

CHAMBER ACTION

1 The Committee on Transportation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to Southwest Florida transportation;
7 creating pt. X of ch. 348, F.S., consisting of ss.
8 348.993, 348.9931, 348.9932, 348.9933, 348.9934, 348.9935,
9 348.9936, 348.9937, 348.9938, 348.9939, 348.994, 348.9941,
10 348.9942, 348.9943, 348.9944, 348.9945, and 348.9946,
11 F.S., titled "Southwest Florida Expressway Authority";
12 providing a popular name; providing definitions; creating
13 the Southwest Florida Expressway Authority encompassing
14 Collier and Lee Counties; providing for a governing body
15 of the authority; providing for membership; establishing a
16 process for Charlotte County to participate in the
17 authority; providing purposes and powers; providing for
18 the Southwest Florida Transportation System; providing for
19 procurement; providing bond financing authority for
20 improvements; providing for bonds of the authority;
21 providing for fiscal agents; providing the State Board of
22 Administration may act as fiscal agent; providing for
23 certain financial agreements; providing for rights and

24 remedies of bondholders; providing for lease-purchase
 25 agreement with the Department of Transportation; providing
 26 the department may be appointed agent of authority for
 27 construction; providing for acquisition of lands and
 28 property; providing for cooperation with other units,
 29 boards, agencies, and individuals; providing covenant of
 30 the state; providing for exemption from taxation;
 31 providing for eligibility for investments and security;
 32 providing pledges shall be enforceable by bondholders;
 33 providing for construction and application; providing for
 34 future expiration of the act; authorizing a loan from the
 35 Department of Transportation; providing a contingent
 36 effective date.

37

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

39

40 Section 1. Part X of chapter 348, Florida Statutes,
 41 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
 42 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939,
 43 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and
 44 348.9946, is created to read:

45

Part X

46

Southwest Florida Expressway Authority

47

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

49

348.9931 Definitions.--The following terms, whenever used
 50 or referred to in this part, shall have the following meanings,

51 except in those instances where the context clearly indicates
 52 otherwise:

53 (1) "Agency of the state" means and includes the state and
 54 any department of, or corporation, agency, or instrumentality
 55 heretofore or hereafter created, designated, or established by,
 56 the state.

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

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

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

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

68 (6) "DBOMF contract" means the document and all
 69 concomitant rights approved by the authority providing the
 70 selected person or entity the exclusive right to design, build,
 71 operate, maintain, and finance all or a portion of the Southwest
 72 Florida Transportation System.

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

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

76 (9) "Federal agency" means and includes the United States,
 77 the President of the United States, or any department of, or

78 corporation, agency, or instrumentality heretofore or hereafter
 79 created, designated, or established by, the United States.

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

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

92 (12) "Members" means the governing body of the authority,
 93 and the term "member" means one of the individuals constituting
 94 such governing body.

95 (13) "Proposed project" means a facility which, if
 96 constructed, will become part of the Southwest Florida
 97 Transportation System, and it shall identify the general
 98 corridor and alignment of the facility and its limits. Further,
 99 it shall mean a project or projects which are in the long-range
 100 transportation plan of Lee County or Collier County, or both
 101 plans if the proposed project is to be located in both counties.

102 (14) "Southwest Florida Transportation System" means any
 103 and all expressways and appurtenant facilities thereto,
 104 including, but not limited to, all approaches, roads, bridges,
 105 and avenues of access for said expressway or expressways,

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106 whether tolled or nontolled, or such other facility as the
107 authority determines or designates.

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

111 (16) "System" means the Southwest Florida Transportation
112 System.

113
114 Words importing singular number include the plural number in
115 each case and vice versa, and words importing persons include
116 firms and corporations.

117 348.9932 Southwest Florida Expressway Authority.--

118 (1) There is hereby created and established a body politic
119 and corporate, an agency of the state, encompassing Collier and
120 Lee Counties, to be known as the Southwest Florida Expressway
121 Authority, hereinafter referred to as the "authority."

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

125 (a)1.a. One member who is a permanent resident of Collier
126 County and one member who is a permanent resident of Lee County
127 shall be appointed by the Governor to serve a term of 4 years
128 each. The Governor shall select his appointees from a list
129 submitted by the board of county commissioners of each county,
130 with each list recommending five candidates from their
131 respective county.

