2012

1	A bill to be entitled
2	An act relating to the Seminole County Expressway
3	Authority; creating the Seminole County Expressway
4	Authority Law; providing definitions; creating the
5	Seminole County Expressway Authority; prohibiting an
6	entity or body or another authority from exercising
7	jurisdiction, control, authority, or power over an
8	expressway system in Seminole County without the
9	consent of the Seminole County Expressway Authority;
10	providing for membership and terms of the authority;
11	authorizing staffing; providing for certain
12	reimbursement for authority members; providing for the
13	powers and duties of the authority; requiring notice
14	of public hearing and an opportunity for municipal
15	officials and residents to discuss and advise the
16	authority; providing for the issuance of bonds;
17	providing for lease-purchase agreements between the
18	Department of Transportation and the authority;
19	providing criteria for the lease-purchase agreements;
20	providing for use of certain revenues as payments for
21	the lease-purchase agreements; authorizing the
22	Department of Transportation to use funds for the
23	operation of the authority and to generate preparatory
24	information necessary for an expressway system;
25	providing for an agent for construction; authorizing
26	the authority to appoint the department as its agent
27	under certain circumstances; authorizing the authority
28	to acquire land and properties; providing for the
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29 cooperation of other entities to further the purposes 30 of the act; prohibiting the state from changing the 31 terms of the bonds; exempting the authority from certain taxes; providing for the bond's eligibility 32 33 for investments and security; providing for the enforcement by bondholders of any pledge relating to 34 35 the bonds issued by the department; providing for the extent of the powers authorized by the act; providing 36 an effective date. 37 38 39 Be It Enacted by the Legislature of the State of Florida: 40 41 Section 1. Short title.-Sections 1-14 of this act may be 42 cited as the "Seminole County Expressway Authority Law." Definitions.-As used in sections 1-14 of this 43 Section 2. 44 act, the term: 45 "Agency of the state" means the state and any (1) 46 department of, or corporation, agency, or instrumentality 47 created, designated, or established by, the state. 48 "Authority" means the Seminole County Expressway (2) 49 Authority. 50 "Bond" means a note, bond, refunding bond, or other (3) 51 evidence of indebtedness or obligation, in temporary or 52 definitive form, which the authority issues pursuant to this 53 part. 54 (4) "County" means Seminole County. 55 (5) "Department" means the Department of Transportation 56 existing under chapters 334-339, Florida Statutes. Page 2 of 19

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57 (6) "Expressway" means the same as limited access 58 expressway. "Federal agency" means the United States, the 59 (7) 60 President of the United States, and any department of, or 61 corporation, agency, or instrumentality created, designated, or 62 established by, the United States. 63 (8) "Gasoline tax funds of Seminole County" mean all of 64 the 80 percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Seminole County 65 under the provisions of s. 9, Article XII of the State 66 67 Constitution, or all constitutional gas funds as may otherwise 68 be provided by the State Constitution or by statute for use in 69 Seminole County, after deduction of any amount of such gasoline 70 tax funds pledged by the Department of Transportation or the 71 county for outstanding obligations. 72 (9) "Lease-purchase agreement" means an agreement that the 73 authority may enter into with the Department of Transportation 74 pursuant to this part. 75 "Limited access expressway" means a street or highway (10) 76 especially designed for through traffic and over, from, or to 77 which no person has the right of easement, use, or access except 78 in accordance with the rules and regulations adopted by the 79 authority for the use of such facility. The street or highway 80 may be a parkway from which trucks, buses, and other commercial vehicles are excluded, or it may be a freeway open to use by all 81 82 customary forms of street and highway traffic. 83 (11) "Members" mean the governing body of the authority, 84 and the term "member" means one of the individuals constituting Page 3 of 19

