

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

29 application; providing legislative intent regarding
 30 changes; providing for future expiration of the act;
 31 providing a contingent effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Part X of chapter 348, Florida Statutes,
 36 consisting of sections 348.993, 348.9931, 348.9932, 348.9933,
 37 348.9934, 348.9935, 348.9936, 348.9938, 348.9939, 348.994,
 38 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, 348.9946, and
 39 348.9947, is created to read:

40 Part X

41 Southwest Florida Expressway Authority

42 348.993 Popular name.--This part may be cited as the
 43 "Southwest Florida Expressway Authority Law."

44 348.9931 Definitions.--The following terms, whenever used
 45 or referred to in this part, shall have the following meanings,
 46 except in those instances where the context clearly indicates
 47 otherwise:

48 (1) "Agency of the state" means and includes the state and
 49 any department of, or corporation, agency, or instrumentality
 50 heretofore or hereafter created, designated, or established by,
 51 the state.

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

54 (3) "Bonds" means and includes the notes, bonds, refunding
 55 bonds, or other evidences of indebtedness or obligations, in
 56 either temporary or definitive form, which the authority is

57 authorized to issue pursuant to this part.

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

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

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

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

70 (8) "Expressway" means the same as limited access
 71 expressway.

72 (9) "Federal agency" means and includes the United States,
 73 the President of the United States, or any department of, or
 74 corporation, agency, or instrumentality heretofore or hereafter
 75 created, designated, or established by, the United States.

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

79 (11) "Limited access expressway" means a street or highway
 80 especially designed for through traffic and over, from, or to
 81 which no person shall have the right of easement, use, or access
 82 except in accordance with the rules and regulations promulgated
 83 and established by the authority for the use of such facility.
 84 Such highways or streets may be parkways, from which trucks,

85 buses, and other commercial vehicles shall be excluded, or they
 86 may be freeways open to use by all customary forms of street and
 87 highway traffic.

88 (12) "Members" means the governing body of the authority,
 89 and the term "member" means one of the individuals constituting
 90 such governing body.

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

98 (14) "Southwest Florida Transportation System" means all
 99 new expressways and additional lanes on Interstate Highway 75 in
 100 Lee and Collier Counties which are tolled as express lanes and
 101 appurtenant facilities, including, but not limited to, all
 102 approaches, roads, bridges, and avenues of access for said
 103 expressway or expressways, whether tolled or nontolled, or such
 104 other facility as the authority determines or designates.

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

108 (16) "System" means the Southwest Florida Transportation
 109 System.

110
 111 Words importing singular number include the plural number in
 112 each case and vice versa, and words importing persons include

113 firms and corporations.

114 348.9932 Southwest Florida Expressway Authority.--

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

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

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

129 b. One member who is a permanent resident of Collier
 130 County shall be appointed by the Board of County Commissioners
 131 of Collier County and one member who is a permanent resident of
 132 Lee County shall be appointed by the Board of County
 133 Commissioners of Lee County to serve a term of 4 years each.

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

141 section.

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

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

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

154 (c) The executive director of the Southwest Florida
155 Regional Planning Council shall serve as the seventh voting
156 member.

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

160 (e) Any member of the authority shall be eligible for
161 reappointment.

162 (3)(a) The authority shall elect one of its members as
163 chair of the authority. The authority shall also elect a
164 secretary and a treasurer who may or may not be members of the
165 authority. The chair, secretary, and treasurer shall hold such
166 offices at the will of the authority. Four members of the
167 authority shall constitute a quorum, and a vote of the majority
168 of those present shall be necessary for any action taken by the

169 authority. No vacancy in the authority shall impair the right of
 170 a quorum of the authority to exercise all of the rights and
 171 perform all of the duties of the authority.