132 b. One member who is a permanent resident of Collier
133 County shall be appointed by the Board of County Commissioners

134 of Collier County and one member who is a permanent resident of
 135 Lee County shall be appointed by the Board of County
 136 Commissioners of Lee County, to serve a term of 4 years each.

137 2. Each member appointed under this paragraph shall be a
 138 person of outstanding reputation for integrity, responsibility,
 139 and business ability and shall have an interest in ground
 140 transportation. No elected official and no person who is an
 141 employee, in any capacity, of Collier County or Lee County or of
 142 any city within Collier County or Lee County shall be an
 143 appointed member of the authority except as set forth in this
 144 section.

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

147 4. Each appointed member shall be a voting member and
 148 shall hold office until his or her successor has been appointed
 149 and has qualified. A vacancy occurring during a term shall be
 150 filled only for the remainder of the unexpired term.

151 (b) One member from Collier County and one member from Lee
 152 County shall be selected by the members of the respective county
 153 commission from among its members to serve as a voting member
 154 for a term of 2 years each. Each commissioner must be a member
 155 of the county commission when selected and for the full extent
 156 of the term of this selection.

157 (c) The executive director of the Southwest Florida
 158 Regional Planning Council shall serve as the seventh voting
 159 member.

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

163 (e) Any member of the authority shall be eligible for
 164 reappointment.

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

175 (b) Upon the effective date of his or her appointment, or
 176 as soon thereafter as practicable, each appointed member of the
 177 authority shall enter upon his or her duties.

178 (4) If an expansion of the project into Charlotte County
 179 is warranted and desirable as indicated by the adoption of
 180 resolutions in support of the expansion by the authority and by
 181 each Board of County Commissioners of Charlotte, Collier, and
 182 Lee Counties, the membership of the authority shall be expanded
 183 as set forth in this subsection. The authority shall have nine
 184 voting members and two nonvoting members. The executive director
 185 of the Southwest Florida Regional Planning Council will shift
 186 from a voting member to a nonvoting member. Three members from
 187 Charlotte County shall be added to the authority and each shall

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188 be a voting member. The Charlotte County members shall be
 189 selected in the same manner as provided for the appointment of
 190 the members from Collier and Lee Counties.

191 (5)(a) The authority may employ an executive director, its
 192 own counsel and legal staff, technical experts, engineers, and
 193 such employees, permanent or temporary, as it may require; may
 194 determine the qualifications and fix the compensation of such
 195 persons, firms, or corporations; and may employ a fiscal agent
 196 or agents. The authority may delegate to one or more of its
 197 agents or employees such of its power as it shall deem necessary
 198 to carry out the purposes of this part, subject always to the
 199 supervision and control of the authority. Members of the
 200 authority may be removed from office by the Governor for
 201 misconduct, malfeasance, misfeasance, or nonfeasance in office.

202 (b) Members of the authority shall be entitled to receive
 203 from the authority their travel and other necessary expenses
 204 incurred in connection with the business of the authority as
 205 provided in s. 112.061, but they shall draw no salaries or other
 206 compensation.

207 348.9933 Purposes and powers.--

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

213 (b) It is the express intention of this part that said
 214 authority, in the construction of said Southwest Florida
 215 Transportation System, within the geographic boundaries of

216 Collier and Lee Counties, is limited to the pursuit of tolled
 217 expressway lanes on Interstate Highway 75 within these counties.
 218 Further, the authority shall be authorized to construct any
 219 extensions, additions, or improvements to said system or
 220 appurtenant facilities, including all necessary approaches,
 221 roads, bridges, and avenues of access, with such changes,
 222 modifications, or revisions of said project as shall be deemed
 223 desirable and proper with the concurrence of the respective
 224 county commissions. The responsibilities of the authority will
 225 not be expanded to cover any other projects beyond Interstate 75
 226 toll lanes and appurtenant facilities unless resolutions in
 227 support of such expansion or other project are adopted by the
 228 Boards of County Commissioners of Lee and Collier Counties.

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

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

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

236 (c) To acquire by donation or otherwise, purchase, hold,
 237 lease as lessee, and use any franchise or property, real,
 238 personal, or mixed, tangible or intangible, or any options
 239 thereof in its own name or in conjunction with others, or
 240 interest therein, necessary or desirable for carrying out the
 241 purposes of the authority, and to sell, lease as lessor,
 242 transfer, and dispose of any property or interest therein at any
 243 time acquired by it.

