

House Bill No. 401

An act relating to Southwest Florida transportation; creating pt. X of ch. 348, F.S., titled “Southwest Florida Expressway Authority”; providing a popular name; providing definitions; creating the Southwest Florida Expressway Authority encompassing Collier and Lee Counties; providing for a governing body of the authority; providing for membership; establishing a process for Charlotte County to participate in the authority; providing purposes and powers; providing for the Southwest Florida Transportation System; requiring the approval of specified county commissions before approval of a project within the geographical boundaries of those counties; prohibiting authority involvement with a certain road development; providing for procurement; providing bond financing authority for improvements; providing for bonds of the authority; providing for fiscal agents; providing the State Board of Administration may act as fiscal agent; providing for certain financial agreements; providing for a lease-purchase agreement with the Department of Transportation; providing the department may be appointed agent of authority for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing pledges shall be enforceable by bondholders; providing for construction and application; providing legislative intent regarding changes; providing for future expiration of the act; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part X of chapter 348, Florida Statutes, consisting of sections 348.993, 348.9931, 348.9932, 348.9933, 348.9934, 348.9935, 348.9936, 348.9938, 348.9939, 348.994, 348.9941, 348.9942, 348.9943, 348.9944, 348.9945, 348.9946, and 348.9947, is created to read:

Part X
Southwest Florida Expressway Authority

348.993 Popular name.—This part may be cited as the “Southwest Florida Expressway Authority Law.”

348.9931 Definitions.—The following terms, whenever used or referred to in this part, shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(1) “Agency of the state” means and includes the state and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the state.

(2) “Authority” means the body politic and corporate, and agency of the state, created by this part.

(3) “Bonds” means and includes the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, which the authority is authorized to issue pursuant to this part.

(4) “County” means the counties of Collier and Lee.

(5) “DBOM contract” means the document and all concomitant rights approved by the authority providing the selected person or entity the exclusive right to design, build, operate, and maintain the Southwest Florida Transportation System.

(6) “DBOMF contract” means the document and all concomitant rights approved by the authority providing the selected person or entity the exclusive right to design, build, operate, maintain, and finance all or a portion of the Southwest Florida Transportation System.

(7) “Department” means the Department of Transportation existing under chapters 334-339.

(8) “Expressway” means the same as limited access expressway.

(9) “Federal agency” means and includes the United States, the President of the United States, or any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(10) “Lease-purchase agreement” means the lease-purchase agreements which the authority is authorized pursuant to this part to enter into with the Department of Transportation.

(11) “Limited access expressway” means a street or highway especially designed for through traffic and over, from, or to which no person shall have the right of easement, use, or access except in accordance with the rules and regulations promulgated and established by the authority for the use of such facility. Such highways or streets may be parkways, from which trucks, buses, and other commercial vehicles shall be excluded, or they may be freeways open to use by all customary forms of street and highway traffic.

(12) “Members” means the governing body of the authority, and the term “member” means one of the individuals constituting such governing body.

(13) “Proposed project” means a facility which, if constructed, will become part of the Southwest Florida Transportation System, and it shall identify the general corridor and alignment of the facility and its limits. Further, it shall mean a project or projects which are in the long-range transportation plan of Lee County or Collier County, or both plans if the proposed project is to be located in both counties.

(14) “Southwest Florida Transportation System” means all new expressways and additional lanes on Interstate Highway 75 in Lee and Collier Counties which are tolled as express lanes and appurtenant facilities, including, but not limited to, all approaches, roads, bridges, and avenues of access for said expressway or expressways, whether tolled or nontolled, or such other facility as the authority determines or designates.

(15) “State Board of Administration” means the body corporate existing under the provisions of s. 9, Art. XII of the State Constitution, or any successor thereto.

(16) “System” means the Southwest Florida Transportation System.

Words importing singular number include the plural number in each case and vice versa, and words importing persons include firms and corporations.

348.9932 Southwest Florida Expressway Authority.—

(1) There is hereby created and established a body politic and corporate, an agency of the state, encompassing Collier and Lee Counties, to be known as the Southwest Florida Expressway Authority, hereinafter referred to as the “authority.”

(2) The governing body of the authority shall consist of seven voting members and one nonvoting member, as set forth in this subsection.

