HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

BILL #: PCB TR 06-01 General Revenue Bonds for Transportation/Resolution & Referendum
SPONSOR(S): Transportation Committee
TIED BILLS: PCB TR 06-02 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh BJP	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) relies on a variety of state and federal revenue sources to finance its $36 billion Five-Year Work Program. About 2 percent of the agency's funding is derived from general-obligation bonds, specifically for right-of-way acquisition and construction of bridges.

PCB TR 06-01 is a proposed joint resolution seeking voter approval of general obligation bonds to finance state transportation capital projects and right-of-way acquisition. The outstanding amount of general obligation bonds issued for these transportation purposes cannot exceed 25 percent of the state's total tax revenues of the previous two years, pursuant to the proposed section 11(g), Article VII to the state constitution. General obligation bonds (also called "state bonds") pledge the full faith and credit of the State of Florida.

This proposal is being offered as a constitutional amendment because general obligation bonds must be approved by voters, pursuant to Article VII of the state constitution and to s. 215.59, F.S.

PCB TR 06-01 must be approved by a three-fifths vote of the House and the Senate before it can be placed on the next statewide ballot in November 2006.

By itself, the amendment has a minimal fiscal impact because the bonds must be issued "in the manner provided by general law," meaning the Legislature must pass implementing legislation before any bonds can be sold. The state will incur an estimated $40,000 for publication costs.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 4, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: If the proposed constitutional amendment and implementing legislation become law, FDOT potentially will have access to hundreds of millions of dollars to build more transportation infrastructure. As such, this legislation can be viewed as facilitating growth in government. Viewed from a larger context, the legislation promotes greater government spending on much-needed public infrastructure to energize Florida's economic development.

B. EFFECT OF PROPOSED CHANGES:

Background

Bonds, generally

The most common types of bonds issued by governmental entities are general obligation bonds and revenue bonds. General obligation bonds, also called "state bonds" even though local governmental entities also can issue them, pledge the full faith and credit of the issuing governmental entity. The debt service on these bonds typically is paid with identified revenues within the state or local government's treasury. Schools, highways, and environmental preserves are typical types of public infrastructure purchased with general obligation bonds. On the other hand, the debt service on revenue bonds is paid with funds generated by the infrastructure that built using the bond proceeds. Typical infrastructure projects built with revenue bonds are toll highways and wastewater treatment facilities.

Florida's constitution and statutes include several examples of both types of bond programs. Under Florida law, general obligation bonds must be approved by voters before they can be issued. Revenue bonds do not have that requirement, although there may be instances where local governments have asked their voters whether they support the issuance.

Pursuant to s. 215.59, F.S.:

> *"(1) The issuance of state bonds pledging the full faith and credit of the state, pursuant to s. 11, Art. VII of the State Constitution, is hereby authorized upon approval by vote of the electors, except as otherwise authorized by said s. 11, Art. VII. The amount of such state bonds, other than refunding bonds, the projects to be financed thereby, and the date of such vote of the electors shall be as provided by law.*
>
> *(2) The issuance of revenue bonds payable solely from funds derived directly from sources other than state tax revenues, pursuant to s. 11(d), Art. VII of the State Constitution, is hereby authorized without a vote of the electors in the manner provided by law.*
>
> *(3) All bonds hereby authorized shall be issued in the manner provided by the Constitution or by the division in the manner provided by this act, subject to all other applicable provisions of law."*

Bonds issued by most state governmental entities in Florida must follow the requirements of the State Bond Act, ss. 215.57-215.83, F.S. Even those entities that can issue their own bonds, without assistance of the state Division of Bond Finance (the Division), generally follow the State Bond Act's guidelines and procedures.

According to the Division's *2005 Debt Affordability Study*, [1] state tax-supported debt totaled $17.5 billion and the debt from revenue bonds and other self-supporting debt (for which the state is not legally responsible) totaled $5 billion.

[1] Report is available at http://www.sbafla.com/bond/pdf/publications/DARrpt05.pdf

Pursuant to s. 215.98, F.S., the Legislature has expressed as state policy "prudence in undertaking the authorization and issuance of debt." It has established a debt target and a debt cap as thresholds to guide issuance of state debt. The debt target is defined as a ratio of debt service to revenue available to pay debt service on tax-supported debt, not to exceed 6 percent. The debt cap is established as a 7-percent ratio. As of June 30, 2005, the state's debt ratio was calculated to be 5.36 percent.

