

By Senator Saunders

37-58A-05

1 A bill to be entitled
2 An act relating to Southwest Florida
3 transportation; creating pt. X of ch. 348,
4 F.S., titled the "Southwest Florida Expressway
5 Authority"; providing a short title; providing
6 definitions; creating the Southwest Florida
7 Expressway Authority encompassing Collier and
8 Lee Counties; providing for a governing body of
9 the authority; providing for membership;
10 establishing a process for Charlotte County to
11 participate in the authority; providing
12 purposes and powers; providing for the
13 Southwest Florida Transportation System;
14 requiring the approval of specified county
15 commissions before approval of a project within
16 the geographical boundaries of those counties;
17 providing for procurement; providing bond
18 financing authority for projects; providing for
19 bonds of the authority; providing for fiscal
20 agents; providing the State Board of
21 Administration may act as fiscal agent;
22 providing for certain financial agreements;
23 providing for lease-purchase agreement with the
24 Department of Transportation; providing that
25 the department may be appointed agent of
26 authority for construction; providing for
27 acquisition of lands and property; providing
28 for cooperation with other units, boards,
29 agencies, and individuals; providing covenant
30 of the state; providing for exemption from
31 taxation; providing for eligibility for

1 investments and security; providing pledges
2 shall be enforceable by bondholders; providing
3 for construction and application; providing for
4 future expiration of the act; providing a
5 contingent effective date.
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7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Part X of chapter 348, Florida Statutes,
10 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
11 348.9934, 348.9935, 348.9936, 348.9937, 348.9938, 348.9939,
12 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, and
13 348.9946, is created to read:

14 Part X

15 Southwest Florida Expressway Authority

16 348.993 Short title.--This part may be cited as the
17 "Southwest Florida Expressway Authority Law."

18 348.9931 Definitions.--As used in this part, the term:

19 (1) "Agency of the state" means and includes the state
20 and any department of, or corporation, agency, or
21 instrumentality heretofore or hereafter created, designated,
22 or established by, the state.

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

25 (3) "Bonds" means and includes the notes, bonds,
26 refunding bonds, or other evidences of indebtedness or
27 obligations, in either temporary or definitive form, which the
28 authority is authorized to issue under this part.

29 (4) "County" means the counties of Collier and Lee.

30 (5) "DBOM contract" means the document and all
31 concomitant rights approved by the authority providing the

1 selected person or entity the exclusive right to design,
2 build, operate, and maintain the Southwest Florida
3 Transportation System.

4 (6) "DBOMF 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, maintain, and finance all or a portion of the
8 Southwest Florida Transportation System.

9 (7) "Department" means the Department of
10 Transportation.

11 (8) "Expressway" means the same as limited access
12 expressway.

13 (9) "Federal agency" means and includes the United
14 States, the President of the United States, or any department
15 of, or corporation, agency, or instrumentality heretofore or
16 hereafter created, designated, or established by, the United
17 States.

18 (10) "Lease-purchase agreement" means the
19 lease-purchase agreements that the authority is authorized
20 under this part to enter into with the Department of
21 Transportation.

22 (11) "Limited access expressway" means a street or
23 highway especially designed for through traffic and over,
24 from, or to which no person shall have the right of easement,
25 use, or access except in accordance with the rules adopted by
26 the authority for the use of such facility. Such highways or
27 streets may be parkways, from which trucks, buses, and other
28 commercial vehicles shall be excluded, or they may be freeways
29 open to use by all customary forms of street and highway
30 traffic.

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1 (12) "Members" means the governing body of the
2 authority, and the term "member" means one of the individuals
3 constituting such governing body.

4 (13) "Proposed project" means a proposition to
5 construct a facility that is in the long-range transportation
6 plan of Lee County or Collier County, or in both plans if the
7 facility is to be located in both counties, and that will, if
8 constructed, become part of the Southwest Florida
9 Transportation System. The term excludes any facility that
10 lacks identifying information specifying its general corridor,
11 alignment, and limits.

12 (14) "Southwest Florida Transportation System" means
13 all new expressways and additional lanes on Interstate Highway
14 75 in Lee and Collier Counties which are tolled as express
15 lanes and appurtenant transportation facilities, including,
16 but not limited to, all necessary approaches, roads, bridges,
17 and avenues of access for the expressway or expressways,
18 whether tolled or nontolled, or any other facility the
19 authority determines or designates.

