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LEGISLATIVE ACTION

Senate

House

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Floor: WD

03/09/2012 06:40 PM

Senator Simmons moved the following:

Senate Amendment (with title amendment)

Between lines 566 and 567

insert:

Section 6. Short title.—Sections 101 through 112 of this act may be cited as the "Seminole County Expressway Authority Law."

Section 7. Definitions.—As used in the Seminole County Expressway Authority Law, the term:

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

(2) "Authority" means the Seminole County Expressway



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14 Authority.

15 (3) "Bond" means a note, bond, refunding bond, or other
16 evidence of indebtedness or obligation, in temporary or
17 definitive form, which the authority issues pursuant to the
18 Seminole County Expressway Authority Law.

19 (4) "County" means Seminole County.

20 (5) "Department" means the Department of Transportation.

21 (6) "Expressway" means a street or highway especially
22 designed for through traffic, and over, from, or to which owners
23 or occupants of abutting land or other persons have no right or
24 easement or only a limited right or easement of access, light,
25 air, or view. Such highways or streets may be facilities from
26 which trucks, buses, and other commercial vehicles are excluded,
27 or facilities open to use by all customary forms of street and
28 highway traffic.

29 (7) "Gasoline tax funds" means the 80 percent surplus
30 gasoline tax funds accruing each year to the department for use
31 within Seminole county under the s. 9, Art. XII of the State
32 Constitution, after deducting any gasoline tax funds pledged by
33 the department or the county for outstanding obligations.

34 (8) "Seminole County Expressway System" or "system" means
35 any expressway and appurtenant facilities thereto in Seminole
36 County, including, but not limited to, all approaches, roads,
37 bridges, and avenues of access for the expressway.

38 Section 8. Seminole County Expressway Authority.-

39 (1) There is created a body politic and corporate, an
40 agency of the state, to be known as the "Seminole County
41 Expressway Authority."

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



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43 powers under the Seminole County Expressway Authority Law, and
44 no other entity, body, or authority within or without the county
45 may directly or indirectly exercise jurisdiction, control,
46 authority, or power in any manner relating to an expressway
47 system within the county without the express consent of the
48 authority or as otherwise provided in this law. This subsection
49 does not limit the authority of the department under any other
50 provision of law.

51 (3) The governing body of the authority shall consist of
52 seven members.

53 (a) Five members must be members of the Board of County
54 Commissioners of Seminole County, and the term of each member is
55 concomitant with his or her term as a county commissioner.

56 (b) Two members shall be appointed by the board of county
57 commissioners from among the duly elected municipal officers
58 within the county and shall be appointed to serve 2-year terms
59 unless reappointed.

60 1. Each 2-year term runs from the date of appointment and
61 automatically terminates if the member ceases to be a duly
62 elected municipal officer. Each appointed member of the
63 authority shall enter upon his or her duties upon the effective
64 date of his or her appointment, or as soon thereafter as
65 practicable.

66 2. The board of county commissioners shall fill a municipal
67 membership vacancy within 45 days after the occurrence of the
68 vacancy, and the board must appoint an individual who is jointly
69 recommended to the board of county commissioners by two-thirds
70 of the municipalities in the county within 30 days after the
71 vacancy.



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72 (4) The authority shall elect one of its members as chair.
73 The authority shall elect a secretary and a treasurer, who need
74 not be members of the authority. The chair, secretary, and
75 treasurer hold the office at the will of the authority.

76 (5) Four members of the authority constitute a quorum, and
77 the affirmative vote of three members is necessary for any
78 action taken by the authority. A vacancy in the authority does
79 not impair the right of the quorum to exercise the rights and
80 perform the duties of the authority.

81 (6) The authority shall reimburse its members for travel
82 and other necessary expenses incurred in connection with the
83 business of the authority as provided in s. 112.061, Florida
84 Statutes, but the members may not draw salaries or other
85 compensation.

86 (7) The authority may employ an executive secretary, an
87 executive director, its own counsel and legal staff, technical
88 experts, engineers, and other employees, permanent or temporary,
89 as it may require, and determine the qualifications and fix the
90 compensation of employees and contractors. The total
91 compensation package for any authority employee may not exceed
92 the total compensation package of the Secretary of
93 Transportation.

94 (8) The authority may contract with the Division of Bond
95 Finance of the State Board of Administration for any financial
96 services authorized herein. The authority may delegate to one or
97 more of its agents or employees any of its powers as it deems
98 necessary to carry out the purposes of the Seminole County
99 Expressway Authority Law, subject to the supervision and control
100 of the authority.



