

By the Committee on Governmental Oversight and Productivity;
and Senators Saunders and Bennett

302-2530-04

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 encompassing Collier and
13 Lee Counties; providing for a governing body of
14 the authority; providing for membership;
15 establishing a process for Charlotte County to
16 participate in the authority; providing
17 purposes and powers; providing for the
18 Southwest Florida Transportation System;
19 providing for procurement; providing bond
20 financing authority for improvements; providing
21 for bonds of the authority; providing for
22 fiscal agents; providing the State Board of
23 Administration may act as fiscal agent;
24 providing for certain financial agreements;
25 providing for rights and remedies of
26 bondholders; providing for lease-purchase
27 agreement with the Department of
28 Transportation; providing the department may be
29 appointed agent of authority for construction;
30 providing for acquisition of lands and
31 property; providing for cooperation with other

1 units, boards, agencies, and individuals;
2 providing covenant of the state; providing for
3 exemption from taxation; providing for
4 eligibility for investments and security;
5 providing pledges shall be enforceable by
6 bondholders; providing for construction and
7 application; providing for future expiration of
8 the act; providing a contingent effective date.
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10 Be It Enacted by the Legislature of the State of Florida:
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12 Section 1. Part X of chapter 348, Florida Statutes,
13 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
14 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939,
15 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and
16 348.9946, is created to read:

17 Part X

18 Southwest Florida Expressway Authority

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

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

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

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

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

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

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

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

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

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

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

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

29 (11) "Limited access expressway" means a street or
30 highway especially designed for through traffic and over,
31 from, or to which no person shall have the right of easement,

1 use, or access except in accordance with the rules and
2 regulations promulgated and established by the authority for
3 the use of such facility. Such highways or streets may be
4 parkways, from which trucks, buses, and other commercial
5 vehicles shall be excluded, or they may be freeways open to
6 use by all customary forms of street and highway traffic.

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

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

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

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

27 (16) "System" means the Southwest Florida
28 Transportation System.

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1 Words importing singular number include the plural number in
2 each case and vice versa, and words importing persons include
3 firms and corporations.

4 348.9932 Southwest Florida Expressway Authority.--

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

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

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

20 b. One member who is a permanent resident of Collier
21 County shall be appointed by the Board of County Commissioners
22 of Collier County and one member who is a permanent resident
23 of Lee County shall be appointed by the Board of County
24 Commissioners of Lee County, to serve a term of 4 years each.

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

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

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

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

15 (c) The executive director of the Southwest Florida
16 Regional Planning Council shall serve as the seventh voting
17 member.

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

21 (e) Any member of the authority shall be eligible for
22 reappointment.

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

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

6 (4) If an expansion of the project into Charlotte
7 County is warranted and desirable as indicated by the adoption
8 of resolutions in support of the expansion by the authority
9 and by each Board of County Commissioners of Charlotte,
10 Collier, and Lee Counties, the membership of the authority
11 shall be expanded as set forth in this subsection. The
12 authority shall have nine voting members and two nonvoting
13 members. The executive director of the Southwest Florida
14 Regional Planning Council will shift from a voting member to a
15 nonvoting member. Three members from Charlotte County shall be
16 added to the authority and each shall be a voting member. The
17 Charlotte County members shall be selected in the same manner
18 as provided for the appointment of the members from Collier
19 and Lee Counties.

20 (5)(a) The authority may employ an executive director,
21 its own counsel and legal staff, technical experts, engineers,
22 and such employees, permanent or temporary, as it may require;
23 may determine the qualifications and fix the compensation of
24 such persons, firms, or corporations; and may employ a fiscal
25 agent or agents. The authority may delegate to one or more of
26 its agents or employees such of its power as it shall deem
27 necessary to carry out the purposes of this part, subject
28 always to the supervision and control of the authority.
29 Members of the authority may be removed from office by the
30 Governor for misconduct, malfeasance, misfeasance, or
31 nonfeasance in office.

1 (b) Members of the authority shall be entitled to
2 receive from the authority their travel and other necessary
3 expenses incurred in connection with the business of the
4 authority as provided in s. 112.061, but they shall draw no
5 salaries or other compensation.

