

By Senator Saunders

37-1583-04

See HB 1615

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

1 eligibility for investments and security;
2 providing pledges shall be enforceable by
3 bondholders; providing for construction and
4 application; providing for future expiration of
5 the act; providing for an appropriation;
6 providing a contingent effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Part X of chapter 348, Florida Statutes,
11 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
12 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939,
13 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and
14 348.9946, is created to read:

15 Part X

16 Southwest Florida Expressway Authority

17 348.993 Popular name.--This part may be referred to by
18 the popular name the "Southwest Florida Expressway Authority
19 Law."

20 348.9931 Definitions.--The following terms, whenever
21 used or referred to in this part, shall have the following
22 meanings, except in those instances where the context clearly
23 indicates otherwise:

24 (1) "Agency of the state" means and includes the state
25 and any department of, or corporation, agency, or
26 instrumentality heretofore or hereafter created, designated,
27 or established by, the state.

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

30 (3) "Bonds" means and includes the notes, bonds,
31 refunding bonds, or other evidences of indebtedness or

1 obligations, in either temporary or definitive form, which the
2 authority is authorized to issue pursuant to this part.

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

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

9 (6) "DBOMF contract" means the document and all
10 concomitant rights approved by the authority providing the
11 selected person or entity the exclusive right to design,
12 build, operate, maintain, and finance all or a portion of the
13 Southwest Florida Transportation System.

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

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

18 (9) "Federal agency" means and includes the United
19 States, the President of the United States, or any department
20 of, or corporation, agency, or instrumentality heretofore or
21 hereafter created, designated, or established by, the United
22 States.

23 (10) "Lease-purchase agreement" means the
24 lease-purchase agreements which the authority is authorized
25 pursuant to this part to enter into with the Department of
26 Transportation.

27 (11) "Limited access expressway" means a street or
28 highway especially designed for through traffic and over,
29 from, or to which no person shall have the right of easement,
30 use, or access except in accordance with the rules and
31 regulations promulgated and established by the authority for

1 the use of such facility. Such highways or streets may be
2 parkways, from which trucks, buses, and other commercial
3 vehicles shall be excluded, or they may be freeways open to
4 use by all customary forms of street and highway traffic.

5 (12) "Members" means the governing body of the
6 authority, and the term "member" means one of the individuals
7 constituting such governing body.

8 (13) "Proposed project" means a facility which, if
9 constructed, will become part of the Southwest Florida
10 Transportation System, and it shall identify the general
11 corridor and alignment of the facility and its limits.
12 Further, it shall mean a project or projects which are in the
13 long-range transportation plan of Lee County or Collier
14 County, or both plans if the proposed project is to be located
15 in both counties.

16 (14) "Southwest Florida Transportation System" means
17 any and all expressways and appurtenant facilities thereto,
18 including, but not limited to, all approaches, roads, bridges,
19 and avenues of access for said expressway or expressways,
20 whether tolled or nontolled, or such other facility as the
21 authority determines or designates.

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

25 (16) "System" means the Southwest Florida
26 Transportation System.

27
28 Words importing singular number include the plural number in
29 each case and vice versa, and words importing persons include
30 firms and corporations.

31 348.9932 Southwest Florida Expressway Authority.--

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

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

9 (a)1.a. One member who is a permanent resident of
10 Collier County and one member who is a permanent resident of
11 Lee County shall be appointed by the Governor to serve a term
12 of 4 years each. The Governor shall select his appointees from
13 a list submitted by the board of county commissioners of each
14 county, with each list recommending five candidates from their
15 respective county.

16 b. One member who is a permanent resident of Collier
17 County shall be appointed by the Board of County Commissioners
18 of Collier County and one member who is a permanent resident
19 of Lee County shall be appointed by the Board of County
20 Commissioners of Lee County, to serve a term of 4 years each.

21 2. Each member appointed under this paragraph shall be
22 a person of outstanding reputation for integrity,
23 responsibility, and business ability and shall have an
24 interest in ground transportation. No elected official and no
25 person who is an employee, in any capacity, of Collier County
26 or Lee County or of any municipality within Collier County or
27 Lee County shall be an appointed member of the authority
28 except as set forth in this section.

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

31

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

5 (b) One member from Collier County and one member from
6 Lee County shall be selected by the members of the respective
7 county commission from among its members to serve as a voting
8 member for a term of 2 years each. Each commissioner must be a
9 member of the county commission when selected and for the full
10 extent of the term of this selection.