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85 the governing body. "Seminole County Expressway System" or "system" means 86 (12)87 any expressway and appurtenant facilities thereto in Seminole 88 County, including, but not limited to, all approaches, roads, 89 bridges, and avenues of access for the expressway. 90 "State Board of Administration" means the body (13) 91 corporate existing under s. 9, Article XII of the State 92 Constitution or any successor thereto. 93 Section 3. Seminole County Expressway Authority.-There is created a body politic and corporate, an 94 (1) 95 agency of the state, to be known as the "Seminole County 96 Expressway Authority" and referred to as "authority." 97 The authority has exclusive right to exercise all the (2) 98 powers under sections 1-14 of this act, and no other entity, 99 body, or authority within or without Seminole County may 100 directly or indirectly exercise jurisdiction, control, 101 authority, or power in any manner relating to any expressway 102 system within Seminole County without the express consent of the 103 authority or as otherwise provided in sections 1-14 of this act. 104 (3) The governing body of the authority consists of seven 105 members. Five members must be members of the Board of County 106 Commissioners of Seminole County, and the term of each member is 107 concomitant with his or her term as a county commissioner. Two 108 members shall be appointed by the board of county commissioners 109 from among the duly elected municipal officers within the 110 county, and the municipal members serve 2-year terms unless 111 reappointed. Each 2-year term runs from the date of appointment 112 and automatically terminates if the member ceases to be a duly Page 4 of 19

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113	elected municipal officer. The board of county commissioners
114	shall fill a municipal membership vacancy within 45 days after
115	the occurrence of the vacancy, and the board must appoint an
116	individual who is jointly recommended to the board of county
117	commissioners by two-thirds of the municipalities in the county
118	within 30 days after the vacancy.
119	(4) The authority shall elect one of its members as chair
120	of the authority. The authority shall elect a secretary and a
121	treasurer, who need not be members of the authority. The chair,
122	secretary, and treasurer hold the office at the will of the
123	authority. Four members of the authority constitute a quorum,
124	and the affirmative vote of three members is necessary for any
125	action taken by the authority. A vacancy in the authority does
126	not impair the right of the quorum to exercise the rights and
127	perform the duties of the authority.
128	(5) Each appointed member of the authority shall enter
129	upon his or her duties upon the effective date of his or her
130	appointment, or as soon thereafter as practicable.
131	(6) The authority may employ an executive secretary, an
132	executive director, and its own counsel and legal staff,
133	technical experts, engineers, and other employees, permanent or
134	temporary, as it may require; determine the qualifications and
135	fix the compensation of the persons, firms, or corporations; and
136	employ a fiscal agent. However, the authority shall solicit at
137	least three sealed proposals for the performance of any services
138	as the fiscal agent. The authority may delegate to one or more
139	of its agents or employees any of its powers as it deems
140	necessary to carry out the purposes of sections 1-14 of this
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act, subject to the supervision and control of the authority.
(7) The authority shall reimburse its members for travel
and other necessary expenses incurred in connection with the
business of the authority as provided in s. 112.061, Florida
Statutes, but the members may not draw salaries or other
compensation.
Section 4. <u>Powers and duties.</u>
(1)(a) The authority may acquire, hold, construct,
improve, maintain, operate, own, and lease, in the capacity of
lessor, the Seminole County Expressway System.
(b) The authority, in the construction of the Seminole
County Expressway System, may construct any extension, addition,
or improvement to the system or appurtenant facilities,
including all necessary approaches, roads, bridges, and avenues
of access, with any change, modification, or revision of the
project as deemed necessary.
(2) The authority may exercise all powers necessary,
appurtenant, convenient, or incidental to the implementation of
sections 1-14 of this act, including, but not limited to, the
following:
(a) To sue and be sued, implead and be impleaded, and
complain and defend in all courts;
(b) To adopt, use, and alter at will a corporate seal;
(c) To acquire, purchase, hold, lease as lessee, and use
any franchise or property, real, personal, or mixed, tangible or
intangible, or any interest necessary to implement the purposes
of sections 1-14 of this act; and to sell, lease as lessor,