(a)1.a. One member who is a permanent resident of Collier County and one member who is a permanent resident of Lee County shall be appointed by the Governor to serve a term of 4 years each. The Governor shall select his appointees from a list submitted by the board of county commissioners of each county, with each list recommending five candidates from their respective county.

b. One member who is a permanent resident of Collier County shall be appointed by the Board of County Commissioners of Collier County and one member who is a permanent resident of Lee County shall be appointed by the Board of County Commissioners of Lee County to serve a term of 4 years each.

2. Each member appointed under this paragraph shall be a person of outstanding reputation for integrity, responsibility, and business ability and shall have an interest in ground transportation. No elected official and no person who is an employee, in any capacity, of Collier County or Lee County or of any city within Collier County or Lee County shall be an appointed member of the authority except as set forth in this section.

3. Each appointed member shall be a resident of his or her respective county during his or her entire term.

4. Each appointed member shall be a voting member and shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the remainder of the unexpired term.

(b) One member from Collier County and one member from Lee County shall be selected by the members of the respective county commission from among its members to serve as a voting member for a term of 2 years each. Each commissioner must be a member of the county commission when selected and for the full extent of the term of this selection.

(c) The executive director of the Southwest Florida Regional Planning Council shall serve as the seventh voting member.

(d) The district secretary of the Department of Transportation serving in the district that contains Collier County and Lee County shall serve as a nonvoting member.

(e) Any member of the authority shall be eligible for reappointment.

(3)(a) The authority shall elect one of its members as chair of the authority. The authority shall also elect a secretary and a treasurer who may or may not be members of the authority. The chair, secretary, and treasurer shall hold such offices at the will of the authority. Four members of the authority shall constitute a quorum, and a vote of the majority of those present shall be necessary for any action taken by the authority. No vacancy in the authority shall impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority.

(b) Upon the effective date of his or her appointment, or as soon thereafter as practicable, each appointed member of the authority shall enter upon his or her duties.

(4) If an expansion of the project into Charlotte County is warranted and desirable as indicated by the adoption of resolutions in support of the expansion by the authority and by each Board of County Commissioners of Charlotte, Collier, and Lee Counties, the membership of the authority shall be expanded as set forth in this subsection. The authority shall have nine voting members and two nonvoting members. The executive director of the Southwest Florida Regional Planning Council will shift from a voting member to a nonvoting member. Three members from Charlotte County shall be added to the authority and each shall be a voting member. The Charlotte County members shall be selected in the same manner as provided for the appointment of the members from Collier and Lee Counties.

(5)(a) The authority may employ an executive director, its own counsel and legal staff, technical experts, engineers, and such employees, permanent or temporary, as it may require; may determine the qualifications and fix the compensation of such persons, firms, or corporations; and may employ a fiscal agent or agents. The authority may delegate to one or more of its agents or employees such of its power as it shall deem necessary to carry out the purposes of this part, subject always to the supervision and control of the authority. Members of the authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(b) Members of the authority shall be entitled to receive from the authority their travel and other necessary expenses incurred in connection with the business of the authority as provided in s. 112.061, but they shall draw no salaries or other compensation.

348.9933 Purposes and powers.—

(1)(a) The authority created and established by the provisions of this part is hereby granted and shall have the right to acquire, hold, construct, im-

prove, maintain, operate, own, and lease, in the capacity of lessor, the Southwest Florida Transportation System, hereinafter referred to as the "system," unless precluded by state or federal law. This part does not preclude the department from acquiring, holding, constructing, improving, maintaining, operating, or owning the tolled lanes on Interstate Highway 75 or nontolled facilities that may be part of the Southwest Florida Transportation System and that are part of the State Highway System.

(b) It is the express intention of this part that said authority, in the construction of said Southwest Florida Transportation System, within the geographic boundaries of Collier and Lee Counties, is limited to the pursuit of additional lanes on Interstate Highway 75 within these counties which are tolled as express lanes. Further, the authority shall be authorized to construct any extensions, additions, or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access, with such changes, modifications, or revisions of said project as shall be deemed desirable and proper with the concurrence of the respective county commissions and the department if the project is to be part of the State Highway System. The responsibilities of the authority will not be expanded to cover any other projects beyond Interstate Highway 75 toll lanes and appurtenant facilities unless resolutions in support of such expansion or other project are adopted by the Boards of County Commissioners of Lee and Collier Counties and, if applicable, by the governing body having jurisdiction of a road system if the project is to become a part of that system.