244 (d) To enter into and make leases for terms it deems
 245 necessary, as either lessee or lessor, in order to carry out the
 246 right to lease as set forth in this part.

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

252 (f) To fix, alter, charge, establish, and collect rates,
 253 fees, rentals, and other charges for the services and facilities
 254 of the Southwest Florida Transportation System, which rates,
 255 fees, rentals, and other charges shall always be sufficient to
 256 comply with any covenants made with the holders of any bonds
 257 issued pursuant to this part; provided, however, that such right
 258 and power may be assigned or delegated, by the authority, to the
 259 department.

260 (g) To borrow money and make and issue negotiable notes,
 261 bonds, refunding bonds, and other evidences of indebtedness or
 262 obligations, either in temporary or definitive form, hereinafter
 263 in this part sometimes called "bonds" of the authority, for the
 264 purpose of financing all or part of the improvement or extension
 265 of the Southwest Florida Transportation System and appurtenant
 266 facilities, including all approaches, streets, roads, bridges,
 267 and avenues of access for said Southwest Florida Transportation
 268 System, and for any other purpose authorized by this part; to
 269 secure the payment of such bonds or any part thereof by a pledge
 270 of any or all of its revenues, rates, fees, rentals, or other
 271 charges; and in general to provide for the security of said

272 bonds and the rights and remedies of the holders thereof. The
 273 authority may enter into an agreement between the authority and
 274 one or more counties for the pledge of county gasoline tax
 275 funds, county sales tax, or other county revenues to secure any
 276 bonds issued for an authority project as authorized hereunder.
 277 In the event the authority shall determine to fund or refund any
 278 bonds theretofore issued by said authority, prior to the
 279 maturity thereof, the proceeds of such funding or refunding
 280 bonds shall, pending the prior redemption of the bonds to be
 281 funded or refunded, be invested in direct obligations of the
 282 United States, and it is the express intention of this part that
 283 such outstanding bonds may be funded or refunded by the issuance
 284 of bonds pursuant to this part.

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

289 (i) Without limitation of the foregoing, to borrow money
 290 and accept grants from, and to enter into contracts, leases, or
 291 other transactions with, any federal agency, the state, any
 292 agency of the state, Collier County, Lee County, and any city
 293 within these two counties or with any other public body of the
 294 state.

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

297 (k) To pledge, hypothecate, or otherwise encumber all or
 298 any part of the revenues, rates, fees, rentals, or other charges

299 or receipts of the authority as security for all or any of the
 300 obligations of the authority.

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

305 (m) With the consent of the county within whose
 306 jurisdiction the following activities occur, to construct,
 307 operate, and maintain roads, bridges, avenues of access,
 308 thoroughfares, and boulevards outside the jurisdictional
 309 boundaries of Collier and Lee Counties, together with the right
 310 to construct, repair, replace, operate, install, and maintain
 311 toll payment systems thereon, with all necessary and incidental
 312 powers to accomplish the foregoing.

313 (3) The authority shall have no power at any time or in
 314 any manner to pledge the credit or taxing power of the state or
 315 any political subdivision or agency thereof, including Collier
 316 and Lee Counties or any city within these counties, nor shall
 317 any of the authority's obligations be deemed to be obligations
 318 of the state or of any political subdivision or agency thereof,
 319 nor shall the state or any political subdivision or agency
 320 thereof, except the authority, be liable for the payment of the
 321 principal of or interest on such obligations unless agreed to by
 322 such entity.

323 348.9934 Procurement.--The authority is authorized to
 324 procure commodities and the services of a qualified person or
 325 entity to design, build, finance, operate, maintain, and
 326 implement the Southwest Florida Transportation System, including