11 (c) The executive director of the Southwest Florida
12 Regional Planning Council shall serve as the seventh voting
13 member.

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

17 (e) Any member of the authority shall be eligible for
18 reappointment.

19 (3)(a) The authority shall elect one of its members as
20 chair of the authority. The authority shall also elect a
21 secretary and a treasurer who may or may not be members of the
22 authority. The chair, secretary, and treasurer shall hold such
23 offices at the will of the authority. Four members of the
24 authority shall constitute a quorum, and a vote of the
25 majority of those present shall be necessary for any action
26 taken by the authority. No vacancy in the authority shall
27 impair the right of a quorum of the authority to exercise all
28 of the rights and perform all of the duties of the authority.

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

1 (4)(a) The authority may employ an executive director,
2 its own counsel and legal staff, technical experts, engineers,
3 and such employees, permanent or temporary, as it may require;
4 may determine the qualifications and fix the compensation of
5 such persons, firms, or corporations; and may employ a fiscal
6 agent or agents. The authority may delegate to one or more of
7 its agents or employees such of its power as it shall deem
8 necessary to carry out the purposes of this part, subject
9 always to the supervision and control of the authority.
10 Members of the authority may be removed from office by the
11 Governor for misconduct, malfeasance, misfeasance, or
12 nonfeasance in office.

13 (b) Members of the authority shall be entitled to
14 receive from the authority their travel and other necessary
15 expenses incurred in connection with the business of the
16 authority as provided in s. 112.061, but they shall draw no
17 salaries or other compensation.

18 348.9933 Purposes and powers.--

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

25 (b) It is the express intention of this part that said
26 authority, in the construction of said Southwest Florida
27 Transportation System, within the geographic boundaries of
28 Collier and Lee Counties, is limited to the pursuit of tolled
29 expressway lanes on Interstate Highway 75 within these
30 counties. Further, the authority shall be authorized to
31 construct any extensions, additions, or improvements to said

1 system or appurtenant facilities, including all necessary
2 approaches, roads, bridges, and avenues of access, with such
3 changes, modifications, or revisions of said project as shall
4 be deemed desirable and proper with the concurrence of the
5 respective county commissions. The responsibilities of the
6 authority will not be expanded to cover any other projects
7 beyond Interstate 75 toll lanes and appurtenant facilities
8 unless resolutions in support of such expansion or other
9 project are adopted by the Boards of County Commissioners of
10 Lee and Collier Counties.

11 (2) The authority is hereby granted and shall have and
12 may exercise all powers necessary, appurtenant, convenient, or
13 incidental to the carrying out of the aforesaid purposes,
14 including, but not limited to, the following rights and
15 powers:

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

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

19 (c) To acquire by donation or otherwise, purchase,
20 hold, lease as lessee, and use any franchise or property,
21 real, personal, or mixed, tangible or intangible, or any
22 options thereof in its own name or in conjunction with others,
23 or interest therein, necessary or desirable for carrying out
24 the purposes of the authority, and to sell, lease as lessor,
25 transfer, and dispose of any property or interest therein at
26 any time acquired by it.

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

30 (e) To enter into and make lease-purchase agreements
31 with the department for terms it deems necessary or until any

1 bonds secured by a pledge of rentals thereunder, and any
2 refundings thereof, are fully paid as to both principal and
3 interest, whichever is longer.

4 (f) To fix, alter, charge, establish, and collect
5 rates, fees, rentals, and other charges for the services and
6 facilities of the Southwest Florida Transportation System,
7 which rates, fees, rentals, and other charges shall always be
8 sufficient to comply with any covenants made with the holders
9 of any bonds issued pursuant to this part; provided, however,
10 that such right and power may be assigned or delegated, by the
11 authority, to the department.

12 (g) To borrow money and make and issue negotiable
13 notes, bonds, refunding bonds, and other evidences of
14 indebtedness or obligations, either in temporary or definitive
15 form, hereinafter in this part sometimes called "bonds" of the
16 authority, for the purpose of financing all or part of the
17 improvement or extension of the Southwest Florida
18 Transportation System and appurtenant facilities, including
19 all approaches, streets, roads, bridges, and avenues of access
20 for said Southwest Florida Transportation System, and for any
21 other purpose authorized by this part; to secure the payment
22 of such bonds or any part thereof by a pledge of any or all of
23 its revenues, rates, fees, rentals, or other charges; and in
24 general to provide for the security of said bonds and the
25 rights and remedies of the holders thereof. The authority may
26 enter into an agreement between the authority and one or more
27 counties for the pledge of county gasoline tax funds, county
28 sales tax, or other county revenues to secure any bonds issued
29 for an authority project as authorized hereunder. In the event
30 the authority shall determine to fund or refund any bonds
31 theretofore issued by said authority, prior to the maturity

1 thereof, the proceeds of such funding or refunding bonds
2 shall, pending the prior redemption of the bonds to be funded
3 or refunded, be invested in direct obligations of the United
4 States, and it is the express intention of this part that such
5 outstanding bonds may be funded or refunded by the issuance of
6 bonds pursuant to this part.

