

By Senator Simmons

22-00174-12

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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
29 cooperation of other entities to further the purposes

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30 of the act; prohibiting the state from changing the
31 terms of the bonds; exempting the authority from
32 certain taxes; providing for the bond's eligibility
33 for investments and security; providing for the
34 enforcement by bondholders of any pledge relating to
35 the bonds issued by the department; providing for the
36 extent of the powers authorized by the act; providing
37 an effective date.

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."

43 Section 2. Definitions.—As used in sections 1-14 of this
44 act, the term:

45 (1) "Agency of the state" means the state and any
46 department of, or corporation, agency, or instrumentality
47 created, designated, or established by, the state.

48 (2) "Authority" means the Seminole County Expressway
49 Authority.

50 (3) "Bond" means a note, bond, refunding bond, or other
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.

57 (6) "Expressway" means the same as limited access
58 expressway.

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59 (7) "Federal agency" means the United States, the President
60 of the United States, and any department of, or corporation,
61 agency, or instrumentality created, designated, or established
62 by, the United States.

63 (8) "Gasoline tax funds of Seminole County" mean all of the
64 80 percent surplus gasoline tax funds accruing in each year to
65 the Department of Transportation for use in Seminole County
66 under the provisions of s. 9, Article XII of the State
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 (10) "Limited access expressway" means a street or highway
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
81 vehicles are excluded, or it may be a freeway open to use by all
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
85 the governing body.

86 (12) "Seminole County Expressway System" or "system" means
87 any expressway and appurtenant facilities thereto in Seminole

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88 County, including, but not limited to, all approaches, roads,
89 bridges, and avenues of access for the expressway.

90 (13) "State Board of Administration" means the body
91 corporate existing under s. 9, Article XII of the State
92 Constitution or any successor thereto.

93 Section 3. Seminole County Expressway Authority.—

94 (1) There is created a body politic and corporate, an
95 agency of the state, to be known as the "Seminole County
96 Expressway Authority" and referred to as "authority."

97 (2) The authority has exclusive right to exercise all the
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
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

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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 upon
129 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
141 act, subject to the supervision and control of the authority.

142 (7) The authority shall reimburse its members for travel
143 and other necessary expenses incurred in connection with the
144 business of the authority as provided in s. 112.061, Florida
145 Statutes, but the members may not draw salaries or other

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146 compensation.

147 Section 4. Powers and duties.—

148 (1) (a) The authority may acquire, hold, construct, improve,
149 maintain, operate, own, and lease, in the capacity of lessor,
150 the Seminole County Expressway System.

151 (b) The authority, in the construction of the Seminole
152 County Expressway System, may construct any extension, addition,
153 or improvement to the system or appurtenant facilities,
154 including all necessary approaches, roads, bridges, and avenues
155 of access, with any change, modification, or revision of the
156 project as deemed necessary.

157 (2) The authority may exercise all powers necessary,
158 appurtenant, convenient, or incidental to the implementation of
159 sections 1-14 of this act, including, but not limited to, the
160 following:

161 (a) To sue and be sued, implead and be impleaded, and
162 complain and defend in all courts;

163 (b) To adopt, use, and alter at will a corporate seal;

164 (c) To acquire, purchase, hold, lease as lessee, and use
165 any franchise or property, real, personal, or mixed, tangible or
166 intangible, or any interest necessary to implement the purposes
167 of sections 1-14 of this act; and to sell, lease as lessor,
168 transfer, and dispose of, at any time, any property or interest
169 acquired by the authority;

170 (d) To enter into and make leases for terms not exceeding
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 (e) To enter into and make lease-purchase agreements with
174 the department for terms not exceeding 40 years or until any

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175 bond secured by a pledge of rental, and any refund, are fully
176 paid, whichever is longer;

177 (f) To fix, alter, charge, establish, and collect rates,
178 fees, rentals, and other charges for the services and facilities
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
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

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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 parts
209 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 (l) 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
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

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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 resolutions
253 authorizing the issuance of the bonds.

254 5. The terms and conditions pursuant to which the authority
255 or any trustee for the bonds is entitled to receive any revenues
256 from Seminole County to pay the principal of or interest on the
257 bonds.

258 (3) The authority may not pledge the credit or taxing power
259 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

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262 political subdivision or agency of the state. The state, or any
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 (4) The consent of a municipality is not necessary for any
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
276 resident of a municipality in which a project of the authority
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
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

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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 agreement
297 with the department relating to and covering the Seminole County
298 Expressway System.

299 (2) The lease-purchase agreement shall provide for the
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 lease-
305 purchase agreement, the authority shall transfer to the state
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
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

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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 (4) The department, as lessee under such lease-purchase
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
337 may not require the making or continuance of any appropriations.

338 (5) Gasoline tax funds or other revenues of Seminole County
339 may not be pledged as rentals under a lease-purchase agreement
340 or another agreement without the consent of Seminole County,
341 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
345 circulation in the county. The resolution must provide that, for
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

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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.

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 construction.—The authority may
376 appoint the department as its agent for the construction of and
377 improvements and extensions to the Seminole County Expressway

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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
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
400 ditches, water retention areas, rest areas, replacement access
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

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407 (c) For the purposes of screening, relocation, removal, or
408 disposal of junkyards and scrap metal processing facilities.

409
410 The authority may condemn any material and property necessary
411 for these purposes.

412 (2) The authority may exercise the right of eminent domain
413 in the manner provided by law.

414 (3) If the authority acquires property for a transportation
415 facility or in a transportation corridor, the authority is not
416 subject to any liability imposed by chapter 376 or chapter 403,
417 Florida Statutes, for preexisting soil or groundwater
418 contamination due solely to its ownership. This section does not
419 affect the rights or liabilities of any past or future owners of
420 the acquired property, nor does it affect the liability of any
421 governmental entity for the results of its actions that create
422 or exacerbate a pollution source. The authority and the
423 Department of Environmental Protection may enter into an
424 interagency agreement for the performance, funding, and
425 reimbursement of the investigative and remedial acts necessary
426 for property acquired by the authority.

427 Section 9. Cooperation with other units, boards, agencies,
428 and individuals.—Any county, municipality, drainage district,
429 road or bridge district, school district, or any other political
430 subdivision, board, commission, or individual in or of the state
431 may make and enter into a contract, lease, conveyance, or other
432 agreement consistent with sections 1-14 of this act with the
433 authority. The authority may make and enter into a contract,
434 lease, conveyance, or other agreement with any political
435 subdivision, agency, or instrumentality of the state, any

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436 federal agency, any corporation, or any individual to implement
437 sections 1-14 of this act.

438 Section 10. Covenant of the state.—The state pledges to,
439 and agrees with, any person, firm, corporation, or federal or
440 state agency subscribing to or acquiring the bonds issued by the
441 authority pursuant to section 5 of this act that the state will
442 not limit or alter the rights vested in the authority and the
443 department until all bonds at any time issued, together with the
444 interest on the bonds, are fully paid and discharged. The state
445 pledges to, and agrees with, the United States that, when any
446 federal agency constructs or contributes any funds for the
447 completion, extension, or improvement of the Seminole County
448 Expressway System or any part or portion thereof, the state will
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 taxation.—The 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

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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
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 security.—Any
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 bondholders.—A pledge by
491 the department of rates, fees, revenues, gasoline tax funds of
492 Seminole County, or other funds as rentals to the authority, or
493 any covenant or agreement relative to the pledge, is enforceable

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494 in any court of competent jurisdiction against the authority or
495 directly against the department by any holder of bonds issued by
496 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
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.

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