6 348.9933 Purposes and powers.--

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

13 (b) It is the express intention of this part that said
14 authority, in the construction of said Southwest Florida
15 Transportation System, within the geographic boundaries of
16 Collier and Lee Counties, is limited to the pursuit of tolled
17 expressway lanes on Interstate Highway 75 within these
18 counties. Further, the authority shall be authorized to
19 construct any extensions, additions, or improvements to said
20 system or appurtenant facilities, including all necessary
21 approaches, roads, bridges, and avenues of access, with such
22 changes, modifications, or revisions of said project as shall
23 be deemed desirable and proper with the concurrence of the
24 respective county commissions. The responsibilities of the
25 authority will not be expanded to cover any other projects
26 beyond Interstate 75 toll lanes and appurtenant facilities
27 unless resolutions in support of such expansion or other
28 project are adopted by the Boards of County Commissioners of
29 Lee and Collier Counties.

30 (2) The authority is hereby granted and shall have and
31 may exercise all powers necessary, appurtenant, convenient, or

1 incidental to the carrying out of the aforesaid purposes,
2 including, but not limited to, the following rights and
3 powers:

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

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

7 (c) To acquire by donation or otherwise, purchase,
8 hold, lease as lessee, and use any franchise or property,
9 real, personal, or mixed, tangible or intangible, or any
10 options thereof in its own name or in conjunction with others,
11 or interest therein, necessary or desirable for carrying out
12 the purposes of the authority, and to sell, lease as lessor,
13 transfer, and dispose of any property or interest therein at
14 any time acquired by it.

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

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

23 (f) To fix, alter, charge, establish, and collect
24 rates, fees, rentals, and other charges for the services and
25 facilities of the Southwest Florida Transportation System,
26 which rates, fees, rentals, and other charges shall always be
27 sufficient to comply with any covenants made with the holders
28 of any bonds issued pursuant to this part; provided, however,
29 that such right and power may be assigned or delegated, by the
30 authority, to the department.

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1 (g) To borrow money and make and issue negotiable
2 notes, bonds, refunding bonds, and other evidences of
3 indebtedness or obligations, either in temporary or definitive
4 form, hereinafter in this part sometimes called "bonds" of the
5 authority, for the purpose of financing all or part of the
6 improvement or extension of the Southwest Florida
7 Transportation System and appurtenant facilities, including
8 all approaches, streets, roads, bridges, and avenues of access
9 for said Southwest Florida Transportation System, and for any
10 other purpose authorized by this part; to secure the payment
11 of such bonds or any part thereof by a pledge of any or all of
12 its revenues, rates, fees, rentals, or other charges; and in
13 general to provide for the security of said bonds and the
14 rights and remedies of the holders thereof. The authority may
15 enter into an agreement between the authority and one or more
16 counties for the pledge of county gasoline tax funds, county
17 sales tax, or other county revenues to secure any bonds issued
18 for an authority project as authorized hereunder. In the event
19 the authority shall determine to fund or refund any bonds
20 theretofore issued by said authority, prior to the maturity
21 thereof, the proceeds of such funding or refunding bonds
22 shall, pending the prior redemption of the bonds to be funded
23 or refunded, be invested in direct obligations of the United
24 States, and it is the express intention of this part that such
25 outstanding bonds may be funded or refunded by the issuance of
26 bonds pursuant to this part.

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

1 (i) Without limitation of the foregoing, to borrow
2 money and accept grants from, and to enter into contracts,
3 leases, or other transactions with, any federal agency, the
4 state, any agency of the state, Collier County, Lee County,
5 and any city within these two counties or with any other
6 public body of the state.

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

9 (k) To pledge, hypothecate, or otherwise encumber all
10 or any part of the revenues, rates, fees, rentals, or other
11 charges or receipts of the authority as security for all or
12 any of the obligations of the authority.

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

17 (m) With the consent of the county within whose
18 jurisdiction the following activities occur, to construct,
19 operate, and maintain roads, bridges, avenues of access,
20 thoroughfares, and boulevards outside the jurisdictional
21 boundaries of Collier and Lee Counties, together with the
22 right to construct, repair, replace, operate, install, and
23 maintain toll payment systems thereon, with all necessary and
24 incidental powers to accomplish the foregoing.