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

12 (i) Without limitation of the foregoing, to borrow
13 money and accept grants from, and to enter into contracts,
14 leases, or other transactions with, any federal agency, the
15 state, any agency of the state, Collier County, Lee County,
16 and any municipality within these two counties or with any
17 other public body of the state.

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

20 (k) To pledge, hypothecate, or otherwise encumber all
21 or any part of the revenues, rates, fees, rentals, or other
22 charges or receipts of the authority as security for all or
23 any of the obligations of the authority.

24 (l) To do all acts and things necessary or convenient
25 for the conduct of its business and the general welfare of the
26 authority in order to carry out the powers granted to it by
27 this part or any other law.

28 (m) With the consent of the county within whose
29 jurisdiction the following activities occur, to construct,
30 operate, and maintain roads, bridges, avenues of access,
31 thoroughfares, and boulevards outside the jurisdictional

1 boundaries of Collier and Lee Counties, together with the
2 right to construct, repair, replace, operate, install, and
3 maintain toll payment systems thereon, with all necessary and
4 incidental powers to accomplish the foregoing.

5 (3) The authority shall have no power at any time or
6 in any manner to pledge the credit or taxing power of the
7 state or any political subdivision or agency thereof,
8 including Collier and Lee Counties or any municipality within
9 these counties, nor shall any of the authority's obligations
10 be deemed to be obligations of the state or of any political
11 subdivision or agency thereof, nor shall the state or any
12 political subdivision or agency thereof, except the authority,
13 be liable for the payment of the principal of or interest on
14 such obligations unless agreed to by such entity.

15 (4) Notwithstanding powers conferred herein, before
16 the authority proceeds with a proposed project either the Lee
17 County Commission or Collier County Commission must approve
18 any proposed project for the system which may be located
19 within the geographical boundaries of that commission's
20 jurisdiction. A quorum must be present for a vote on approval
21 to take place. Such approval, by a majority vote of those
22 members present, must be obtained before the authority can
23 proceed with the preliminary design and environmental study.

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

26 348.9934 Procurement.--The authority is authorized to
27 procure commodities and the services of a qualified person or
28 entity to design, build, finance, operate, maintain, and
29 implement the Southwest Florida Transportation System,
30 including the use of a DBOM or DBOMF method using a request
31

1 for proposal, a request for qualifications, or an invitation
2 to negotiate.

3 348.9935 Bond financing authority for
4 improvements.--Pursuant to s. 11(f), Art. VII of the State
5 Constitution, the Legislature hereby approves for bond
6 financing by the Southwest Florida Expressway Authority
7 improvements to toll collection facilities, interchanges to
8 the legislatively approved regional transportation system, and
9 any other facility appurtenant, necessary, or incidental to
10 the approved system. Subject to terms and conditions of
11 applicable revenue bond resolutions and covenants, such costs
12 may be financed in whole or in part by revenue bonds issued
13 pursuant to s. 348.9936(1)(a) or (b) whether currently issued
14 or issued in the future, or by a combination of such bonds.

15 348.9936 Bonds of the authority.--

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

18 (b) Alternatively, the authority may issue its own
19 bonds pursuant to this part at such times and in such
20 principal amount as, in the opinion of the authority, is
21 necessary to provide sufficient moneys for achieving its
22 purposes; however, such bonds may not pledge the full faith
23 and credit of the state. Bonds issued by the authority
24 pursuant to this paragraph or paragraph (a), whether on
25 original issuance or on refunding, shall be authorized by
26 resolution of the members thereof and may be either term or
27 serial bonds and shall bear such date or dates, mature at such
28 time or times, bear interest at such rate or rates, payable
29 semiannually, be in such denominations, be in such form,
30 either coupon or fully registered, carry such registration,
31 exchangeability, and interchangeability privileges, be payable