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

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

188 (5)(a) The authority may employ an executive director, its
 189 own counsel and legal staff, technical experts, engineers, and
 190 such employees, permanent or temporary, as it may require; may
 191 determine the qualifications and fix the compensation of such
 192 persons, firms, or corporations; and may employ a fiscal agent
 193 or agents. The authority may delegate to one or more of its
 194 agents or employees such of its power as it shall deem necessary
 195 to carry out the purposes of this part, subject always to the
 196 supervision and control of the authority. Members of the

197 authority may be removed from office by the Governor for
 198 misconduct, malfeasance, misfeasance, or nonfeasance in office.

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

204 348.9933 Purposes and powers.--

205 (1)(a) The authority created and established by the
 206 provisions of this part is hereby granted and shall have the
 207 right to acquire, hold, construct, improve, maintain, operate,
 208 own, and lease, in the capacity of lessor, the Southwest Florida
 209 Transportation System, hereinafter referred to as the "system,"
 210 unless precluded by state or federal law. This part does not
 211 preclude the department from acquiring, holding, constructing,
 212 improving, maintaining, operating, or owning the tolled lanes on
 213 Interstate Highway 75 or nontolled facilities that may be part
 214 of the Southwest Florida Transportation System and that are part
 215 of the State Highway System.

216 (b) It is the express intention of this part that said
 217 authority, in the construction of said Southwest Florida
 218 Transportation System, within the geographic boundaries of
 219 Collier and Lee Counties, is limited to the pursuit of
 220 additional lanes on Interstate Highway 75 within these counties
 221 which are tolled as express lanes. Further, the authority shall
 222 be authorized to construct any extensions, additions, or
 223 improvements to said system or appurtenant facilities, including
 224 all necessary approaches, roads, bridges, and avenues of access,

225 with such changes, modifications, or revisions of said project
 226 as shall be deemed desirable and proper with the concurrence of
 227 the respective county commissions and the department if the
 228 project is to be part of the State Highway System. The
 229 responsibilities of the authority will not be expanded to cover
 230 any other projects beyond Interstate Highway 75 toll lanes and
 231 appurtenant facilities unless resolutions in support of such
 232 expansion or other project are adopted by the Boards of County
 233 Commissioners of Lee and Collier Counties and, if applicable, by
 234 the governing body having jurisdiction of a road system if the
 235 project is to become a part of that system.

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

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

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

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

251 (d) To enter into and make leases for terms it deems
 252 necessary, as either lessee or lessor, in order to carry out the

253 right to lease as set forth in this part.

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

259 (f) To fix, alter, charge, establish, and collect rates,
 260 fees, rentals, and other charges for the services and facilities
 261 of the Southwest Florida Transportation System, which rates,
 262 fees, rentals, and other charges shall always be sufficient to
 263 comply with any covenants made with the holders of any bonds
 264 issued pursuant to this part; however, such right and power may
 265 be assigned or delegated by the authority to the department.

266 (g) To borrow money and make and issue negotiable notes,
 267 bonds, refunding bonds, and other evidences of indebtedness or
 268 obligations, either in temporary or definitive form, hereinafter
 269 in this part sometimes called "bonds" of the authority, for the
 270 purpose of financing all or part of the improvement or extension
 271 of the Southwest Florida Transportation System and appurtenant
 272 facilities, including all approaches, streets, roads, bridges,
 273 and avenues of access for said Southwest Florida Transportation
 274 System, and for any other purpose authorized by this part; to
 275 secure the payment of such bonds or any part thereof by a pledge
 276 of any or all of its revenues, rates, fees, rentals, or other
 277 charges; and in general to provide for the security of said
 278 bonds and the rights and remedies of the holders thereof. The
 279 authority may enter into an agreement between the authority and
 280 one or more counties for the pledge of county gasoline tax

281 funds, county sales tax, or other county revenues to secure any
 282 bonds issued for an authority project as authorized hereunder.
 283 In the event the authority shall determine to fund or refund any
 284 bonds theretofore issued by said authority, prior to the
 285 maturity thereof, the proceeds of such funding or refunding
 286 bonds shall, pending the prior redemption of the bonds to be
 287 funded or refunded, be invested in direct obligations of the
 288 United States, and it is the express intention of this part that
 289 such outstanding bonds may be funded or refunded by the issuance
 290 of bonds pursuant to this part.