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101 Section 9. Powers and duties.—The authority may acquire,
102 hold, construct, improve, maintain, operate, and own the
103 Seminole County Expressway System.

104 (1) The authority may construct any extension, addition, or
105 improvement to the system or appurtenant facilities, including
106 all necessary approaches, roads, bridges, and avenues of access,
107 with any change, modification, or revision of the project as
108 deemed necessary.

109 (2) The authority may exercise all powers necessary,
110 appurtenant, convenient, or incidental to the implementation of
111 the Seminole County Expressway Authority Law, including, but not
112 limited to:

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

115 (b) To adopt, use, and alter a corporate seal at will.

116 (c) To acquire, purchase, hold, lease as lessee, and use
117 any franchise or property, real, personal, or mixed, tangible or
118 intangible, or any interest necessary to implement the purposes
119 of the Seminole County Expressway Authority Law, and to sell,
120 lease as lessor, transfer, and dispose of, at any time, any
121 property or interest acquired by the authority.

122 (d) To enter into and make leases for terms not exceeding
123 40 years, as lessee or lessor, and to implement the right to
124 lease as provided in the Seminole County Expressway Authority
125 Law.

126 (e) To fix, alter, charge, establish, and collect tolls,
127 rates, fees, rentals, and other charges for the services and
128 facilities of the system, which are sufficient to comply with
129 any covenant made with the holders of any bonds issues pursuant



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130 to the Seminole County Expressway Authority Law.

131 (f) To fix, alter, charge, establish, and collect rates,
132 fees, rentals, and other charges for the services and facilities
133 of the system, which rates, fees, rentals, and other charges are
134 sufficient to comply with any covenant made with the holders of
135 any bonds issued pursuant to the Seminole County Expressway
136 Authority Law; however, the authority may assign or delegate to
137 the department any of its rights and powers.

138 (g) To borrow money as provided by the State Bond Act.

139 (h) To reimburse the county for any sums expended from
140 gasoline tax funds and any other revenues provided to the
141 authority by the county and used for the payment of the
142 obligations. If the authority deems it practicable, the
143 authority may repay disbursed revenues from county or gasoline
144 tax funds, together with interest at the highest rate
145 applicable, to any obligations of the authority for which funds
146 or revenues were used to pay debt service.

147 (i) To hire and retain independent certified public
148 accountants and auditors to audit the books and records of the
149 authority and the department with respect to the system or any
150 part thereof, so long as any bonds of the authority are
151 outstanding.

152 (j) To make contracts and to execute all instruments
153 necessary to conduct its business.

154 (k) To borrow money and accept grants from, and to enter
155 into contracts, leases, or other transactions with, any federal
156 agency, the state, any agency of the state, Seminole County, or
157 any other public body of the state.

158 (l) To have the power of eminent domain, including the



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159 procedural powers granted under chapters 73 and 74, Florida
160 Statutes.

161 (m) To pledge, hypothecate, or otherwise encumber all parts
162 of the revenues, rates, fees, rentals, or other charges or
163 receipts of the authority, including all or any portion of
164 gasoline tax funds or other revenues received by the authority
165 pursuant to the terms of any agreement between the authority and
166 Seminole County, as security for the obligations of the
167 authority.

168 (n) To do all acts necessary for the conduct of its
169 business and the general welfare of the authority in order to
170 implement the powers granted to it by the Seminole County
171 Expressway Authority Law or other law.

172 (o) To assume and resume all duties and responsibilities of
173 the prior Seminole County Expressway Authority for any contract
174 or agreement that existed on June 30, 2011, and to which the
175 prior Seminole County Expressway Authority was a party.

176 (3) The authority may not pledge the credit or taxing power
177 of the state or any political subdivision or agency of the
178 state, including Seminole County. The obligations of the
179 authority are not deemed obligations of the state, or any
180 political subdivision or agency of the state. The state, or any
181 political subdivision or agency of the state, except the
182 authority, is not liable for the payment of the principal or
183 interest on the obligations. The use or pledge of all or any
184 portion of gasoline tax funds may not be made without the prior
185 express written consent of the Seminole County Board of County
186 Commissioners.