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327 the use of a DBOM or DBOMF method using a request for proposal,
 328 a request for qualifications, or an invitation to negotiate.
 329 348.9935 Bond financing authority for
 330 improvements.--Pursuant to s. 11(f), Art. VII of the State
 331 Constitution, the Legislature hereby approves for bond financing
 332 by the Southwest Florida Expressway Authority improvements to
 333 toll collection facilities, interchanges to the legislatively
 334 approved regional transportation system, and any other facility
 335 appurtenant, necessary, or incidental to the approved system.
 336 Subject to terms and conditions of applicable revenue bond
 337 resolutions and covenants, such costs may be financed in whole
 338 or in part by revenue bonds issued pursuant to s. 348.9936(1)(a)
 339 or (b) whether currently issued or issued in the future, or by a
 340 combination of such bonds.
 341 348.9936 Bonds of the authority.--
 342 (1)(a) Bonds may be issued on behalf of the authority
 343 pursuant to the State Bond Act.
 344 (b) Alternatively, the authority may issue its own bonds
 345 pursuant to this part at such times and in such principal amount
 346 as, in the opinion of the authority, is necessary to provide
 347 sufficient moneys for achieving its purposes; however, such
 348 bonds may not pledge the full faith and credit of the state.
 349 Bonds issued by the authority pursuant to this paragraph or
 350 paragraph (a), whether on original issuance or on refunding,
 351 shall be authorized by resolution of the members thereof and may
 352 be either term or serial bonds and shall bear such date or
 353 dates, mature at such time or times, bear interest at such rate
 354 or rates, payable semiannually, be in such denominations, be in

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355 such form, either coupon or fully registered, carry such
356 registration, exchangeability, and interchangeability
357 privileges, be payable in such medium of payment and at such
358 place or places, be subject to such terms of redemption, and be
359 entitled to such priorities on the revenues, rates, fees,
360 rentals, or other charges or receipts of the authority,
361 including any other funds received by the authority pursuant to
362 the terms of any lease-purchase agreement between the authority
363 and the department, as such resolution or any resolution
364 subsequent thereto may provide. The bonds shall be executed
365 either by manual or facsimile signature by such officers as the
366 authority shall determine, provided that such bonds shall bear
367 at least one signature which is manually executed thereon, and
368 the coupons attached to such bonds shall bear the facsimile
369 signature or signatures of such officer or officers as shall be
370 designated by the authority and shall have the seal of the
371 authority affixed, imprinted, reproduced, or lithographed
372 thereon, all as may be prescribed in such resolution or
373 resolutions.

374 (c) Bonds issued pursuant to paragraph (a) or paragraph
375 (b) shall be sold at public sale in the same manner provided by
376 the State Bond Act. However, if the authority shall, by official
377 action at a public meeting, determine that a negotiated sale of
378 such bonds is in the best interest of the authority, the
379 authority may negotiate the sale of such bonds with the
380 underwriter or underwriters designated by the authority and the
381 Division of Bond Finance of the State Board of Administration
382 with respect to bonds issued pursuant to paragraph (a) or solely

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383 the authority with respect to bonds issued pursuant to paragraph
 384 (b). The authority's determination to negotiate the sale of such
 385 bonds may be based, in part, upon the written advice of the
 386 authority's financial adviser. Pending the preparation of
 387 definitive bonds, interim certificates may be issued to the
 388 purchaser or purchasers of such bonds and may contain such terms
 389 and conditions as the authority may determine.

390 (d) The authority may issue bonds pursuant to paragraph
 391 (b) to refund any bonds previously issued regardless of whether
 392 the bonds being refunded were issued by the authority pursuant
 393 to this part or on behalf of the authority pursuant to the State
 394 Bond Act.

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

398 (a) The pledging of all or any part of the revenues,
 399 rates, fees, rentals, or other charges or receipts of the
 400 authority, derived by the authority, from the Southwest Florida
 401 Transportation System.

402 (b) The completion, improvement, operation, extension,
 403 maintenance, repair, lease, or lease-purchase agreement of said
 404 system and the duties of the authority and others, including the
 405 department, with reference thereto.

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

409 (d) The fixing, charging, establishing, and collecting of
 410 rates, fees, rentals, or other charges for use of the services

411 and facilities of the Southwest Florida Transportation System or
 412 any part thereof.

413 (e) The setting aside of reserves or sinking funds or
 414 repair and replacement funds and the regulation and disposition
 415 thereof.

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

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

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

422 (3) The authority may employ fiscal agents as provided by
 423 this part, or the State Board of Administration may, upon
 424 request of the authority, act as fiscal agent for the authority
 425 in the issuance of any bonds which may be issued pursuant to
 426 this part, and the State Board of Administration may, upon
 427 request of the authority, take over the management, control,
 428 administration, custody, and payment of any or all debt services
 429 or funds or assets now or hereafter available for any bonds
 430 issued pursuant to this part. The authority may enter into any
 431 deeds of trust, indentures, or other agreements with its fiscal
 432 agent, or with any bank or trust company within or without the
 433 state, as security for such bonds and may, under such
 434 agreements, sign and pledge all or any of the revenues, rates,
 435 fees, rentals, or other charges or receipts of the authority.
 436 Such deed of trust, indenture, or other agreement may contain
 437 such provisions as are customary in such instruments or, as the

438 authority may authorize, including, but without limitation,
 439 provisions as to:

440 (a) The completion, improvement, operation, extension,
 441 maintenance, repair, and lease of, or lease-purchase agreement
 442 relating to, the Southwest Florida Transportation System and the
 443 duties of the authority and others, including the department,
 444 with reference thereto.

