

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2938
 SPONSOR: Senator Saunders
 SUBJECT: Southwest Florida Transportation
 DATE: March 25, 2004 REVISED: 03/31/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>ATD</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Southwest Florida Expressway Authority (the Authority) in a new Part X of Chapter 348, F.S. The Authority will have the general powers and duties of all expressway authorities, such as the ability to enter into contracts, acquire land, set tolls, and hire staff. Bonds for the Authority’s projects could either be issued on its behalf by the state Division of Bond Finance or by the Authority itself. Provisions unique to this Authority include:

- An eight-member governing board comprised of: one permanent resident each from Collier and Lee counties, appointed by the Governor; one permanent resident of Collier County appointed by the Collier County Commission; one permanent resident of Lee County appointed by the Lee County Commission; one member each from the Collier and Lee county commissions; the executive director of the Southwest Florida Regional Planning Council; and the secretary of the Florida Department of Transportation (FDOT) district that includes Collier and Lee counties. The FDOT district secretary is a non-voting member.
- Projects are limited to tolled expressway lanes on Interstate 75 and support facilities in Collier and Lee counties, unless the two county commissions support projects elsewhere. Although not stated in the bill, the Authority also must obtain federal and state approval before building tolled lanes on I-75.
- The Authority is permitted to enter into a lease-purchase agreement with FDOT, whereby FDOT would operate and maintain the tolled facilities and at some point would own the system and make it part of the state road system.
- The act creating the Authority shall “sunset” in 12 years after its effective date if the Authority has no outstanding indebtedness, no studies or project designs underway, or no projects under construction, and if it is not operating or maintaining the system.
- The Authority will receive \$2.5 million from FDOT’s Toll Facilities Revolving Loan Trust Fund to help fund its start-up costs.

This bill creates the following sections of the Florida Statutes: Part X, Chapter 348, consisting of ss. 338.993, 348.9931, 348.9932, 348.9933, 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939, 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and 348.9946.

II. Present Situation:

Collier and Lee counties remain two of the fastest-growing counties in Florida, replete with significant traffic congestion. FDOT District 1 recently completed a preliminary design and engineering (PD&E) study on the I-75 corridor in Collier and Lee counties. The study examined potential capacity enhancement alternatives resulting in a recommendation to add two lanes the interstate from State Road 951 in Collier County north to State Road 78 in Lee County, plus make interchange improvements. Based on FDOT's adopted FY 03-04 to FY 07-08 Work Program:

- In the Lee County section of the project, right-of-way acquisition will begin in 2006 at an estimated cost of \$46 million; environmental permitting is scheduled for 2007 at a cost of \$361,000; and construction is scheduled to begin in 2008 at an estimate cost of \$96 million.
- In the Collier County section of the project, right-of-way acquisition is scheduled to begin in 2007, at an estimated cost of \$23 million.

FDOT District 1 indicates the project could cost \$200 million.

The PD&E study also considered an alternative of widening this section of I-75 to eight lanes – six general-use lanes and two special-purpose lanes that also could serve as an envelope for passenger rail service based on future decisions. FDOT's Long-Range Transportation Plan indicates the need to expand I-75 to 10 lanes by 2030. The Florida Turnpike Enterprise also is studying the feasibility of adding tolled lanes to I-4 and I-75 in the future.

Chapter 348, F.S., creates eight expressway or bridge authorities. Their purpose is to construct, maintain, and operate tolled transportation facilities that complement the State Highway System and the Florida Turnpike Enterprise. Bonds issued for expressway projects must comply with state constitutional requirements. The expressway authorities have boards of directors that typically include local-government officials who decide on projects and expenditure of funds.

III. Effect of Proposed Changes:

SB 2938 creates a new Part X, Chapter 348, F.S., relating to the "Southwest Florida Expressway Authority" (the Authority), and would join nine other expressway authorities created pursuant to state law. Much of the language is "boiler plate" common to all of the other expressway authorities – the entity is governed by a board of directors and has the ability to enter into contracts and agreements; acquire land and other property; to engage in eminent domain proceedings pursuant to chapters 74 and 75, F.S.; to sue and be sued; borrow funds; set and collect tolls, fees, or charges; plan projects; have certain responsibilities to bondholders; and hire staff. Bonds for the Authority's projects could either be issued on its behalf by the state Division of Bond Finance or by the Authority itself, a power only the Orlando-Orange County

Expressway Authority currently has. As with each of the existing expressway authorities, this new authority will have additional requirements or provisions. They include:

- Projects are limited to tolled expressway lanes and support facilities on I-75 within Collier and Lee counties, unless the two county commission support projects elsewhere within their boundaries. The Authority is specifically precluded from participating in future development along State Road 951, a request made by local officials concerned about impacts to environmentally sensitive lands in that corridor.
- The Authority plans to enter into a lease-purchase agreement with FDOT, which would act as the construction agent for projects, would operate and maintain the tolled facilities, and eventually be deeded the tolled facilities.
- The act creating the Authority shall “sunset” in 12 years after its effective date if the Authority has no outstanding indebtedness, no studies or project designs underway, or no projects under construction, and if it is not operating or maintaining the system. This is to ensure a dormant Authority does not continue to exist in law, and provides some impetus for the Authority, if created, to expedite its goals.
- The Authority will receive \$2.5 million from FDOT’s Toll Facilities Revolving Loan Trust Fund to help fund its start-up and administrative costs.

