

1 A bill to be entitled
2 An act relating to Southwest Florida transportation;
3 creating pt. X of ch. 348, F.S., consisting of ss.
4 348.993, 348.9931, 348.9932, 348.9933, 348.9934, 348.9935,
5 348.9936, 348.9937, 348.9938, 348.9939, 348.994, 348.9941,
6 348.9942, 348.9943, 348.9944, 348.9945, and 348.9946,
7 F.S., titled "Southwest Florida Expressway Authority";
8 providing a popular name; providing definitions; creating
9 the Southwest Florida Expressway Authority; providing for
10 a governing body of the authority; providing for
11 membership; providing purposes and powers; providing for
12 the Southwest Florida Transportation System; providing for
13 procurement; providing bond financing authority for
14 improvements; providing for bonds of the authority;
15 providing for fiscal agents; providing the State Board of
16 Administration may act as fiscal agent; providing for
17 certain financial agreements; providing for rights and
18 remedies of bondholders; providing for lease-purchase
19 agreement with the Department of Transportation; providing
20 the department may be appointed agent of authority for
21 construction; providing for acquisition of lands and
22 property; providing for cooperation with other units,
23 boards, agencies, and individuals; providing covenant of
24 the state; providing for exemption from taxation;
25 providing for eligibility for investments and security;
26 providing pledges shall be enforceable by bondholders;
27 providing for construction and application; providing for
28 future expiration of the act; providing for an

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29 appropriation; providing a contingent effective date.

30

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

32

33 Section 1. Part X of chapter 348, Florida Statutes,
 34 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
 35 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939,
 36 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and
 37 348.9946, is created to read:

38

Part X

39

Southwest Florida Expressway Authority

40 348.993 Popular name.--This part may be referred to by the
 41 popular name the "Southwest Florida Expressway Authority Law."

42 348.9931 Definitions.--The following terms, whenever used
 43 or referred to in this part, shall have the following meanings,
 44 except in those instances where the context clearly indicates
 45 otherwise:

46 (1) "Agency of the state" means and includes the state and
 47 any department of, or corporation, agency, or instrumentality
 48 heretofore or hereafter created, designated, or established by,
 49 the state.

50 (2) "Authority" means the body politic and corporate, and
 51 agency of the state, created by this part.

52 (3) "Bonds" means and includes the notes, bonds, refunding
 53 bonds, or other evidences of indebtedness or obligations, in
 54 either temporary or definitive form, which the authority is
 55 authorized to issue pursuant to this part.

56 (4) "County" means the Counties of Collier and Lee.

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57 (5) "DBOM contract" means the document and all concomitant
 58 rights approved by the authority providing the selected person
 59 or entity the exclusive right to design, build, operate, and
 60 maintain the Southwest Florida Transportation System.

61 (6) "DBOMF contract" means the document and all
 62 concomitant rights approved by the authority providing the
 63 selected person or entity the exclusive right to design, build,
 64 operate, maintain, and finance all or a portion of the Southwest
 65 Florida Transportation System.

66 (7) "Department" means the Department of Transportation
 67 existing under chapters 334-339.

68 (8) "Expressway" is the same as limited access expressway.

69 (9) "Federal agency" means and includes the United States,
 70 the President of the United States, or any department of, or
 71 corporation, agency, or instrumentality heretofore or hereafter
 72 created, designated, or established by, the United States.

73 (10) "Lease-purchase agreement" means the lease-purchase
 74 agreements which the authority is authorized pursuant to this
 75 part to enter into with the Department of Transportation.

76 (11) "Limited access expressway" means a street or highway
 77 especially designed for through traffic and over, from, or to
 78 which no person shall have the right of easement, use, or access
 79 except in accordance with the rules and regulations promulgated
 80 and established by the authority for the use of such facility.
 81 Such highways or streets may be parkways, from which trucks,
 82 buses, and other commercial vehicles shall be excluded, or they
 83 may be freeways open to use by all customary forms of street and
 84 highway traffic.

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85 (12) "Members" means the governing body of the authority,
 86 and the term "member" means one of the individuals constituting
 87 such governing body.

88 (13) "Proposed project" means a facility which, if
 89 constructed, will become part of the Southwest Florida
 90 Transportation System, and it shall identify the general
 91 corridor and alignment of the facility and its limits. Further,
 92 it shall mean a project or projects which are in the long-range
 93 transportation plan of Lee County or Collier County, or both
 94 plans if the proposed project is to be located in both counties.

95 (14) "Southwest Florida Transportation System" means any
 96 and all expressways and appurtenant facilities thereto,
 97 including, but not limited to, all approaches, roads, bridges,
 98 and avenues of access for said expressway or expressways,
 99 whether tolled or nontolled, or such other facility as the
 100 authority determines or designates.

101 (15) "State Board of Administration" means the body
 102 corporate existing under the provisions of s. 9, Art. XII of the
 103 State Constitution, or any successor thereto.

104 (16) "System" means the Southwest Florida Transportation
 105 System.

106
 107 Words importing singular number include the plural number in
 108 each case and vice versa, and words importing persons include
 109 firms and corporations.

110 348.9932 Southwest Florida Expressway Authority.--

111 (1) There is hereby created and established a body politic
 112 and corporate, an agency of the state, encompassing Collier and

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113 Lee Counties, to be known as the Southwest Florida Expressway
 114 Authority, hereinafter referred to as the "authority."