445 (b) The application of funds and the safeguarding of funds
 446 on hand or on deposit.

447 (c) The rights and remedies of the trustee and the holders
 448 of the bonds.

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

451 (4) Any of the bonds issued pursuant to this part are, and
 452 are hereby declared to be, negotiable instruments and shall have
 453 all the qualities and incidents of negotiable instruments under
 454 the law merchant and the negotiable instruments law of the
 455 state.

456 (5) Notwithstanding any of the provisions of this part,
 457 each project, building, or facility which has been financed by
 458 the issuance of bonds or other evidence of indebtedness under
 459 this part and any refinancing thereof is hereby approved as
 460 provided for in s. 11(f), Art. VII of the State Constitution.

461 348.9937 Remedies of the bondholders.--

462 (1) The rights and the remedies herein conferred upon or
 463 granted to the bondholders shall be in addition to and not in
 464 limitation of any rights and remedies lawfully granted to such
 465 bondholders by the resolution or resolutions providing for the

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466 issuance of bonds, or by a lease-purchase agreement, deed of
467 trust, indenture, or other agreement under which the bonds may
468 be issued or secured. In the event that the authority shall
469 default in the payment of the principal of or interest on any of
470 the bonds issued pursuant to the provisions of this part after
471 such principal of or interest on said bonds shall have become
472 due, whether at maturity or upon call for redemption, or the
473 department shall default in any payments under, or covenants
474 made in, any lease-purchase agreement between the authority and
475 the department, and such default shall continue for a period of
476 30 days, or in the event that the authority or the department
477 shall fail or refuse to comply with the provisions of this part
478 or any agreement made with, or for the benefit of, the holders
479 of the bonds, the holders of 25 percent in aggregate principal
480 amount of the bonds then outstanding shall be entitled as of
481 right to the appointment of a trustee to represent such
482 bondholders for the purposes hereof; provided, however, that
483 such holders of 25 percent in aggregate principal amount of the
484 bonds then outstanding shall have first given notice of their
485 intention to appoint a trustee, to the authority and to the
486 department. Such notice shall be deemed to have been given if
487 given in writing, deposited in a securely sealed postpaid
488 wrapper, mailed at a regularly maintained United States post
489 office box or station, and addressed, respectively, to the chair
490 of the authority and to the secretary of the Department of
491 Transportation at the principal office of the department.

492 (2) Such trustee, and any trustee under any deed of trust,
493 indenture, or other agreement, may, and upon written request of

494 the holders of 25 percent, or such other percentages as may be
 495 specified in any deed of trust, indenture, or other agreement
 496 aforesaid, in principal amount of the bonds then outstanding,
 497 shall, in any court of competent jurisdiction, in his, her, or
 498 its own name:

499 (a) By mandamus or other suit, action, or proceeding at
 500 law or in equity, enforce all rights of the bondholders,
 501 including the right to require the authority to fix, establish,
 502 maintain, collect, and charge rates, fees, rentals, and other
 503 charges, adequate to carry out any agreement as to, or pledge
 504 of, the revenues or receipts of the authority to carry out any
 505 other covenants and agreements with or for the benefit of the
 506 bondholders, and to perform its and their duties under this
 507 part.

508 (b) By mandamus or other suit, action, or proceeding at
 509 law or in equity, enforce all rights of the bondholders under or
 510 pursuant to any lease-purchase agreement between the authority
 511 and the department, including the right to require the
 512 department to make all rental payments required to be made by it
 513 under the provisions of any such lease-purchase agreement, and
 514 to require the department to carry out any other covenants and
 515 agreements with or for the benefit of the bondholders, and to
 516 perform its and their duties under this part.

517 (c) Bring suit upon the bonds.