1 in such medium of payment and at such place or places, be
2 subject to such terms of redemption, and be entitled to such
3 priorities on the revenues, rates, fees, rentals, or other
4 charges or receipts of the authority, including any other
5 funds received by the authority pursuant to the terms of any
6 lease-purchase agreement between the authority and the
7 department, as such resolution or any resolution subsequent
8 thereto may provide. The bonds shall be executed either by
9 manual or facsimile signature by such officers as the
10 authority shall determine, provided that such bonds shall bear
11 at least one signature which is manually executed thereon, and
12 the coupons attached to such bonds shall bear the facsimile
13 signature or signatures of such officer or officers as shall
14 be designated by the authority and shall have the seal of the
15 authority affixed, imprinted, reproduced, or lithographed
16 thereon, all as may be prescribed in such resolution or
17 resolutions.

18 (c) Bonds issued pursuant to paragraph (a) or
19 paragraph (b) shall be sold at public sale in the same manner
20 provided by the State Bond Act. However, if the authority
21 shall, by official action at a public meeting, determine that
22 a negotiated sale of such bonds is in the best interest of the
23 authority, the authority may negotiate the sale of such bonds
24 with the underwriter or underwriters designated by the
25 authority and the Division of Bond Finance of the State Board
26 of Administration with respect to bonds issued pursuant to
27 paragraph (a) or solely the authority with respect to bonds
28 issued pursuant to paragraph (b). The authority's
29 determination to negotiate the sale of such bonds may be
30 based, in part, upon the written advice of the authority's
31 financial adviser. Pending the preparation of definitive

1 bonds, interim certificates may be issued to the purchaser or
2 purchasers of such bonds and may contain such terms and
3 conditions as the authority may determine.

4 (d) The authority may issue bonds pursuant to
5 paragraph (b) to refund any bonds previously issued regardless
6 of whether the bonds being refunded were issued by the
7 authority pursuant to this part or on behalf of the authority
8 pursuant to the State Bond Act.

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

12 (a) The pledging of all or any part of the revenues,
13 rates, fees, rentals, or other charges or receipts of the
14 authority, derived by the authority, from the Southwest
15 Florida Transportation System.

16 (b) The completion, improvement, operation, extension,
17 maintenance, repair, lease, or lease-purchase agreement of
18 said system and the duties of the authority and others,
19 including the department, with reference thereto.

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

23 (d) The fixing, charging, establishing, and collecting
24 of rates, fees, rentals, or other charges for use of the
25 services and facilities of the Southwest Florida
26 Transportation System or any part thereof.

27 (e) The setting aside of reserves or sinking funds or
28 repair and replacement funds and the regulation and
29 disposition thereof.

30 (f) Limitations on the issuance of additional bonds.
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1 (g) The terms and provisions of any lease-purchase
2 agreement, deed of trust, or indenture securing the bonds or
3 under which the same may be issued.

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

7 (3) The authority may employ fiscal agents as provided
8 by this part, or the State Board of Administration may, upon
9 request of the authority, act as fiscal agent for the
10 authority in the issuance of any bonds which may be issued
11 pursuant to this part, and the State Board of Administration
12 may, upon request of the authority, take over the management,
13 control, administration, custody, and payment of any or all
14 debt services or funds or assets now or hereafter available
15 for any bonds issued pursuant to this part. The authority may
16 enter into any deeds of trust, indentures, or other agreements
17 with its fiscal agent, or with any bank or trust company
18 within or without the state, as security for such bonds and
19 may, under such agreements, sign and pledge all or any of the
20 revenues, rates, fees, rentals, or other charges or receipts
21 of the authority. Such deed of trust, indenture, or other
22 agreement may contain such provisions as are customary in such
23 instruments or, as the authority may authorize, including, but
24 without limitation, provisions as to:

25 (a) The completion, improvement, operation, extension,
26 maintenance, repair, and lease of, or lease-purchase agreement
27 relating to, the Southwest Florida Transportation System and
28 the duties of the authority and others, including the
29 department, with reference thereto.

30 (b) The application of funds and the safeguarding of
31 funds on hand or on deposit.

1 (c) The rights and remedies of the trustee and the
2 holders of the bonds.

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

5 (4) Any of the bonds issued pursuant to this part are,
6 and are hereby declared to be, negotiable instruments and
7 shall have all the qualities and incidents of negotiable
8 instruments under the law merchant and the negotiable
9 instruments law of the state.