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169 acquired by the authority; To enter into and make leases for terms not exceeding 170 (d) 171 40 years, as lessee or lessor, and to implement the right to 172 lease as provided in sections 1-14 of this act; 173 To enter into and make lease-purchase agreements with (e) 174 the department for terms not exceeding 40 years or until any 175 bond secured by a pledge of rental, and any refund, are fully 176 paid, whichever is longer; 177 To fix, alter, charge, establish, and collect rates, (f) fees, rentals, and other charges for the services and facilities 178 179 of the Seminole County Expressway System, which rates, fees, 180 rentals, and other charges are sufficient to comply with any 181 covenant made with the holders of any bonds issued pursuant to 182 sections 1-14 of this act; however, the authority may assign or 183 delegate to the department any of its rights and powers; 184 (g)1. To borrow money as provided by the State Bond Act. 185 2. To reimburse Seminole County for any sums expended from 186 the gasoline tax funds of Seminole County and any other revenues 187 provided to the authority by Seminole County and used for the 188 payment of the obligations. If the authority deems it 189 practicable, the authority may repay disbursed revenues from 190 Seminole County or gasoline tax funds, together with interest at 191 the highest rate applicable, to any obligations of the authority 192 for which funds or revenues were used to pay debt service. 193 3. To hire and retain independent certified public 194 accountants and auditors to audit the books and records of the 195 authority and the department with respect to the Seminole County 196 Expressway System or any part thereof, so long as any bonds of

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197	the authority are outstanding;
198	(h) To make contracts and to execute all instruments
199	necessary to conduct its business;
200	(i) Without limitation of the foregoing, to borrow money
201	and accept grants from, and to enter into contracts, leases, or
202	other transactions with, any federal agency, the state, any
203	agency of the state, Seminole County, or any other public body
204	of the state;
205	(j) To have the power of eminent domain, including the
206	procedural powers granted under chapters 73 and 74, Florida
207	Statutes;
208	(k) To pledge, hypothecate, or otherwise encumber all
209	parts of the revenues, rates, fees, rentals, or other charges or
210	receipts of the authority, including all or any portion of the
211	gasoline tax funds of Seminole County or other revenues received
212	by the authority pursuant to the terms of any lease-purchase
213	agreement between the authority and the department or any other
214	agreement between the authority and Seminole County, as security
215	for any of the obligations of the authority;
216	(1) To do all acts necessary for the conduct of its
217	business and the general welfare of the authority in order to
218	implement the powers granted to it by sections 1-14 of this act
219	or any other law; and
220	(m) To employ fiscal agents as provided by section 3 of
221	this act. The State Board of Administration may, upon request of
222	the authority, act as fiscal agent for the authority in the
223	issuance of any bonds that may be issued pursuant to section 5
224	of this act. The State Board of Administration may, upon request
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225	of the authority, take over the management, control,
226	administration, custody, and payment of any debt service or fund
227	or asset available for any bond issued pursuant to section 5 of
228	this act. The authority may enter into a deed of trust, an
229	indenture, a resolution, or another agreement with its fiscal
230	agent, a financial institution, an insurance company, or a bank
231	or trust company within or without the state, as security for
232	the bonds, and may, under the agreement, sign and pledge any of
233	the revenues, rates, fees, rentals, or other charges or receipts
234	of the authority, including any portion of the gasoline tax
235	funds of Seminole County or other revenues received by the
236	authority pursuant to the terms of a lease-purchase agreement
237	between the authority and the department or any other agreement
238	between the authority and Seminole County. The deed of trust,
239	indenture, resolution, or other agreement may contain provisions
240	as are customary in such instruments, or, if the authority
241	authorizes, may include, without limitation, provisions as to:
242	1. The completion, improvement, operation, extension,
243	maintenance, and repair of the Seminole County Expressway
244	System; the lease of, or lease-purchase agreement for, the
245	system; and the duties of the authority and others, including
246	the department.
247	2. The availability and application of funds and the
248	safeguarding of funds on hand or on deposit.
249	3. The rights and remedies of the trustee and the holders
250	of the bonds and any institution providing liquidity or credit
251	support for the bonds.
252	4. The terms and provisions of the bonds or the
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253 resolutions authorizing the issuance of the bonds. 254 5. The terms and conditions pursuant to which the 255 authority or any trustee for the bonds is entitled to receive 256 any revenues from Seminole County to pay the principal of or 257 interest on the bonds. 258 The authority may not pledge the credit or taxing (3) 259 power of the state or any political subdivision or agency of the 260 state, including Seminole County. The obligations of the 261 authority are not deemed obligations of the state, or any political subdivision or agency of the state. The state, or any 262 263 political subdivision or agency of the state, except the 264 authority, is not liable for the payment of the principal of or 265 interest on the obligations. However, the gasoline tax funds of 266 Seminole County or other revenues may be pledged for the payment 267 of the principal of or interest on the obligations pursuant to 268 the terms of a lease-purchase agreement between the authority 269 and the department or any other agreement between the authority 270 and Seminole County. 271 The consent of a municipality is not necessary for any (4) 272 project of the authority, notwithstanding any provision in 273 sections 1-14 of this act or any other law to the contrary or 274 whether the project lies within the boundaries of any 275 municipality, in whole or in part. However, an official or a resident of a municipality in which a project of the authority 276 277 is located, in whole or in part, must have reasonable 278 opportunity to discuss the project and advise the authority of 279 his or her position at a duly advertised public hearing. Notice 280 of the public hearing must be advertised in a newspaper