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

23 (16) "System" means the Southwest Florida
24 Transportation System.

25 348.9932 Southwest Florida Expressway Authority.--

26 (1) There is created and established a body politic
27 and corporate, an agency of the state, encompassing Collier
28 and Lee Counties, to be known as the Southwest Florida
29 Expressway Authority.

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

4 (a)1.a. One member who is a permanent resident of
5 Collier County and one member who is a permanent resident of
6 Lee County shall be appointed by the Governor to serve a term
7 of 4 years each. The board of commissioners for each county
8 shall provide the Governor with a list of five candidates
9 recommended from their respective county. The Governor shall
10 select appointees from the lists provided by the boards.

11 b. One member who is a permanent resident of Collier
12 County shall be appointed by the Board of Commissioners of
13 Collier County and one member who is a permanent resident of
14 Lee County shall be appointed by the Board of Commissioners of
15 Lee County, to serve a term of 4 years each.

16 2. Each member appointed under this paragraph shall be
17 a person of outstanding reputation for integrity,
18 responsibility, and business ability and shall have an
19 interest in ground transportation. An elected official or a
20 person who is an employee in any capacity of Collier County or
21 Lee County or of any municipality within Collier County or Lee
22 County may not be an appointed member of the authority except
23 as set forth in this section.

24 3. Each member appointed under this paragraph must be
25 a resident of his or her respective county during his or her
26 entire term.

27 4. Each member appointed under this paragraph shall be
28 a voting member and shall hold office until a qualified
29 successor has been appointed. A vacancy shall be filled only
30 for the remainder of the unexpired term.

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1 (b) One member of the Board of Commissioners of
2 Collier County and one member of the Board of Commissioners of
3 Lee County shall be selected by the respective county
4 commission to serve as a voting member for a term of 2 years
5 each. Each commissioner selected must be a member of the
6 county commission for the full extent of his or her term on
7 the authority.

8 (c) The executive director of the Southwest Florida
9 Regional Planning Council shall serve as the seventh voting
10 member.

11 (d) The district secretary of the Department of
12 Transportation for the district that contains Collier County
13 and Lee County shall serve as a nonvoting member.

14
15 Any member of the authority may be reappointed. The Governor
16 may remove authority members from office for misconduct,
17 malfeasance, misfeasance, or nonfeasance in office.

18 (3)(a) The authority shall elect one of its members as
19 chair. The authority shall also elect a secretary and a
20 treasurer who may or may not be members of the authority. The
21 chair, secretary, and treasurer shall hold such offices at the
22 will of the authority. Four members of the authority shall
23 constitute a quorum, and the authority may act only by a vote
24 of the majority of voting members present at a meeting at
25 which a quorum is present. A vacancy on the authority does not
26 impair the right of a quorum of the authority to exercise all
27 of the rights and perform all of the duties of the authority.

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

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

16 (5)(a) The authority may employ an executive director,
17 its own counsel and legal staff, technical experts, engineers,
18 and such employees, permanent or temporary, as it may require;
19 may determine the qualifications and fix the compensation of
20 the persons or entities it employs; and may appoint a fiscal
21 agent or agents. The authority may delegate to one or more of
22 its agents or employees such of its power as it deems
23 necessary to carry out the purposes of this part, subject to
24 the supervision and control of the authority.

25 (b) Members of the authority are entitled to receive
26 from the authority their travel and other necessary expenses
27 incurred in connection with the business of the authority as
28 provided in s. 112.061, but they may not draw salaries or
29 other compensation from the authority.

30 348.9933 Purposes and powers.--
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1 (1)(a) The authority created and established by this
2 part may acquire, hold, construct, improve, maintain, operate,
3 own, and lease, in the capacity of lessor, the Southwest
4 Florida Transportation System unless precluded by state or
5 federal law. This part does not preclude the department from
6 acquiring, holding, constructing, improving, maintaining,
7 operating, or owning the tolled lanes on Interstate 75 or
8 nontolled facilities that may be part of the Southwest Florida
9 Transportation System and that are part of the State Highway
10 System.