25 (3) The authority shall have no power at any time or
26 in any manner to pledge the credit or taxing power of the
27 state or any political subdivision or agency thereof,
28 including Collier and Lee Counties or any city within these
29 counties, nor shall any of the authority's obligations be
30 deemed to be obligations of the state or of any political
31 subdivision or agency thereof, nor shall the state or any

1 political subdivision or agency thereof, except the authority,
2 be liable for the payment of the principal of or interest on
3 such obligations unless agreed to by such entity.

4 348.9934 Procurement.--The authority is authorized to
5 procure commodities and the services of a qualified person or
6 entity to design, build, finance, operate, maintain, and
7 implement the Southwest Florida Transportation System,
8 including the use of a DBOM or DBOMF method using a request
9 for proposal, a request for qualifications, or an invitation
10 to negotiate.

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

23 348.9936 Bonds of the authority.--

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

26 (b) Alternatively, the authority may issue its own
27 bonds pursuant to this part at such times and in such
28 principal amount as, in the opinion of the authority, is
29 necessary to provide sufficient moneys for achieving its
30 purposes; however, such bonds may not pledge the full faith
31 and credit of the state. Bonds issued by the authority

1 pursuant to this paragraph or paragraph (a), whether on
2 original issuance or on refunding, shall be authorized by
3 resolution of the members thereof and may be either term or
4 serial bonds and shall bear such date or dates, mature at such
5 time or times, bear interest at such rate or rates, payable
6 semiannually, be in such denominations, be in such form,
7 either coupon or fully registered, carry such registration,
8 exchangeability, and interchangeability privileges, be payable
9 in such medium of payment and at such place or places, be
10 subject to such terms of redemption, and be entitled to such
11 priorities on the revenues, rates, fees, rentals, or other
12 charges or receipts of the authority, including any other
13 funds received by the authority pursuant to the terms of any
14 lease-purchase agreement between the authority and the
15 department, as such resolution or any resolution subsequent
16 thereto may provide. The bonds shall be executed either by
17 manual or facsimile signature by such officers as the
18 authority shall determine, provided that such bonds shall bear
19 at least one signature which is manually executed thereon, and
20 the coupons attached to such bonds shall bear the facsimile
21 signature or signatures of such officer or officers as shall
22 be designated by the authority and shall have the seal of the
23 authority affixed, imprinted, reproduced, or lithographed
24 thereon, all as may be prescribed in such resolution or
25 resolutions.

26 (c) Bonds issued pursuant to paragraph (a) or
27 paragraph (b) shall be sold at public sale in the same manner
28 provided by the State Bond Act. However, if the authority
29 shall, by official action at a public meeting, determine that
30 a negotiated sale of such bonds is in the best interest of the
31 authority, the authority may negotiate the sale of such bonds

1 with the underwriter or underwriters designated by the
2 authority and the Division of Bond Finance of the State Board
3 of Administration with respect to bonds issued pursuant to
4 paragraph (a) or solely the authority with respect to bonds
5 issued pursuant to paragraph (b). The authority's
6 determination to negotiate the sale of such bonds may be
7 based, in part, upon the written advice of the authority's
8 financial adviser. Pending the preparation of definitive
9 bonds, interim certificates may be issued to the purchaser or
10 purchasers of such bonds and may contain such terms and
11 conditions as the authority may determine.

12 (d) The authority may issue bonds pursuant to
13 paragraph (b) to refund any bonds previously issued regardless
14 of whether the bonds being refunded were issued by the
15 authority pursuant to this part or on behalf of the authority
16 pursuant to the State Bond Act.

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

20 (a) The pledging of all or any part of the revenues,
21 rates, fees, rentals, or other charges or receipts of the
22 authority, derived by the authority, from the Southwest
23 Florida Transportation System.

24 (b) The completion, improvement, operation, extension,
25 maintenance, repair, lease, or lease-purchase agreement of
26 said system and the duties of the authority and others,
27 including the department, with reference thereto.