115 (2) The governing body of the authority shall consist of
 116 seven voting members and one nonvoting member, as set forth in
 117 this subsection.

118 (a)1.a. One member who is a permanent resident of Collier
 119 County and one member who is a permanent resident of Lee County
 120 shall be appointed by the Governor to serve a term of 4 years
 121 each. The Governor shall select his appointees from a list
 122 submitted by the board of county commissioners of each county,
 123 with each list recommending five candidates from their
 124 respective county.

125 b. One member who is a permanent resident of Collier
 126 County shall be appointed by the Board of County Commissioners
 127 of Collier County and one member who is a permanent resident of
 128 Lee County shall be appointed by the Board of County
 129 Commissioners of Lee County, to serve a term of 4 years each.

130 2. Each member appointed under this paragraph shall be a
 131 person of outstanding reputation for integrity, responsibility,
 132 and business ability and shall have an interest in ground
 133 transportation. No elected official and no person who is an
 134 employee, in any capacity, of Collier County or Lee County or of
 135 any city within Collier County or Lee County shall be an
 136 appointed member of the authority except as set forth in this
 137 section.

138 3. Each appointed member shall be a resident of his or her
 139 respective county during his or her entire term.

140 4. Each appointed member shall be a voting member and

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141 shall hold office until his or her successor has been appointed
 142 and has qualified. A vacancy occurring during a term shall be
 143 filled only for the remainder of the unexpired term.

144 (b) One member from Collier County and one member from Lee
 145 County shall be selected by the members of the respective county
 146 commission from among its members to serve as a voting member
 147 for a term of 2 years each. Each commissioner must be a member
 148 of the county commission when selected and for the full extent
 149 of the term of this selection.

150 (c) The executive director of the Southwest Florida
 151 Regional Planning Council shall serve as the seventh voting
 152 member.

153 (d) The district secretary of the Department of
 154 Transportation serving in the district that contains Collier
 155 County and Lee County shall serve as a nonvoting member.

156 (e) Any member of the authority shall be eligible for
 157 reappointment.

158 (3)(a) The authority shall elect one of its members as
 159 chair of the authority. The authority shall also elect a
 160 secretary and a treasurer who may or may not be members of the
 161 authority. The chair, secretary, and treasurer shall hold such
 162 offices at the will of the authority. Four members of the
 163 authority shall constitute a quorum, and a vote of the majority
 164 of those present shall be necessary for any action taken by the
 165 authority. No vacancy in the authority shall impair the right of
 166 a quorum of the authority to exercise all of the rights and
 167 perform all of the duties of the authority.

168 (b) Upon the effective date of his or her appointment, or

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169 as soon thereafter as practicable, each appointed member of the
 170 authority shall enter upon his or her duties.

171 (4)(a) The authority may employ an executive director, its
 172 own counsel and legal staff, technical experts, engineers, and
 173 such employees, permanent or temporary, as it may require; may
 174 determine the qualifications and fix the compensation of such
 175 persons, firms, or corporations; and may employ a fiscal agent
 176 or agents. The authority may delegate to one or more of its
 177 agents or employees such of its power as it shall deem necessary
 178 to carry out the purposes of this part, subject always to the
 179 supervision and control of the authority. Members of the
 180 authority may be removed from office by the Governor for
 181 misconduct, malfeasance, misfeasance, or nonfeasance in office.

182 (b) Members of the authority shall be entitled to receive
 183 from the authority their travel and other necessary expenses
 184 incurred in connection with the business of the authority as
 185 provided in s. 112.061, but they shall draw no salaries or other
 186 compensation.

187 348.9933 Purposes and powers.--

188 (1)(a) The authority created and established by the
 189 provisions of this part is hereby granted and shall have the
 190 right to acquire, hold, construct, improve, maintain, operate,
 191 own, and lease, in the capacity of lessor, the Southwest Florida
 192 Transportation System, hereinafter referred to as the "system."

193 (b) It is the express intention of this part that said
 194 authority, in the construction of said Southwest Florida
 195 Transportation System, within the geographic boundaries of
 196 Collier and Lee Counties, is limited to the pursuit of tolled

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197 expressway lanes on Interstate Highway 75 within these counties.
 198 Further, the authority shall be authorized to construct any
 199 extensions, additions, or improvements to said system or
 200 appurtenant facilities, including all necessary approaches,
 201 roads, bridges, and avenues of access, with such changes,
 202 modifications, or revisions of said project as shall be deemed
 203 desirable and proper with the concurrence of the respective
 204 county commissions. The responsibilities of the authority will
 205 not be expanded to cover any other projects beyond Interstate 75
 206 toll lanes and appurtenant facilities unless resolutions in
 207 support of such expansion or other project are adopted by the
 208 Boards of County Commissioners of Lee and Collier Counties.

209 (2) The authority is hereby granted and shall have and may
 210 exercise all powers necessary, appurtenant, convenient, or
 211 incidental to the carrying out of the aforesaid purposes,
 212 including, but not limited to, the following rights and powers:

213 (a) To sue and be sued, implead and be impleaded,
 214 complain, and defend in all courts.

215 (b) To adopt, use, and alter at will a corporate seal.

