

Committee Substitute for House Bill No. 1213

An act relating to the Jacksonville Transportation Authority; amending s. 349.02, F.S.; revising definitions; defining the term “transportation facilities”; amending s. 349.03, F.S.; revising a requirement for membership on the governing body of the authority to provide that an appointed member must be a resident and elector of Duval County; amending s. 349.04, F.S.; revising scope of the authority to include certain services throughout Duval County; revising authority, powers, rights, and responsibilities of the authority to provide for planning, coordinating, developing, financing, refinancing, constructing, owning, leasing, purchasing, operating, maintaining, relocating, equipping, repairing, and managing described transportation projects intended to address needs or concerns in the Jacksonville, Duval County, metropolitan area; revising bonding provisions; providing for the authority to fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for any transportation facilities of the authority; revising eminent domain provisions to include specified procedural powers; authorizing use of local option taxes or county gasoline tax funds to secure the payment of bonds; authorizing the authority to establish and fund reserve accounts, adopt an annual budget, use purchasing schedules and master purchasing contracts, retain legal counsel and other consultants, construct and own and maintain transportation facilities outside the jurisdictional boundaries of Duval County, form public benefit corporations, require bid bonds and protest bonds, prequalify bidders or proposers, suspend or debar consultants and contractors, and create and operate an employees’ benefit fund; providing for the authority to expand its service area and enter into a partnership with a contiguous county; providing that the powers and obligations of the authority shall not be subject to supervision, approval, or consent of any municipality or county except as agreed upon in an interlocal agreement; providing for certain contractual limitations and recovery of liquidated damages; providing for relocation of utility facilities interfering with transportation projects; authorizing the authority to enter lands, waters, and premises of another in the performance of its duties; amending s. 349.041, F.S.; revising provisions for funds appropriated by the City of Jacksonville to the authority; repealing s. 349.042, F.S., relating to the Jacksonville area planning board review of construction and operation of the expressway and transit functions of the authority; creating s. 349.043, F.S.; requiring a public hearing prior to designation or relocation of transportation facilities or substantive changes thereto; providing procedures; requiring compliance with federal and state requirements related to new or altered transportation facilities or services; amending s. 349.05, F.S.; authorizing bonds to be issued on behalf of the authority; revising provisions for issuance and sale of bonds; authorizing certain refunding bonds; revising provisions for resolutions authorizing bonds; revising provisions for fiscal agents; providing that bonds are not obligations of the state; repealing s. 349.06, F.S.,

relating to remedies of the bondholders; creating s. 349.061, F.S.; providing approval for bond financing by the authority; amending s. 349.07, F.S.; revising provisions authorizing the Department of Transportation to expend certain funds and use its resources for certain items related to the Jacksonville Expressway System; amending s. 349.10, F.S.; revising provisions for the authority to acquire lands and rights therein; limiting liability of the authority with respect to certain contamination of lands acquired; authorizing the authority and the Department of Environmental Protection to enter into agreements for the performance and funding of investigative and remedial acts; amending s. 349.12, F.S.; revising covenant of the state related to bonds of the authority; amending s. 349.13, F.S.; specifying conditions under which property leased by the authority is exempt from ad valorem taxes; amending s. 349.15, F.S.; revising provisions for enforcement of rights by bondholders; amending s. 349.17, F.S.; revising provisions for application of and exemption from other laws relating to issuance of bonds; amending s. 349.21, F.S.; revising provisions for use of charter county transit system surtax funds to secure payment of bonds of the authority; restricting use of surtax moneys collected within Duval County; creating s. 349.22, F.S.; providing conditions for the authority to receive or solicit proposals and enter into agreements with private entities for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities; requiring certain costs to be paid by the private entity; authorizing the department to use state funds for projects on or that increase mobility on the State Highway System; requiring notice of proposals and providing procedures; providing for agreements to authorize the imposition of tolls; requiring public-private transportation facilities to comply with laws, comprehensive plans, and the authority's rules, policies, procedures, standards, and conditions; authorizing the authority to exercise its powers to facilitate public-private projects; providing for application; amending s. 20.23, F.S.; revising the functions of the Florida Transportation Commission; adding the authority to the transportation agencies monitored by the commission; amending s. 334.30, F.S.; exempting certain public-private transportation facilities from certain specified taxes and special assessments; excluding certain taxes from such exemption; requiring that the Department of Transportation direct a study for certain purposes; requiring that such study include and address certain elements; requiring that recommendations be delivered to the Legislature by a specified date; providing an effective date.

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

Section 1. Section 349.02, Florida Statutes, is amended to read:

349.02 Definitions.—

(1) Except in those instances where the context clearly indicates otherwise, whenever used or referred to in this chapter, the following terms

whenever used or referred to in this law shall have the following meanings, except in those instances where the context clearly indicates otherwise:

~~(a)(1) The term “Authority” means shall mean~~ the body politic and corporate, an agency of the state created by this chapter.

~~(b)(2) The term “Members” means shall mean~~ the governing body of the authority, and the term “member” ~~means shall mean~~ one of the individuals constituting such governing body.