(2) The authority is hereby granted and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

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

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

(c) To acquire by donation or otherwise, purchase, hold, lease as lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any options thereof in its own name or in conjunction with others, or interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

(d) To enter into and make leases for terms it deems necessary, as either lessee or lessor, in order to carry out the right to lease as set forth in this part.

(e) To enter into and make lease-purchase agreements with the department for terms it deems necessary or until any bonds secured by a pledge of rentals thereunder, and any refundings thereof, are fully paid as to both principal and interest, whichever is longer.

(f) To fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services and facilities of the Southwest Florida Trans-

portation System, which rates, fees, rentals, and other charges shall always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this part; however, such right and power may be assigned or delegated by the authority to the department.

(g) To borrow money and make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, hereinafter in this part sometimes called "bonds" of the authority, for the purpose of financing all or part of the improvement or extension of the Southwest Florida Transportation System and appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access for said Southwest Florida Transportation System, and for any other purpose authorized by this part; to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges; and in general to provide for the security of said bonds and the rights and remedies of the holders thereof. The authority may enter into an agreement between the authority and one or more counties for the pledge of county gasoline tax funds, county sales tax, or other county revenues to secure any bonds issued for an authority project as authorized hereunder. In the event the authority shall determine to fund or refund any bonds theretofore issued by said authority, prior to the maturity thereof, the proceeds of such funding or refunding bonds shall, pending the prior redemption of the bonds to be funded or refunded, be invested in direct obligations of the United States, and it is the express intention of this part that such outstanding bonds may be funded or refunded by the issuance of bonds pursuant to this part.

(h) To make contracts of every name and nature, including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute all instruments necessary or convenient for the carrying on of its business.

(i) Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases, or other transactions with, any federal agency, the state, any agency of the state, Collier County, Lee County, any city within Collier County or Lee County, or with any other public body of the state.

(j) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(k) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority as security for all or any of the obligations of the authority.

(l) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(m) With the consent of the county within whose jurisdiction the following activities occur, to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards outside the jurisdictional boundaries of Collier and Lee Counties, together with the right to construct,

repair, replace, operate, install, and maintain toll payment systems thereon, with all necessary and incidental powers to accomplish the foregoing.

(3) The authority shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof, including Collier and Lee Counties or any city within these counties, nor shall any of the authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor shall the state or any political subdivision or agency thereof, except the authority, be liable for the payment of the principal of or interest on such obligations unless agreed to by such entity.

(4) Notwithstanding the powers conferred herein, before the authority proceeds with a proposed project, either the Lee County Commission or the Collier County Commission must approve any proposed project for the system that may be located within the geographical boundaries of that commission's jurisdiction. A quorum must be present for a vote of approval to take place. Such approval, by a majority vote of those members present, must be obtained before the authority can proceed with the preliminary design and environmental study.

(5) The authority is precluded from involvement with any future development of County Road 951.

348.9934 Procurement.—The authority is authorized to procure commodities and the services of a qualified person or entity to design, build, finance, operate, maintain, and implement the Southwest Florida Transportation System, including the use of a DBOM or DBOMF method using a request for proposal, a request for qualifications, or an invitation to negotiate.

348.9935 Bond financing authority for improvements.—Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the Southwest Florida Expressway Authority improvements to toll collection facilities, interchanges to the legislatively approved regional transportation system, and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such costs may be financed in whole or in part by revenue bonds issued pursuant to s. 348.9936(1)(a) or (b) whether currently issued or issued in the future, or by a combination of such bonds.

348.9936 Bonds of the authority.—

(1)(a) Bonds may be issued on behalf of the authority pursuant to the State Bond Act.