216 (c) To acquire by donation or otherwise, purchase, hold,
 217 lease as lessee, and use any franchise or property, real,
 218 personal, or mixed, tangible or intangible, or any options
 219 thereof in its own name or in conjunction with others, or
 220 interest therein, necessary or desirable for carrying out the
 221 purposes of the authority, and to sell, lease as lessor,
 222 transfer, and dispose of any property or interest therein at any
 223 time acquired by it.

224 (d) To enter into and make leases for terms it deems

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225 necessary, as either lessee or lessor, in order to carry out the
 226 right to lease as set forth in this part.

227 (e) To enter into and make lease-purchase agreements with
 228 the department for terms it deems necessary or until any bonds
 229 secured by a pledge of rentals thereunder, and any refundings
 230 thereof, are fully paid as to both principal and interest,
 231 whichever is longer.

232 (f) To fix, alter, charge, establish, and collect rates,
 233 fees, rentals, and other charges for the services and facilities
 234 of the Southwest Florida Transportation System, which rates,
 235 fees, rentals, and other charges shall always be sufficient to
 236 comply with any covenants made with the holders of any bonds
 237 issued pursuant to this part; provided, however, that such right
 238 and power may be assigned or delegated, by the authority, to the
 239 department.

240 (g) To borrow money and make and issue negotiable notes,
 241 bonds, refunding bonds, and other evidences of indebtedness or
 242 obligations, either in temporary or definitive form, hereinafter
 243 in this part sometimes called "bonds" of the authority, for the
 244 purpose of financing all or part of the improvement or extension
 245 of the Southwest Florida Transportation System and appurtenant
 246 facilities, including all approaches, streets, roads, bridges,
 247 and avenues of access for said Southwest Florida Transportation
 248 System, and for any other purpose authorized by this part; to
 249 secure the payment of such bonds or any part thereof by a pledge
 250 of any or all of its revenues, rates, fees, rentals, or other
 251 charges; and in general to provide for the security of said
 252 bonds and the rights and remedies of the holders thereof. The

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253 authority may enter into an agreement between the authority and
254 one or more counties for the pledge of county gasoline tax
255 funds, county sales tax, or other county revenues to secure any
256 bonds issued for an authority project as authorized hereunder.
257 In the event the authority shall determine to fund or refund any
258 bonds theretofore issued by said authority, prior to the
259 maturity thereof, the proceeds of such funding or refunding
260 bonds shall, pending the prior redemption of the bonds to be
261 funded or refunded, be invested in direct obligations of the
262 United States, and it is the express intention of this part that
263 such outstanding bonds may be funded or refunded by the issuance
264 of bonds pursuant to this part.

265 (h) To make contracts of every name and nature, including,
266 but not limited to, partnerships providing for participation in
267 ownership and revenues, and to execute all instruments necessary
268 or convenient for the carrying on of its business.

269 (i) Without limitation of the foregoing, to borrow money
270 and accept grants from, and to enter into contracts, leases, or
271 other transactions with, any federal agency, the state, any
272 agency of the state, Collier County, Lee County, and any city
273 within these two counties or with any other public body of the
274 state.

275 (j) To have the power of eminent domain, including the
276 procedural powers granted under chapters 73 and 74.

277 (k) To pledge, hypothecate, or otherwise encumber all or
278 any part of the revenues, rates, fees, rentals, or other charges
279 or receipts of the authority as security for all or any of the
280 obligations of the authority.

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281 (1) To do all acts and things necessary or convenient for
 282 the conduct of its business and the general welfare of the
 283 authority in order to carry out the powers granted to it by this
 284 part or any other law.

285 (m) With the consent of the county within whose
 286 jurisdiction the following activities occur, to construct,
 287 operate, and maintain roads, bridges, avenues of access,
 288 thoroughfares, and boulevards outside the jurisdictional
 289 boundaries of Collier and Lee Counties, together with the right
 290 to construct, repair, replace, operate, install, and maintain
 291 toll payment systems thereon, with all necessary and incidental
 292 powers to accomplish the foregoing.

293 (3) The authority shall have no power at any time or in
 294 any manner to pledge the credit or taxing power of the state or
 295 any political subdivision or agency thereof, including Collier
 296 and Lee Counties or any city within these counties, nor shall
 297 any of the authority's obligations be deemed to be obligations
 298 of the state or of any political subdivision or agency thereof,
 299 nor shall the state or any political subdivision or agency
 300 thereof, except the authority, be liable for the payment of the
 301 principal of or interest on such obligations unless agreed to by
 302 such entity.

303 (4) Notwithstanding powers conferred herein, before the
 304 authority proceeds with a proposed project either the Lee County
 305 Commission or Collier County Commission must approve any
 306 proposed project for the system which may be located within the
 307 geographical boundaries of that commission's jurisdiction. A
 308 quorum must be present for a vote on approval to take place.

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309 Such approval, by a majority vote of those members present, must
 310 be obtained before the authority can proceed with the
 311 preliminary design and environmental study.

312 (5) The authority is precluded from involvement with any
 313 future development of County Road 951.

314 348.9934 Procurement.--The authority is authorized to
 315 procure commodities and the services of a qualified person or
 316 entity to design, build, finance, operate, maintain, and
 317 implement the Southwest Florida Transportation System, including
 318 the use of a DBOM or DBOMF method using a request for proposal,
 319 a request for qualifications, or an invitation to negotiate.