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

295 (i) Without limitation of the foregoing, to borrow money
 296 and accept grants from, and to enter into contracts, leases, or
 297 other transactions with, any federal agency, the state, any
 298 agency of the state, Collier County, Lee County, any city within
 299 Collier County or Lee County, or with any other public body of
 300 the state.

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

303 (k) To pledge, hypothecate, or otherwise encumber all or
 304 any part of the revenues, rates, fees, rentals, or other charges
 305 or receipts of the authority as security for all or any of the
 306 obligations of the authority.

307 (l) To do all acts and things necessary or convenient for
 308 the conduct of its business and the general welfare of the

309 authority in order to carry out the powers granted to it by this
 310 part or any other law.

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

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

329 (4) Notwithstanding the powers conferred herein, before
 330 the authority proceeds with a proposed project, either the Lee
 331 County Commission or the Collier County Commission must approve
 332 any proposed project for the system that may be located within
 333 the geographical boundaries of that commission's jurisdiction. A
 334 quorum must be present for a vote of approval to take place.
 335 Such approval, by a majority vote of those members present, must
 336 be obtained before the authority can proceed with the

337 preliminary design and environmental study.

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

340 348.9934 Procurement.--The authority is authorized to
 341 procure commodities and the services of a qualified person or
 342 entity to design, build, finance, operate, maintain, and
 343 implement the Southwest Florida Transportation System, including
 344 the use of a DBOM or DBOMF method using a request for proposal,
 345 a request for qualifications, or an invitation to negotiate.

346 348.9935 Bond financing authority for
 347 improvements.--Pursuant to s. 11(f), Art. VII of the State
 348 Constitution, the Legislature hereby approves for bond financing
 349 by the Southwest Florida Expressway Authority improvements to
 350 toll collection facilities, interchanges to the legislatively
 351 approved regional transportation system, and any other facility
 352 appurtenant, necessary, or incidental to the approved system.
 353 Subject to terms and conditions of applicable revenue bond
 354 resolutions and covenants, such costs may be financed in whole
 355 or in part by revenue bonds issued pursuant to s. 348.9936(1)(a)
 356 or (b) whether currently issued or issued in the future, or by a
 357 combination of such bonds.

358 348.9936 Bonds of the authority.--

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

361 (b) Alternatively, the authority may issue its own bonds
 362 pursuant to this part at such times and in such principal amount
 363 as, in the opinion of the authority, is necessary to provide
 364 sufficient moneys for achieving its purposes; however, such

365 bonds may not pledge the full faith and credit of the state.
 366 Bonds issued by the authority pursuant to this paragraph or
 367 paragraph (a), whether on original issuance or on refunding,
 368 shall be authorized by resolution of the members thereof and may
 369 be either term or serial bonds and shall bear such date or
 370 dates, mature at such time or times, bear interest at such rate
 371 or rates, payable semiannually, be in such denominations, be in
 372 such form, either coupon or fully registered, carry such
 373 registration, exchangeability, and interchangeability
 374 privileges, be payable in such medium of payment and at such
 375 place or places, be subject to such terms of redemption, and be
 376 entitled to such priorities on the revenues, rates, fees,
 377 rentals, or other charges or receipts of the authority,
 378 including any other funds received by the authority pursuant to
 379 the terms of any lease-purchase agreement between the authority
 380 and the department, as such resolution or any resolution
 381 subsequent thereto may provide. The bonds shall be executed
 382 either by manual or facsimile signature by such officers as the
 383 authority shall determine, provided that such bonds shall bear
 384 at least one signature which is manually executed thereon, and
 385 the coupons attached to such bonds shall bear the facsimile
 386 signature or signatures of such officer or officers as shall be
 387 designated by the authority and shall have the seal of the
 388 authority affixed, imprinted, reproduced, or lithographed
 389 thereon, all as may be prescribed in such resolution or
 390 resolutions.

