

Bill No. CS for SB 718

Barcode 434656

CHAMBER ACTION

Senate

House

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Senator Siplin moved the following amendment:

Senate Amendment (with title amendment)

On page 14, line 4, delete that line

and insert:

Section 5. Effective upon this act becoming a law,
part X of chapter 348, Florida Statutes, consisting of ss.
348.9789, 348.9791, 348.9792, 348.9793, 348.9794, 348.9795,
348.9796, 348.9797, 348.9798, 348.9799, 348.98, 348.9801,
348.9802, 348.9803, and 348.9804, Florida Statutes, is created
to read:

Part X

Osceola County Expressway Authority

348.9789 Short title.--This part may be cited as the
"Osceola County Expressway Authority Law."

348.9791 Definitions.--As used in this part, except
where the context clearly indicates otherwise, the term:

(1) "Agency of the state" means and includes the state
and any department of, or corporation, agency, or
instrumentality heretofore or hereafter created, designated,

Bill No. CS for SB 718

Barcode 434656

1 or established by, the state.

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

4 (3) "Bonds" means and includes the notes, bonds,
5 refunding bonds, or other evidences of indebtedness or
6 obligations, in either temporary or definitive form, which the
7 authority may issue under this part.

8 (4) "County" means the County of Osceola.

9 (5) "Department" means the Department of
10 Transportation existing under chapters 334-339.

11 (6) "Expressway" is the same as limited access
12 expressway.

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

18 (8) "Lease-purchase agreement" means the
19 lease-purchase agreements which the authority is authorized by
20 this part to enter into with the Department of Transportation.

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

29 (10) "Members" means the governing body of the
30 authority, and "member" means one of the individuals
31 constituting such governing body.

Bill No. CS for SB 718

Barcode 434656

1 (11) "Osceola County gasoline tax funds" means all the
 2 80-percent surplus gasoline tax funds accruing in each year to
 3 the Department of Transportation for use in Osceola county
 4 under s. 9, Art. XII of the State Constitution, after
 5 deduction only of any amounts of such gasoline tax funds
 6 heretofore pledged by the department or the county for
 7 outstanding obligations.

8 (12) "Osceola County Expressway System" or "system"
 9 means any and all expressways and appurtenant facilities
 10 thereto, including, but not limited to, all approaches,
 11 streets, roads, bridges, and avenues of access for such
 12 expressway or expressways.

13 (13) "State Board of Administration" means the body
 14 corporate existing under s. 4, Art. IV, and s. 9, Art. XII, of
 15 the State Constitution, or any successor thereto.

16 348.9792 Osceola County Expressway Authority.--

17 (1) There is created a body politic and corporate, an
 18 agency of the state, to be known as the Osceola County
 19 Expressway Authority.

20 (2) The governing body of the authority consists of
 21 five members. One member must be a citizen of Osceola County,
 22 who shall be appointed by the Governor. Three members must be
 23 citizens of Osceola County, who shall be appointed by the
 24 governing board of the county. The fifth member shall be, ex
 25 officio, the district secretary of the Department of
 26 Transportation serving in the district that contains Osceola
 27 County. The term of each appointed member is 4 years; however,
 28 when appointed for the first time to the authority, the term
 29 of one member who is appointed by the county and each member
 30 who is appointed by the Governor is 2 years. The term of each
 31 appointed member continues until his or her successor has been

Bill No. CS for SB 718

Barcode 434656

1 appointed and has qualified. A vacancy shall be filled only
2 for the balance of the unexpired term. Each appointed member
3 of the authority shall be a person of outstanding reputation
4 for integrity, responsibility, and business ability, but no
5 person who is an officer or employee of any city or of Osceola
6 County in any other capacity may be an appointed member of the
7 authority. Any member is eligible for reappointment.

8 (3) The authority shall elect one of its members as a
9 chair and also a secretary and a treasurer who may or may not
10 be members. The chair, secretary, and treasurer hold such
11 offices at the will of the authority. Three members of the
12 authority constitute a quorum, and the vote of three members
13 is necessary for the authority to act. A vacancy in the
14 authority does not impair the right of a quorum of the
15 authority to exercise the rights and perform the duties of the
16 authority. Upon the effective date of his or her appointment,
17 or as soon thereafter as practicable, each appointed member
18 shall enter upon his or her duties.

19 (4)(a) The authority may employ an executive
20 secretary, an executive director, its own counsel and legal
21 staff, technical experts, such engineers, and such employees,
22 permanent or temporary, as it may require and may determine
23 the qualifications and fix the compensation of such persons,
24 firms, or corporations and may employ a fiscal agent or
25 agents, provided, however, that the authority shall solicit
26 sealed proposals from at least three persons, firms, or
27 corporations for the performance of any services as a fiscal
28 agent. The authority may delegate to one or more of its agents
29 or employees such of its power as it deems necessary to carry
30 out the purposes of this part, subject always to the
31 supervision and control of the authority. Members may be

Bill No. CS for SB 718

Barcode 434656

1 removed from their office by the Governor for misconduct,
2 malfeasance, misfeasance, or nonfeasance in office.

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

8 348.9793 Purposes and powers.--

9 (1)(a) The authority may acquire, hold, construct,
10 improve, maintain, operate, own and lease in the capacity of
11 lessor, the Osceola County Expressway System.

12 (b) The authority, in the construction of the system,
13 may construct any extensions, additions, or improvements to
14 such system or appurtenant facilities, including any necessary
15 approaches, roads, bridges, and avenues of access, with such
16 changes, modifications, or revisions of said project as the
17 authority deems desirable and proper.

18 (2) The authority may exercise all powers necessary,
19 appurtenant, convenient, or incidental to the carrying out of
20 the aforesaid purposes, including, but not limited to, the
21 following rights and powers:

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

24 (b) To adopt, use, and alter a corporate seal.

25 (c) To acquire by donation, purchase, or otherwise,
26 hold, lease as lessee and use any franchise, property, real,
27 personal or mixed, tangible or intangible, or any options
28 thereof in its own name or in conjunction with others, or
29 interest therein, necessary or desirable to carry out the
30 purposes of the authority, and to sell, lease as lessor, or
31 transfer and dispose of any property or interest therein

Bill No. CS for SB 718

Barcode 434656

1 acquired by it.

2 (d) To enter a lease agreement for a term not
3 exceeding 40 years, as either lessee or lessor, to carry out
4 the right to lease as set forth in this part.

5 (e) To enter a lease-purchase agreement with the
6 department for a term not exceeding 40 years, or until any
7 bonds secured by a pledge of rentals thereunder, and any
8 refundings thereof, are fully paid as to both principal and
9 interest, whichever is longer.

10 (f) To fix, alter, or charge and establish and collect
11 rates, fees, rentals, and other charges for the services and
12 facilities of the Osceola County Expressway System, which
13 charges must be sufficient to comply with any covenants made
14 with the holders of any bonds issued under this part; however,
15 such right and power may be assigned or delegated, by the
16 authority, to the department.

17 (g) To borrow money, make and issue negotiable notes,
18 bonds, refunding bonds, and other evidences of indebtedness or
19 obligations, in temporary or definitive form, for the purpose
20 of financing all or part of the improvement or extension of
21 the Osceola County Expressway System and for any other purpose
22 authorized by this part, such bonds to mature no more than 40
23 years after the date of the issuance thereof, and to secure
24 the payment of such bonds or any part thereof by a pledge of
25 any or all of its revenues, rates, fees, rentals or other
26 charges, including all or any portion of the Osceola County
27 gasoline tax funds received by the authority pursuant to the
28 terms of any lease-purchase agreement between the authority
29 and the department; and in general to provide for the security
30 of such bonds and the rights and remedies of the holders
31 thereof; provided, however, that no portion of the Osceola

Bill No. CS for SB 718

Barcode 434656

1 County gasoline tax funds may be pledged for the construction
 2 of any project for which a toll is to be charged unless the
 3 anticipated tolls are reasonably estimated by the board of
 4 county commissioners, at the date of its resolution pledging
 5 said funds, to be sufficient to cover the principal and
 6 interest of such obligations during the period when the pledge
 7 of funds will be in effect.

8 1. The authority shall reimburse Osceola County for
 9 any sums expended from such gasoline tax funds used for the
 10 payment of such obligations. Any gasoline tax funds so
 11 disbursed shall be repaid when the authority deems it
 12 practicable, together with interest at the highest rate
 13 applicable to any obligations of the authority.

14 2. If the authority decides to fund or refund any
 15 bonds theretofore issued by the authority, or by the
 16 commission as aforesaid prior to the maturity thereof, the
 17 proceeds of such funding or refunding bonds must, pending the
 18 prior redemption of the bonds to be funded or refunded, be
 19 invested in direct obligations of the United States, and such
 20 outstanding bonds may be funded or refunded by the issuance of
 21 bonds pursuant to this part.

22 (h) To make contracts, including, but not limited to,
 23 partnerships providing for participation in ownership and
 24 revenues, and to execute all instruments necessary or
 25 convenient for the carrying on of its business.

26 (i) Without limitation of the foregoing, to borrow
 27 money and accept grants from, and to enter into contracts,
 28 leases, or other transactions with a federal agency, an agency
 29 of the state, the County of Osceola, or any other public body
 30 of the state.

31 (j) To have the power of eminent domain, including the

Barcode 434656

1 procedural powers granted under chapters 73 and 74.

2 (k) To pledge, hypothecate or otherwise encumber all
3 or part of the revenues, rates, fees, rentals or other charges
4 or receipts of the authority, including all or a portion of
5 the Osceola County gasoline tax funds received by the
6 authority pursuant to the terms of a lease-purchase agreement
7 between the authority and the department, as security for all
8 or any of the obligations of the authority.

9 (l) To enter into partnership and other agreements
10 respecting ownership and revenue participation in order to
11 facilitate financing and constructing of a project of the
12 authority, or a portion thereof.

13 (m) To participate in developer agreements or to
14 receive contributions from developers.

15 (n) To contract with Osceola County for the operation
16 of a toll facility in the county.

17 (o) To do all acts and things necessary or convenient
18 for the conduct of its business and the general welfare of the
19 authority, in order to carry out the powers granted to it by
20 any law.

21 (p) With the consent of the county within whose
22 jurisdiction the following activities occur, the authority may
23 construct, operate, and maintain roads, bridges, avenues of
24 access, thoroughfares, and boulevards outside the
25 jurisdictional boundaries of Osceola County, and may
26 construct, repair, replace, operate, install, and maintain
27 electronic toll payment systems thereon, with all necessary
28 and incidental powers to accomplish the foregoing.

29 (3) The authority may not ever pledge the credit or
30 taxing power of the state or any political subdivision or
31 agency thereof, including the County of Osceola, and no

Bill No. CS for SB 718

Barcode 434656

1 obligation of the authority may be deemed to be an obligation
 2 of the state or of any political subdivision or agency
 3 thereof, nor shall the state or any political subdivision or
 4 agency thereof, except the authority, be liable for the
 5 payment of the principal of or interest on any such
 6 obligation.

7 (4) Notwithstanding any other provision of this part,
 8 acquisition of right-of-way for a project of the authority
 9 which is within the boundaries of a municipality in Osceola
 10 County may not commence until the governing board of that
 11 municipality has approved the route of such project.

12 (5) The authority may not, without the consent of
 13 Osceola County or any affected municipality, enter into an
 14 agreement that would legally prohibit the construction of any
 15 road by Osceola County or by any municipality within Osceola
 16 County.

17 348.9794 Bonds of the authority.--

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

20 (b) Alternatively, the authority may issue its own
 21 bonds pursuant to this part at such times and in such
 22 principal amount as, in the opinion of the authority, is
 23 necessary to provide sufficient moneys for achieving its
 24 purposes; however, such bonds may not pledge the full faith
 25 and credit of the state. Bonds issued by the authority under
 26 this paragraph or paragraph (a), whether on original issuance
 27 or on refunding, shall be authorized by resolution of the
 28 members thereof and may be either term or serial bonds, shall
 29 bear such date or dates, mature at such time or times, not
 30 exceeding 40 years from their respective dates, bear interest
 31 at such rate or rates, payable semiannually, be in such

Bill No. CS for SB 718

Barcode 434656

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

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

Barcode 434656

1 advice of the authority's financial adviser. Pending the
 2 preparation of definitive bonds, interim certificates may be
 3 issued to the purchaser or purchasers of such bonds and may
 4 contain such terms and conditions as the authority may
 5 determine.

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

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

13 (a) The pledging of all or any part of the revenues,
 14 rates, fees, rentals, including all or any portion of the
 15 Osceola County gasoline tax funds received by the authority
 16 under the terms of any lease-purchase agreement between the
 17 authority and the department, or any part thereof, or other
 18 charges or receipts of the authority, derived by the
 19 authority, from the Osceola County Expressway System.

20 (b) The completion, improvement, operation, extension,
 21 maintenance, repair, lease or lease-purchase agreement of the
 22 system, and the duties of the authority and others, including
 23 the department, with reference thereto.

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

27 (d) The fixing, charging, establishing, and collecting
 28 of rates, fees, rentals, or other charges for use of the
 29 services and facilities of the system or any part thereof.

30 (e) The setting aside of reserves or sinking funds or
 31 repair and replacement funds and the regulation and

Bill No. CS for SB 718

Barcode 434656

1 disposition thereof.

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

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

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

9 (3) The authority may employ fiscal agents as provided
10 by this part or the State Board of Administration of Florida
11 may, upon request of the authority, act as fiscal agent for
12 the authority in the issuance of any bonds that may be issued
13 under this part, and the State Board of Administration may,
14 upon request of the authority, take over the management,
15 control, administration, custody, and payment of any or all
16 debt services or funds or assets now or hereafter available
17 for any bonds issued under this part. The authority may enter
18 into any deeds of trust, indentures, or other agreements with
19 its fiscal agent, or with any bank or trust company, as
20 security for such bonds, and may, under such agreements, sign
21 and pledge all or any of the revenues, rates, fees, rentals or
22 other charges or receipts of the authority, including all or
23 any portion of the Osceola County gasoline tax funds received
24 by the authority pursuant to the terms of any lease-purchase
25 agreement between the authority and the department,
26 thereunder. Such deed of trust, indenture, or other agreement
27 may contain such provisions as are customary in such
28 instruments, or, as the authority may authorize, including,
29 but not limited to, provisions as to:

30 (a) The completion, improvement, operation, extension,
31 maintenance, repair and lease of, or lease-purchase agreement

Bill No. CS for SB 718

Barcode 434656

1 relating to the Osceola County Expressway System, and the
2 duties of the authority and others, including the department,
3 with reference thereto.

4 (b) The application of funds and the safeguarding of
5 funds on hand or on deposit.

6 (c) The rights and remedies of the trustee and the
7 holders of the bonds.

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

10 (4) Any of the bonds issued under this part are, and
11 are declared to be, negotiable instruments, and shall have all
12 the qualities and incidents of negotiable instruments under
13 the law merchant and the negotiable instruments law of the
14 state.

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

20 348.9795 Remedies of the bondholders.--

21 (1) The rights and the remedies conferred by this part
22 upon or granted to the bondholders are in addition to and not
23 in limitation of any rights and remedies lawfully granted to
24 such bondholders by the resolution or resolutions providing
25 for the issuance of bonds, or by a lease-purchase agreement,
26 deed of trust, indenture, or other agreement under which the
27 bonds may be issued or secured. If the authority defaults in
28 the payment of the principal of or interest on any of the
29 bonds issued under this part after such principal of or
30 interest on such bonds becomes due, whether at maturity or
31 upon call for redemption, or if the department defaults in any

Bill No. CS for SB 718

Barcode 434656

1 payments under, or covenants made in, any lease-purchase
2 agreement between the authority and the department, and such
3 default continues for a period of 30 days, or if the authority
4 or the department fails or refuses to comply with this part or
5 any agreement made with, or for the benefit of, the holders of
6 the bonds, the holders of 25 percent in aggregate principal
7 amount of the bonds then outstanding will be entitled as of
8 right to the appointment of a trustee to represent such
9 bondholders for the purposes hereof; provided, however, that
10 such holders of 25 percent in aggregate principal amount of
11 the bonds then outstanding have first given notice of their
12 intention to appoint a trustee, to the authority and to the
13 department. Such notice shall be deemed to have been given if
14 given in writing, and deposited in a securely sealed postpaid
15 wrapper, mailed at a regularly maintained United States post
16 office box or station and addressed, respectively, to the
17 chair of the authority and to the secretary of the department
18 at the principal office of the department.

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

26 (a) By mandamus or other suit, action, or proceeding
27 at law, or in equity, enforce all rights of the bondholders,
28 including the right to require the authority to fix,
29 establish, maintain, collect, and charge rates, fees, rentals,
30 and other charges, adequate to carry out any agreement as to,
31 or pledge of, the revenues or receipts of the authority to

Bill No. CS for SB 718

Barcode 434656

1 carry out any other covenants and agreements with or for the
2 benefit of the bondholders, and to perform its and their
3 duties under this part.

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

15 (c) Bring suit upon the bonds.

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

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

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

Bill No. CS for SB 718

Barcode 434656

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

23 (4) This part does not authorize any receiver
24 appointed pursuant hereto for the purpose, subject to and in
25 compliance with any lease-purchase agreement between the
26 authority and the department, of operating and maintaining the
27 Osceola County Expressway System or any facilities or part or
28 parts thereof, to sell, assign, mortgage, or otherwise dispose
29 of any of the assets of whatever kind and character belonging
30 to the authority. It is the intention of this part to limit
31 the powers of such receiver, subject to and in compliance with

Bill No. CS for SB 718

Barcode 434656

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

12 348.9796 Lease-purchase agreement.--

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

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

29 (3) Such lease-purchase agreement may include such
 30 other provisions, agreements, and covenants as the authority
 31 and the department deem advisable or required, including, but

Bill No. CS for SB 718

Barcode 434656

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

15 (4) The department as lessee under such lease-purchase
16 agreement, may pay as rentals thereunder any rates, fees,
17 charges, funds, moneys, receipts, or income accruing to the
18 department from the operation of the system and the Osceola
19 County gasoline tax funds and may also pay as rentals any
20 appropriations received by the department pursuant to any act
21 of the Legislature heretofore or hereafter enacted; however,
22 nothing herein or in such lease-purchase agreement is intended
23 to nor shall this part or such lease-purchase agreement
24 require the making or continuance of such appropriations, nor
25 shall any holder of bonds issued pursuant to this part ever
26 have any right to compel the making or continuance of such
27 appropriations.

28 (5) No pledge of such Osceola County gasoline tax
29 funds as rentals under such lease-purchase agreement may be
30 made without the consent of the County of Osceola evidenced by
31 a resolution duly adopted by the board of county commissioners

Bill No. CS for SB 718

Barcode 434656

1 of such county at a public hearing held pursuant to due notice
 2 thereof published at least once a week for 3 consecutive weeks
 3 before the hearing in a newspaper of general circulation in
 4 Osceola County. Such resolution, among other things, shall
 5 provide that any excess of such pledged gasoline tax funds
 6 which is not required for debt service or reserves for such
 7 debt service for any bonds issued by the authority shall be
 8 returned annually to the department for distribution to
 9 Osceola County as provided by law. Before making any
 10 application for such pledge of gasoline tax funds, the
 11 authority shall present the plan of its proposed project to
 12 the Osceola County planning and zoning commission for its
 13 comments and recommendations.

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

27 (7) The system shall be a part of the state road
 28 system and the department may, upon the request of the
 29 authority, expend out of any funds available for the purpose
 30 such moneys, and use such of its engineering and other forces,
 31 as may be necessary and desirable in the judgment of the

Bill No. CS for SB 718

Barcode 434656

1 department, for the operation of the authority and for traffic
 2 surveys, borings, surveys, preparation of plans and
 3 specifications, estimates of cost, and other preliminary
 4 engineering and other studies; however, the aggregate amount
 5 of moneys expended for such purposes by the department may not
 6 exceed \$375,000.

7 348.9797 Department may be appointed agent of
 8 authority for construction.--The authority may appoint the
 9 department as its agent for the purpose of constructing
 10 improvements and extensions to the system and for the
 11 completion thereof. In such event, the authority shall
 12 provide the department with complete copies of all documents,
 13 agreements, resolutions, contracts, and instruments relating
 14 thereto and request the department to do such construction
 15 work, including the planning, surveying, and actual
 16 construction of the completion, extensions, and improvements
 17 to the system, and shall transfer to the credit of an account
 18 of the department in the treasury of the state the necessary
 19 funds therefor and the department shall thereupon be
 20 authorized, empowered, and directed to proceed with such
 21 construction and to use such funds for such purpose in the
 22 same manner that it may now use the funds otherwise provided
 23 by law for its use in construction of roads and bridges.

24 348.9798 Acquisition of lands and property.--

25 (1) For the purposes of this part, the authority may
 26 acquire private or public property and property rights,
 27 including rights of access, air, view, and light, by gift,
 28 devise, purchase, or condemnation by eminent domain
 29 proceedings, as it may deem necessary for any of the purposes
 30 of this part, including, but not limited to, any lands
 31 reasonably necessary for securing applicable permits, areas

Bill No. CS for SB 718

Barcode 434656

1 necessary for management of access, borrow pits, drainage
2 ditches, water retention areas, rest areas, replacement access
3 for landowners whose access is impaired due to the
4 construction of a facility, and replacement rights-of-way for
5 relocated rail and utility facilities; for existing, proposed,
6 or anticipated transportation facilities on the system or in a
7 transportation corridor designated by the authority; or for
8 the purposes of screening, relocation, removal, or disposal of
9 junkyards and scrap metal processing facilities. The authority
10 may condemn any material and property necessary for such
11 purposes.

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

14 (3) When the authority acquires property for a
15 transportation facility or in a transportation corridor, it is
16 not subject to any liability imposed by chapter 376 or chapter
17 403 for preexisting soil or groundwater contamination due
18 solely to its ownership. This section does not affect the
19 rights or liabilities of any past or future owners of the
20 acquired property and does not affect the liability of any
21 governmental entity for the results of its actions which
22 create or exacerbate a pollution source. The authority and the
23 Department of Environmental Protection may enter into
24 interagency agreements for the performance, funding, and
25 reimbursement of the investigative and remedial acts necessary
26 for property acquired by the authority.

27 348.9799 Cooperation with other units, boards,
28 agencies, and individuals.--Any county, municipality, drainage
29 district, road and bridge district, school district or any
30 other political subdivision, board, commission, or individual
31 in or of the state may enter into with the authority,

Bill No. CS for SB 718

Barcode 434656

1 contracts, leases, conveyances, partnerships, or other
2 agreements within the provisions and purposes of this part.

3 The authority may enter into contracts, leases, conveyances,
4 partnerships, and other agreements with any political
5 subdivision, agency, or instrumentality of the state and any
6 and all federal agencies, corporations, and individuals, for
7 the purpose of carrying out this part.

8 348.98 Covenant of the state.--The state pledges to,
9 and agrees, with any person, firm or corporation, or federal
10 or state agency subscribing to, or acquiring the bonds to be
11 issued by the authority for the purposes of this part that the
12 state will not limit or alter the rights hereby vested in the
13 authority and the department until all bonds at any time
14 issued, together with the interest thereon, are fully paid and
15 discharged insofar as the same affects the rights of the
16 holders of bonds issued hereunder. The state does further
17 pledge to, and agree, with the United States that in the event
18 any federal agency shall construct or contribute any funds for
19 the completion, extension, or improvement of the system, or
20 any part or portion thereof, the state will not alter or limit
21 the rights and powers of the authority and the department in
22 any manner which would be inconsistent with the continued
23 maintenance and operation of the system or the completion,
24 extension, or improvement thereof, or which would be
25 inconsistent with the due performance of any agreements
26 between the authority and any such federal agency, and the
27 authority and the department shall continue to have and may
28 exercise all powers herein granted, so long as the same shall
29 be necessary or desirable for the carrying out of the purposes
30 of this part and the purposes of the United States in the
31 completion, extension, or improvement of the system, or any

Bill No. CS for SB 718

Barcode 434656

1 part or portion thereof.

2 348.9801 Exemption from taxation.--The effectuation of
3 the authorized purposes of the authority created under this
4 part is, shall and will be, in all respects for the benefit of
5 the people of the state, for the increase of their commerce
6 and prosperity, and for the improvement of their health and
7 living conditions, and since the authority will be performing
8 essential governmental functions in effectuating such
9 purposes, the authority shall not be required to pay any taxes
10 or assessments of any kind or nature whatsoever upon any
11 property acquired or used by it for such purposes, or upon any
12 rates, fees, rentals, receipts, income, or charges at any time
13 received by it, and the bonds issued by the authority, their
14 transfer and the income therefrom, including any profits made
15 on the sale thereof, shall at all times be free from taxation
16 of any kind by the state, or by any political subdivision, or
17 taxing agency or instrumentality thereof. The exemption
18 granted by this section does not apply to any tax imposed by
19 chapter 220 on interest, income, or profits on debt
20 obligations owned by corporations.

21 348.9802 Eligibility for investments and
22 security.--Any bonds or other obligations issued under this
23 part shall be and constitute legal investments for banks,
24 savings banks, trustees, executors, administrators, and all
25 other fiduciaries, and for all state, municipal and other
26 public funds and shall also be and constitute securities
27 eligible for deposit as security for all state, municipal or
28 other public funds, notwithstanding any other law or laws to
29 the contrary.

30 348.9803 Pledges enforceable by bondholders.--It is
31 the express intention of this part that any pledge by the

Bill No. CS for SB 718

Barcode 434656

1 department of rates, fees, revenues, Osceola County gasoline
 2 tax funds or other funds, as rentals, to the authority, or any
 3 covenants or agreements relative thereto may be enforceable in
 4 any court of competent jurisdiction against the authority or
 5 directly against the department by any holder of bonds issued
 6 by the authority.

7 348.9804 This part complete and additional
 8 authority.--

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

27 (2) This part shall not be deemed to repeal, rescind,
 28 or modify any other law or laws relating to the State Board of
 29 Administration, the department, or the Division of Bond
 30 Finance of the State Board of Administration, but shall be
 31 deemed to and shall supersede such other law or laws as are

Bill No. CS for SB 718

Barcode 434656

1 inconsistent with this part, including, but not limited to, s.
2 215.821.

3 Section 6. Except as otherwise expressly provided in
4 this act, and except for this section, which shall take effect
5 upon becoming a law, this act shall take effect July 1, 2005.

6

7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, line 2, through
11 page 2, line 7, delete those lines

12

13 and insert:

14 An act relating to transportation; amending s.
15 337.251, F.S.; authorizing the department to
16 adopt rules governing the leasing of property
17 for joint public-private development; amending
18 s. 337.406, F.S.; granting local governments
19 authority to issue permits allowing limited
20 temporary use of state transportation
21 right-of-way; clarifying that limited access
22 facilities are not included in such authority;
23 amending s. 339.55, F.S.; establishing a
24 maximum limit on state-funded infrastructure
25 bank loans to the State Transportation Trust
26 Fund; amending s. 373.4137, F.S.; revising the
27 requirements for projects intended to mitigate
28 the adverse effects of transportation projects;
29 removing the Department of Environmental
30 Protection from the mitigation process;
31 revising requirements for the Department of

Bill No. CS for SB 718

Barcode 434656

1 Transportation and the transportation
2 authorities with respect to submitting plans
3 and inventories; authorizing the use of
4 current-year funds for future projects;
5 revising the requirements for reconciling
6 escrow accounts used to fund mitigation
7 projects; authorizing payments to a water
8 management district to fund the costs of future
9 maintenance and monitoring; requiring specified
10 lump-sum payments to be used for the mitigation
11 costs of certain projects; authorizing a
12 governing board of a water management district
13 to approve the use of mitigation funds for
14 certain future projects; requiring that
15 mitigation plans be approved by the water
16 management district rather than the Department
17 of Environmental Protection; creating pt. X of
18 ch. 348, F.S., titled "Osceola County
19 Expressway Authority"; providing a short title;
20 providing definitions; creating the Osceola
21 County Expressway Authority; providing for a
22 governing body of the authority; providing for
23 membership; providing purposes and powers;
24 providing for the Osceola County Expressway
25 System; providing for procurement, including
26 eminent domain; providing for financing,
27 including bonds, debts, user charges, tolls,
28 gasoline tax funds, developer contributions, or
29 partnership agreements; requiring agreement of
30 the authority and the Department of
31 Transportation prior to use of Osceola County

Bill No. CS for SB 718

Barcode 434656

1 gasoline tax funds; providing for construction,
2 operation, and maintenance of the system;
3 prohibiting the authority from pledging the
4 credit or taxing power of the state; requiring
5 the consent of Osceola County or an affected
6 municipality prior to certain actions by the
7 authority; providing for bond financing
8 authority; providing for bonds of the
9 authority; providing for fiscal agents;
10 providing that the State Board of
11 Administration may act as fiscal agent;
12 providing for certain financial agreements;
13 providing for rights and remedies of
14 bondholders; providing for a lease-purchase
15 agreement with the Department of
16 Transportation; providing for appointment of
17 the department as agent of authority for
18 construction; providing for acquisition of
19 lands and property; providing for cooperation
20 with other units, boards, agencies, and
21 individuals; providing covenant of the state;
22 providing for exemption from taxation;
23 providing for eligibility for investments and
24 security; providing that pledges shall be
25 enforceable by bondholders; providing for
26 construction and application; providing an
27 effective date.

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