187 (4) The consent of a municipality is not necessary for any



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188 project of the authority, notwithstanding any other provision of
189 the Seminole County Expressway Authority Law or any other law or
190 whether the project lies, in whole or in part, within the
191 boundaries of a municipality. However, an official or a resident
192 of a municipality in which a project of the authority is
193 located, in whole or in part, must have reasonable opportunity
194 to discuss the project and advise the authority of his or her
195 position at a duly advertised public hearing. Notice of the
196 public hearing must be advertised in a newspaper published in
197 the county and circulated in the affected municipalities. The
198 notice must be published once at least 2 weeks before the public
199 hearing and provide the time and place of the public hearing and
200 a short description of the subject to be discussed. The public
201 hearing may be adjourned and set for a time and place certain
202 without further advertisement. In routing and locating an
203 expressway or its interchange in or through a municipality, the
204 authority must consider the effect of such location on the
205 municipality as a whole and may not unreasonably split or divide
206 an area of the municipality or separate one area of the
207 municipality from another.

208 Section 10. Bonds.—

209 (1) Bonds may be issued on behalf of the authority as
210 provided by the State Bond Act. However, bonds may not be issued
211 unless the resolution authorizing the bonds and pledging the
212 revenues of the expressway require that the revenues of the
213 Seminole County Expressway System be deposited into appropriate
214 accounts in sums sufficient to pay the costs of operation and
215 maintenance of the system for the current fiscal year before any
216 revenues of the system are applied to the payment of interest or



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217 principal owing or that may become owing on such bonds.

218 (2) The State Board of Administration shall act as fiscal
219 agent for the authority in the issuance of bonds pursuant to
220 this section. Upon request of the authority, the state board may
221 take over the management, control, administration, custody, and
222 payment of any debt service, fund, or asset available for bonds
223 issued under this section.

224 (3) The authority may enter into a deed of trust, an
225 indenture, a resolution, or another agreement with its fiscal
226 agent, a financial institution, an insurance company, or a bank
227 or trust company within or without the state, as security for
228 the bonds, and may, under the agreement, sign and pledge any of
229 the revenues, rates, fees, rentals, or other charges or receipts
230 of the authority, including any portion of gasoline tax funds or
231 other revenues received by the authority pursuant to the terms
232 of an agreement between the authority and the county. The deed
233 of trust, indenture, resolution, or other agreement may contain
234 provisions that are customary in such instruments, or, if the
235 authority authorizes, may include, without limitation,
236 provisions as to:

237 (a) The completion, improvement, operation, extension,
238 maintenance, and repair of the system.

239 (b) The availability and application of funds and the
240 safeguarding of funds on hand or on deposit.

241 (c) The rights and remedies of the trustee and the holders
242 of the bonds and any institution providing liquidity or credit
243 support for the bonds.

244 (d) The terms and provisions of the bonds or the
245 resolutions authorizing the issuance of the bonds.



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246 (e) The terms and conditions pursuant to which the
247 authority or any trustee for the bonds is entitled to receive
248 any revenues from the county to pay the principal of or interest
249 on the bonds.

250 Section 11. Department to construct, operate, and maintain
251 facilities.-

252 (1) The department is the agent of the authority for the
253 purpose of performing all phases of a project, including, but
254 not limited to, constructing improvements and extensions to the
255 Seminole County Expressway System. The Division of Bond Finance
256 and the authority shall provide the department with complete
257 copies of all documents, agreements, resolutions, contracts, and
258 instruments relating thereto, and shall request the department
259 to do such construction work, including the planning, surveying,
260 design, and actual construction of the completion, extensions,
261 and improvements to the expressway system. Upon the issuance of
262 bonds to finance the construction of an expressway system or
263 improvements to the expressway system, the division shall
264 transfer to the credit of an account of the department in the
265 State Treasury the necessary funds for construction. The
266 department shall then proceed with construction and use the
267 funds for such purpose in the same manner as it is now
268 authorized to use the funds otherwise provided by law for its
269 use in the construction of roads and bridges. The authority,
270 with the consent and approval of the department, may
271 alternatively elect to appoint a local agency certified by the
272 department to administer federal aid projects in accordance with
273 federal law as its agent for the purpose of performing all
274 phases of a project. This subsection does not prohibit the



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275 authority's acceptance of improvements to an expressway which
276 may be constructed by a private party and donated to the
277 authority.

278 (2) The department is the agent of the authority for the
279 purpose of operating and maintaining the Seminole County
280 Expressway System. The department shall operate and maintain the
281 system and the costs incurred by the department for operation
282 and maintenance shall be reimbursed from revenues of the
283 expressway system.