320 348.9935 Bond financing authority for
 321 improvements.--Pursuant to s. 11(f), Art. VII of the State
 322 Constitution, the Legislature hereby approves for bond financing
 323 by the Southwest Florida Expressway Authority improvements to
 324 toll collection facilities, interchanges to the legislatively
 325 approved regional transportation system, and any other facility
 326 appurtenant, necessary, or incidental to the approved system.
 327 Subject to terms and conditions of applicable revenue bond
 328 resolutions and covenants, such costs may be financed in whole
 329 or in part by revenue bonds issued pursuant to s. 348.9936(1)(a)
 330 or (b) whether currently issued or issued in the future, or by a
 331 combination of such bonds.

332 348.9936 Bonds of the authority.--

333 (1)(a) Bonds may be issued on behalf of the authority
 334 pursuant to the State Bond Act.

335 (b) Alternatively, the authority may issue its own bonds
 336 pursuant to this part at such times and in such principal amount

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337 as, in the opinion of the authority, is necessary to provide
 338 sufficient moneys for achieving its purposes; however, such
 339 bonds may not pledge the full faith and credit of the state.
 340 Bonds issued by the authority pursuant to this paragraph or
 341 paragraph (a), whether on original issuance or on refunding,
 342 shall be authorized by resolution of the members thereof and may
 343 be either term or serial bonds and shall bear such date or
 344 dates, mature at such time or times, bear interest at such rate
 345 or rates, payable semiannually, be in such denominations, be in
 346 such form, either coupon or fully registered, carry such
 347 registration, exchangeability, and interchangeability
 348 privileges, be payable in such medium of payment and at such
 349 place or places, be subject to such terms of redemption, and be
 350 entitled to such priorities on the revenues, rates, fees,
 351 rentals, or other charges or receipts of the authority,
 352 including any other funds received by the authority pursuant to
 353 the terms of any lease-purchase agreement between the authority
 354 and the department, as such resolution or any resolution
 355 subsequent thereto may provide. The bonds shall be executed
 356 either by manual or facsimile signature by such officers as the
 357 authority shall determine, provided that such bonds shall bear
 358 at least one signature which is manually executed thereon, and
 359 the coupons attached to such bonds shall bear the facsimile
 360 signature or signatures of such officer or officers as shall be
 361 designated by the authority and shall have the seal of the
 362 authority affixed, imprinted, reproduced, or lithographed
 363 thereon, all as may be prescribed in such resolution or
 364 resolutions.

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365 (c) Bonds issued pursuant to paragraph (a) or paragraph
 366 (b) shall be sold at public sale in the same manner provided by
 367 the State Bond Act. However, if the authority shall, by official
 368 action at a public meeting, determine that a negotiated sale of
 369 such bonds is in the best interest of the authority, the
 370 authority may negotiate the sale of such bonds with the
 371 underwriter or underwriters designated by the authority and the
 372 Division of Bond Finance of the State Board of Administration
 373 with respect to bonds issued pursuant to paragraph (a) or solely
 374 the authority with respect to bonds issued pursuant to paragraph
 375 (b). The authority's determination to negotiate the sale of such
 376 bonds may be based, in part, upon the written advice of the
 377 authority's financial adviser. Pending the preparation of
 378 definitive bonds, interim certificates may be issued to the
 379 purchaser or purchasers of such bonds and may contain such terms
 380 and conditions as the authority may determine.

381 (d) The authority may issue bonds pursuant to paragraph
 382 (b) to refund any bonds previously issued regardless of whether
 383 the bonds being refunded were issued by the authority pursuant
 384 to this part or on behalf of the authority pursuant to the State
 385 Bond Act.

386 (2) Any such resolution or resolutions authorizing any
 387 bonds hereunder may contain provisions which shall be part of
 388 the contract with the holders of such bonds, as to:

389 (a) The pledging of all or any part of the revenues,
 390 rates, fees, rentals, or other charges or receipts of the
 391 authority, derived by the authority, from the Southwest Florida
 392 Transportation System.

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393 (b) The completion, improvement, operation, extension,
 394 maintenance, repair, lease, or lease-purchase agreement of said
 395 system and the duties of the authority and others, including the
 396 department, with reference thereto.

397 (c) Limitations on the purposes to which the proceeds of
 398 the bonds, then or thereafter to be issued, or of any loan or
 399 grant by the United States or the state may be applied.

400 (d) The fixing, charging, establishing, and collecting of
 401 rates, fees, rentals, or other charges for use of the services
 402 and facilities of the Southwest Florida Transportation System or
 403 any part thereof.

404 (e) The setting aside of reserves or sinking funds or
 405 repair and replacement funds and the regulation and disposition
 406 thereof.

407 (f) Limitations on the issuance of additional bonds.

408 (g) The terms and provisions of any lease-purchase
 409 agreement, deed of trust, or indenture securing the bonds or
 410 under which the same may be issued.

411 (h) Any other or additional agreements with the holders of
 412 the bonds which the authority may deem desirable and proper.