391 (c) Bonds issued pursuant to paragraph (a) or paragraph
 392 (b) shall be sold at public sale in the same manner provided by

393 the State Bond Act. However, if the authority shall, by official
 394 action at a public meeting, determine that a negotiated sale of
 395 such bonds is in the best interest of the authority, the
 396 authority may negotiate the sale of such bonds with the
 397 underwriter or underwriters designated by the authority and the
 398 Division of Bond Finance of the State Board of Administration
 399 with respect to bonds issued pursuant to paragraph (a) or solely
 400 the authority with respect to bonds issued pursuant to paragraph
 401 (b). The authority's determination to negotiate the sale of such
 402 bonds may be based, in part, upon the written advice of the
 403 authority's financial adviser. Pending the preparation of
 404 definitive bonds, interim certificates may be issued to the
 405 purchaser or purchasers of such bonds and may contain such terms
 406 and conditions as the authority may determine.

407 (d) The authority may issue bonds pursuant to paragraph
 408 (b) to refund any bonds previously issued regardless of whether
 409 the bonds being refunded were issued by the authority pursuant
 410 to this part or on behalf of the authority pursuant to the State
 411 Bond Act.

412 (2) Any such resolution or resolutions authorizing any
 413 bonds hereunder may contain provisions which shall be part of
 414 the contract with the holders of such bonds as to:

415 (a) The pledging of all or any part of the revenues,
 416 rates, fees, rentals, or other charges or receipts of the
 417 authority, derived by the authority, from the Southwest Florida
 418 Transportation System.

419 (b) The completion, improvement, operation, extension,
 420 maintenance, repair, lease, or lease-purchase agreement of said

421 system and the duties of the authority and others, including the
 422 department, with reference thereto.

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

426 (d) The fixing, charging, establishing, and collecting of
 427 rates, fees, rentals, or other charges for use of the services
 428 and facilities of the Southwest Florida Transportation System or
 429 any part thereof.

430 (e) The setting aside of reserves or sinking funds or
 431 repair and replacement funds and the regulation and disposition
 432 thereof.

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

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

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

439 (3) The authority may employ fiscal agents as provided by
 440 this part, or the State Board of Administration may, upon
 441 request of the authority, act as fiscal agent for the authority
 442 in the issuance of any bonds which may be issued pursuant to
 443 this part, and the State Board of Administration may, upon
 444 request of the authority, take over the management, control,
 445 administration, custody, and payment of any or all debt services
 446 or funds or assets now or hereafter available for any bonds
 447 issued pursuant to this part. The authority may enter into any
 448 deeds of trust, indentures, or other agreements with its fiscal

449 agent, or with any bank or trust company within or without the
450 state, as security for such bonds and may, under such
451 agreements, sign and pledge all or any of the revenues, rates,
452 fees, rentals, or other charges or receipts of the authority.
453 Such deed of trust, indenture, or other agreement may contain
454 such provisions as are customary in such instruments or, as the
455 authority may authorize, may include, without limitation,
456 provisions as to:

457 (a) The completion, improvement, operation, extension,
458 maintenance, repair, and lease of, or lease-purchase agreement
459 relating to, the Southwest Florida Transportation System and the
460 duties of the authority and others, including the department,
461 with reference thereto.

462 (b) The application of funds and the safeguarding of funds
463 on hand or on deposit.

464 (c) The rights and remedies of the trustee and the holders
465 of the bonds.

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

468 (4) Any of the bonds issued pursuant to this part are, and
469 are hereby declared to be, negotiable instruments and shall have
470 all the qualities and incidents of negotiable instruments under
471 the law merchant and the negotiable instruments law of the
472 state.

473 (5) Notwithstanding any of the provisions of this part,
474 each project, building, or facility which has been financed by
475 the issuance of bonds or other evidence of indebtedness under
476 this part and any refinancing thereof is hereby approved as

477 provided for in s. 11(f), Art. VII of the State Constitution.