11 (b) The authority, in constructing the Southwest
12 Florida Transportation System in Collier and Lee Counties, may
13 pursue only additional lanes on Interstate Highway 75 which
14 are tolled as express lanes. The authority may construct
15 projects that extend, add to, or improve the system with such
16 changes, modifications, or revisions as it deems desirable and
17 proper with the concurrence of the respective county
18 commissions and the department if the project is to be part of
19 the State Highway System. The authority may undertake a
20 transportation project other than Interstate 75 toll lanes and
21 appurtenant facilities if the boards of county commissioners
22 of Lee and Collier Counties and any other governing body
23 having jurisdiction over the road system wherein that project
24 lies each adopt a resolution supporting such expansion of the
25 authority's powers and responsibilities.

26 (2) The authority may exercise all powers necessary,
27 appurtenant, convenient, or incidental to carrying out the
28 purposes of this part, including, but not limited to, the
29 following:

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

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

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

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

13 (e) To enter into lease-purchase agreements with the
14 department for terms the authority deems necessary so long as
15 each such agreement ensures that any bonds secured by a pledge
16 of rentals from those bonds, and any refundings of such bonds,
17 are fully paid as to both principal and interest.

18 (f) To fix, alter, charge, establish, and collect
19 rates, fees, rentals, and other charges for the services and
20 facilities of the Southwest Florida Transportation System,
21 which rates, fees, rentals, and other charges must be
22 sufficient to comply with any covenants made with the holders
23 of any bonds issued under this part; however, the authority
24 may assign or delegate these powers to the department.

25 (g) To borrow money and make and issue negotiable
26 notes, bonds, refunding bonds, and other evidences of
27 indebtedness or obligations, either in temporary or definitive
28 form, for the purpose of financing all or part of the
29 improvement or extension of the Southwest Florida
30 Transportation System and for any other purpose authorized by
31 this part; to secure the payment of such bonds or any part

1 thereof by a pledge of any or all of its revenues, rates,
2 fees, rentals, or other charges; and in general to provide for
3 the security of said bonds and the rights and remedies of
4 their holders. The authority may enter into an agreement with
5 one or more counties whereby county gasoline tax funds, county
6 sales tax, or other county revenues are pledged to secure any
7 bonds issued for an authority project authorized under this
8 part. If the authority decides to fund or refund any bond it
9 previously issued before that bond reaches maturity, the
10 proceeds of any such funding or refunding bond must, pending
11 the prior redemption of the bond to be funded or refunded, be
12 invested in direct obligations of the United States, and the
13 Legislature expressly intends that such outstanding bonds may
14 be funded or refunded by issuing bonds under this part.

15 (h) To make any contract, including, but not limited
16 to, partnerships providing for participation in ownership and
17 revenues, and to execute all instruments necessary or
18 convenient for carrying on its business.

19 (i) Without limitation of the foregoing, to borrow
20 money and accept grants from, or to enter into contracts,
21 leases, or other transactions with, any federal agency, the
22 state, any agency of the state, Collier County, Lee County,
23 and any municipality within these two counties or with any
24 other public body of the state.

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

27 (k) To pledge, hypothecate, or otherwise encumber all
28 or any part of the revenues, rates, fees, rentals, or other
29 charges or receipts of the authority as security for all or
30 any of the obligations of the authority.

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

5 (m) With the consent of the county within whose
6 jurisdiction the following activities occur, to construct,
7 operate, and maintain roads, bridges, avenues of access,
8 thoroughfares, and boulevards outside the jurisdictional
9 boundaries of Collier and Lee Counties; to construct, repair,
10 replace, operate, install, and maintain toll payment systems
11 for such facilities; and to exercise all necessary and
12 incidental powers to accomplish the foregoing activities.

13 (3) The authority may not pledge the credit or taxing
14 power of the state or any political subdivision or agency of
15 the state, including Collier and Lee Counties or any
16 municipality within these counties. The obligations of the
17 authority, including the authority's liability for payment of
18 the principal and interest on bonds issued under this part,
19 may not be deemed an obligation of the state or of any other
20 political subdivision or agency of the state, unless the
21 state, or such other political subdivision, agrees to assume
22 any such obligation of the authority.

23 (4) Notwithstanding the powers conferred by this part,
24 the authority may not proceed with a proposed project that is
25 to be located in Lee County or Collier County, or with the
26 preliminary design and environmental study for such a project,
27 until each board of county commissioners having jurisdiction
28 where each portion of the proposed project is to be located
29 approves, by majority vote of commissioners present at a
30 meeting where there is a quorum, the proposed project.

