

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 1110

INTRODUCER: Senator Simmons

SUBJECT: Central Florida Expressway Authority

DATE: February 16, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Eichin</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Sneed</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommend: Favorable</u>
3.	<u>Price</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

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## I. Summary:

SB 1110 addresses issues relating to the Central Florida Expressway Authority (CFX). The bill clarifies that members of CFX's governing body from Seminole, Lake, and Osceola Counties must be a county commission member or chair, or a county mayor from the respective counties. Governor-appointed citizen members, who must be residents of either Orange, Seminole, Lake, or Osceola County, are made subject to Senate confirmation, and refusal or failure to confirm creates a vacancy. The bill provides that the 4-year term of Governor-appointed members ends on December 31 of the last year of service. The bill also removes the requirement that the CFX board elect a governing body member as secretary.

SB 1110 also clarifies that CFX is a party to a 1985 lease-purchase agreement between the former Orlando-Orange County Expressway Authority (OOCEA) and the Florida Department of Transportation (FDOT), and repeals superseded language requiring that title to the former Orlando-Orange County Expressway System be transferred to the state under certain conditions.

The bill has no apparent fiscal impact on state or local governments.

The bill takes effect July 1, 2016.

## II. Present Situation:

### Historical Background of the Orlando-Orange County Expressway Authority

The OOCEA was created by the Legislature in 1963 for the purpose of construction and operation of an expressway road system in Central Florida.<sup>1</sup> The OOCEA was granted the power to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in Orange County, as well as in any consenting county within whose jurisdiction the

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<sup>1</sup> See ch. 348, part II, F.S. (2013).

activities occurred. The OOCEA was also authorized to issue toll revenue bonds to help finance the project.<sup>2</sup>

### ***Lease-Purchase Agreement***

The OOCEA System was operated pursuant to a lease-purchase agreement.<sup>3</sup> Under the lease-purchase agreement the FDOT, as lessee, agreed to pay the operation and maintenance costs of the associated toll facility.<sup>4</sup> Upon completion of the lease-purchase agreement, ownership of the facility was to be transferred to the state and the FDOT would retain all revenues collected, as well as the responsibility of operating and maintaining the transferred system.<sup>5</sup> Lease-purchase agreements benefit an expressway authority by delaying when the expressway authority (lessor) is responsible for paying for the financial obligations of operating and maintaining the system.<sup>6</sup>

The lease-purchase agreement was statutorily required to provide that upon termination of the agreement, title to the expressway system must be transferred to the state.<sup>7</sup> The most recent supplemented and extended lease-purchase agreement was to remain in effect until all bonds and any refunding bonds were fully paid and the FDOT was reimbursed for all amounts owed to it under the agreement. The OOCEA's obligation to the FDOT as of December 31, 2015, was approximately \$173 million, with full repayment to the FDOT expected in 2025.<sup>8</sup>

### ***The Wekiva Parkway***

In 2012, the OOCEA and the FDOT agreed, pursuant to a Memorandum of Understanding (MOU) to jointly undertake construction of the Wekiva Parkway (Parkway), a beltway around the Metropolitan Orlando area.<sup>9</sup> An Interlocal Agreement was approved in 2014 that included specific terms and conditions governing the project that are consistent with the MOU. The agreement called for the OOCEA to independently finance, build, own, and manage sections of the Parkway primarily in Orange County, and the FDOT to be responsible for the remaining portions of the Parkway in Lake and Seminole Counties.<sup>10</sup> As part of the agreement, OOCEA agreed to repay long-term debt owed to the FDOT.

To ensure available funds for the FDOT portion of the Wekiva Parkway, the 2012 Legislature required the OOCEA to repay the FDOT for the operation and maintenance of the expressway system in accordance with the lease-purchase agreement. A repayment schedule was established

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<sup>2</sup> Bonds are payable from and secured by a pledge of net toll revenues collected from the operation of the expressway system.

<sup>3</sup> Section 348.757, F.S.

<sup>4</sup> Section 348.757(6), F.S.

<sup>5</sup> Section 348.757(3), F.S.

<sup>6</sup> See Senate Budget Committee Bill Analysis for SB 1998, February 20, 2012, p. 7, for more detail on the lease-purchase agreement history.

<sup>7</sup> Section 348.757(2), F.S.

<sup>8</sup> See the FDOT email to Senate Transportation Committee staff, January 29, 2016. (On file in the Senate Transportation Committee.)

<sup>9</sup> See Metroplan Orlando website, *The Wekiva Parkway Project is Preparing to Move Forward* (June 30, 2012), available at <http://www.metroplanorlando.com/news/press-releases/wekiva-parkway-project-moves-forward/>. Last visited April 3, 2015.