413 (3) The authority may employ fiscal agents as provided by
 414 this part, or the State Board of Administration may, upon
 415 request of the authority, act as fiscal agent for the authority
 416 in the issuance of any bonds which may be issued pursuant to
 417 this part, and the State Board of Administration may, upon
 418 request of the authority, take over the management, control,
 419 administration, custody, and payment of any or all debt services
 420 or funds or assets now or hereafter available for any bonds

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421 issued pursuant to this part. The authority may enter into any
 422 deeds of trust, indentures, or other agreements with its fiscal
 423 agent, or with any bank or trust company within or without the
 424 state, as security for such bonds and may, under such
 425 agreements, sign and pledge all or any of the revenues, rates,
 426 fees, rentals, or other charges or receipts of the authority.
 427 Such deed of trust, indenture, or other agreement may contain
 428 such provisions as are customary in such instruments or, as the
 429 authority may authorize, including, but without limitation,
 430 provisions as to:

431 (a) The completion, improvement, operation, extension,
 432 maintenance, repair, and lease of, or lease-purchase agreement
 433 relating to, the Southwest Florida Transportation System and the
 434 duties of the authority and others, including the department,
 435 with reference thereto.

436 (b) The application of funds and the safeguarding of funds
 437 on hand or on deposit.

438 (c) The rights and remedies of the trustee and the holders
 439 of the bonds.

440 (d) The terms and provisions of the bonds or the
 441 resolutions authorizing the issuance of same.

442 (4) Any of the bonds issued pursuant to this part are, and
 443 are hereby declared to be, negotiable instruments and shall have
 444 all the qualities and incidents of negotiable instruments under
 445 the law merchant and the negotiable instruments law of the
 446 state.

447 (5) Notwithstanding any of the provisions of this part,
 448 each project, building, or facility which has been financed by

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449 the issuance of bonds or other evidence of indebtedness under
 450 this part and any refinancing thereof is hereby approved as
 451 provided for in s. 11(f), Art. VII of the State Constitution.

452 348.9937 Remedies of the bondholders.--

453 (1) The rights and the remedies herein conferred upon or
 454 granted to the bondholders shall be in addition to and not in
 455 limitation of any rights and remedies lawfully granted to such
 456 bondholders by the resolution or resolutions providing for the
 457 issuance of bonds, or by a lease-purchase agreement, deed of
 458 trust, indenture, or other agreement under which the bonds may
 459 be issued or secured. In the event that the authority shall
 460 default in the payment of the principal of or interest on any of
 461 the bonds issued pursuant to the provisions of this part after
 462 such principal of or interest on said bonds shall have become
 463 due, whether at maturity or upon call for redemption, or the
 464 department shall default in any payments under, or covenants
 465 made in, any lease-purchase agreement between the authority and
 466 the department, and such default shall continue for a period of
 467 30 days, or in the event that the authority or the department
 468 shall fail or refuse to comply with the provisions of this part
 469 or any agreement made with, or for the benefit of, the holders
 470 of the bonds, the holders of 25 percent in aggregate principal
 471 amount of the bonds then outstanding shall be entitled as of
 472 right to the appointment of a trustee to represent such
 473 bondholders for the purposes hereof; provided, however, that
 474 such holders of 25 percent in aggregate principal amount of the
 475 bonds then outstanding shall have first given notice of their
 476 intention to appoint a trustee, to the authority and to the

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477 department. Such notice shall be deemed to have been given if
 478 given in writing, deposited in a securely sealed postpaid
 479 wrapper, mailed at a regularly maintained United States post
 480 office box or station, and addressed, respectively, to the chair
 481 of the authority and to the secretary of the Department of
 482 Transportation at the principal office of the department.

483 (2) Such trustee, and any trustee under any deed of trust,
 484 indenture, or other agreement, may, and upon written request of
 485 the holders of 25 percent, or such other percentages as may be
 486 specified in any deed of trust, indenture, or other agreement
 487 aforesaid, in principal amount of the bonds then outstanding,
 488 shall, in any court of competent jurisdiction, in his, her, or
 489 its own name:

490 (a) By mandamus or other suit, action, or proceeding at
 491 law or in equity, enforce all rights of the bondholders,
 492 including the right to require the authority to fix, establish,
 493 maintain, collect, and charge rates, fees, rentals, and other
 494 charges, adequate to carry out any agreement as to, or pledge
 495 of, the revenues or receipts of the authority to carry out any
 496 other covenants and agreements with or for the benefit of the
 497 bondholders, and to perform its and their duties under this
 498 part.

499 (b) By mandamus or other suit, action, or proceeding at
 500 law or in equity, enforce all rights of the bondholders under or
 501 pursuant to any lease-purchase agreement between the authority
 502 and the department, including the right to require the
 503 department to make all rental payments required to be made by it
 504 under the provisions of any such lease-purchase agreement, and

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505 to require the department to carry out any other covenants and
 506 agreements with or for the benefit of the bondholders, and to
 507 perform its and their duties under this part.

508 (c) Bring suit upon the bonds.

509 (d) By action or suit in equity, require the authority or
 510 the department to account as if it were the trustee of an
 511 express trust for the bondholders.

512 (e) By action or suit in equity, enjoin any acts or things
 513 which may be unlawful or in violation of the rights of the
 514 bondholders.