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

3 348.9934 Procurement.--The authority may procure
4 commodities and the services of a qualified person or entity
5 to design, build, finance, operate, maintain, and implement
6 the Southwest Florida Transportation System, including the use
7 of a DBOM or DBOMF contract method that employs a request for
8 proposal, a request for qualifications, or an invitation to
9 negotiate.

10 348.9935 Bond financing authority for
11 improvements.--Pursuant to s. 11(f), Art. VII of the State
12 Constitution, the Legislature approves for bond financing by
13 the Southwest Florida Expressway Authority improvements to
14 toll collection facilities or interchanges of the
15 legislatively approved regional transportation system and any
16 other transportation facility appurtenant, necessary, or
17 incidental to the approved system. Subject to terms and
18 conditions of applicable revenue bond resolutions and
19 covenants, such improvements may be financed in whole or in
20 part by revenue bonds issued under s. 348.9936(1)(a) or (b)
21 whether currently issued or issued in the future, or by a
22 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 under this part at such times and in such principal
28 amount as the authority deems necessary to provide sufficient
29 moneys for achieving its purposes; however, such bonds may not
30 pledge the full faith and credit of the state. Each bond
31 issued under this paragraph or paragraph (a), whether on

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

25 (c) Bonds issued under paragraph (a) or paragraph (b)
26 must be sold at public sale in the same manner specified for
27 bonds issued under the State Bond Act. However, if the
28 authority, by official action at a public meeting, determines
29 that a negotiated sale of any such bond is in the best
30 interest of the authority, the authority may negotiate the
31 sale of that bond. For a bond issued under paragraph (a), the

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

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

17 (2) Any resolution authorizing a bond under this part
18 may contain provisions that are part of the contract with the
19 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, or otherwise derived by the authority, from the
23 Southwest Florida Transportation System.

24 (b) The completion, improvement, operation, extension,
25 maintenance, repair, lease, or lease-purchase agreement of the
26 Southwest Florida Transportation System and the duties of the
27 authority and others, including the department, regarding that
28 system.

29 (c) The limitations on the purposes to which the
30 proceeds of the bonds, then or thereafter to be issued, or of
31

1 any loan or grant by the United States or the state, may be
2 applied.

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

7 (e) The setting aside of moneys for reserves or
8 sinking funds, or repair and replacement funds, and the
9 regulation and disposition of such moneys.

10 (f) The limitations on the issuance of additional
11 bonds.

12 (g) The terms and provisions of any lease-purchase
13 agreement, deed of trust, or indenture securing the bonds or
14 under which the bonds may be issued.

15 (h) Any other agreements with the holder of a bond
16 which the authority deems desirable and proper.

17 (3) The authority may employ fiscal agents as
18 authorized by this part, or the State Board of Administration
19 may, upon request of the authority, act as fiscal agent for
20 the authority in regard to any bonds that may be issued under
21 this part, and the State Board of Administration may, upon
22 request of the authority, take over the management, control,
23 administration, custody, and payment of any or all debt
24 services or funds or assets now or hereafter available for any
25 bonds issued under this part. The authority may enter into any
26 deeds of trust, indentures, or other agreements with its
27 fiscal agent, or with any bank or trust company within or
28 without the state, to secure such bonds and may, under such
29 agreements, sign and pledge all or any of the revenues, rates,
30 fees, rentals, or other charges or receipts of the authority.
31 Such deed of trust, indenture, or other agreement may contain

1 such provisions as are customary in such instruments or, as
2 the authority may authorize, including, but without
3 limitation, provisions as to:

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

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

11 (c) The rights and remedies of a trustee or a holder
12 of the bond that is secured.

13 (d) The terms of a bond that is secured or a
14 resolution authorizing the issuance of that bond.

15 (4) Any bond issued under this part is declared to be
16 a negotiable instrument and has all the qualities and
17 incidents of a negotiable instrument under the merchant law
18 and the negotiable instruments law of the state.