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281 published in Seminole County and circulated in the affected 282 municipalities. The notice must be published once at least 2 283 weeks before the public hearing and must contain the time and 284 place of the public hearing and a short description of the 285 subject to be discussed. The public hearing may be adjourned 286 from time to time and set for a time and place certain without 287 necessity of further advertisement. In routing and locating an 288 expressway or its interchange in or through a municipality, the 289 authority must consider the effect of such location on the 290 municipality as a whole and must not unreasonably split or 291 divide an area of the municipality or separate one area of the 292 municipality from another. 293 Section 5. Bonds.-Bonds may be issued on behalf of the 294 authority as provided by the State Bond Act. 295 Section 6. Lease-purchase agreement.-296 (1)The authority may enter into a lease-purchase 297 agreement with the department relating to and covering the 298 Seminole County Expressway System. 299 The lease-purchase agreement shall provide for the (2) 300 leasing of the Seminole County Expressway System by the 301 authority, as lessor, to the department, as lessee; shall 302 prescribe the terms of the agreement and the rentals to be paid; 303 and shall provide that, upon the completion of the faithful 304 performance of the agreement and the termination of such leasepurchase agreement, the authority shall transfer to the state 305 306 title in fee simple absolute to the Seminole County Expressway 307 System and the authority shall deliver to the department deeds 308 and conveyances necessary to vest title in fee simple absolute

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309 in the state.

310 (3) The lease-purchase agreement may include other 311 provisions, agreements, and covenants as the authority and the 312 department deem necessary, including, but not limited to, 313 provisions as to the bonds to be issued pursuant to this part; 314 the completion, extension, improvement, operation, and 315 maintenance of the Seminole County Expressway System and the 316 expenses and the cost of operation of the authority and the 317 system; the charging and collection of tolls, rates, fees, and 318 other charges for the use of the services and facilities; the 319 application of federal or state grants or aid made or given to 320 assist the authority in the completion, extension, improvement, 321 operation, and maintenance of the Seminole County Expressway 322 System, which the authority may accept and apply to these 323 purposes; the enforcement of payment and collection of rentals; 324 and any other terms, provisions, or covenants necessary, 325 incidental, or appurtenant to the making of, and full 326 performance under, the lease-purchase agreement. 327 The department, as lessee under such lease-purchase (4) 328 agreement, may pay, as rentals under the agreement, any rates, 329 fees, charges, funds, moneys, receipts, or income accruing to 330 the department from the operation of the Seminole County 331 Expressway System and the gasoline tax funds or other revenues 332 of Seminole County used to pay the principal of or interest on 333 any obligations issued to finance any portion of the system and 334 may also pay, as rentals, any appropriations received by the