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

16 348.9937 Remedies of the bondholders.--

17 (1) The rights and the remedies herein conferred upon
18 or granted to the bondholders shall be in addition to and not
19 in limitation of any rights and remedies lawfully granted to
20 such bondholders by the resolution or resolutions providing
21 for the issuance of bonds, or by a lease-purchase agreement,
22 deed of trust, indenture, or other agreement under which the
23 bonds may be issued or secured. In the event that the
24 authority shall default in the payment of the principal of or
25 interest on any of the bonds issued pursuant to the provisions
26 of this part after such principal of or interest on said bonds
27 shall have become due, whether at maturity or upon call for
28 redemption, or the department shall default in any payments
29 under, or covenants made in, any lease-purchase agreement
30 between the authority and the department, and such default
31 shall continue for a period of 30 days, or in the event that

1 the authority or the department shall fail or refuse to comply
2 with the provisions of this part or any agreement made with,
3 or for the benefit of, the holders of the bonds, the holders
4 of 25 percent in aggregate principal amount of the bonds then
5 outstanding shall be entitled as of right to the appointment
6 of a trustee to represent such bondholders for the purposes
7 hereof; provided, however, that such holders of 25 percent in
8 aggregate principal amount of the bonds then outstanding shall
9 have first given notice of their intention to appoint a
10 trustee, to the authority and to the department. Such notice
11 shall be deemed to have been given if given in writing,
12 deposited in a securely sealed postpaid wrapper, mailed at a
13 regularly maintained United States post office box or station,
14 and addressed, respectively, to the chair of the authority and
15 to the secretary of the Department of Transportation at the
16 principal office of the department.

17 (2) Such trustee, and any trustee under any deed of
18 trust, indenture, or other agreement, may, and upon written
19 request of the holders of 25 percent, or such other
20 percentages as may be specified in any deed of trust,
21 indenture, or other agreement aforesaid, in principal amount
22 of the bonds then outstanding, shall, in any court of
23 competent jurisdiction, in his, her, or its own name:

24 (a) By mandamus or other suit, action, or proceeding
25 at law or in equity, enforce all rights of the bondholders,
26 including the right to require the authority to fix,
27 establish, maintain, collect, and charge rates, fees, rentals,
28 and other charges, adequate to carry out any agreement as to,
29 or pledge of, the revenues or receipts of the authority to
30 carry out any other covenants and agreements with or for the
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1 benefit of the bondholders, and to perform its and their
2 duties under this part.

3 (b) By mandamus or other suit, action, or proceeding
4 at law or in equity, enforce all rights of the bondholders
5 under or pursuant to any lease-purchase agreement between the
6 authority and the department, including the right to require
7 the department to make all rental payments required to be made
8 by it under the provisions of any such lease-purchase
9 agreement, and to require the department to carry out any
10 other covenants and agreements with or for the benefit of the
11 bondholders, and to perform its and their duties under this
12 part.

13 (c) Bring suit upon the bonds.

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

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

20 (3) Any trustee, when appointed as aforesaid or acting
21 under a deed of trust, indenture, or other agreement, and
22 whether or not all bonds have been declared due and payable,
23 shall be entitled as of right to the appointment of a
24 receiver, who may enter upon and take possession of the
25 Southwest Florida Transportation System or the facilities or
26 any part or parts thereof, the rates, fees, rentals, or other
27 revenues, charges, or receipts from which are, or may be,
28 applicable to the payment of the bonds so in default, and
29 subject to and in compliance with the provisions of any
30 lease-purchase agreement between the authority and the
31 department operate and maintain the same, for and on behalf of

1 and in the name of, the authority, the department, and the
2 bondholders, and collect and receive all rates, fees, rentals,
3 and other charges or receipts or revenues arising therefrom in
4 the same manner as the authority or the department might do,
5 and shall deposit all such moneys in a separate account and
6 apply the same in such manner as the court shall direct. In
7 any suit, action, or proceeding by the trustee, the fees,
8 counsel fees, and expenses of the trustee, and said receiver,
9 if any, and all costs and disbursements allowed by the court
10 shall be a first charge on any rates, fees, rentals, or other
11 charges, revenues, or receipts derived from the Southwest
12 Florida Transportation System, or the facilities or services
13 or any part or parts thereof, including payments under any
14 such lease-purchase agreement as aforesaid which said rates,
15 fees, rentals, or other charges, revenues, or receipts shall
16 or may be applicable to the payment of the bonds so in
17 default. Such trustee shall, in addition to the foregoing,
18 have and possess all of the powers necessary or appropriate
19 for the exercise of any functions specifically set forth
20 herein or incident to the representation of the bondholders in
21 the enforcement and protection of their rights.

