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HB 0401

2005 Legislature

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

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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.

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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.

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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

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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

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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.

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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.

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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



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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,

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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.

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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

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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

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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,

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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.

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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

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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



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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

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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

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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

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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

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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.

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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

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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

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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,



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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.

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.