515 (3) Any trustee, when appointed as aforesaid or acting
 516 under a deed of trust, indenture, or other agreement, and
 517 whether or not all bonds have been declared due and payable,
 518 shall be entitled as of right to the appointment of a receiver,
 519 who may enter upon and take possession of the Southwest Florida
 520 Transportation System or the facilities or any part or parts
 521 thereof, the rates, fees, rentals, or other revenues, charges,
 522 or receipts from which are, or may be, applicable to the payment
 523 of the bonds so in default, and subject to and in compliance
 524 with the provisions of any lease-purchase agreement between the
 525 authority and the department operate and maintain the same, for
 526 and on behalf of and in the name of, the authority, the
 527 department, and the bondholders, and collect and receive all
 528 rates, fees, rentals, and other charges or receipts or revenues
 529 arising therefrom in the same manner as the authority or the
 530 department might do, and shall deposit all such moneys in a
 531 separate account and apply the same in such manner as the court
 532 shall direct. In any suit, action, or proceeding by the trustee,

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533 the fees, counsel fees, and expenses of the trustee, and said
 534 receiver, if any, and all costs and disbursements allowed by the
 535 court shall be a first charge on any rates, fees, rentals, or
 536 other charges, revenues, or receipts derived from the Southwest
 537 Florida Transportation System, or the facilities or services or
 538 any part or parts thereof, including payments under any such
 539 lease-purchase agreement as aforesaid which said rates, fees,
 540 rentals, or other charges, revenues, or receipts shall or may be
 541 applicable to the payment of the bonds so in default. Such
 542 trustee shall, in addition to the foregoing, have and possess
 543 all of the powers necessary or appropriate for the exercise of
 544 any functions specifically set forth herein or incident to the
 545 representation of the bondholders in the enforcement and
 546 protection of their rights.

547 (4) Nothing in this section or any other section of this
 548 part shall authorize any receiver appointed pursuant hereto for
 549 the purpose, subject to and in compliance with the provisions of
 550 any lease-purchase agreement between the authority and the
 551 department, of operating and maintaining the Southwest Florida
 552 Transportation System or any facilities or part or parts thereof
 553 to sell, assign, mortgage, or otherwise dispose of any of the
 554 assets of whatever kind and character belonging to the
 555 authority. It is the intention of this part to limit the powers
 556 of such receiver, subject to and in compliance with the
 557 provisions of any lease-purchase agreement between the authority
 558 and the department, to the operation and maintenance of the
 559 Southwest Florida Transportation System, or any facility or part
 560 or parts thereof, as the court may direct, in the name and for

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561 and on behalf of the authority, the department, and the
 562 bondholders, and no holder of bonds on the authority nor any
 563 trustee shall ever have the right in any suit, action, or
 564 proceeding at law or in equity to compel a receiver, nor shall
 565 any receiver be authorized or any court be empowered to direct
 566 the receiver to sell, assign, mortgage, or otherwise dispose of
 567 any assets of whatever kind or character belonging to the
 568 authority.

569 348.9938 Lease-purchase agreement.--

570 (1) In order to effectuate the purposes of this part and
 571 as authorized by this part, the authority may enter into a
 572 lease-purchase agreement with the department relating to and
 573 covering the Southwest Florida Transportation System.

574 (2) Such lease-purchase agreement shall provide for the
 575 leasing of the Southwest Florida Transportation System by the
 576 authority, as lessor, to the department, as lessee; shall
 577 prescribe the term of such lease and the rentals to be paid
 578 thereunder; and shall provide that upon the completion of the
 579 faithful performance thereunder and the termination of such
 580 lease-purchase agreement, title in fee simple absolute to the
 581 Southwest Florida Transportation System as then constituted
 582 shall be transferred in accordance with law by the authority to
 583 the state and the authority shall deliver to the department such
 584 deeds and conveyances as shall be necessary or convenient to
 585 vest title in fee simple absolute in the state.

586 (3) Such lease-purchase agreement may include such other
 587 provisions, agreements, and covenants as the authority and the
 588 department deem advisable or required, including, but not

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589 limited to, provisions as to the bonds to be issued under, and
 590 for the purposes of, this part; the completion, extension,
 591 improvement, operation, and maintenance of the Southwest Florida
 592 Transportation System and the expenses and the cost of operation
 593 of said authority; the charging and collection of tolls, rates,
 594 fees, and other charges for the use of the services and
 595 facilities thereof; the application of federal or state grants
 596 or aid which may be made or given to assist the authority in the
 597 completion, extension, improvement, operation, and maintenance
 598 of the Southwest Florida Transportation System, which the
 599 authority is hereby authorized to accept and apply to such
 600 purposes; the enforcement of payment and collection of rentals;
 601 and any other terms, provisions, or covenants necessary,
 602 incidental, or appurtenant to the making of and full performance
 603 under such lease-purchase agreement.

604 (4) The department, as lessee under such lease-purchase
 605 agreement, is hereby authorized to pay as rentals thereunder any
 606 rates, fees, charges, funds, moneys, receipts, or income
 607 accruing to the department from the operation of the Southwest
 608 Florida Transportation System and may also pay as rentals any
 609 appropriations received by the department pursuant to any act of
 610 the Legislature of the state heretofore or hereafter enacted;
 611 provided, however, that nothing herein nor in such lease-
 612 purchase agreement is intended to nor shall this part or such
 613 lease-purchase agreement require the making or continuance of
 614 such appropriations, nor shall any holder of bonds issued
 615 pursuant to this part ever have any right to compel the making
 616 or continuance of such appropriations.