22 (4) Nothing in this section or any other section of
23 this part shall authorize any receiver appointed pursuant
24 hereto for the purpose, subject to and in compliance with the
25 provisions of any lease-purchase agreement between the
26 authority and the department, of operating and maintaining the
27 Southwest Florida Transportation System or any facilities or
28 part or parts thereof to sell, assign, mortgage, or otherwise
29 dispose of any of the assets of whatever kind and character
30 belonging to the authority. It is the intention of this part
31 to limit the powers of such receiver, subject to and in

1 compliance with the provisions of any lease-purchase agreement
2 between the authority and the department, to the operation and
3 maintenance of the Southwest Florida Transportation System, or
4 any facility or part or parts thereof, as the court may
5 direct, in the name and for and on behalf of the authority,
6 the department, and the bondholders, and no holder of bonds on
7 the authority nor any trustee shall ever have the right in any
8 suit, action, or proceeding at law or in equity to compel a
9 receiver, nor shall any receiver be authorized or any court be
10 empowered to direct the receiver to sell, assign, mortgage, or
11 otherwise dispose of any assets of whatever kind or character
12 belonging to the authority.

13 348.9938 Lease-purchase agreement.--

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

18 (2) Such lease-purchase agreement shall provide for
19 the leasing of the Southwest Florida Transportation System by
20 the authority, as lessor, to the department, as lessee; shall
21 prescribe the term of such lease and the rentals to be paid
22 thereunder; and shall provide that upon the completion of the
23 faithful performance thereunder and the termination of such
24 lease-purchase agreement, title in fee simple absolute to the
25 Southwest Florida Transportation System as then constituted
26 shall be transferred in accordance with law by the authority
27 to the state and the authority shall deliver to the department
28 such deeds and conveyances as shall be necessary or convenient
29 to vest title in fee simple absolute in the state.

30 (3) Such lease-purchase agreement may include such
31 other provisions, agreements, and covenants as the authority

1 and the department deem advisable or required, including, but
2 not limited to, provisions as to the bonds to be issued under,
3 and for the purposes of, this part; the completion, extension,
4 improvement, operation, and maintenance of the Southwest
5 Florida Transportation System and the expenses and the cost of
6 operation of said authority; the charging and collection of
7 tolls, rates, fees, and other charges for the use of the
8 services and facilities thereof; the application of federal or
9 state grants or aid which may be made or given to assist the
10 authority in the completion, extension, improvement,
11 operation, and maintenance of the Southwest Florida
12 Transportation System, which the authority is hereby
13 authorized to accept and apply to such purposes; the
14 enforcement of payment and collection of rentals; and any
15 other terms, provisions, or covenants necessary, incidental,
16 or appurtenant to the making of and full performance under
17 such lease-purchase agreement.

18 (4) The department, as lessee under such
19 lease-purchase agreement, is hereby authorized to pay as
20 rentals thereunder any rates, fees, charges, funds, moneys,
21 receipts, or income accruing to the department from the
22 operation of the Southwest Florida Transportation System and
23 may also pay as rentals any appropriations received by the
24 department pursuant to any act of the Legislature of the state
25 heretofore or hereafter enacted; provided, however, that
26 nothing herein nor in such lease-purchase agreement is
27 intended to nor shall this part or such lease-purchase
28 agreement require the making or continuance of such
29 appropriations, nor shall any holder of bonds issued pursuant
30 to this part ever have any right to compel the making or
31 continuance of such appropriations.

1 (5) Said department shall have power to covenant in
2 any lease-purchase agreement that it will pay all or any part
3 of the cost of the operation, maintenance, repair, renewal,
4 and replacement of said system, and any part of the cost of
5 completing said system to the extent that the proceeds of
6 bonds issued therefor are insufficient, from sources other
7 than the revenues derived from the operation of said system.
8 Said department may also agree to make such other payments
9 from any moneys available to said commission, said county, or
10 said municipality in connection with the construction or
11 completion of said system as shall be deemed by said
12 department to be fair and proper under any such covenants
13 heretofore or hereafter entered into.

14 (6) Said system shall be a part of the state road
15 system and said department is hereby authorized, upon the
16 request of the authority, to expend out of any funds available
17 for the purpose such moneys, and to use such of its
18 engineering and other forces, as may be necessary and
19 desirable in the judgment of said department, for the
20 operation of said authority and for traffic surveys, borings,
21 surveys, preparation of plans and specifications, estimates of
22 cost and other preliminary engineering, and other studies.