(b) Alternatively, the authority may issue its own bonds pursuant to this part at such times and in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its purposes; however, such bonds may not pledge the full faith and credit of the state. Bonds issued by the authority pursuant to this paragraph or paragraph (a), whether on original issuance or on refunding, shall be authorized

by resolution of the members thereof and may be either term or serial bonds and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable semiannually, be in such denominations, be in such form, either coupon or fully registered, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority, including any other funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided that such bonds shall bear at least one signature which is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(c) Bonds issued pursuant to paragraph (a) or paragraph (b) shall be sold at public sale in the same manner provided by the State Bond Act. However, if the authority shall, by official action at a public meeting, determine that a negotiated sale of such bonds is in the best interest of the authority, the authority may negotiate the sale of such bonds with the underwriter or underwriters designated by the authority and the Division of Bond Finance of the State Board of Administration with respect to bonds issued pursuant to paragraph (a) or solely the authority with respect to bonds issued pursuant to paragraph (b). The authority's determination to negotiate the sale of such bonds may be based, in part, upon the written advice of the authority's financial adviser. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) The authority may issue bonds pursuant to paragraph (b) to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this part or on behalf of the authority pursuant to the State Bond Act.

(2) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions which shall be part of the contract with the holders of such bonds as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, derived by the authority, from the Southwest Florida Transportation System.

(b) The completion, improvement, operation, extension, maintenance, repair, lease, or lease-purchase agreement of said system and the duties of the authority and others, including the department, with reference thereto.

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant by the United States or the state may be applied.

(d) The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities of the Southwest Florida Transportation System or any part thereof.

(e) The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof.

(f) Limitations on the issuance of additional bonds.

(g) The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds or under which the same may be issued.

(h) Any other or additional agreements with the holders of the bonds which the authority may deem desirable and proper.

(3) The authority may employ fiscal agents as provided by this part, or the State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds which may be issued pursuant to this part, and the State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this part. The authority may enter into any deeds of trust, indentures, or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or, as the authority may authorize, may include, without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, the Southwest Florida Transportation System and the duties of the authority and others, including the department, with reference thereto.

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

(c) The rights and remedies of the trustee and the holders of the bonds.

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

(4) Any of the bonds issued pursuant to this part are, and are hereby declared to be, negotiable instruments and shall have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(5) Notwithstanding any of the provisions of this part, each project, building, or facility which has been financed by the issuance of bonds or other evidence of indebtedness under this part and any refinancing thereof

is hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

348.9938 Lease-purchase agreement.—

(1) In order to effectuate the purposes of this part and as authorized by this part, the authority may enter into a lease-purchase agreement with the department relating to and covering the Southwest Florida Transportation System.

(2) Such lease-purchase agreement shall provide for the leasing of the Southwest Florida Transportation System by the authority, as lessor, to the department, as lessee; shall prescribe the term of such lease and the rentals to be paid thereunder; and shall provide that upon the completion of the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute to the Southwest Florida Transportation System as then constituted shall be transferred in accordance with law by the authority to the state and the authority shall deliver to the department such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

(3) Such lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under, and for the purposes of, this part; the completion, extension, improvement, operation, and maintenance of the Southwest Florida Transportation System and the expenses and the cost of operation of said authority; the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities thereof; the application of federal or state grants or aid which may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance of the Southwest Florida Transportation System, which the authority is hereby authorized to accept and apply to such purposes; the enforcement of payment and collection of rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of and full performance under such lease-purchase agreement.

(4) The department, as lessee under such lease-purchase agreement, is hereby authorized to pay as rentals thereunder any rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the Southwest Florida Transportation System and may also pay as rentals any appropriations received by the department pursuant to any act of the Legislature of the state heretofore or hereafter enacted; provided, however, that nothing herein nor in such lease-purchase agreement is intended to nor shall this part or such lease-purchase agreement require the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.

(5) Said department shall have power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of said system, and any part of the cost of completing said system to the extent that the proceeds of bonds

issued therefor are insufficient, from sources other than the revenues derived from the operation of said system. Said department may also agree to make such other payments from any moneys available to said commission, said county, or said city in connection with the construction or completion of said system as shall be deemed by said department to be fair and proper under any such covenants heretofore or hereafter entered into.

(6) Said system shall be a part of the State Highway System and said department is hereby authorized, upon the request of the authority, to expend such moneys, out of any funds available for the purpose, and to use such of its engineering and other forces as may be necessary and desirable in the judgment of said department, for the operation of said authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost and other preliminary engineering, and other studies.

