Maximum interest rate for special road

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Subject:
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TAXATION--MAXIMUM INTEREST RATE FOR SPECIAL ROAD AND BRIDGE DISTRICT BONDS

To: George A. Clement, Chairman, Lake Grady Road and Bridge District, Largo

Prepared by: Joseph C. Mellichamp III, Assistant Attorney General

QUESTION:

Is there a maximum interest rate governing general obligation bonds issued by special road and bridge districts pursuant to s. 336.63(3), F. S.?

SUMMARY:

The maximum interest rate governing general obligation bonds issued by special road and bridge districts pursuant to s. 336.63(3), F. S., is limited to 71/2!mfe!x percent per annum.

Your question is answered in the affirmative for the reasons hereinafter set forth.

Section 336.28, F. S., provides the method for establishing county special road and bridge districts for the purpose of constructing or reconstructing permanent roads and bridges within a specified territory in any county. Section 336.49(1), F. S., grants to special road and bridge districts the authority to issue and sell bonds to finance such road and bridge construction within the district. *See also* s. 336.31(4), F. S.

Section 336.49(3), F. S., provides that in issuing and selling such bonds as provided in s. 336.49(1), the commissioners of the district shall act in substantial conformity with the provisions of these statutes applicable to the issuance and sale of bonds for the purpose of constructing hard-surfaced roads and public buildings. [This subsection incorporates by reference Ch. 130, F. S. (county bonds), as part of the bond process for special road and bridge districts.]

Chapter 130, F. S., provides the method for issuing county bonds for the purpose of constructing paved, macadamized, or other hard-surfaced highways and courthouses, jails, or other public buildings. Section 130.01.

Section 130.012(1), F. S. (enacted by Ch. 69-1739, Laws of Florida), specifically provides that:

"Bonds, certificates or other obligations of any type or character authorized and issued by

counties, municipalities, towns, villages, districts, commissions, authorities, or any other public body or agency or political subdivision of the state may bear interest at a rate not to exceed 7 1/2 percent per annum."

Thus, prior to the enactment of Ch. 72-385, Laws of Florida (which amended Ch. 336, F. S., by adding ss. 336.62 through 336.67 to provide an alternative method for creating special road and bridge districts), special road and bridge districts were required to follow the procedures set forth in Ch. 130, F. S., for issuing bonds; and the interest on such bonds was limited to a maximum of 7 1/2 percent per annum.

As stated above, the legislature, in 1972, enacted Ch. 72-385, Laws of Florida, to amend Ch. 336, F. S., by adding ss. 336.62 through 336.67 to provide an alternative method for creating special road and bridge districts. You state in your letter that the Lake Grady Road and Bridge District was created under the provisions of this alternative method.

Section 336.62(6), F. S., provides that the powers and duties of the district commissioners, as to district roads and bridges, shall be the same as those of county commissioners supervising districts created pursuant to s. 336.28, F. S.

Section 336.63, F. S., enumerates the powers of the alternative special road and bridge districts created pursuant to s. 336.62, F. S., and further provides that these powers are in addition to the powers set forth in s. 336.49, F. S., for special road and bridge districts created pursuant to s. 336.28, F. S.

Section 336.63(3), F. S., provides that alternative special road and bridge districts have the power to conduct, install, erect, acquire, operate, maintain, improve, extend, enlarge, or reconstruct a road and bridge system within the district and to have the exclusive control and jurisdiction thereof. Further, the special road and bridge district may issue its own general obligation bonds, revenue bonds, or assessment bonds, or any combination of the foregoing, and to pay all or part of the cost of such construction, reconstruction, erection, maintenance, acquisition, or installation of such system. The procedure for issuing such revenue or assessment bonds, or the levying of special assessments, shall be in the manner prescribed in Chs. 159 and 170, F. S.

Part I, Ch. 159, F. S., deals generally with the issuance of revenue bonds; and, specifically, s. 159.08 provides that revenue bonds issued under said Ch. 159 shall bear interest at a rate not to exceed 7 1/2 percent per annum.

Chapter 170, F. S., deals generally with the issuance of special assessment bonds; and, specifically, s. 170.17 provides that special assessment bonds issued under said Ch. 170 shall bear interest at a uniform rate not to exceed 7 1/2 percent per annum, payable annually or semiannually thereafter until maturity, and 10 percent per annum after maturity.

In view of the fact that the issuance and sale of revenue and special assessment bonds by special road and bridge districts under s. 336.63(3), F. S., have been removed from the provisions of Ch. 130, F. S., and inasmuch as the interest on such bonds is limited by the provisions of Chs. 159 and 170, F. S., the question arises as to whether the issuance and sale of

general obligation bonds have been removed from Ch. 130, and, if so, whether there is a maximum interest rate on these general obligation bonds.

It must be remembered that s. 336.62, F. S., provides for an alternative method for creating special road and bridge districts, and, further, that the powers and duties of such alternative special road and bridge districts are the same as those of districts created under s. 336.28, F. S., with the additional and supplemental powers provided in s. 336.63, F. S.

Further evidence of the legislative intent that these two types of special road and bridge districts complement, rather than conflict with, each other is seen in s. 336.67, F. S., which provides:

"All provisions of ss. 336.36, 336.45, 336.48, 336.49, 336.50, 336.51, 336.52, 336.53, 336.55 and 336.58, shall be applicable to the road and bridge districts created under ss. 336.61-336.67."

Thus, although s. 336.63(3), F. S., does not set maximum interest rates governing the issuance and sale of general obligation bonds, it is my opinion that since s. 336.63(3) does not provide an alternative method for issuance and sale, as in the case of revenue and special assessment bonds, the issuance and sale of general obligation bonds are still governed by Ch. 130, F. S., and the rate of interest on such bonds is limited to
7 1/2 percent per annum.

Further, it is my opinion that the procedure for the issuance and sale of general obligation bonds, revenue bonds, and special assessment bonds by special road and bridge districts, pursuant to s. 336.63(3), F. S., must be in the manner provided in Chs. 130, 159, and 170, F. S., and the rates of interest on such bonds are limited by the specifications set forth in each chapter.

However, pursuant to the authority in Ch. 74-259, Laws of Florida, the State Board of Administration, upon request from an issuing unit (including a special road and bridge district) when it appears in the best interest of the public, may allow a rate of interest in excess of the maximum rate set by law.