335 department pursuant to state law. The lease-purchase agreement

336 or any holder of bonds issued pursuant to section 5 of this act

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337 may not require the making or continuance of any appropriations. 338 (5) Gasoline tax funds or other revenues of Seminole 339 County may not be pledged as rentals under a lease-purchase 340 agreement or another agreement without the consent of Seminole 341 County, evidenced by a resolution adopted by the board of county 342 commissioners of the county at a public hearing held pursuant to 343 due notice thereof published at least once a week for 3 344 consecutive weeks before the hearing in a newspaper of general circulation in the county. The resolution must provide that, for 345 346 bonds issued on behalf of the authority, any excess of the 347 pledged gasoline tax funds and other revenues of Seminole County 348 which is not required for debt service or for reserves for debt 349 service shall be distributed to Seminole County as provided by 350 law. Before making any application for the pledge of gasoline 351 tax funds, the authority shall present the plan of its proposed 352 project to the Seminole County Planning and Zoning Commission 353 for comments and recommendations. The department may covenant in 354 a lease-purchase agreement that it will pay all or part of the 355 cost of the system, and any part of the cost of completing the 356 system to the extent that the proceeds of bonds issued for the 357 project are insufficient, from sources other than the revenues 358 derived from the operation of the system and the gasoline tax 359 funds or any other revenue of Seminole County pledged for such 360 purpose. The department may agree to make payments from any 361 moneys available to Seminole County, in connection with the 362 construction or completion of the system, as deemed by the 363 department to be fair and proper under any covenant that is 364 entered into.

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265	(C) The eventor is a next of the state word eventor and the
365	(6) The system is a part of the state road system, and the
366	department may, upon the request of the authority, expend money
367	out of any funds available for the purpose and use its
368	engineering and other powers deemed necessary by the department
369	for the operation of the authority and for traffic surveys,
370	borings, surveys, preparation of plans and specifications,
371	estimates of cost, and other preliminary engineering and other
372	studies. However, the aggregate amount of moneys expended for
373	this purpose by the department may not exceed the sum of
374	\$500,000.
375	Section 7. Agent for constructionThe authority may
376	appoint the department as its agent for the construction of and
377	improvements and extensions to the Seminole County Expressway
378	System and for the completion of the system. If the department
379	is appointed, the authority shall provide the department with
380	complete copies of all documents, agreements, resolutions,
381	contracts, and instruments relating to the system; shall request
382	the department to do the construction work, including the
383	planning, surveying, and actual construction of the completion,
384	extension, and improvement to the Seminole County Expressway
385	System; and shall transfer the necessary funds for the
386	construction to the credit of an account of the department in
387	the State Treasury. The department shall proceed with the
388	construction and shall use the funds that are authorized for the
389	construction of roads and bridges.
390	Section 8. Acquisition of lands and property
391	(1) The Seminole County Expressway Authority may acquire
392	private or public property and property rights, including rights
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393 of access, air, view, and light, by gift, devise, purchase, or 394 condemnation by an eminent domain proceeding, as the authority 395 deems necessary to implement sections 1-14 of this act. The 396 property that the authority may acquire includes, but is not 397 limited to, any land: 398 (a) Reasonably necessary for securing applicable permits, 399 areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access 400 401 for landowners whose access is impaired due to the construction 402 of a facility, and replacement rights-of-way for relocated rail 403 and utility facilities; 404 (b) For existing, proposed, or anticipated transportation 405 facilities on the Seminole County Expressway System or in a 406 transportation corridor designated by the authority; or 407 (c) For the purposes of screening, relocation, removal, or 408 disposal of junkyards and scrap metal processing facilities. 409 The authority may condemn any material and property necessary 410 411 for these purposes. 412 The authority may exercise the right of eminent domain (2) 413 in the manner provided by law. 414 (3) If the authority acquires property for a 415 transportation facility or in a transportation corridor, the authority is not subject to any liability imposed by chapter 376 416 417 or chapter 403, Florida Statutes, for preexisting soil or 418 groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or 419 420 future owners of the acquired property, nor does it affect the

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liability of any governmental entity for the results of its actions that create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into an interagency agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority. Section 9. Cooperation with other units, boards, agencies, and individuals.-Any county, municipality, drainage district, road or bridge district, school district, or any other political subdivision, board, commission, or individual in or of the state may make and enter into a contract, lease, conveyance, or other agreement consistent with sections 1-14 of this act with the authority. The authority may make and enter into a contract, lease, conveyance, or other agreement with any political subdivision, agency, or instrumentality of the state, any federal agency, any corporation, or any individual to implement sections 1-14 of this act. Section 10. Covenant of the state.-The state pledges to, and agrees with, any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds issued by the authority pursuant to section 5 of this act that the state will not limit or alter the rights vested in the authority and the department until all bonds at any time issued, together with the interest on the bonds, are fully paid and discharged. The state pledges to, and agrees with, the United States that, when any federal agency constructs or contributes any funds for the completion, extension, or improvement of the Seminole County