The Authority is specifically prohibited from pledging any revenues of the state, or of Collier and Lee counties, or municipalities within those counties, and its fiscal obligations are not the responsibility of the state or other political subdivisions.

An eight-member governing board shall manage the Authority’s operations. The membership shall consist of seven voting members and one non-voting member, the FDOT District 1 secretary. The makeup of the seven voting members is:

- One permanent resident each from Collier and Lee counties, appointed by the Governor to four-year terms. The Governor shall select his appointees from separate lists of five names developed by each County Commission. No elected official, or any person who is an employee of Lee or Collier County, or of any municipality within those two counties may be appointed.
- One permanent resident of Collier County appointed by the Collier County Commission and one permanent resident of Lee County appointed by the Lee County Commission. Each shall serve a four-year term. As with the governor appointees, none of these appointees shall be an elected official, or any person who is an employee of Lee or Collier County, or of any municipality within those two counties.
- One member each from the Collier and Lee county commissions for two-year terms.
- The executive director of the Southwest Florida Regional Planning Council.

Each member of the governing board shall be eligible for reappointment. The members shall elect from their number a chairperson; they also may select a treasurer and a secretary who are not required to be authority members. Four members constitute a quorum, and a majority of members must be present for the authority to take action. Authority members are entitled to receive per diem and other expenses incurred in connection with Authority business, pursuant to s. 112.061, F.S.,

Section 1: Creates Part X of chapter 348, F.S. specifically ss. 348.993-348.9946, F.S.

Section 348.993, F.S., names the “Southwest Florida Expressway Authority.”

Section 348.9931, F.S., defines terms used in this part.

Section 348.9932, F.S., specifies membership on expressway authority board of directors, their terms and duties, and allows hiring of staff.

Section 348.9933, F.S., specifies powers of the governing board, specifically limiting the scope of the authority’s mission to tolled expressway lanes on I-75 within Collier and Lee counties.

Section 348.9934, F.S., authorizes the board to procure commodities and services.

Section 348.9935, F.S., specifies bond financing pursuant to s. 11(f), Art. VII of the State Constitution.

Section 348.9936, F.S., specifies bonds may be issued by the State Division of Bond Finance on behalf of the expressway authority, or by the authority itself and specifies process and conditions for issuing bonds.

Section 348.9937, F.S., provides remedies for bond holders.

Section 348.9938, F.S., allows the authority to enter into a lease-purchase agreement with FDOT for any transportation facilities built by the authority.

Section 348.9939, F.S., allows authority to appoint FDOT as its agent for purposes of constructing aforementioned facilities.

Section 348.994, F.S., allows the authority to acquire land and property and provides the right of eminent domain.

Section 348.9941, F.S., provides the authority the ability to enter contracts with other governmental bodies.

Section 348.9942, F.S., specifies the covenant of the state against altering the right vested in the authority until all bonds are paid and discharged.

Section 348.9943, F.S., exempts the authority from certain taxation.

Section 348.9944, F.S., provides eligibility for investments and securities.

Section 348.9945, F.S., expresses the intention of pledges made by the department are enforceable in court.

Section 348.9946, F.S., specifies no approval from voters shall be necessary before bonds can be issued.

Section 2: Specifies the expressway authority shall sunset 12 years after this act takes effect if the authority has no outstanding debt, no studies or project design underway, and no projects under construction, nor is operating or maintaining any part of the system it was established to create.

Section 3: Specifies notwithstanding the provisions of s. 338.251, F.S., the authority is appropriated \$2.5 million from the Toll Facilities Revolving Loan Trust Fund for fiscal year 2004-2005, and that it can spend all or a portion of the money on administrative or startup costs.

Section 4: Specifies this act shall take effect upon passage of resolutions by the Lee and Collier county commissions in support of this act no sooner than July 1, 2004, in the event the county commissions pass such resolutions before that date. Otherwise, this section shall take effect upon the bill becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Additional lanes on I-75 constructed by the Southwest Florida Expressway Authority will be toll facilities, requiring an indeterminate toll to be paid by motorists electing to drive on those lanes.

C. Government Sector Impact:

The bill provides for a \$2.5 million appropriation from the State Toll Facilities Revolving Loan Trust Fund in FY 04-05.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Transportation: The amendment requires the authority board to be expanded to include representatives of Charlotte County in the event an expansion of the project is warranted and desirable by the County Commissions of Collier, Lee, and Charlotte Counties.

#2 by Transportation: The amendment clarifies the \$2.5 million appropriation from the Toll Facilities Revolving Loan Trust Fund is a loan. Further, the amendment removes the hiring of staff and consultants from the eligible administrative and startup costs for which the loan may be used.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