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617 (5) Said department shall have power to covenant in any
 618 lease-purchase agreement that it will pay all or any part of the
 619 cost of the operation, maintenance, repair, renewal, and
 620 replacement of said system, and any part of the cost of
 621 completing said system to the extent that the proceeds of bonds
 622 issued therefor are insufficient, from sources other than the
 623 revenues derived from the operation of said system. Said
 624 department may also agree to make such other payments from any
 625 moneys available to said commission, said county, or said city
 626 in connection with the construction or completion of said system
 627 as shall be deemed by said department to be fair and proper
 628 under any such covenants heretofore or hereafter entered into.

629 (6) Said system shall be a part of the state road system
 630 and said department is hereby authorized, upon the request of
 631 the authority, to expend out of any funds available for the
 632 purpose such moneys, and to use such of its engineering and
 633 other forces, as may be necessary and desirable in the judgment
 634 of said department, for the operation of said authority and for
 635 traffic surveys, borings, surveys, preparation of plans and
 636 specifications, estimates of cost and other preliminary
 637 engineering, and other studies.

638 348.9939 Department may be appointed agent of authority
 639 for construction.--The department may be appointed by said
 640 authority as its agent for the purpose of constructing
 641 improvements and extensions to the Southwest Florida
 642 Transportation System and for the completion thereof. In such
 643 event, the authority shall provide the department with complete
 644 copies of all documents, agreements, resolutions, contracts, and

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645 instruments relating thereto and shall request the department to
 646 do such construction work including the planning, surveying, and
 647 actual construction of the completion, extensions, and
 648 improvements to the Southwest Florida Transportation System and
 649 shall transfer to the credit of an account of the department in
 650 the treasury of the state the necessary funds therefor, and the
 651 department shall thereupon be authorized, empowered, and
 652 directed to proceed with such construction and to use the said
 653 funds for such purpose in the same manner that it is now
 654 authorized to use the funds otherwise provided by law for its
 655 use in construction of roads and bridges.

656 348.994 Acquisition of lands and property.--

657 (1) For the purposes of this part, the Southwest Florida
 658 Expressway Authority may acquire private or public property and
 659 property rights, including rights of access, air, view, and
 660 light, by gift, devise, purchase, or condemnation by eminent
 661 domain proceedings, as the authority may deem necessary for any
 662 of the purposes of this part, including, but not limited to, any
 663 lands reasonably necessary for securing applicable permits,
 664 areas necessary for management of access, borrow pits, drainage
 665 ditches, water retention areas, rest areas, replacement access
 666 for landowners whose access is impaired due to the construction
 667 of a facility, and replacement rights-of-way for relocated rail
 668 and utility facilities; for existing, proposed, or anticipated
 669 transportation facilities on the Southwest Florida
 670 Transportation System or in a transportation corridor designated
 671 by the authority. The authority shall also have the power to
 672 condemn any material and property necessary for such purposes.

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673 (2) The right of eminent domain herein conferred shall be
 674 exercised by the authority in the manner provided by law.

675 (3) When the authority acquires property for a
 676 transportation facility or in a transportation corridor, it is
 677 not subject to any liability imposed by chapter 376 or chapter
 678 403 for preexisting soil or groundwater contamination due solely
 679 to its ownership. This section does not affect the rights or
 680 liabilities of any past or future owners of the acquired
 681 property, nor does it affect the liability of any governmental
 682 entity for the results of its actions which create or exacerbate
 683 a pollution source. The authority and the Department of
 684 Environmental Protection may enter into interagency agreements
 685 for the performance, funding, and reimbursement of the
 686 investigative and remedial acts necessary for property acquired
 687 by the authority.

688 348.9941 Cooperation with other units, boards, agencies,
 689 and individuals.--Express authority and power is hereby given
 690 and granted any county, municipality, drainage district, road
 691 and bridge district, school district, or any other political
 692 subdivision, board, commission, or individual in, or of, the
 693 state to make and enter into with the authority contracts,
 694 leases, conveyances, partnerships, or other agreements within
 695 the provisions and purposes of this part. The authority is
 696 hereby expressly authorized to make and enter into contracts,
 697 leases, conveyances, partnerships, and other agreements with any
 698 political subdivision, agency, or instrumentality of the state
 699 and any and all federal agencies, corporations, and individuals
 700 for the purpose of carrying out the provisions of this part.

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701 348.9942 Covenant of the state.--The state does hereby
 702 pledge to and agrees with any person, firm, corporation, or
 703 federal or state agency subscribing to or acquiring the bonds to
 704 be issued by the authority for the purposes of this part that
 705 the state will not limit or alter the rights hereby vested in
 706 the authority and the department until all bonds at any time
 707 issued, together with the interest thereon, are fully paid and
 708 discharged insofar as the same affects the rights of the holders
 709 of bonds issued hereunder. The state does further pledge to and
 710 agree with the United States that in the event any federal
 711 agency shall construct or contribute any funds for the
 712 completion, extension, or improvement of the Southwest Florida
 713 Transportation System, or any part or portion thereof, the state
 714 will not alter or limit the rights and powers of the authority
 715 and the department in any manner which would be inconsistent
 716 with the continued maintenance and operation of the Southwest
 717 Florida Transportation System or the completion, extension, or
 718 improvement thereof or which would be inconsistent with the due
 719 performance of any agreements between the authority and any such
 720 federal agency, and the authority and the department shall
 721 continue to have and may exercise all powers herein granted, so
 722 long as the same shall be necessary or desirable for the
 723 carrying out of the purposes of this part and the purposes of
 724 the United States in the completion, extension, or improvement
 725 of the Southwest Florida Transportation System or any part or
 726 portion thereof.