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

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1 (d) The fixing, charging, establishing, and collecting
2 of rates, fees, rentals, or other charges for use of the
3 services and facilities of the Southwest Florida
4 Transportation System or any part thereof.

5 (e) The setting aside of reserves or sinking funds or
6 repair and replacement funds and the regulation and
7 disposition thereof.

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

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

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

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

3 (a) The completion, improvement, operation, extension,
4 maintenance, repair, and lease of, or lease-purchase agreement
5 relating to, the Southwest Florida Transportation System and
6 the duties of the authority and others, including the
7 department, with reference thereto.

8 (b) The application of funds and the safeguarding of
9 funds on hand or on deposit.

10 (c) The rights and remedies of the trustee and the
11 holders of the bonds.

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

14 (4) Any of the bonds issued pursuant to this part are,
15 and are hereby declared to be, negotiable instruments and
16 shall have all the qualities and incidents of negotiable
17 instruments under the law merchant and the negotiable
18 instruments law of the state.

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

25 348.9937 Remedies of the bondholders.--

26 (1) The rights and the remedies herein conferred upon
27 or granted to the bondholders shall be in addition to and not
28 in limitation of any rights and remedies lawfully granted to
29 such bondholders by the resolution or resolutions providing
30 for the issuance of bonds, or by a lease-purchase agreement,
31 deed of trust, indenture, or other agreement under which the

1 bonds may be issued or secured. In the event that the
2 authority shall default in the payment of the principal of or
3 interest on any of the bonds issued pursuant to the provisions
4 of this part after such principal of or interest on said bonds
5 shall have become due, whether at maturity or upon call for
6 redemption, or the department shall default in any payments
7 under, or covenants made in, any lease-purchase agreement
8 between the authority and the department, and such default
9 shall continue for a period of 30 days, or in the event that
10 the authority or the department shall fail or refuse to comply
11 with the provisions of this part or any agreement made with,
12 or for the benefit of, the holders of the bonds, the holders
13 of 25 percent in aggregate principal amount of the bonds then
14 outstanding shall be entitled as of right to the appointment
15 of a trustee to represent such bondholders for the purposes
16 hereof; provided, however, that such holders of 25 percent in
17 aggregate principal amount of the bonds then outstanding shall
18 have first given notice of their intention to appoint a
19 trustee, to the authority and to the department. Such notice
20 shall be deemed to have been given if given in writing,
21 deposited in a securely sealed postpaid wrapper, mailed at a
22 regularly maintained United States post office box or station,
23 and addressed, respectively, to the chair of the authority and
24 to the secretary of the Department of Transportation at the
25 principal office of the department.

26 (2) Such trustee, and any trustee under any deed of
27 trust, indenture, or other agreement, may, and upon written
28 request of the holders of 25 percent, or such other
29 percentages as may be specified in any deed of trust,
30 indenture, or other agreement aforesaid, in principal amount
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1 of the bonds then outstanding, shall, in any court of
2 competent jurisdiction, in his, her, or its own name:

3 (a) By mandamus or other suit, action, or proceeding
4 at law or in equity, enforce all rights of the bondholders,
5 including the right to require the authority to fix,
6 establish, maintain, collect, and charge rates, fees, rentals,
7 and other charges, adequate to carry out any agreement as to,
8 or pledge of, the revenues or receipts of the authority to
9 carry out any other covenants and agreements with or for the
10 benefit of the bondholders, and to perform its and their
11 duties under this part.

12 (b) By mandamus or other suit, action, or proceeding
13 at law or in equity, enforce all rights of the bondholders
14 under or pursuant to any lease-purchase agreement between the
15 authority and the department, including the right to require
16 the department to make all rental payments required to be made
17 by it under the provisions of any such lease-purchase
18 agreement, and to require the department to carry out any
19 other covenants and agreements with or for the benefit of the
20 bondholders, and to perform its and their duties under this
21 part.

22 (c) Bring suit upon the bonds.