478 348.9938 Lease-purchase agreement.--

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

483 (2) Such lease-purchase agreement shall provide for the
 484 leasing of the Southwest Florida Transportation System by the
 485 authority, as lessor, to the department, as lessee; shall
 486 prescribe the term of such lease and the rentals to be paid
 487 thereunder; and shall provide that upon the completion of the
 488 faithful performance thereunder and the termination of such
 489 lease-purchase agreement, title in fee simple absolute to the
 490 Southwest Florida Transportation System as then constituted
 491 shall be transferred in accordance with law by the authority to
 492 the state and the authority shall deliver to the department such
 493 deeds and conveyances as shall be necessary or convenient to
 494 vest title in fee simple absolute in the state.

495 (3) Such lease-purchase agreement may include such other
 496 provisions, agreements, and covenants as the authority and the
 497 department deem advisable or required, including, but not
 498 limited to, provisions as to the bonds to be issued under, and
 499 for the purposes of, this part; the completion, extension,
 500 improvement, operation, and maintenance of the Southwest Florida
 501 Transportation System and the expenses and the cost of operation
 502 of said authority; the charging and collection of tolls, rates,
 503 fees, and other charges for the use of the services and
 504 facilities thereof; the application of federal or state grants

505 or aid which may be made or given to assist the authority in the
 506 completion, extension, improvement, operation, and maintenance
 507 of the Southwest Florida Transportation System, which the
 508 authority is hereby authorized to accept and apply to such
 509 purposes; the enforcement of payment and collection of rentals;
 510 and any other terms, provisions, or covenants necessary,
 511 incidental, or appurtenant to the making of and full performance
 512 under such lease-purchase agreement.

513 (4) The department, as lessee under such lease-purchase
 514 agreement, is hereby authorized to pay as rentals thereunder any
 515 rates, fees, charges, funds, moneys, receipts, or income
 516 accruing to the department from the operation of the Southwest
 517 Florida Transportation System and may also pay as rentals any
 518 appropriations received by the department pursuant to any act of
 519 the Legislature of the state heretofore or hereafter enacted;
 520 provided, however, that nothing herein nor in such lease-
 521 purchase agreement is intended to nor shall this part or such
 522 lease-purchase agreement require the making or continuance of
 523 such appropriations, nor shall any holder of bonds issued
 524 pursuant to this part ever have any right to compel the making
 525 or continuance of such appropriations.

526 (5) Said department shall have power to covenant in any
 527 lease-purchase agreement that it will pay all or any part of the
 528 cost of the operation, maintenance, repair, renewal, and
 529 replacement of said system, and any part of the cost of
 530 completing said system to the extent that the proceeds of bonds
 531 issued therefor are insufficient, from sources other than the
 532 revenues derived from the operation of said system. Said

533 department may also agree to make such other payments from any
 534 moneys available to said commission, said county, or said city
 535 in connection with the construction or completion of said system
 536 as shall be deemed by said department to be fair and proper
 537 under any such covenants heretofore or hereafter entered into.

538 (6) Said system shall be a part of the State Highway
 539 System and said department is hereby authorized, upon the
 540 request of the authority, to expend such moneys, out of any
 541 funds available for the purpose, and to use such of its
 542 engineering and other forces as may be necessary and desirable
 543 in the judgment of said department, for the operation of said
 544 authority and for traffic surveys, borings, surveys, preparation
 545 of plans and specifications, estimates of cost and other
 546 preliminary engineering, and other studies.

547 348.9939 Department may be appointed agent of authority
 548 for construction.--The department may be appointed by said
 549 authority as its agent for the purpose of constructing
 550 improvements and extensions to the Southwest Florida
 551 Transportation System and for the completion thereof. In such
 552 event, the authority shall provide the department with complete
 553 copies of all documents, agreements, resolutions, contracts, and
 554 instruments relating thereto and shall request the department to
 555 do such construction work, including the planning, surveying,
 556 and actual construction of the completion, extensions, and
 557 improvements to the Southwest Florida Transportation System, and
 558 shall transfer to the credit of an account of the department in
 559 the treasury of the state the necessary funds therefor, and the
 560 department shall thereupon be authorized, empowered, and

561 directed to proceed with such construction and to use the said
562 funds for such purpose in the same manner that it is now
563 authorized to use the funds otherwise provided by law for its
564 use in construction of roads and bridges.