727 348.9943 Exemption from taxation.--The effectuation of the
 728 authorized purposes of the authority created under this part is,

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729 shall, and will be in all respects for the benefit of the people
 730 of the state, for the increase of their commerce and prosperity,
 731 and for the improvement of their health and living conditions,
 732 and since such authority will be performing essential
 733 governmental functions in effectuating such purposes, such
 734 authority shall not be required to pay any taxes or assessments
 735 of any kind or nature whatsoever upon any property acquired or
 736 used by it for such purposes, or upon any rates, fees, rentals,
 737 receipts, income, or charges at any time received by it, and the
 738 bonds issued by the authority, their transfer, and the income
 739 therefrom, including any profits made on the sale thereof, shall
 740 at all times be free from taxation of any kind by the state, or
 741 by any political subdivision, taxing agency, or instrumentality
 742 thereof. The exemption granted by this section shall not be
 743 applicable to any tax imposed by chapter 220 on interest,
 744 income, or profits on debt obligations owned by corporations.

745 348.9944 Eligibility for investments and security.--Any
 746 bonds or other obligations issued pursuant to this part shall be
 747 and constitute legal investments for banks, savings banks,
 748 trustees, executors, administrators, and all other fiduciaries
 749 and for all state, municipal, and other public funds and shall
 750 also be and constitute securities eligible for deposit as
 751 security for all state, municipal, or other public funds,
 752 notwithstanding the provisions of any other law or laws to the
 753 contrary.

754 348.9945 Pledges enforceable by bondholders.--It is the
 755 express intention of this part that any pledge by the department
 756 of rates, fees, revenues, or other funds, as rentals, to the

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757 authority, or any covenants or agreements relative thereto, may
 758 be enforceable in any court of competent jurisdiction against
 759 the authority or directly against the department by any holder
 760 of bonds issued by the authority.

761 348.9946 This part complete and additional authority.--

762 (1) The powers conferred by this part shall be in addition
 763 and supplemental to the existing powers of said board and the
 764 department, and this part shall not be construed as repealing
 765 any of the provisions of any other law, general, special, or
 766 local, but to supersede such other laws in the exercise of the
 767 powers provided in this part and to provide a complete method
 768 for the exercise of the powers granted in this part. The
 769 extension and improvement of said Southwest Florida
 770 Transportation System, and the issuance of bonds hereunder to
 771 finance all or part of the cost thereof, may be accomplished
 772 upon compliance with the provisions of this part without regard
 773 to or necessity for compliance with the provisions, limitations,
 774 or restrictions contained in any other general, special, or
 775 local law, including, but not limited to, s. 215.821, and no
 776 approval of any bonds issued under this part by the qualified
 777 electors or qualified electors who are freeholders in the state
 778 or in said Collier County or Lee County, or in any city within
 779 these two counties, or in any other political subdivision of the
 780 state, shall be required for the issuance of such bonds pursuant
 781 to this part.

782 (2) This part shall not be deemed to repeal, rescind, or
 783 modify any other law or laws relating to said State Board of
 784 Administration, said Department of Transportation, or the

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785 Division of Bond Finance of the State Board of Administration
786 but shall be deemed to and shall supersede such other law or
787 laws as are inconsistent with the provisions of this part,
788 including, but not limited to, s. 215.821.

789 Section 2. Sunset of the Southwest Florida Expressway
790 Authority's duties and powers.--The powers conferred to the
791 Southwest Florida Expressway Authority and part X of chapter
792 348, Florida Statutes, the statutory establishment of the
793 Southwest Florida Expressway Authority, shall expire 12 years
794 after this act takes effect if the Southwest Florida Expressway
795 Authority has no outstanding indebtedness, no studies underway,
796 no design underway, and no projects under construction and is
797 not operating or maintaining any part of the system it was
798 established to create.

799 Section 3. Notwithstanding the provisions of s. 338.251,
800 Florida Statutes, there is hereby appropriated for fiscal year
801 2004-2005 the sum of \$2.5 million to initially fund the
802 Southwest Florida Transportation System. Notwithstanding the
803 provisions of s. 338.251, Florida Statutes, all or a portion of
804 this appropriation may be used for administrative and other
805 startup costs of the Southwest Florida Expressway Authority and
806 the system including, but not limited to, the hiring of an
807 executive director, consultants, and staff.

808 Section 4. This act shall take effect upon resolutions in
809 support of this act being passed by both the Lee County Board of
810 County Commissioners and the Collier County Board of County
811 Commissioners, but no sooner than July 1, 2004, in the event the

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812 | boards pass such resolutions prior to that date; except that,
813 | this section shall take effect upon this act becoming a law.