348.9939 Department may be appointed agent of authority for construction.—The department may be appointed by said authority as its agent for the purpose of constructing improvements and extensions to the Southwest Florida Transportation System and for the completion thereof. In such event, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto and shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the Southwest Florida Transportation System, and shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor, and the department shall thereupon be authorized, empowered, and directed to proceed with such construction and to use the said funds for such purpose in the same manner that it is now authorized to use the funds otherwise provided by law for its use in construction of roads and bridges.

348.994 Acquisition of lands and property.—

(1) For the purposes of this part, the Southwest Florida Expressway Authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary for any of the purposes of this part, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities, for existing, proposed, or anticipated transportation facilities on the Southwest Florida Transportation System or in a transportation corridor designated by the authority. The authority shall also have the power to condemn any material and property necessary for such purposes.

(2) The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(3) When the authority acquires property for a transportation facility or in a transportation corridor, it is not subject to any liability imposed by

chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property, nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

348.9941 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is hereby given and granted any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual in, or of, the state to make and enter into with the authority contracts, leases, conveyances, partnerships, or other agreements within the provisions and purposes of this part. The authority is hereby expressly authorized to make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals for the purpose of carrying out the provisions of this part.

348.9942 Covenant of the state.—The state does hereby pledge to and agree with any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to and agree with the United States that in the event any federal agency shall construct or contribute any funds for the completion, extension, or improvement of the Southwest Florida Transportation System, or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner which would be inconsistent with the continued maintenance and operation of the Southwest Florida Transportation System or the completion, extension, or improvement thereof or which would be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this part and the purposes of the United States in the completion, extension, or improvement of the Southwest Florida Transportation System or any part or portion thereof.

348.9943 Exemption from taxation.—The effectuation of the authorized purposes of the authority created under this part is, shall, and will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and since such authority will be performing essential governmental functions in effectuating such purposes, such authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges at any time received by it,

and the bonds issued by the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state, or by any political subdivision, taxing agency, or instrumentality thereof. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

348.9944 Eligibility for investments and security.—Any bonds or other obligations issued pursuant to this part shall be and constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries and for all state, municipal, and other public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal, or other public funds, notwithstanding the provisions of any other law or laws to the contrary.

348.9945 Pledges enforceable by bondholders.—It is the express intention of this part that any pledge by the department of rates, fees, revenues, or other funds, as rentals, to the authority, or any covenants or agreements relative thereto, may be enforceable in any court of competent jurisdiction against the authority or directly against the department by any holder of bonds issued by the authority.

348.9946 This part complete and additional authority.—

(1) The powers conferred by this part shall be in addition and supplemental to the existing powers of said authority and the department, and this part shall not be construed as repealing any of the provisions of any other law, general, special, or local, but to supersede such other laws in the exercise of the powers provided in this part and to provide a complete method for the exercise of the powers granted in this part. The extension and improvement of said Southwest Florida Transportation System, and the issuance of bonds hereunder to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, but not limited to, s. 215.821, and no approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in said Collier County or Lee County, or in any city within these two counties, or in any other political subdivision of the state, shall be required for the issuance of such bonds pursuant to this part.

(2) This part shall not be deemed to repeal, rescind, or modify any other law or laws relating to said State Board of Administration, said Department of Transportation, or the Division of Bond Finance of the State Board of Administration but shall be deemed to and shall supersede such other law or laws as are inconsistent with the provisions of this part, including, but not limited to, s. 215.821.

348.9947 Changes to this part.—It is the intent of the Legislature that any changes to this part be approved by the Boards of County Commissioners of Lee and Collier Counties.

Section 2. Sunset of the Southwest Florida Expressway Authority's duties and powers.—The powers conferred to the Southwest Florida Expressway Authority and part X of chapter 348, Florida Statutes, the statutory establishment of the Southwest Florida Expressway Authority, shall expire 12 years after this act takes effect if the Southwest Florida Expressway Authority has no outstanding indebtedness, no studies underway, no design underway, and no projects under construction and is not operating or maintaining any part of the system it was established to create.

Section 3. This act shall take effect upon resolutions in support of this act being passed by both the Lee County Board of County Commissioners and the Collier County Board of County Commissioners, but no sooner than July 1, 2005, in the event the boards pass such resolutions prior to that date, except that this section shall take effect upon this act becoming a law.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.