565 348.994 Acquisition of lands and property.--

566 (1) For the purposes of this part, the Southwest Florida
567 Expressway Authority may acquire private or public property and
568 property rights, including rights of access, air, view, and
569 light, by gift, devise, purchase, or condemnation by eminent
570 domain proceedings, as the authority may deem necessary for any
571 of the purposes of this part, including, but not limited to, any
572 lands reasonably necessary for securing applicable permits,
573 areas necessary for management of access, borrow pits, drainage
574 ditches, water retention areas, rest areas, replacement access
575 for landowners whose access is impaired due to the construction
576 of a facility, and replacement rights-of-way for relocated rail
577 and utility facilities, for existing, proposed, or anticipated
578 transportation facilities on the Southwest Florida
579 Transportation System or in a transportation corridor designated
580 by the authority. The authority shall also have the power to
581 condemn any material and property necessary for such purposes.

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

584 (3) When the authority acquires property for a
585 transportation facility or in a transportation corridor, it is
586 not subject to any liability imposed by chapter 376 or chapter
587 403 for preexisting soil or groundwater contamination due solely
588 to its ownership. This section does not affect the rights or

589 liabilities of any past or future owners of the acquired
 590 property, nor does it affect the liability of any governmental
 591 entity for the results of its actions which create or exacerbate
 592 a pollution source. The authority and the Department of
 593 Environmental Protection may enter into interagency agreements
 594 for the performance, funding, and reimbursement of the
 595 investigative and remedial acts necessary for property acquired
 596 by the authority.

597 348.9941 Cooperation with other units, boards, agencies,
 598 and individuals.--Express authority and power is hereby given
 599 and granted any county, municipality, drainage district, road
 600 and bridge district, school district, or any other political
 601 subdivision, board, commission, or individual in, or of, the
 602 state to make and enter into with the authority contracts,
 603 leases, conveyances, partnerships, or other agreements within
 604 the provisions and purposes of this part. The authority is
 605 hereby expressly authorized to make and enter into contracts,
 606 leases, conveyances, partnerships, and other agreements with any
 607 political subdivision, agency, or instrumentality of the state
 608 and any and all federal agencies, corporations, and individuals
 609 for the purpose of carrying out the provisions of this part.

610 348.9942 Covenant of the state.--The state does hereby
 611 pledge to and agree with any person, firm, corporation, or
 612 federal or state agency subscribing to or acquiring the bonds to
 613 be issued by the authority for the purposes of this part that
 614 the state will not limit or alter the rights hereby vested in
 615 the authority and the department until all bonds at any time
 616 issued, together with the interest thereon, are fully paid and

617 discharged insofar as the same affects the rights of the holders
 618 of bonds issued hereunder. The state does further pledge to and
 619 agree with the United States that in the event any federal
 620 agency shall construct or contribute any funds for the
 621 completion, extension, or improvement of the Southwest Florida
 622 Transportation System, or any part or portion thereof, the state
 623 will not alter or limit the rights and powers of the authority
 624 and the department in any manner which would be inconsistent
 625 with the continued maintenance and operation of the Southwest
 626 Florida Transportation System or the completion, extension, or
 627 improvement thereof or which would be inconsistent with the due
 628 performance of any agreements between the authority and any such
 629 federal agency, and the authority and the department shall
 630 continue to have and may exercise all powers herein granted, so
 631 long as the same shall be necessary or desirable for the
 632 carrying out of the purposes of this part and the purposes of
 633 the United States in the completion, extension, or improvement
 634 of the Southwest Florida Transportation System or any part or
 635 portion thereof.