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

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

524 (3) Any trustee, when appointed as aforesaid or acting
 525 under a deed of trust, indenture, or other agreement, and
 526 whether or not all bonds have been declared due and payable,
 527 shall be entitled as of right to the appointment of a receiver,
 528 who may enter upon and take possession of the Southwest Florida
 529 Transportation System or the facilities or any part or parts
 530 thereof, the rates, fees, rentals, or other revenues, charges,
 531 or receipts from which are, or may be, applicable to the payment
 532 of the bonds so in default, and subject to and in compliance
 533 with the provisions of any lease-purchase agreement between the
 534 authority and the department operate and maintain the same, for
 535 and on behalf of and in the name of, the authority, the
 536 department, and the bondholders, and collect and receive all
 537 rates, fees, rentals, and other charges or receipts or revenues
 538 arising therefrom in the same manner as the authority or the
 539 department might do, and shall deposit all such moneys in a
 540 separate account and apply the same in such manner as the court
 541 shall direct. In any suit, action, or proceeding by the trustee,
 542 the fees, counsel fees, and expenses of the trustee, and said
 543 receiver, if any, and all costs and disbursements allowed by the
 544 court shall be a first charge on any rates, fees, rentals, or
 545 other charges, revenues, or receipts derived from the Southwest
 546 Florida Transportation System, or the facilities or services or
 547 any part or parts thereof, including payments under any such
 548 lease-purchase agreement as aforesaid which said rates, fees,

549 rentals, or other charges, revenues, or receipts shall or may be
 550 applicable to the payment of the bonds so in default. Such
 551 trustee shall, in addition to the foregoing, have and possess
 552 all of the powers necessary or appropriate for the exercise of
 553 any functions specifically set forth herein or incident to the
 554 representation of the bondholders in the enforcement and
 555 protection of their rights.

556 (4) Nothing in this section or any other section of this
 557 part shall authorize any receiver appointed pursuant hereto for
 558 the purpose, subject to and in compliance with the provisions of
 559 any lease-purchase agreement between the authority and the
 560 department, of operating and maintaining the Southwest Florida
 561 Transportation System or any facilities or part or parts thereof
 562 to sell, assign, mortgage, or otherwise dispose of any of the
 563 assets of whatever kind and character belonging to the
 564 authority. It is the intention of this part to limit the powers
 565 of such receiver, subject to and in compliance with the
 566 provisions of any lease-purchase agreement between the authority
 567 and the department, to the operation and maintenance of the
 568 Southwest Florida Transportation System, or any facility or part
 569 or parts thereof, as the court may direct, in the name and for
 570 and on behalf of the authority, the department, and the
 571 bondholders, and no holder of bonds on the authority nor any
 572 trustee shall ever have the right in any suit, action, or
 573 proceeding at law or in equity to compel a receiver, nor shall
 574 any receiver be authorized or any court be empowered to direct
 575 the receiver to sell, assign, mortgage, or otherwise dispose of

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576 | any assets of whatever kind or character belonging to the
577 | authority.

578 | 348.9938 Lease-purchase agreement.--

579 | (1) In order to effectuate the purposes of this part and
580 | as authorized by this part, the authority may enter into a
581 | lease-purchase agreement with the department relating to and
582 | covering the Southwest Florida Transportation System.

583 | (2) Such lease-purchase agreement shall provide for the
584 | leasing of the Southwest Florida Transportation System by the
585 | authority, as lessor, to the department, as lessee; shall
586 | prescribe the term of such lease and the rentals to be paid
587 | thereunder; and shall provide that upon the completion of the
588 | faithful performance thereunder and the termination of such
589 | lease-purchase agreement, title in fee simple absolute to the
590 | Southwest Florida Transportation System as then constituted
591 | shall be transferred in accordance with law by the authority to
592 | the state and the authority shall deliver to the department such
593 | deeds and conveyances as shall be necessary or convenient to
594 | vest title in fee simple absolute in the state.

595 | (3) Such lease-purchase agreement may include such other
596 | provisions, agreements, and covenants as the authority and the
597 | department deem advisable or required, including, but not
598 | limited to, provisions as to the bonds to be issued under, and
599 | for the purposes of, this part; the completion, extension,
600 | improvement, operation, and maintenance of the Southwest Florida
601 | Transportation System and the expenses and the cost of operation
602 | of said authority; the charging and collection of tolls, rates,
603 | fees, and other charges for the use of the services and

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604 facilities thereof; the application of federal or state grants
 605 or aid which may be made or given to assist the authority in the
 606 completion, extension, improvement, operation, and maintenance
 607 of the Southwest Florida Transportation System, which the
 608 authority is hereby authorized to accept and apply to such
 609 purposes; the enforcement of payment and collection of rentals;
 610 and any other terms, provisions, or covenants necessary,
 611 incidental, or appurtenant to the making of and full performance
 612 under such lease-purchase agreement.