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

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

29 (3) Any trustee, when appointed as aforesaid or acting
30 under a deed of trust, indenture, or other agreement, and
31 whether or not all bonds have been declared due and payable,

1 shall be entitled as of right to the appointment of a
2 receiver, who may enter upon and take possession of the
3 Southwest Florida Transportation System or the facilities or
4 any part or parts thereof, the rates, fees, rentals, or other
5 revenues, charges, or receipts from which are, or may be,
6 applicable to the payment of the bonds so in default, and
7 subject to and in compliance with the provisions of any
8 lease-purchase agreement between the authority and the
9 department operate and maintain the same, for and on behalf of
10 and in the name of, the authority, the department, and the
11 bondholders, and collect and receive all rates, fees, rentals,
12 and other charges or receipts or revenues arising therefrom in
13 the same manner as the authority or the department might do,
14 and shall deposit all such moneys in a separate account and
15 apply the same in such manner as the court shall direct. In
16 any suit, action, or proceeding by the trustee, the fees,
17 counsel fees, and expenses of the trustee, and said receiver,
18 if any, and all costs and disbursements allowed by the court
19 shall be a first charge on any rates, fees, rentals, or other
20 charges, revenues, or receipts derived from the Southwest
21 Florida Transportation System, or the facilities or services
22 or any part or parts thereof, including payments under any
23 such lease-purchase agreement as aforesaid which said rates,
24 fees, rentals, or other charges, revenues, or receipts shall
25 or may be applicable to the payment of the bonds so in
26 default. Such trustee shall, in addition to the foregoing,
27 have and possess all of the powers necessary or appropriate
28 for the exercise of any functions specifically set forth
29 herein or incident to the representation of the bondholders in
30 the enforcement and protection of their rights.
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1 (4) Nothing in this section or any other section of
2 this part shall authorize any receiver appointed pursuant
3 hereto for the purpose, subject to and in compliance with the
4 provisions of any lease-purchase agreement between the
5 authority and the department, of operating and maintaining the
6 Southwest Florida Transportation System or any facilities or
7 part or parts thereof to sell, assign, mortgage, or otherwise
8 dispose of any of the assets of whatever kind and character
9 belonging to the authority. It is the intention of this part
10 to limit the powers of such receiver, subject to and in
11 compliance with the provisions of any lease-purchase agreement
12 between the authority and the department, to the operation and
13 maintenance of the Southwest Florida Transportation System, or
14 any facility or part or parts thereof, as the court may
15 direct, in the name and for and on behalf of the authority,
16 the department, and the bondholders, and no holder of bonds on
17 the authority nor any trustee shall ever have the right in any
18 suit, action, or proceeding at law or in equity to compel a
19 receiver, nor shall any receiver be authorized or any court be
20 empowered to direct the receiver to sell, assign, mortgage, or
21 otherwise dispose of any assets of whatever kind or character
22 belonging to the authority.

23 348.9938 Lease-purchase agreement.--

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

28 (2) Such lease-purchase agreement shall provide for
29 the leasing of the Southwest Florida Transportation System by
30 the authority, as lessor, to the department, as lessee; shall
31 prescribe the term of such lease and the rentals to be paid

1 thereunder; and shall provide that upon the completion of the
2 faithful performance thereunder and the termination of such
3 lease-purchase agreement, title in fee simple absolute to the
4 Southwest Florida Transportation System as then constituted
5 shall be transferred in accordance with law by the authority
6 to the state and the authority shall deliver to the department
7 such deeds and conveyances as shall be necessary or convenient
8 to vest title in fee simple absolute in the state.

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

28 (4) The department, as lessee under such
29 lease-purchase agreement, is hereby authorized to pay as
30 rentals thereunder any rates, fees, charges, funds, moneys,
31 receipts, or income accruing to the department from the

1 operation of the Southwest Florida Transportation System and
2 may also pay as rentals any appropriations received by the
3 department pursuant to any act of the Legislature of the state
4 heretofore or hereafter enacted; provided, however, that
5 nothing herein nor in such lease- purchase agreement is
6 intended to nor shall this part or such lease-purchase
7 agreement require the making or continuance of such
8 appropriations, nor shall any holder of bonds issued pursuant
9 to this part ever have any right to compel the making or
10 continuance of such appropriations.

