue sources external to the FDOT. Internal loans are loans made to advance FDOT projects and are repaid from future program allocations from the State Transportation Trust Fund (STTF). To date there have been no restrictions on the aggregate amount of either loan type.

Section 373.4137, F.S., defines the environmental mitigation process for transportation projects. The statute requires FDOT and specified transportation authorities to annually submit for approval to the Florida Department of Environmental Protection (FDEP) and the water management districts (WMDs), a plan to mitigate the environmental impacts of transportation projects. The plan results from an environmental impact inventory reflecting habitats that may be impacted by projects contained in the next 3 years of the FDOT tentative work program. The plan must include sound ecosystem management practices such as the acquisition of waterbodies and lands for preservation, restoration, and enhancement. On a quarterly basis, the FDOT is required to identify and transfer to an escrow account, funds to pay for mitigation of projected acreage impacts resulting from projects identified in the inventory for the current fiscal year. At the end of each year, the projected acreage impacts are reconciled to the actual acreage of impact of projects as permitted, including permit modifications. The escrow balance is then adjusted accordingly to reflect any overtransfer or undertransfer of funds. The program was initiated with an advance transfer of \$12 million from FDOT to FDEP to be repaid via credits of \$75,000 per acre mitigated through fiscal year 2005-2006.

III. Effect of Proposed Changes:

Section 1. – Joint Public-Private Development Lease Rules

Section 337.251, F.S., is amended to allow FDOT to adopt administrative rules for the purpose of implementing joint public-private development of FDOT property. The revision provides statutory authority for an existing rule.

Section 2. – Unlawful Use of State Transportation Facility Right-of -Way

Subsection 337.406(1), F.S. is amended to provide county governments with the same authority to issue permits for the “display of advertising of any sort” as currently exists for municipalities, and expands the prohibition of issuing permits for “display of advertising of any sort” by local governmental entities from the interstate highway system to all limited access facilities.

Section 3. – Limits on SIB Loans

Section 339.55, F.S., is amended to limit internal SIB loans to FDOT districts by limiting repayments on such loans to 0.75 percent of the revenue deposited into the State Transportation Trust Fund.

Section 4. – Environmental Mitigation for Transportation Projects

Section 373.4137, F.S., is amended to make the annual reconciliation of escrow payments a quarterly event. The committee substitute allows FDOT to fund mitigation activities for future transportation projects at current prices. FDEP’s administrative role in approving regional mitigation plans for transportation projects is eliminated. Additionally, the scheduled fiscal year 2005-2006 repayment of the \$12 million advance transfer via per acre credits is removed, allowing the repayments to reflect the actual pace of the mitigation process.

Section 5. – Effective Date

The act shall take effect on July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to FDOT, limiting the repayment of internal SIB loans to .75 percent of the revenue deposited into the State Transportation Trust Fund will have no impact on the work program through fiscal year 2009-2010.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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