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

24 348.9938 Lease-purchase agreement.--

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

29 (2) Such lease-purchase agreement must: provide for
30 the leasing of the Southwest Florida Transportation System by
31 the authority, as lessor, to the department, as lessee;

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

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

28 (4) The department, as lessee under the lease-purchase
29 agreement, may pay, as rentals under the agreement, any rates,
30 fees, charges, funds, moneys, receipts, or income accruing to
31 the department from the operation of the Southwest Florida

1 Transportation System and any appropriations received by the
2 department under any act of the Legislature heretofore or
3 hereafter enacted. However, this part does not require the
4 making or continuance of any such appropriation, a holder of
5 bonds issued under this part may not compel the making or
6 continuance of any such appropriation, and a lease-purchase
7 agreement under this part may not include provisions that
8 require any such appropriation or confer any such right.

9 (5) The department may covenant in any lease-purchase
10 agreement to pay all or part of the cost of the operation,
11 maintenance, repair, renewal, and replacement of the Southwest
12 Florida Transportation System, and any part of the cost of
13 completing the system. To the extent that the proceeds of
14 bonds issued to fund such costs are insufficient, the
15 department may covenant to make such payment using moneys from
16 sources other than the revenues derived from the operation of
17 the system, including, when deemed fair and proper by the
18 department, any moneys available to a local governing
19 authority which the local authority, by covenant, makes
20 available to fund such costs.

21 (6) The Southwest Florida Transportation System shall
22 be a part of the State Highway System and the department may,
23 upon the request of the authority, expend out of any funds
24 available for the purpose such moneys and use such of its
25 engineering and other forces, as may be necessary and
26 desirable in the judgment of the department, for the operation
27 of the authority and for traffic surveys, borings, surveys,
28 preparation of plans and specifications, estimates of cost and
29 other preliminary engineering, and other studies.

30 348.9939 Department may be appointed agent of
31 authority for construction.--The department may be appointed

1 by the authority as its agent for the purpose of constructing
2 improvements and extensions to the Southwest Florida
3 Transportation System and for completing that system. In such
4 event, the authority shall provide the department with
5 complete copies of all documents, agreements, resolutions,
6 contracts, and instruments relating to the improvements,
7 extensions, and completion and shall request the department to
8 do such construction work, including the planning, surveying,
9 and actual construction of the improvements, extensions, and
10 completion, and shall transfer to the credit of an account of
11 the department in the State Treasury the funds necessary for
12 the improvements, extensions, and completion. Upon such
13 transfer, the department is authorized, empowered, and
14 directed to proceed with such construction and to use the
15 funds for such purpose in the same manner that it is now
16 authorized to use the funds otherwise provided by law for its
17 use in constructing roads and bridges.

18 348.994 Acquisition of lands and property.--

19 (1) For the purposes of this part, the authority may
20 acquire such private or public property and property rights,
21 including rights of access, air, view, and light, by gift,
22 devise, purchase, or condemnation by eminent domain
23 proceedings, as the authority deems necessary for any purpose
24 of this part, including, but not limited to, any lands
25 reasonably necessary for securing applicable permits, areas
26 necessary for management of access, borrow pits, drainage
27 ditches, water retention areas, rest areas, replacement access
28 for landowners whose access is impaired due to the
29 construction of a facility, and replacement rights-of-way for
30 relocated rail and utility facilities, and for existing,
31 proposed, or anticipated transportation facilities on the

1 Southwest Florida Transportation System or in a transportation
2 corridor designated by the authority. The authority may also
3 condemn any material and property necessary for such purposes.

4 (2) The right of eminent domain conferred by this part
5 must be exercised by the authority in the manner provided by
6 law.

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

20 348.9941 Cooperation with other units, boards,
21 agencies, and individuals.--Express authority and power is
22 given and granted to any county, municipality, drainage
23 district, road and bridge district, school district, or any
24 other political subdivision, board, commission, or individual
25 in or of the state to enter into contracts, leases,
26 conveyances, partnerships, or other agreements with the
27 authority within the provisions and purposes of this part. The
28 authority may make and enter into contracts, leases,
29 conveyances, partnerships, and other agreements with any
30 political subdivision, agency, or instrumentality of the
31

1 state, and any federal agency, corporation, or individual for
2 the purpose of carrying out this part.