Over the next 10 years, based on projected state revenue growth and the payoff of some bonds, the state's bonding capacity will be $23.6 billion from 2006-2015. Existing bond-financed programs will consume approximately $9.6 billion of that, leaving approximately $16.7 billion in bond capacity available over the next 10 years. That capacity is spread unevenly over the10-year period; for the first four years of the decade, only about $1.6 billion is available for new bond programs within the 6-percent target and about $6.4 billion is available within the 7-percent cap, according to the Division's 2005 study.

Section 215.98, F.S., also requires that if the 6-percent target debt ratio will be exceeded by a proposed bond issuance, the authorization of this debt must be accompanied by a legislative statement of determination that such authorization and issuance is in the state's best interests. The Legislature is prohibited from authorizing the issuance of additional state tax-supported debt that would cause the debt ratio to exceed the 7-percent cap unless the Legislature determines that such additional debt is necessary to address a critical state emergency, which is not defined.

State transportation bonds

FDOT manages one of the state's largest and most uniquely packaged budgets. The Legislature approves an annual operating and capital outlay budget, and a Five-Year Work Program that, for all practical purposes, locks in the agency's primary expenditures over the next five years. For FY 05-06, FDOT's budget was $8.1 billion, about $7 billion of which is the first year of the Work Program's expenditures. Additionally, the Legislature adopted the agency's $34.9 billion 2006-2010 Work Program.

Although bond-financing programs are about 6 percent of FDOT's overall budget, they play important roles in the agency's ability to meet transportation needs. The agency has three programs financed with revenue bonds: the Florida Turnpike Enterprise, the State Infrastructure Bank program, and individual bonds supporting transportation and environmental improvements at several non-Turnpike toll facilities operated by FDOT. The agency also contributes $25 million annually to pay debt service on $324 million in bonds issued by the Florida Ports Financing Commission.

FDOT has only one general obligation bond program. In 1988, Florida voters approved a constitutional amendment creating section 17, Article VII of the state constitution, authorizing the issuance of general obligation bonds to acquire right-of-way for roads and to construct bridges. The Legislature approved the use of these bonds for the advance acquisition of right-of-way land beginning in 1991 and bridge construction beginning in 1994. The Legislature also provided that the bonds' debt service was to be paid from the state fuel-tax revenues. About three-fourths of the funds from these bonds are being spent on right-of-way acquisition and one-fourth on bridge construction.

Current law provides that a maximum of 7 percent of state transportation tax collections, not to exceed $275 million, may be used to pay the annual debt service on these general obligation bonds.

As of December 2005, a total of $1.86 billion in right-of-way bonds have been issued. Examples of major projects whose right-of-way has been purchased using these bond funds include: $66.3 million for phase I of the Miami Intermodal Center; a $26.4 million bond fund grant to the Orlando-Orange County Expressway Authority to help purchase right-of-way for the Western Beltway Part A project; $8.5 million in bond funds for the Brannon Field Chaffee project in Duval County; $34.2 million in bond funds for the Seminole Expressway; and $15.9 million for the Polk Parkway project.

During the 20-year period from fiscal years 1990-91 through 2009-10, FDOT estimates that it will have leveraged $2.7 billion in right-of-way bond proceeds to finance approximately $18.1 billion in land acquisition.

Since 1995, approximately $800 million in these bond proceeds have been committed to the replacement of bridges on the State Highway System, according to FDOT staff. With other funding sources considered, this $800 million has been used to leverage $1.6 billion in total project costs. Some of the major bridge projects financed with these bond funds are: the Fuller Warren Bridge in Jacksonville; the Interstate-10 bridge over Blackwater Creek in Northwest Florida; and the Flagler Memorial Bridge.

Transportation infrastructure needs

Several studies in recent years by public and private institutions have concluded that Florida's transportation infrastructure is not keeping pace with its growth in population and number of visitors. These have concluded that Florida has unfunded state transportation needs ranging from $38 billion to $48 billion; this does not include projected transportation needs by cities and counties.