23 348.9939 Department may be appointed agent of
24 authority for construction.--The department may be appointed
25 by said authority as its agent for the purpose of constructing
26 improvements and extensions to the Southwest Florida
27 Transportation System and for the completion thereof. In such
28 event, the authority shall provide the department with
29 complete copies of all documents, agreements, resolutions,
30 contracts, and instruments relating thereto and shall request
31 the department to do such construction work including the

1 planning, surveying, and actual construction of the
2 completion, extensions, and improvements to the Southwest
3 Florida Transportation System and shall transfer to the credit
4 of an account of the department in the treasury of the state
5 the necessary funds therefor, and the department shall
6 thereupon be authorized, empowered, and directed to proceed
7 with such construction and to use the said funds for such
8 purpose in the same manner that it is now authorized to use
9 the funds otherwise provided by law for its use in
10 construction of roads and bridges.

11 348.994 Acquisition of lands and property.--

12 (1) For the purposes of this part, the Southwest
13 Florida Expressway Authority may acquire private or public
14 property and property rights, including rights of access, air,
15 view, and light, by gift, devise, purchase, or condemnation by
16 eminent domain proceedings, as the authority may deem
17 necessary for any of the purposes of this part, including, but
18 not limited to, any lands reasonably necessary for securing
19 applicable permits, areas necessary for management of access,
20 borrow pits, drainage ditches, water retention areas, rest
21 areas, replacement access for landowners whose access is
22 impaired due to the construction of a facility, and
23 replacement rights-of-way for relocated rail and utility
24 facilities; for existing, proposed, or anticipated
25 transportation facilities on the Southwest Florida
26 Transportation System or in a transportation corridor
27 designated by the authority. The authority shall also have the
28 power to condemn any material and property necessary for such
29 purposes.

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

1 (3) When the authority acquires property for a
2 transportation facility or in a transportation corridor, it is
3 not subject to any liability imposed by chapter 376 or chapter
4 403 for preexisting soil or groundwater contamination due
5 solely to its ownership. This section does not affect the
6 rights or liabilities of any past or future owners of the
7 acquired property, nor does it affect the liability of any
8 governmental entity for the results of its actions which
9 create or exacerbate a pollution source. The authority and the
10 Department of Environmental Protection may enter into
11 interagency agreements for the performance, funding, and
12 reimbursement of the investigative and remedial acts necessary
13 for property acquired by the authority.

14 348.9941 Cooperation with other units, boards,
15 agencies, and individuals.--Express authority and power is
16 hereby given and granted any county, municipality, drainage
17 district, road and bridge district, school district, or any
18 other political subdivision, board, commission, or individual
19 in, or of, the state to make and enter into with the authority
20 contracts, leases, conveyances, partnerships, or other
21 agreements within the provisions and purposes of this part.
22 The authority is hereby expressly authorized to make and enter
23 into contracts, leases, conveyances, partnerships, and other
24 agreements with any political subdivision, agency, or
25 instrumentality of the state and any and all federal agencies,
26 corporations, and individuals for the purpose of carrying out
27 the provisions of this part.

28 348.9942 Covenant of the state.--The state does hereby
29 pledge to and agrees with any person, firm, corporation, or
30 federal or state agency subscribing to or acquiring the bonds
31 to be issued by the authority for the purposes of this part

1 that the state will not limit or alter the rights hereby
2 vested in the authority and the department until all bonds at
3 any time issued, together with the interest thereon, are fully
4 paid and discharged insofar as the same affects the rights of
5 the holders of bonds issued hereunder. The state does further
6 pledge to and agree with the United States that in the event
7 any federal agency shall construct or contribute any funds for
8 the completion, extension, or improvement of the Southwest
9 Florida Transportation System, or any part or portion thereof,
10 the state will not alter or limit the rights and powers of the
11 authority and the department in any manner which would be
12 inconsistent with the continued maintenance and operation of
13 the Southwest Florida Transportation System or the completion,
14 extension, or improvement thereof or which would be
15 inconsistent with the due performance of any agreements
16 between the authority and any such federal agency, and the
17 authority and the department shall continue to have and may
18 exercise all powers herein granted, so long as the same shall
19 be necessary or desirable for the carrying out of the purposes
20 of this part and the purposes of the United States in the
21 completion, extension, or improvement of the Southwest Florida
22 Transportation System or any part or portion thereof.