11 (5) Said department shall have power to covenant in
12 any lease-purchase agreement that it will pay all or any part
13 of the cost of the operation, maintenance, repair, renewal,
14 and replacement of said system, and any part of the cost of
15 completing said system to the extent that the proceeds of
16 bonds issued therefor are insufficient, from sources other
17 than the revenues derived from the operation of said system.
18 Said department may also agree to make such other payments
19 from any moneys available to said commission, said county, or
20 said city in connection with the construction or completion of
21 said system as shall be deemed by said department to be fair
22 and proper under any such covenants heretofore or hereafter
23 entered into.

24 (6) Said system shall be a part of the state road
25 system and said department is hereby authorized, upon the
26 request of the authority, to expend out of any funds available
27 for the purpose such moneys, and to use such of its
28 engineering and other forces, as may be necessary and
29 desirable in the judgment of said department, for the
30 operation of said authority and for traffic surveys, borings,
31

1 surveys, preparation of plans and specifications, estimates of
2 cost and other preliminary engineering, and other studies.

3 348.9939 Department may be appointed agent of
4 authority for construction.--The department may be appointed
5 by said authority as its agent for the purpose of constructing
6 improvements and extensions to the Southwest Florida
7 Transportation System and for the completion thereof. In such
8 event, the authority shall provide the department with
9 complete copies of all documents, agreements, resolutions,
10 contracts, and instruments relating thereto and shall request
11 the department to do such construction work including the
12 planning, surveying, and actual construction of the
13 completion, extensions, and improvements to the Southwest
14 Florida Transportation System and shall transfer to the credit
15 of an account of the department in the treasury of the state
16 the necessary funds therefor, and the department shall
17 thereupon be authorized, empowered, and directed to proceed
18 with such construction and to use the said funds for such
19 purpose in the same manner that it is now authorized to use
20 the funds otherwise provided by law for its use in
21 construction of roads and bridges.

22 348.994 Acquisition of lands and property.--

23 (1) For the purposes of this part, the Southwest
24 Florida Expressway Authority may acquire private or public
25 property and property rights, including rights of access, air,
26 view, and light, by gift, devise, purchase, or condemnation by
27 eminent domain proceedings, as the authority may deem
28 necessary for any of the purposes of this part, including, but
29 not limited to, any lands reasonably necessary for securing
30 applicable permits, areas necessary for management of access,
31 borrow pits, drainage ditches, water retention areas, rest

1 areas, replacement access for landowners whose access is
2 impaired due to the construction of a facility, and
3 replacement rights-of-way for relocated rail and utility
4 facilities; for existing, proposed, or anticipated
5 transportation facilities on the Southwest Florida
6 Transportation System or in a transportation corridor
7 designated by the authority. The authority shall also have the
8 power to condemn any material and property necessary for such
9 purposes.

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

12 (3) When the authority acquires property for a
13 transportation facility or in a transportation corridor, it is
14 not subject to any liability imposed by chapter 376 or chapter
15 403 for preexisting soil or groundwater contamination due
16 solely to its ownership. This section does not affect the
17 rights or liabilities of any past or future owners of the
18 acquired property, nor does it affect the liability of any
19 governmental entity for the results of its actions which
20 create or exacerbate a pollution source. The authority and the
21 Department of Environmental Protection may enter into
22 interagency agreements for the performance, funding, and
23 reimbursement of the investigative and remedial acts necessary
24 for property acquired by the authority.

25 348.9941 Cooperation with other units, boards,
26 agencies, and individuals.--Express authority and power is
27 hereby given and granted any county, municipality, drainage
28 district, road and bridge district, school district, or any
29 other political subdivision, board, commission, or individual
30 in, or of, the state to make and enter into with the authority
31 contracts, leases, conveyances, partnerships, or other

1 agreements within the provisions and purposes of this part.
2 The authority is hereby expressly authorized to make and enter
3 into contracts, leases, conveyances, partnerships, and other
4 agreements with any political subdivision, agency, or
5 instrumentality of the state and any and all federal agencies,
6 corporations, and individuals for the purpose of carrying out
7 the provisions of this part.