636 348.9943 Exemption from taxation.--The effectuation of the
 637 authorized purposes of the authority created under this part is,
 638 shall, and will be in all respects for the benefit of the people
 639 of the state, for the increase of their commerce and prosperity,
 640 and for the improvement of their health and living conditions,
 641 and since such authority will be performing essential
 642 governmental functions in effectuating such purposes, such
 643 authority shall not be required to pay any taxes or assessments
 644 of any kind or nature whatsoever upon any property acquired or

645 used by it for such purposes, or upon any rates, fees, rentals,
 646 receipts, income, or charges at any time received by it, and the
 647 bonds issued by the authority, their transfer, and the income
 648 therefrom, including any profits made on the sale thereof, shall
 649 at all times be free from taxation of any kind by the state, or
 650 by any political subdivision, taxing agency, or instrumentality
 651 thereof. The exemption granted by this section shall not be
 652 applicable to any tax imposed by chapter 220 on interest,
 653 income, or profits on debt obligations owned by corporations.

654 348.9944 Eligibility for investments and security.--Any
 655 bonds or other obligations issued pursuant to this part shall be
 656 and constitute legal investments for banks, savings banks,
 657 trustees, executors, administrators, and all other fiduciaries
 658 and for all state, municipal, and other public funds and shall
 659 also be and constitute securities eligible for deposit as
 660 security for all state, municipal, or other public funds,
 661 notwithstanding the provisions of any other law or laws to the
 662 contrary.

663 348.9945 Pledges enforceable by bondholders.--It is the
 664 express intention of this part that any pledge by the department
 665 of rates, fees, revenues, or other funds, as rentals, to the
 666 authority, or any covenants or agreements relative thereto, may
 667 be enforceable in any court of competent jurisdiction against
 668 the authority or directly against the department by any holder
 669 of bonds issued by the authority.

670 348.9946 This part complete and additional authority.--
 671 (1) The powers conferred by this part shall be in addition
 672 and supplemental to the existing powers of said authority and

673 the department, and this part shall not be construed as
 674 repealing any of the provisions of any other law, general,
 675 special, or local, but to supersede such other laws in the
 676 exercise of the powers provided in this part and to provide a
 677 complete method for the exercise of the powers granted in this
 678 part. The extension and improvement of said Southwest Florida
 679 Transportation System, and the issuance of bonds hereunder to
 680 finance all or part of the cost thereof, may be accomplished
 681 upon compliance with the provisions of this part without regard
 682 to or necessity for compliance with the provisions, limitations,
 683 or restrictions contained in any other general, special, or
 684 local law, including, but not limited to, s. 215.821, and no
 685 approval of any bonds issued under this part by the qualified
 686 electors or qualified electors who are freeholders in the state
 687 or in said Collier County or Lee County, or in any city within
 688 these two counties, or in any other political subdivision of the
 689 state, shall be required for the issuance of such bonds pursuant
 690 to this part.

691 (2) This part shall not be deemed to repeal, rescind, or
 692 modify any other law or laws relating to said State Board of
 693 Administration, said Department of Transportation, or the
 694 Division of Bond Finance of the State Board of Administration
 695 but shall be deemed to and shall supersede such other law or
 696 laws as are inconsistent with the provisions of this part,
 697 including, but not limited to, s. 215.821.

698 348.9947 Changes to this part.--It is the intent of the
 699 Legislature that any changes to this part be approved by the
 700 Boards of County Commissioners of Lee and Collier Counties.

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2005

701 Section 2. Sunset of the Southwest Florida Expressway
702 Authority's duties and powers.--The powers conferred to the
703 Southwest Florida Expressway Authority and part X of chapter
704 348, Florida Statutes, the statutory establishment of the
705 Southwest Florida Expressway Authority, shall expire 12 years
706 after this act takes effect if the Southwest Florida Expressway
707 Authority has no outstanding indebtedness, no studies underway,
708 no design underway, and no projects under construction and is
709 not operating or maintaining any part of the system it was
710 established to create.

711 Section 3. This act shall take effect upon resolutions in
712 support of this act being passed by both the Lee County Board of
713 County Commissioners and the Collier County Board of County
714 Commissioners, but no sooner than July 1, 2005, in the event the
715 boards pass such resolutions prior to that date, except that
716 this section shall take effect upon this act becoming a law.