3 348.9942 Covenant of the state.--The state pledges to
4 and agrees with any person, firm, corporation, or federal or
5 state agency subscribing to or acquiring the bonds to be
6 issued by the authority under this part that the state will
7 not limit or alter the rights vested in the authority and the
8 department until all bonds, at any time issued, together with
9 the interest thereon, are fully paid and discharged insofar as
10 the same affects the rights of the holders of bonds issued
11 hereunder. The state does further pledge to and agrees with
12 the United States that if any federal agency constructs or
13 contributes any funds for the completion, extension, or
14 improvement of the Southwest Florida Transportation System, or
15 any part or portion thereof, the state will not alter or limit
16 the rights and powers of the authority and the department in
17 any manner that would be inconsistent with the continued
18 maintenance and operation of that system, or the completion,
19 extension, or improvement thereof, or that would be
20 inconsistent with the due performance of any agreement between
21 the authority. Any such federal agency and the authority and
22 the department shall continue to have and may exercise all
23 powers granted by this part, as long as necessary or desirable
24 for the carrying out of the purposes of this part and the
25 purposes of the United States in the completion, extension, or
26 improvement of the Southwest Florida Transportation System or
27 any part or portion thereof.

28 348.9943 Exemption from taxation.--The effectuation of
29 the authorized purposes of the authority created under this
30 part is in all respects for the benefit of the people of the
31 state, for the increase of their commerce and prosperity, and

1 for the improvement of their health and living conditions, and
2 since such authority will be performing essential governmental
3 functions in effectuating such purposes, such authority may
4 not be required to pay any taxes or assessments of any kind or
5 nature whatsoever upon any property acquired or used by it for
6 such purposes, or upon any rates, fees, rentals, receipts,
7 income, or charges at any time received by it, and the bonds
8 issued by the authority, their transfer, and the income
9 therefrom, including any profits made on the sale thereof,
10 shall at all times be free from taxation of any kind by the
11 state, or by any political subdivision, taxing agency, or
12 instrumentality thereof. The exemption granted by this section
13 does not apply to any tax imposed by chapter 220 on interest,
14 income, or profits on debt obligations owned by corporations.

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

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

31

1 348.9946 This part complete and additional
2 authority.--

3 (1) The powers conferred by this part shall be in
4 addition and supplemental to the existing powers of the
5 authority and the department, and this part shall not be
6 construed as repealing any of the provisions of any other law,
7 general, special, or local, but to supersede such other laws
8 in the exercise of the powers provided in this part and to
9 provide a complete method for the exercise of the powers
10 granted in this part. The extension and improvement of the
11 Southwest Florida Transportation System, and the issuance of
12 bonds hereunder to finance all or part of the cost thereof,
13 may be accomplished upon compliance with the provisions of
14 this part without regard to or necessity for compliance with
15 the provisions, limitations, or restrictions contained in any
16 other general, special, or local law, including, but not
17 limited to, s. 215.821, and the approval of any bonds issued
18 under this part by the qualified electors or qualified
19 electors who are freeholders in the state or in Collier County
20 or Lee County, or in any municipality within these two
21 counties, or in any other political subdivision of the state,
22 is not required for the issuance of bonds under this part.

23 (2) This part does not repeal, rescind, or modify any
24 other law or laws relating to the State Board of
25 Administration, the Department of Transportation, or the
26 Division of Bond Finance of the State Board of Administration
27 but supersedes any other law or laws that are inconsistent
28 with this part, including, but not limited to, s. 215.821.

29 Section 2. Sunset of the Southwest Florida Expressway
30 Authority's duties and powers.--The powers conferred to the
31 Southwest Florida Expressway Authority and the establishment

1 of that authority under part X of chapter 348, Florida
2 Statutes, shall expire 12 years after this act takes effect if
3 the Southwest Florida Expressway Authority has no outstanding
4 indebtedness, no studies underway, no design underway, and no
5 projects under construction and is not operating or
6 maintaining any part of the system it was established to
7 create.

8 Section 3. This act shall take effect upon resolutions
9 in support of this act being adopted by both the Lee County
10 Board of County Commissioners and the Collier County Board of
11 County Commissioners, but if those boards adopt such
12 resolutions before July 1, 2005, this act shall take effect
13 upon becoming a law.

14
15 *****

16 SENATE SUMMARY

17 Creates the Southwest Florida Expressway Authority
18 encompassing certain transportation projects in Collier
19 and Lee Counties. Establishes a process to add certain
20 projects in Charlotte County. Grants various powers to
21 the authority, including authorization to issue bonds,
22 regarding such projects. Authorizes the State Board of
23 Administration to act as fiscal agent for the authority
24 and the Department of Transportation to undertake various
25 activities with or as the appointed agent of the
26 authority.