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

626 (5) Said department shall have power to covenant in any
 627 lease-purchase agreement that it will pay all or any part of the
 628 cost of the operation, maintenance, repair, renewal, and
 629 replacement of said system, and any part of the cost of
 630 completing said system to the extent that the proceeds of bonds
 631 issued therefor are insufficient, from sources other than the

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632 revenues derived from the operation of said system. Said
 633 department may also agree to make such other payments from any
 634 moneys available to said commission, said county, or said city
 635 in connection with the construction or completion of said system
 636 as shall be deemed by said department to be fair and proper
 637 under any such covenants heretofore or hereafter entered into.

638 (6) Said system shall be a part of the state road system
 639 and said department is hereby authorized, upon the request of
 640 the authority, to expend out of any funds available for the
 641 purpose such moneys, and to use such of its engineering and
 642 other forces, as may be necessary and desirable in the judgment
 643 of said department, for the operation of said authority and for
 644 traffic surveys, borings, surveys, preparation of plans and
 645 specifications, estimates of cost and other preliminary
 646 engineering, and other studies.

647 348.9939 Department may be appointed agent of authority
 648 for construction.--The department may be appointed by said
 649 authority as its agent for the purpose of constructing
 650 improvements and extensions to the Southwest Florida
 651 Transportation System and for the completion thereof. In such
 652 event, the authority shall provide the department with complete
 653 copies of all documents, agreements, resolutions, contracts, and
 654 instruments relating thereto and shall request the department to
 655 do such construction work including the planning, surveying, and
 656 actual construction of the completion, extensions, and
 657 improvements to the Southwest Florida Transportation System and
 658 shall transfer to the credit of an account of the department in
 659 the treasury of the state the necessary funds therefor, and the

660 department shall thereupon be authorized, empowered, and
 661 directed to proceed with such construction and to use the said
 662 funds for such purpose in the same manner that it is now
 663 authorized to use the funds otherwise provided by law for its
 664 use in construction of roads and bridges.

665 348.994 Acquisition of lands and property.--

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

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

684 (3) When the authority acquires property for a
 685 transportation facility or in a transportation corridor, it is
 686 not subject to any liability imposed by chapter 376 or chapter
 687 403 for preexisting soil or groundwater contamination due solely

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688 | to its ownership. This section does not affect the rights or
 689 | liabilities of any past or future owners of the acquired
 690 | property, nor does it affect the liability of any governmental
 691 | entity for the results of its actions which create or exacerbate
 692 | a pollution source. The authority and the Department of
 693 | Environmental Protection may enter into interagency agreements
 694 | for the performance, funding, and reimbursement of the
 695 | investigative and remedial acts necessary for property acquired
 696 | by the authority.

697 | 348.9941 Cooperation with other units, boards, agencies,
 698 | and individuals.--Express authority and power is hereby given
 699 | and granted any county, municipality, drainage district, road
 700 | and bridge district, school district, or any other political
 701 | subdivision, board, commission, or individual in, or of, the
 702 | state to make and enter into with the authority contracts,
 703 | leases, conveyances, partnerships, or other agreements within
 704 | the provisions and purposes of this part. The authority is
 705 | hereby expressly authorized to make and enter into contracts,
 706 | leases, conveyances, partnerships, and other agreements with any
 707 | political subdivision, agency, or instrumentality of the state
 708 | and any and all federal agencies, corporations, and individuals
 709 | for the purpose of carrying out the provisions of this part.

710 | 348.9942 Covenant of the state.--The state does hereby
 711 | pledge to and agrees with any person, firm, corporation, or
 712 | federal or state agency subscribing to or acquiring the bonds to
 713 | be issued by the authority for the purposes of this part that
 714 | the state will not limit or alter the rights hereby vested in
 715 | the authority and the department until all bonds at any time

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716 issued, together with the interest thereon, are fully paid and
 717 discharged insofar as the same affects the rights of the holders
 718 of bonds issued hereunder. The state does further pledge to and
 719 agree with the United States that in the event any federal
 720 agency shall construct or contribute any funds for the
 721 completion, extension, or improvement of the Southwest Florida
 722 Transportation System, or any part or portion thereof, the state
 723 will not alter or limit the rights and powers of the authority
 724 and the department in any manner which would be inconsistent
 725 with the continued maintenance and operation of the Southwest
 726 Florida Transportation System or the completion, extension, or
 727 improvement thereof or which would be inconsistent with the due
 728 performance of any agreements between the authority and any such
 729 federal agency, and the authority and the department shall
 730 continue to have and may exercise all powers herein granted, so
 731 long as the same shall be necessary or desirable for the
 732 carrying out of the purposes of this part and the purposes of
 733 the United States in the completion, extension, or improvement
 734 of the Southwest Florida Transportation System or any part or
 735 portion thereof.