448 Expressway System or any part or portion thereof, the state will

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449	not alter or limit the rights and powers of the authority and
450	the department in any manner that would be inconsistent with the
451	continued maintenance and operation of the Seminole County
452	Expressway System or the completion, extension, or improvement
453	
	of the system, or that is inconsistent with the due performance
454	of the agreement between the authority and the federal agency.
455	The authority and the department have and may exercise all
456	powers granted in sections 1-14 of this act necessary to
457	implement the purposes of sections 1-14 of this act and the
458	purposes of the United States in the completion, extension, or
459	improvement of the Seminole County Expressway System or any part
460	or portion of the system.
461	Section 11. Exemption from taxationThe authority created
462	pursuant to sections 1-14 of this act is for the benefit of the
463	people of the state, for the increase of their commerce and
464	prosperity, and for the improvement of their health and living
465	conditions. Because the authority is performing essential
466	governmental functions in carrying out the purposes of sections
467	1-14 of this act, the authority is exempt from taxes or
468	assessments upon any property acquired or used by it for such
469	purposes, or upon any revenues, rates, fees, rentals, receipts,
470	income, or charges received by it. The bonds issued by the
471	authority, their transfer, and the income from the bonds,
472	including any profits made on the sale of the bonds, are at all
473	times free from taxation of any kind by the state or any
474	political subdivision, taxing agency, or instrumentality of the
475	state. However, the exemption granted by this section is not
476	applicable to any tax imposed under chapter 220, Florida
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477	Statutes, on interest, income, or profits on debt obligations
478	owned by corporations. When a property of the authority is
479	leased, it is exempt from ad valorem taxes if the use by the
480	lessee qualifies the property for exemption under s. 196.199,
481	Florida Statutes.
482	Section 12. Eligibility for investments and securityAny
483	bonds or other obligations issued pursuant to sections 1-14 of
484	this act are legal investments for banks, savings banks,
485	trustees, executors, administrators, and all other fiduciaries,
486	and for all state, municipal, and other public funds, and are
487	securities eligible for deposit as security for all state,
488	municipal, or other public funds, notwithstanding the provisions
489	of any law.
490	Section 13. Pledges enforceable by bondholdersA pledge
491	by the department of rates, fees, revenues, gasoline tax funds
492	of Seminole County, or other funds as rentals to the authority,
493	or any covenant or agreement relative to the pledge, is
494	enforceable in any court of competent jurisdiction against the
495	authority or directly against the department by any holder of
496	bonds issued by the authority.
497	Section 14. Complete and additional authority
498	(1) The powers conferred by sections 1-14 of this act are
499	in addition to the existing powers of the authority and the
500	department, and sections 1-14 of this act do not repeal any of
501	the provisions of any other law, general, special, or local. The
502	extension and improvement of the Seminole County Expressway
503	System, and the issuance of bonds pursuant to section 5 of this
504	act to finance all or part of the cost of the system, may be

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505 accomplished upon compliance with the provisions of sections 1-506 14 of this act without regard to or necessity for compliance 507 with the provisions, limitations, or restrictions contained in 508 any other general, special, or local law. Approval of any bonds 509 issued under this part by qualified electors or qualified 510 electors who are freeholders in the state, in Seminole County or 511 in any other political subdivision of the state, is not required 512 for the issuance of bonds pursuant to section 5 of this act. 513 (2) Sections 1-14 of this act do not repeal, rescind, or 514 modify any other law relating to the State Board of 515 Administration, the Department of Transportation, or the 516 Division of Bond Finance of the State Board of Administration, 517 but supersede any law that is inconsistent with the provisions 518 of sections 1-14 of this act.

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Section 15. This act shall take effect July 1, 2012.

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