

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

**BILL:** CS/SB 952

**INTRODUCER:** Appropriations Committee and Senators Simmons and Gardiner

**SUBJECT:** Orlando-Orange County Expressway Authority

**DATE:** April 22, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.	Toman	Yeatman	CA	<b>Favorable</b>
3.	Carey	Hansen	AP	<b>Fav/CS</b>
4.				
5.				
6.				

**I. Summary:**

CS/SB 952 re-names the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law.

This bill does not impact state revenues or state expenditures.

The bill:

- Creates the Central Florida Expressway Authority (CFX) and provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) System to CFX.
- Provides for the composition of the governing body of CFX and the appointment of its officers, and revises quorum and voting requirements applicable to CFX.
- Provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Removes the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.
- Removes the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.
- Provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title in fee simple to the system will be retained by the state, and extends the term of authorized leases and lease-purchase agreements from 40 to 99 years.

- Provides for the transfer of the Osceola County Expressway System to CFX and provides for the repeal of part V of chapter 348, Florida Statutes, when the Osceola County Expressway System is transferred to CFX.
- Provides an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, 348.765, 369.317, and 369.324.

## II. Present Situation:

The Orlando Orange County Expressway Authority (OOCEA) currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.<sup>1</sup>

The OOCEA governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County mayor and the Florida Department of Transportation's (FDOT) district five secretary serve as *ex-officio* members of the Board.<sup>2</sup>

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County, which includes:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);
- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 5 miles of the John Land Apopka Expressway (SR 414).

Pursuant to an existing Memorandum of Understanding (MOU) and lease-purchase agreement between the FDOT and OOCEA, the authority will independently finance, build, own and manage certain portions of the Wekiva Parkway. In order to ensure that funds are available to the department for the Wekiva Parkway, the 2012 Legislature codified references to the existing MOU and lease-purchase agreements, and established a repayment schedule for OOCEA to reimburse the department for the costs of operation and maintenance of the Orlando-Orange County Expressway System in accordance with terms of the MOU.<sup>3</sup>

The OOCEA is required to pay FDOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay off the long-term debt obligation to FDOT. When the debt has been fully repaid, the FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system will terminate, and ownership of the system will remain

---

<sup>1</sup> Section 348.754(2)(n), F.S.

<sup>2</sup> Section 348.753, F.S.

<sup>3</sup> Chapter 2012-128, L.O.F.

with the OOCEA. FDOT advises that the OOCEA's long-term debt as of February 28, 2013, is \$229,351,636.79.

### **Osceola County Expressway Authority (OCX)**

Created in 2010, the Osceola County Expressway Authority currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act, including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.<sup>4</sup>

#### *OCX Governing Board*

The OCX governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.<sup>5</sup>

#### *OCX Facilities*

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The Florida Transportation Commission indicates efforts were made in 2011 to finalize an agreement for \$2.5 million in grant funding from FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.<sup>6</sup>

### **Seminole County and Lake County**

The Seminole County Expressway Authority was abolished by the Legislature in 2011;<sup>7</sup> Seminole County is not currently served by any expressway authority. Lake County is also not currently served by any expressway authority.

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

---

<sup>4</sup> Section 348.0004, F.S.

<sup>5</sup> Section 348.9952, F.S.

<sup>6</sup> FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.

<sup>7</sup> Ch. 2011-64, L.O.F.

**Section 2** amends s. 348.752, F.S., to define the Central Florida Expressway Authority to mean the “body politic and corporate and agency of the state created by this chapter” The Central Florida Expressway System,” is defined as a transportation facility, expressway, or appurtenant facilities including all approaches, roads, bridges, and avenues for the expressway and any rapid transit, trams, or fixed guideways located within the right-of-way of an expressway. Transportation facilities is defined as the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, vehicles, fixed guideway facilities, and administrative and other office space used by the authority.

This section of the bill also deletes the definitions of “city” and “county,” and revises various definitions to conform terminology to the renaming.

**Section 3** amends s. 348.753, F.S., in which the OOCEA is created, to replace and rename the OOCEA as the Central Florida Expressway Authority (CFX) and requires that CFX assume the governance and control of the OOCEA System effective July 1, 2013.

The bill also provides for eleven members of the CFX governing board with three members appointed by the chairs of the boards of county commission of Seminole, Lake, and Osceola Counties, who may be a commission member or chair of the county. Six citizen members are to be appointed by the Governor, two of which must be citizens of Orange County, one member each from Seminole, Lake, and Osceola Counties/ and one member from any of the identified counties. The tenth member must be the mayor of Orange County and the eleventh member must be the mayor of the City of Orlando. The executive director of Florida’s Turnpike Enterprise serves as a nonvoting advisor to the CFX governing body. The Governor’s appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. Any person who is an officer or employee of a municipality or county may not be an appointed as a CFX board member.