<sup>10</sup> See the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal Year 2014 Report*, at p. 5, available at: <http://www.ftc.state.fl.us/reports/documents.shtm>. Last visited January 19, 2016).

for the OOCEA to reimburse the FDOT for all costs of the expressway system which were paid, advanced, or reimbursed to the OOCEA by the FDOT.<sup>11</sup>

The Legislature also required that upon the earlier of the defeasance, redemption, or payment in full of bonds issued before July 1, 2012, or the earlier date to which the purchasers of the bonds have consented:

- The obligations of the FDOT under the lease-purchase agreement terminate, including payment of any cost of operation, maintenance, repair, or rehabilitation of the system;
- The lease-purchase agreement terminates;
- The expressway system remains the property of the OOCEA and may not be transferred to the FDOT; and
- The OOCEA remains obligated to reimburse the FDOT according to the terms of the MOU.<sup>12</sup>

These provisions superseded the previously enacted statutory requirement in s. 348.757(2), F.S., that the lease-purchase agreement provide for transfer of title to the former expressway system to the state upon termination of the agreement.

#### ***The OOCEA System Transfer to the Central Florida Expressway Authority***

In 2014, the Legislature re-named the OOCEA as the Central Florida Expressway Authority (CFX) and transferred governance and control, legal rights and powers, responsibilities, terms, and obligations of the former OOCEA to the CFX. The area served by the CFX was expanded to include Seminole, Lake, and Osceola Counties, in addition to Orange County.<sup>13</sup>

The Legislature also amended the composition and membership terms of the CFX governing body. Currently, the governing body consists of nine members:

- The chairs of the Seminole, Lake, and Osceola County Commissions appoint one member each who may be a commission member or the commission chair;
- The Mayor Orange County appoints one member from the Orange County Commission;
- The Governor appoints three members each of whom must be a citizen of either Orange, Seminole, Lake, or Osceola County;
- The eighth member must be the Orange County Mayor; and
- The ninth member must be City of Orlando Mayor.<sup>14</sup>

The executive director of the Florida Turnpike Enterprise serves as a non-voting advisor. Members hold office until a successor has been appointed and qualified.<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill clarifies provisions relating to membership and elections of the CFX governing body. It specifies CFX as a party to a certain lease-purchase agreement and repeals superseded language, more specifically as follows:

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<sup>11</sup> Chapter 2012-128, s. 36, L.O.F. See also s. 348.7546, F.S.

<sup>12</sup> Section 348.757(9), F.S.

<sup>13</sup> Chapter 2014-171, L.O.F.

<sup>14</sup> Section 348.753(3), F.S.

<sup>15</sup> *Id.*

**Section 1** amends s. 348.753(3), F.S., to revise requirements related to the appointments to the CFX governing body by the chairs of the County Commissions of Seminole, Lake, and Osceola Counties. Currently each of these appointees *may* be a commission member or chair. The bill provides that each of the three appointees *must* be a county commission member or chair *or a county mayor*.<sup>16</sup> The Governor's appointees are made subject to Senate confirmation, and refusal or failure of the Senate to confirm creates a vacancy.

The bill also provides that the four-year term of each member appointed by the Governor, who currently serve four years, ends on December 31 of his or her last year of service. The CFX advises this revision is to accommodate the CFX's January officer elections.<sup>17</sup> This section also makes editorial changes and repeals an obsolete date reference related to expiration of the terms of standing board members.

**Section 2** amends s. 348.754(2)(e), F.S. to clarify that CFX is a party to a 1985 lease-purchase agreement between the former OOCEA and the FDOT.

**Section 3** amends s. 348.757(2), F.S., to repeal the requirement that the title in fee simple absolute to the former OOCEA be transferred to the FDOT upon termination of the lease-purchase agreement. The language has been superseded by the repayment and transfer provisions enacted by the 2012 Legislature<sup>18</sup> and the Interlocal Agreement between the FDOT and the CFX regarding the Wekiva Parkway.<sup>19</sup>

**Section 4** provides that the bill takes effect July 1, 2016.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

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<sup>16</sup> The CFX advises this change is to accommodate different forms of county government structure. See CFX email to Senate Transportation Committee staff, March 5, 2015. (On file with the Senate Transportation Committee.)

<sup>17</sup> *Id.*

<sup>18</sup> *Supra note 11.*

<sup>19</sup> The Interlocal Agreement includes a supplement to the lease-purchase agreement that provides for the authority to retain its system upon termination of the lease purchase agreement as provided in s. 348.757(9), F.S. See the 2015 FDOT Legislative Bill Analysis for CS/SB 1024, March 13, 2015. (On file in the Senate Transportation Committee.)

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.<sup>20</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 348.753, 348.754, and 348.757.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>20</sup> See the 2016 FDOT Legislative Bill Analysis for SB 1110, December 23, 2015. (On file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).