284 (3) The authority retains the right to fix, alter, charge,
285 establish, and collect tolls, rates, fees, rentals, and other
286 charges for the authority's facilities, as otherwise provided in
287 the Seminole County Expressway Authority Law.

288 (4) The Seminole County Expressway System shall be a part
289 of the State Highway System as defined in s. 334.03, Florida
290 Statutes.

291 Section 12. Acquisition of lands and property.-

292 (1) The authority may acquire private or public property
293 and property rights, including rights of access, air, view, and
294 light, by gift, devise, purchase, or condemnation by an eminent
295 domain proceeding, as the authority deems necessary to implement
296 the Seminole County Expressway Authority Law. The property that
297 the authority may acquire includes, but is not limited to, any
298 land:

299 (a) Reasonably necessary for securing applicable permits,
300 areas necessary for management of access, borrow pits, drainage
301 ditches, water retention areas, rest areas, replacement access
302 for landowners whose access is impaired due to the construction
303 of a facility, and replacement rights-of-way for relocated rail



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304 and utility facilities.

305 (b) For existing, proposed, or anticipated transportation
306 facilities on the Seminole County Expressway System or in a
307 transportation corridor designated by the authority.

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

310

311 The authority may condemn any material and property necessary
312 for these purposes.

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

315 (3) If the authority acquires property for a transportation
316 facility or in a transportation corridor, the authority is not
317 subject to any liability imposed by chapter 376 or chapter 403,
318 Florida Statutes, for preexisting soil or groundwater
319 contamination due solely to its ownership. This section does not
320 affect the rights or liabilities of any past or future owners of
321 the acquired property, nor does it affect the liability of any
322 governmental entity for the results of its actions that create
323 or exacerbate a pollution source. The authority and the
324 Department of Environmental Protection may enter into an
325 interagency agreement for the performance, funding, and
326 reimbursement of the investigative and remedial acts necessary
327 for property acquired by the authority.

328 Section 13. Cooperation with other units, boards, agencies,
329 and individuals.—Any county, municipality, drainage district,
330 road or bridge district, school district, or any other political
331 subdivision, board, commission, or individual in or of the state
332 may make and enter into a contract, lease, conveyance, or other



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333 agreement with the authority consistent with the Seminole County
334 Expressway Authority Law. The authority may make and enter into
335 a contract, lease, conveyance, or other agreement with any
336 political subdivision, agency, or instrumentality of the state,
337 any federal agency, any corporation, or any individual to
338 implement the Seminole County Expressway Authority Law.

339 Section 14. Covenant of the state.—The state pledges to,
340 and agrees with, any person, firm, corporation, or federal or
341 state agency subscribing to or acquiring the bonds issued by the
342 authority pursuant to the Seminole County Expressway Authority
343 Law that the state will not limit or alter the rights vested in
344 the authority and the department until all bonds at any time
345 issued, together with the interest on the bonds, are fully paid
346 and discharged. The state pledges to, and agrees with, the
347 United States that, when any federal agency constructs or
348 contributes any funds for the completion, extension, or
349 improvement of the Seminole County Expressway System or any part
350 or portion thereof, the state will not alter or limit the rights
351 and powers of the authority and the department in any manner
352 that would be inconsistent with the continued maintenance and
353 operation of the system or the completion, extension, or
354 improvement of the system, or that is inconsistent with the due
355 performance of the agreement between the authority and the
356 federal agency. The authority and the department have and may
357 exercise all powers granted in the Seminole County Expressway
358 Authority Law necessary to implement the purposes of such law
359 and the purposes of the United States in the completion,
360 extension, or improvement of the system or any part or portion
361 of the system.



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362 Section 15. Exemption from taxation.—The authority created
363 pursuant to the Seminole County Expressway Authority Law is for
364 the benefit of the people of the state, for the increase of
365 their commerce and prosperity, and for the improvement of their
366 health and living conditions. Because the authority is
367 performing essential governmental functions in carrying out the
368 purposes of the Seminole County Expressway Authority Law, the
369 authority is exempt from taxes or assessments upon any property
370 acquired or used by it for such purposes, or upon any revenues,
371 rates, fees, rentals, receipts, income, or charges received by
372 it. The bonds issued by the authority, their transfer, and the
373 income from the bonds, including any profits made on the sale of
374 the bonds, are at all times free from taxation of any kind by
375 the state or any political subdivision, taxing agency, or
376 instrumentality of the state. However, the exemption granted by
377 this section is not applicable to any tax imposed under chapter
378 220, Florida Statutes, on interest, income, or profits on debt
379 obligations owned by corporations. If a property of the
380 authority is leased, it is exempt from ad valorem taxes if the
381 use by the lessee qualifies the property for exemption under s.
382 196.199, Florida Statutes.