8 348.9942 Covenant of the state.--The state does hereby
9 pledge to and agrees with any person, firm, corporation, or
10 federal or state agency subscribing to or acquiring the bonds
11 to be issued by the authority for the purposes of this part
12 that the state will not limit or alter the rights hereby
13 vested in the authority and the department until all bonds at
14 any time issued, together with the interest thereon, are fully
15 paid and discharged insofar as the same affects the rights of
16 the holders of bonds issued hereunder. The state does further
17 pledge to and agree with the United States that in the event
18 any federal agency shall construct or contribute any funds for
19 the completion, extension, or improvement of the Southwest
20 Florida Transportation System, or any part or portion thereof,
21 the state will not alter or limit the rights and powers of the
22 authority and the department in any manner which would be
23 inconsistent with the continued maintenance and operation of
24 the Southwest Florida Transportation System or the completion,
25 extension, or improvement thereof or which would be
26 inconsistent with the due performance of any agreements
27 between the authority and any such federal agency, and the
28 authority and the department shall continue to have and may
29 exercise all powers herein granted, so long as the same shall
30 be necessary or desirable for the carrying out of the purposes
31 of this part and the purposes of the United States in the

1 completion, extension, or improvement of the Southwest Florida
2 Transportation System or any part or portion thereof.

3 348.9943 Exemption from taxation.--The effectuation of
4 the authorized purposes of the authority created under this
5 part is, shall, and will be in all respects for the benefit of
6 the people of the state, for the increase of their commerce
7 and prosperity, and for the improvement of their health and
8 living conditions, and since such authority will be performing
9 essential governmental functions in effectuating such
10 purposes, such authority shall not be required to pay any
11 taxes or assessments of any kind or nature whatsoever upon any
12 property acquired or used by it for such purposes, or upon any
13 rates, fees, rentals, receipts, income, or charges at any time
14 received by it, and the bonds issued by the authority, their
15 transfer, and the income therefrom, including any profits made
16 on the sale thereof, shall at all times be free from taxation
17 of any kind by the state, or by any political subdivision,
18 taxing agency, or instrumentality thereof. The exemption
19 granted by this section shall not be applicable to any tax
20 imposed by chapter 220 on interest, income, or profits on debt
21 obligations owned by corporations.

22 348.9944 Eligibility for investments and
23 security.--Any bonds or other obligations issued pursuant to
24 this part shall be and constitute legal investments for banks,
25 savings banks, trustees, executors, administrators, and all
26 other fiduciaries and for all state, municipal, and other
27 public funds and shall also be and constitute securities
28 eligible for deposit as security for all state, municipal, or
29 other public funds, notwithstanding the provisions of any
30 other law or laws to the contrary.

31

1 348.9945 Pledges enforceable by bondholders.--It is
2 the express intention of this part that any pledge by the
3 department of rates, fees, revenues, or other funds, as
4 rentals, to the authority, or any covenants or agreements
5 relative thereto, may be enforceable in any court of competent
6 jurisdiction against the authority or directly against the
7 department by any holder of bonds issued by the authority.

8 348.9946 This part complete and additional
9 authority.--

10 (1) The powers conferred by this part shall be in
11 addition and supplemental to the existing powers of said
12 authority and the department, and this part shall not be
13 construed as repealing any of the provisions of any other law,
14 general, special, or local, but to supersede such other laws
15 in the exercise of the powers provided in this part and to
16 provide a complete method for the exercise of the powers
17 granted in this part. The extension and improvement of said
18 Southwest Florida Transportation System, and the issuance of
19 bonds hereunder to finance all or part of the cost thereof,
20 may be accomplished upon compliance with the provisions of
21 this part without regard to or necessity for compliance with
22 the provisions, limitations, or restrictions contained in any
23 other general, special, or local law, including, but not
24 limited to, s. 215.821, and no approval of any bonds issued
25 under this part by the qualified electors or qualified
26 electors who are freeholders in the state or in said Collier
27 County or Lee County, or in any city within these two
28 counties, or in any other political subdivision of the state,
29 shall be required for the issuance of such bonds pursuant to
30 this part.