23 348.9943 Exemption from taxation.--The effectuation of
24 the authorized purposes of the authority created under this
25 part is, shall, and will be in all respects for the benefit of
26 the people of the state, for the increase of their commerce
27 and prosperity, and for the improvement of their health and
28 living conditions, and since such authority will be performing
29 essential governmental functions in effectuating such
30 purposes, such authority shall not be required to pay any
31 taxes or assessments of any kind or nature whatsoever upon any

1 property acquired or used by it for such purposes, or upon any
2 rates, fees, rentals, receipts, income, or charges at any time
3 received by it, and the bonds issued by the authority, their
4 transfer, and the income therefrom, including any profits made
5 on the sale thereof, shall at all times be free from taxation
6 of any kind by the state, or by any political subdivision,
7 taxing agency, or instrumentality thereof. The exemption
8 granted by this section shall not be applicable to any tax
9 imposed by chapter 220 on interest, income, or profits on debt
10 obligations owned by corporations.

11 348.9944 Eligibility for investments and
12 security.--Any bonds or other obligations issued pursuant to
13 this part shall be and constitute legal investments for banks,
14 savings banks, trustees, executors, administrators, and all
15 other fiduciaries and for all state, municipal, and other
16 public funds and shall also be and constitute securities
17 eligible for deposit as security for all state, municipal, or
18 other public funds, notwithstanding the provisions of any
19 other law or laws to the contrary.

20 348.9945 Pledges enforceable by bondholders.--It is
21 the express intention of this part that any pledge by the
22 department of rates, fees, revenues, or other funds, as
23 rentals, to the authority, or any covenants or agreements
24 relative thereto, may be enforceable in any court of competent
25 jurisdiction against the authority or directly against the
26 department by any holder of bonds issued by the authority.

27 348.9946 This part complete and additional
28 authority.--

29 (1) The powers conferred by this part shall be in
30 addition and supplemental to the existing powers of said board
31 and the department, and this part shall not be construed as

1 repealing any of the provisions of any other law, general,
2 special, or local, but to supersede such other laws in the
3 exercise of the powers provided in this part and to provide a
4 complete method for the exercise of the powers granted in this
5 part. The extension and improvement of said Southwest Florida
6 Transportation System, and the issuance of bonds hereunder to
7 finance all or part of the cost thereof, may be accomplished
8 upon compliance with the provisions of this part without
9 regard to or necessity for compliance with the provisions,
10 limitations, or restrictions contained in any other general,
11 special, or local law, including, but not limited to, s.
12 215.821, and no approval of any bonds issued under this part
13 by the qualified electors or qualified electors who are
14 freeholders in the state or in said Collier County or Lee
15 County, or in any municipality within these two counties, or
16 in any other political subdivision of the state, shall be
17 required for the issuance of such bonds pursuant to this part.

18 (2) This part shall not be deemed to repeal, rescind,
19 or modify any other law or laws relating to said State Board
20 of Administration, said Department of Transportation, or the
21 Division of Bond Finance of the State Board of Administration
22 but shall be deemed to and shall supersede such other law or
23 laws as are inconsistent with the provisions of this part,
24 including, but not limited to, s. 215.821.

25 Section 2. Sunset of the Southwest Florida Expressway
26 Authority's duties and powers.--The powers conferred to the
27 Southwest Florida Expressway Authority and part X of chapter
28 348, Florida Statutes, the statutory establishment of the
29 Southwest Florida Expressway Authority, shall expire 12 years
30 after this act takes effect if the Southwest Florida
31 Expressway Authority has no outstanding indebtedness, no

1 studies underway, no design underway, and no projects under
2 construction and is not operating or maintaining any part of
3 the system it was established to create.

4 Section 3. Notwithstanding the provisions of section
5 338.251, Florida Statutes, there is hereby appropriated for
6 fiscal year 2004-2005 the sum of \$2.5 million to initially
7 fund the Southwest Florida Transportation System.

8 Notwithstanding the provisions of section 338.251, Florida
9 Statutes, all or a portion of this appropriation may be used
10 for administrative and other startup costs of the Southwest
11 Florida Expressway Authority and the system including, but not
12 limited to, the hiring of an executive director, consultants,
13 and staff.

14 Section 4. This act shall take effect upon resolutions
15 in support of this act being passed by both the Lee County
16 Board of County Commissioners and the Collier County Board of
17 County Commissioners, but no sooner than July 1, 2004, in the
18 event the boards pass such resolutions prior to that date;
19 except that, this section shall take effect upon this act
20 becoming a law.

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