Exacerbating the backlog is the unprecedented growth in the costs associated with transportation construction, due in large part to increased international and regional demand. Recent reports by FDOT indicate that asphalt prices have increased nearly 22 percent per ton; concrete prices have increased nearly 33 percent per cubic yard; and steel prices have increased from 6 percent to nearly 19 percent per pound, depending on the type of steel. Right-of-way costs in Florida also are increasing, by as much as 10 percent annually in some areas, FDOT has reported.

Constitutional amendments

Article XI, sections 1 and 5, of the Florida Constitution provide for amendment to the Constitution by the legislative process. The Legislature proposes amendments to the Constitution by joint resolution passed by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's Office, unless a special election has been scheduled for the express purpose of having the electorate vote on the proposed amendment.

Provisions of PCB TR 06-01

The draft joint resolution would add a subsection (g) to the existing section 11, Article VII of the state Constitution, authorizing issuance of new general obligation bonds for transportation infrastructure and right-of-way acquisition. The bonds' debt service would be paid with state revenues, and would pledge the full faith and credit of the state.

The bonds' outstanding principle could never exceed 25 percent of the total state tax revenues of the previous two fiscal years. According to the Fall 2005 Florida Revenue Estimating Conference, Florida's total tax receipts in FY 05-06 and FY 06-07 total about $40 billion each year. As a rough estimate, the total amount of bonds that could be issued if this amendment passed is about $20 billion. However, the total amount issued would ultimately be decided by the Legislature, when appropriating the debt service.

The bonds also would be issued "in the manner provided by general law," meaning that the issuance would be governed by the State Bond Act procedures and requirements and any implementing legislation the Legislature additionally approved.

The draft joint resolution also includes a ballot summary that is similar to the wording of the proposed subsection.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Minimal. Article XI, Section 5, of the Florida Constitution requires that each proposed amendment to the constitution be published in a newspaper of general circulation in each county two times prior to the election where it will be considered. The state Division of Elections estimated that the cost of placing these advertisements is about $40,000 per amendment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If PCB TR 06-01 passes the Legislature, then pursuant to s.100.381, F.S., the Revenue Estimating Conference shall prepare a fiscal impact statement as required in s.100.371(6), F.S., no later than 80 days before the election. The fiscal impact statement shall be separately contained and appear on the ballot following the proposed amendment's ballot summary.

No bonds will be issued until implementing statutory language becomes law.

Staff is researching the amount of bonds that could be issued, based on the proposed constitutional amendment's provision that the outstanding principle can not exceed 25 percent of the state's total tax revenues in the previous two years. Volume 21 (Fall 2005) of the Florida Revenue Estimating Conference's Revenue Analysis includes a chart on page 35 estimates that the total state taxation in FY 05-06 will be $39.9 billion, and in FY 06-07 will be $40.236 billion. These figures include revenues from state taxes, fees, licenses, and charges. Twenty-five percent of the total taxation for those two fiscal years is about $20 billion. Whether the constitutional construction of the phrase "state tax revenues" means revenue from only "taxes," or if the definition is broader, is one of the issues being researched by committee and House fiscal staff.

Additionally, the Division of Bond Finance has evaluated this PCB's implementing legislation, PCB TR 06-02, on the state's debt position. Division staff has projected that the implementing legislation's $500 million maximum debt service would cause the state's benchmark debt ratio to exceed the 7-percent cap. The projection assumes that the transportation bond program would be fully leveraged in the three years following passage, and that the proposed bond financing of class-size reduction required by the State Constitution also would be fully leveraged.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The provisions of Article VII, Section 18, requiring a mandate analysis of proposed legislation do not apply to proposed amendments to the state Constitution.

2. Other:

   Article XI, sections 1 and 5, Florida Constitution, provides that a constitutional amendment may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote in each house; passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, Article XI, section 5, of the Florida Constitution provides that the proposed amendment would be placed before the electorate at the 2006 General Election or at an earlier special election authorized for that purpose.

   Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in the county in which a newspaper is published. If the proposed amendment or revision is approved by vote of the electors, it will be effective as an amendment to or revision of the state constitution on the first Tuesday after the first Monday in January following the election.

B. RULE-MAKING AUTHORITY:

   Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES