

1 criteria for the bond waiver; providing for
2 certain determinations by the authority's
3 executive director or a designee as to the
4 suitability of a project; providing for certain
5 payment obligations if a payment and
6 performance bond is waived; requiring the
7 authority to record notice of the obligation;
8 limiting eligibility to bid on the projects;
9 providing for the authority to conduct
10 bond-eligibility training for certain
11 businesses; requiring the authority to submit
12 biennial reports to the Orange County
13 legislative delegation; amending s. 348.0004,
14 F.S.; authorizing transportation authorities,
15 bridge authorities, or toll authorities to
16 enter agreements with private entities to
17 provide transportation facilities; amending s.
18 348.0012, F.S.; clarifying certain exemptions
19 from the Florida Expressway Authority Act;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Paragraph (b) of subsection (3) of section
25 316.650, Florida Statutes, is amended to read:

26 316.650 Traffic citations.--

27 (3)

28 (b) If a traffic citation is issued pursuant to s.
29 316.1001, a traffic enforcement officer may deposit the
30 original and one copy of such traffic citation or, in the case
31 of a traffic enforcement agency that has an automated citation

1 system, may provide an electronic facsimile with a court
2 having jurisdiction over the alleged offense or with its
3 traffic violations bureau within 45 days after the date of
4 issuance of the citation to the violator. If the person cited
5 for the violation of s. 316.1001 makes the election provided
6 by s. 318.14(12) and pays the fine imposed by the toll
7 authority plus the amount of the unpaid toll which is shown on
8 the traffic citation directly to the governmental entity that
9 issued the citation in accordance with s. 318.14(12), the
10 traffic citation will not be submitted to the court, the
11 disposition will be reported to the department by the
12 governmental entity that issued the citation, and no points
13 will be assessed against the person's driver's license.

14 Section 2. Subsection (12) of section 318.14, Florida
15 Statutes, is amended to read:

16 318.14 Noncriminal traffic infractions; exception;
17 procedures.--

18 (12) Any person cited for a violation of s. 316.1001
19 may, in lieu of making an election as set forth in subsection
20 (4) or s. 318.18(7), elect to pay a his or her fine of \$25 or,
21 such other amount as imposed by the toll authority, plus the
22 amount of the unpaid toll which is shown on the traffic
23 citation directly to the governmental entity that issued the
24 citation~~,~~ within 30 days after the date of issuance of the
25 citation. Any person cited for a violation of s. 316.1001 who
26 does not elect to pay the fine imposed by the toll authority
27 plus the amount of the unpaid toll which is shown on the
28 traffic citation directly to the governmental entity that
29 issued the citation as described in this subsection ~~section~~
30 shall have an additional 45 days after the date of the
31 issuance of the citation in which to request a court hearing

1 or to pay the civil penalty and delinquent fee, if applicable,
2 as provided in s. 318.18(7), either by mail or in person, in
3 accordance with subsection (4).

4 Section 3. Subsection (7) of section 318.18, Florida
5 Statutes, is amended to read:

6 318.18 Amount of civil penalties.--The penalties
7 required for a noncriminal disposition pursuant to s. 318.14
8 are as follows:

9 (7) A mandatory fine of \$100 ~~One hundred dollars~~ for
10 each a violation of s. 316.1001 plus the amount of the unpaid
11 toll shown on the traffic citation for each citation issued.
12 The clerk of the court shall forward \$25 of the \$100 fine
13 received plus the amount of the unpaid toll which is shown on
14 the citation to the governmental entity that issued the
15 citation. If adjudication is withheld or there is a plea
16 arrangement prior to a hearing, there shall be a minimum
17 mandatory fine assessed per citation of \$100 plus the amount
18 of the unpaid toll for each citation issued. The clerk of the
19 court shall forward \$25 of the \$100 plus the amount of the
20 unpaid toll as shown on the citation to the governmental
21 entity that issued the citation. The court shall have specific
22 authority to consolidate issued citations for the same
23 defendant for the purpose of sentencing and aggregate
24 jurisdiction. In addition, the department shall suspend for 60
25 days the driver's license of a person who is convicted of 10
26 violations of s. 316.1001 within a 36-month period. However, a
27 person may elect to pay \$30 to the clerk of the court, in
28 which case adjudication is withheld, and no points are
29 assessed under s. 322.27. Upon receipt of the fine, the clerk
30 of the court must retain \$5 for administrative purposes and
31 must forward the \$25 to the governmental entity that issued

1 ~~the citation.~~ Any funds received by a governmental entity for
2 this violation may be used for any lawful purpose related to
3 the operation or maintenance of a toll facility.

4 Section 4. Subsection (6) is added to section 348.754,
5 Florida Statutes, to read:

6 348.754 Purposes and powers.--

7 (6)(a) Notwithstanding s. 255.05, the Orlando-Orange
8 County Expressway Authority may waive payment and performance
9 bonds on construction contracts for the construction of a
10 public building, for the prosecution and completion of a
11 public work, or for repairs on a public building or public
12 work that has a cost of \$500,000 or less and when the project
13 is awarded pursuant to an economic development program for the
14 encouragement of local small businesses which has been adopted
15 by the governing body of the Orlando-Orange County Expressway
16 Authority pursuant to a resolution or policy.

17 (b) The authority's adopted criteria for participation
18 in the economic development program for local small businesses
19 requires that a participant:

20 1. Be an independent business.

21 2. Be principally domiciled in the Orange County
22 Standard Metropolitan Statistical Area.

23 3. Employ 25 or fewer full-time employees.

24 4. Have gross annual sales averaging \$3 million or
25 less over the immediately preceding 3 calendar years with
26 regard to any construction element of the program.

27 5. Be accepted as a participant in the Orlando-Orange
28 County Expressway Authority's microcontracts program or such
29 other small business program as may be hereinafter enacted by
30 the Orlando-Orange County Expressway Authority.

31

1 6. Participate in an educational curriculum or
2 technical assistance program for business development which
3 will assist the small business in becoming eligible for
4 bonding.

5 (c) The authority's adopted procedures for waiving
6 payment and performance bonds on projects having values not
7 less than \$200,000 and not exceeding \$500,000 shall provide
8 that payment and performance bonds may be waived only on
9 projects that have been set aside to be competitively bid on
10 by participants in an economic development program for local
11 small businesses. The authority's executive director or his or
12 her designee shall determine whether specific construction
13 projects are suitable for:

14 1. Bidding under the authority's microcontracts
15 program by registered local small businesses; and

16 2. Waiver of the payment and performance bond.

17
18 The decision of the authority's executive director or deputy
19 executive director to waive the payment and performance bond
20 shall be based upon his or her investigation and conclusion
21 that there exists sufficient competition so that the authority
22 receives a fair price and does not undertake any unusual risk
23 with respect to such project.

24 (d) For any contract for which a payment and
25 performance bond has been waived pursuant to the authority set
26 forth in this section, the Orlando-Orange County Expressway
27 Authority shall pay all persons defined in s. 713.01 who
28 furnish labor, services, or materials for the prosecution of
29 the work provided for in the contract to the same extent and
30 upon the same conditions that a surety on the payment bond
31 under s. 255.05 would have been obligated to pay such persons

1 if the payment and performance bond had not been waived. The
2 authority shall record notice of this obligation in the manner
3 in which and at the location where surety bonds are recorded.
4 The notice must include the information describing the
5 contract that s. 255.05(1) requires be stated on the front
6 page of the bond. Notwithstanding that s. 255.05(9) generally
7 applies when a performance and payment bond is required, s.
8 255.05(9) shall apply under this subsection to any contract
9 for which performance or payment bonds are waived, and any
10 claim to payment under this subsection shall be treated as a
11 contract claim pursuant to s. 255.05(9).

12 (e) A small business that has been the successful
13 bidder on six projects for which the payment and performance
14 bond was waived by the authority pursuant to paragraph (a)
15 shall be ineligible to bid on additional projects for which
16 the payment and performance bond is to be waived. The local
17 small business may continue to participate in other elements
18 of the economic development program for local small businesses
19 as long as it is eligible to do so.

20 (f) The authority shall conduct bond-eligibility
21 training for businesses qualifying for bond waiver under this
22 subsection to encourage and promote bond eligibility for such
23 businesses.

24 (g) The authority shall prepare a biennial report on
25 the activities undertaken pursuant to this subsection to be
26 submitted to the Orange County legislative delegation. The
27 initial report shall be due December 31, 2008.

28 Section 5. Subsection (9) of section 348.0004, Florida
29 Statutes, is amended to read:

30 348.0004 Purposes and powers.--
31

1 (9) The Legislature declares that there is a public
2 need for rapid construction of safe and efficient
3 transportation facilities for travel within the state and that
4 it is in the public's interest to provide for public-private
5 partnership agreements to effectuate the construction of
6 additional safe, convenient, and economical transportation
7 facilities.

8 (a) Notwithstanding any other provision of the Florida
9 Expressway Authority Act, any expressway authority,
10 transportation authority, bridge authority, or toll authority
11 established under this part or any other statute may receive
12 or solicit proposals and enter into agreements with private
13 entities, or consortia thereof, for the building, operation,
14 ownership, or financing of ~~expressway~~ authority transportation
15 facilities or new transportation facilities within the
16 jurisdiction of the ~~expressway~~ authority. An ~~expressway~~
17 authority is authorized to adopt rules to implement this
18 subsection and shall, by rule, establish an application fee
19 for the submission of unsolicited proposals under this
20 subsection. The fee must be sufficient to pay the costs of
21 evaluating the proposals. An ~~expressway~~ authority may engage
22 private consultants to assist in the evaluation. Before
23 approval, an ~~expressway~~ authority must determine that a
24 proposed project:

- 25 1. Is in the public's best interest.
- 26 2. Would not require state funds to be used unless the
27 project is on or provides increased mobility on the State
28 Highway System.
- 29 3. Would have adequate safeguards to ensure that no
30 additional costs or service disruptions would be realized by
31 the traveling public and residents ~~citizens~~ of the state in

1 the event of default or the cancellation of the agreement by
2 the ~~expressway~~ authority.

3 (b) An ~~expressway~~ authority shall ensure that all
4 reasonable costs to the state which are, related to
5 transportation facilities that are not part of the State
6 Highway System, are borne by the private entity. An ~~expressway~~
7 authority shall also ensure that all reasonable costs to the
8 state and substantially affected local governments and
9 utilities related to the private transportation facility are
10 borne by the private entity for transportation facilities that
11 are owned by private entities. For projects on the State
12 Highway System, the department may use state resources to
13 participate in funding and financing the project as provided
14 for under the department's enabling legislation.

15 (c) The ~~expressway~~ authority may request proposals for
16 public-private transportation projects or, if it receives an
17 unsolicited proposal, it must publish a notice in the Florida
18 Administrative Weekly and a newspaper of general circulation
19 in the county in which it is located at least once a week for
20 2 weeks, stating that it has received the proposal and will
21 accept, for 60 days after the initial date of publication,
22 other proposals for the same project purpose. A copy of the
23 notice must be mailed to each local government in the affected
24 areas. After the public notification period has expired, the
25 ~~expressway~~ authority shall rank the proposals in order of
26 preference. In ranking the proposals, the ~~expressway~~ authority
27 shall consider professional qualifications, general business
28 terms, innovative engineering or cost-reduction terms, finance
29 plans, and the need for state funds to deliver the proposal.
30 If the ~~expressway~~ authority is not satisfied with the results
31 of the negotiations, it may, at its sole discretion, terminate

1 negotiations with the proposer. If these negotiations are
2 unsuccessful, the ~~expressway~~ authority may go to the second
3 and lower-ranked firms, in order, using the same procedure. If
4 only one proposal is received, the ~~expressway~~ authority may
5 negotiate in good faith, and if it is not satisfied with the
6 results, it may, at its sole discretion, terminate
7 negotiations with the proposer. Notwithstanding this
8 paragraph, the ~~expressway~~ authority may, at its discretion,
9 reject all proposals at any point in the process up to
10 completion of a contract with the proposer.

11 (d) The department may lend funds from the Toll
12 Facilities Revolving Trust Fund, as outlined in s. 338.251, to
13 public-private partnerships. To be eligible a private entity
14 must comply with s. 338.251 and must provide an indication
15 from a nationally recognized rating agency that the senior
16 bonds for the project will be investment grade or must provide
17 credit support, such as a letter of credit or other means
18 acceptable to the department, to ensure that the loans will be
19 fully repaid.

20 (e) Agreements entered into pursuant to this
21 subsection may authorize the public-private entity to impose
22 tolls or fares for the use of the facility. However, the
23 amount and use of toll or fare revenues shall be regulated by
24 the ~~expressway~~ authority to avoid unreasonable costs to users
25 of the facility.

26 (f) Each public-private transportation facility
27 constructed pursuant to this subsection shall comply with all
28 requirements of federal, state, and local laws; state,
29 regional, and local comprehensive plans; the ~~expressway~~
30 authority's rules, policies, procedures, and standards for
31 transportation facilities; and any other conditions that the

1 ~~expressway~~ authority determines to be in the public's best
2 interest.

3 (g) An ~~expressway~~ authority may exercise any power
4 possessed by it, including eminent domain, to facilitate the
5 development and construction of transportation projects
6 pursuant to this subsection. An ~~expressway~~ authority may pay
7 all or part of the cost of operating and maintaining the
8 facility or may provide services to the private entity for
9 which it receives full or partial reimbursement for services
10 rendered.

11 (h) Except as herein provided, this subsection is not
12 intended to amend existing laws by granting additional powers
13 to or further restricting the governmental entities from
14 regulating and entering into cooperative arrangements with the
15 private sector for the planning, construction, and operation
16 of transportation facilities. Use of the powers granted in
17 this subsection may not subject a statutorily created
18 expressway authority, transportation authority, bridge
19 authority, or toll authority, other than one statutorily
20 created under this part, to any of the requirements of this
21 part other than those contained in this subsection.

22 Section 6. Section 348.0012, Florida Statutes, is
23 amended to read:

24 348.0012 Exemptions from applicability.--The Florida
25 Expressway Authority Act does not apply:

26 (1) In a county in which an expressway authority has
27 been created pursuant to other parts ~~II-IX~~ of this chapter,
28 except as expressly provided in this part; or

29 (2) To a transportation authority created pursuant to
30 chapter 349.

31 Section 7. This act shall take effect July 1, 2006.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/Senate Bill 954

The Committee Substitute for Committee Substitute for Senate Bill 954 amends current law to allow a motorist, who receives a citation for nonpayment of tolls, the option of using the court system to resolve or paying a reduced fine and the unpaid toll directly to the tolling agency. If the motorist chooses to avoid the court process, no points will be assessed against the motorist's license. In addition, anyone convicted of 10 violations within a 36 month period will have their license suspended for 60 days.