**Section 4** amends s. 348.754, F.S., to specify the area served by the authority to be within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties, except as otherwise specifically provided by law. The CFX is authorized to construct the Central Florida Expressway System including rapid transit, trams, fixed guideways, thoroughfares, and boulevards. The CFX also may construct, operate, and maintain roads and bridges, and electronic toll payment systems on the roads and bridges, outside the boundaries of Orange, Seminole, Lake, and Osceola Counties with the consent of the county within whose jurisdiction the activities occur.

The bill prohibits CFX from constructing any extensions, additions, or improvements to the expressway system in Lake County without the prior consent of the FDOT secretary, to ensure continued financial feasibility of the Wekiva Parkway to be constructed by the FDOT. The bill also precludes CFX from entering into any other lease-purchase agreements with the FDOT, and from amending the existing agreement between the OOCEA and the FDOT to expand or increase the FDOT’s obligations unless it is determined by the department that an amendment is necessary to permit the refunding of bonds issued prior to July 1, 2012. The term of authorized leases and lease-purchase agreements is extended from 40 to 99 years.

The uses of toll revenues collected on a facility which are attributable to an increase in toll rates charged on or after July 1, 2014 may not be used to construct or expand a different facility, unless a two-thirds majority of the members of the authority approves the use of revenues, with certain exceptions. Notwithstanding s. 338.165, F.S., and except as otherwise prohibited, the bill provides that the authority may, within the right-of-way of the expressway system, use excess revenues to finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of an intermodal facility or facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system, provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan.

The requirement for approval of the municipal governing board of a project route prior to the acquisition of right-of-way for a project within the boundaries of Orange County is removed, as are provisions authorizing CFX to waive payment and performance bonds on certain construction contracts and related small business provisions.

**Sections 5 through 11** amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively to conform terminology and make grammatical and editorial changes.

**Section 12** amends s. 348.757, F.S., to provide that upon the termination of the current lease-purchase agreement between OOCEA and the FDOT, title in fee simple absolute to the former OOCEA system must be transferred to the state.

**Sections 13 through 18** amend ss. 348.758, 348.759, 348.760, 348.761, 348.765, and 369.317, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; complete and additional authority, and Wekiva Parkway respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 19 amends s. 369.324, F.S., to remove and replace references to the OOCEA and to the previously repealed Seminole County Expressway Authority and revise the composition of the Wekiva River Basin Commission as a result of the repeal of the Seminole County Expressway Authority.

**Section 20** transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX effective upon completion of the construction of the Poinciana Parkway; and repeals part V, ch. 348, F.S., consisting of ss. 348.9950 – 348.9961, F.S., on the same date that the Osceola County Expressway System is transferred to CFX.

**Section 19** provides the act shall take effect on July 1, 2014.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/SB 952 by Appropriations on April 18, 2013:**

The committee substitute differs from the previous version of the bill as follows:

- Extends the effective date of CFX's assumption of the governance and control of the OOCEA System from July 1, 2013 to July 1, 2014;
- Revises the composition of the CFX governing body from 9 to 11 members and increases the number of Governor appointees from three to six;
- Removes the requirement to hold elections for CFX offices every two years, the requirement to elect as chair every six years a member who is a resident of Orange County, and the requirement to elect as vice chair a member who is a resident of

Orange County if a member from Orange County is not serving as chair, and revises quorum and necessary vote requirements from five to six members;

- Prohibits CFX from constructing any extensions, addition or improvements to the expressway system in Lake County without the prior consent of the FDOT secretary;
- Extends the term of authorized leases and lease-purchase agreements from 40 to 99 years;
- Prohibits the use of toll revenues collected on a facility and attributable to an increase in toll rates charged on or after July 1, 2014, to construct or expand a different facility, unless a two-thirds majority of the members of the authority approve; provides exceptions; and provides authorized use of excess revenues;
- Provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System and the FDOT, title in fee simple to the former OOCEA system will be transferred to the state and makes other changes to conform terminology;
- Removes and replaces references to the OOCEA and to the previously repealed Seminole County Expressway Authority and revises the composition of the Wekiva River Basin Commission resulting from the previous repeal of the Seminole County Expressway Authority;
- Transfers governance and control of the Osceola County Expressway System to CFX and repeals part V of chapter 348, F.S., effective upon completion of the Poinciana Parkway;
- Directs CFX to reimburse any obligations of other governmental entities with respect to the Osceola County Expressway System, including Osceola County, related to operations and maintenance and any loan repayment obligations; and
- Extends the effective date of the bill to July 1, 2014.

B. Amendments:

None.