736 348.9943 Exemption from taxation.--The effectuation of the
 737 authorized purposes of the authority created under this part is,
 738 shall, and will be in all respects for the benefit of the people
 739 of the state, for the increase of their commerce and prosperity,
 740 and for the improvement of their health and living conditions,
 741 and since such authority will be performing essential
 742 governmental functions in effectuating such purposes, such
 743 authority shall not be required to pay any taxes or assessments

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744 of any kind or nature whatsoever upon any property acquired or
 745 used by it for such purposes, or upon any rates, fees, rentals,
 746 receipts, income, or charges at any time received by it, and the
 747 bonds issued by the authority, their transfer, and the income
 748 therefrom, including any profits made on the sale thereof, shall
 749 at all times be free from taxation of any kind by the state, or
 750 by any political subdivision, taxing agency, or instrumentality
 751 thereof. The exemption granted by this section shall not be
 752 applicable to any tax imposed by chapter 220 on interest,
 753 income, or profits on debt obligations owned by corporations.

754 348.9944 Eligibility for investments and security.--Any
 755 bonds or other obligations issued pursuant to this part shall be
 756 and constitute legal investments for banks, savings banks,
 757 trustees, executors, administrators, and all other fiduciaries
 758 and for all state, municipal, and other public funds and shall
 759 also be and constitute securities eligible for deposit as
 760 security for all state, municipal, or other public funds,
 761 notwithstanding the provisions of any other law or laws to the
 762 contrary.

763 348.9945 Pledges enforceable by bondholders.--It is the
 764 express intention of this part that any pledge by the department
 765 of rates, fees, revenues, or other funds, as rentals, to the
 766 authority, or any covenants or agreements relative thereto, may
 767 be enforceable in any court of competent jurisdiction against
 768 the authority or directly against the department by any holder
 769 of bonds issued by the authority.

770 348.9946 This part complete and additional authority.--

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

791 (2) This part shall not be deemed to repeal, rescind, or
 792 modify any other law or laws relating to said State Board of
 793 Administration, said Department of Transportation, or the
 794 Division of Bond Finance of the State Board of Administration
 795 but shall be deemed to and shall supersede such other law or
 796 laws as are inconsistent with the provisions of this part,
 797 including, but not limited to, s. 215.821.

798 Section 2. Sunset of the Southwest Florida Expressway
 799 Authority's duties and powers.--The powers conferred to the
 800 Southwest Florida Expressway Authority and part X of chapter
 801 348, Florida Statutes, the statutory establishment of the
 802 Southwest Florida Expressway Authority, shall expire 12 years
 803 after this act takes effect if the Southwest Florida Expressway
 804 Authority has no outstanding indebtedness, no studies underway,
 805 no design underway, and no projects under construction and is
 806 not operating or maintaining any part of the system it was
 807 established to create.

808 Section 3. Notwithstanding the provisions of s. 338.251,
 809 Florida Statutes, the Department of Transportation is authorized
 810 to loan the Southwest Florida Expressway Authority in fiscal
 811 year 2004-2005 the sum of \$2.5 million to initially fund the
 812 Southwest Florida Transportation System. Notwithstanding the
 813 provisions of s. 338.251, Florida Statutes, all or a portion of
 814 this loan may be used for administrative and other startup costs
 815 of the Southwest Florida Expressway Authority and the system
 816 including, but not limited to, the hiring of an executive
 817 director, consultants, and staff.

818 Section 4. This act shall take effect upon resolutions in
 819 support of this act being passed by both the Lee County Board of
 820 County Commissioners and the Collier County Board of County
 821 Commissioners, but no sooner than July 1, 2004, in the event the
 822 boards pass such resolutions prior to that date; except that,
 823 this section shall take effect upon this act becoming a law.