383 Section 16. Eligibility for investments and security.—Any
384 bonds or other obligations issued pursuant to the Seminole
385 County Expressway Authority Law are legal investments for banks,
386 savings banks, trustees, executors, administrators, and all
387 other fiduciaries, and for all state, municipal, and other
388 public funds, and are securities eligible for deposit as
389 security for all state, municipal, or other public funds,
390 notwithstanding any other provisions of law.



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391 Section 17. Complete and additional authority.-

392 (1) The powers conferred by the Seminole County Expressway
393 Authority Law are in addition to the existing powers of the
394 authority and the department, and do not repeal any other law,
395 general, special, or local. The extension and improvement of the
396 Seminole County Expressway System, and the issuance of bonds
397 pursuant to the Seminole County Expressway Authority Law to
398 finance all or part of the cost of the system, may be
399 accomplished upon compliance with such law without regard to or
400 necessity for compliance with the provisions, limitations, or
401 restrictions contained in any other general, special, or local
402 law. Approval by qualified electors or qualified electors who
403 are freeholders in the state, in 0Seminole County, or in any
404 other political subdivision of the state is not required for the
405 issuance of bonds pursuant to the Seminole County Expressway
406 Authority Law.

407 (2) The provisions of the Seminole County Expressway
408 Authority Law do not repeal, rescind, or modify any other law
409 relating to the State Board of Administration, the Department of
410 Transportation, or the Division of Bond Finance of the State
411 Board of Administration, but supersede any law that is
412 inconsistent with this law.

413 Section 18. Subsection (5) of section 369.317, Florida
414 Statutes, is amended to read:

415 369.317 Wekiva Parkway.-

416 (5) In Seminole County, ~~the Seminole County Expressway~~
417 ~~Authority,~~ the Department of Transportation, ~~and the Florida~~
418 ~~Turnpike Enterprise~~ shall locate the precise corridor and
419 interchanges for the Wekiva Parkway consistent with the



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420 legislative intent expressed in this part ~~act~~ and other
421 provisions of this part ~~act~~.

422

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

424 And the title is amended as follows:

425 Delete line 37

426 and insert:

427 seaport projects to use a mitigation bank; creating
428 the Seminole County Expressway Authority Law;
429 providing definitions; creating the Seminole County
430 Expressway Authority; prohibiting an entity or body or
431 another authority from exercising jurisdiction,
432 control, authority, or power over an expressway system
433 in Seminole County without the consent of the Seminole
434 County Expressway Authority; providing for membership
435 and terms of the governing body of the authority;
436 providing for officers, a quorum, and reimbursement
437 for travel and per diem; authorizing staffing;
438 providing for certain reimbursement for authority
439 members; authorizing the authority to contract with
440 the Division of Bond Finance for financial services;
441 providing for the powers and duties of the authority;
442 providing for the assumption of duties and
443 responsibilities of the prior Seminole County
444 Expressway Authority for certain contracts and
445 agreements; prohibiting the authority from pledging
446 the credit or taxing power of the state; providing
447 that the authority does not need the consent of a
448 municipality for projects but must provide the



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449 opportunity for public comment; providing for the
450 issuance of bonds; authorizing the State Board of
451 Administration to act as the fiscal agent of the
452 authority in the issuance of bonds; authorizing the
453 authority to enter into agreements to secure such
454 bonds; providing that the Department of Transportation
455 is the agent of authority for performing all phases of
456 a project and for operating the expressway system;
457 providing that the authority has the power to set and
458 collect all tolls and charges; authorizing the
459 authority to acquire land and properties, including
460 eminent domain; providing for the cooperation of other
461 entities to further the purposes of the act;
462 prohibiting the state from changing the terms of the
463 bonds; exempting the authority from certain taxes;
464 providing for the bond's eligibility for investments
465 and security; providing for the extent of the powers
466 authorized by the act; amending s. 369.317, F.S.;
467 authorizing only the department to locate the corridor
468 and interchanges for the Wekiva Parkway; providing