~~(c)(3) The term “Bonds” means and includes shall mean and include~~ the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, ~~that which~~ the authority is authorized to issue pursuant to this chapter.

~~(d)(4) The term “Lease-purchase agreement” means shall mean~~ the lease-purchase agreements ~~that which~~ the authority is authorized pursuant to this chapter to enter into with the department of Transportation.

~~(e)(5) The term “Department” means shall mean~~ the Department of Transportation existing under chapters 334-339.

~~(f)(6) The terms “Florida State Improvement Commission” or “commission” means shall mean~~ the state agency created, organized, and existing under and by virtue of the provisions of former chapter 420, or the successor thereto, chapter 29788, Acts of 1955, now chapter 288.

~~(g)(7) The term “County” means shall mean~~ the County of Duval.

~~(h)(8) The term “City” means shall mean~~ the City of Jacksonville.

~~(i)(9) The term “State Board of Administration” means shall mean~~ the body corporate existing under the provisions of s. 9, Art. XII of the State Constitution, or any successor thereto.

~~(j)(10) The term “Agency of the state” means and includes shall mean and include~~ the state and any department of the state, the authority, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the state.

~~(k)(11) The term “Federal agency” means and includes shall mean and include~~ the United States, the President of the United States, and any department of the United States, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

~~(l)(12) The term “Duval County gasoline tax funds” means shall mean~~ all the 80-percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Duval County under the provisions of s. 9, Art. XII of the State Constitution, after deduction only of any amounts of said gasoline tax funds heretofore pledged by the department or the county for outstanding obligations.

(m) “Transportation facilities” means and includes all mobile and fixed assets (real or personal property or rights therein) used in the transportation of persons or property by any means of conveyance whatsoever, and all appurtenances thereto, such as, but not limited to, highways; limited or controlled access lanes and facilities; docks, vessels, vehicles, fixed guideway facilities, and any means of conveyance of persons or property of all types; park-and-ride facilities; transit-related improvements adjacent to transit facilities or stations; bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations herein granted.

~~(2)~~(13) Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 2. Subsection (2) of section 349.03, Florida Statutes, is amended to read:

349.03 Jacksonville Transportation Authority.—

(2) The governing body of the authority shall consist of seven members. Three members shall be appointed by the Governor and confirmed by the Senate. Three members shall be appointed by the mayor of the City of Jacksonville subject to confirmation by the council of the City of Jacksonville. The seventh member shall be the district secretary of the Department of Transportation serving in the district that contains the City of Jacksonville. Except for the seventh member, members shall be residents and qualified electors of Duval County ~~the City of Jacksonville~~.

Section 3. Section 349.04, Florida Statutes, is amended to read:

349.04 Purposes and powers.—

(1)(a) The authority created and established by the provisions of this chapter is hereby granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the Jacksonville Expressway System (hereinafter referred to as “system”), heretofore partially constructed or acquired by the Florida State Improvement Commission in the Jacksonville, Duval County, metropolitan area, as more specifically described in the proceedings of the commission which authorized the issuance of \$28 million in bonds of the commission for such purpose, and as hereafter completed or improved or extended as authorized by this chapter, and all appurtenant facilities, including all approaches, streets, roads, bicycle paths, bridges, and avenues of access for the Jacksonville Expressway System, and to construct or acquire extensions, additions, and improvements to the system and to complete the construction and acquisition of the system.

(b) The authority may, in addition, acquire, hold, construct, improve, operate, maintain, and lease in the capacity of lessor a mass transit system employing motor cars or buses; street railway systems beneath the surface, on the surface, or above the surface; or any other means determined useful

to the rapid transfer of large numbers of people among the locations of residence, commerce, industry, and education in Duval County ~~the City of Jacksonville~~.

(c) The authority may further plan, coordinate, and recommend to appropriate officers and agencies of federal, state, and local governments methods and facilities for the parking of vehicles, the movement of pedestrians, and vehicular traffic (including bicycles), public and private, in Duval County ~~the City of Jacksonville~~, to accomplish a coordinated transportation system for the greater Jacksonville area. The authority may construct and operate passenger terminals for the parking of automobiles and movement by public conveyance of persons and construct and operate all other facilities necessary to a complete and coordinated transportation system in the Jacksonville area.

(d) It is the express intention of this chapter that the authority, in completing the construction of the Jacksonville Expressway System, is not limited to the description thereof contained in the proceedings of the commission which authorized the issuance of \$28 million in bonds to finance part of the cost thereof, but it is authorized to finance and construct any additional extensions, additions, or improvements to the system, or appurtenant facilities, including all necessary approaches, roads, bicycle ways, bridges, and avenues of access, with such changes, modifications, or revisions of the project as are deemed desirable and proper. It is the intent of this chapter, and to effect its purposes the Legislature determines, that bonds issued under this chapter be deemed to be state capital improvement bonds to finance or refinance the cost of state capital projects pursuant to s. 11(d), Art. VII of the State Constitution. However, the provisions of s. 316.091(2), relating to bicycles, do not apply to this system.

(e) In addition to the other powers set forth in this chapter, the authority has the right to plan, develop, finance, construct, own, lease, purchase, operate, maintain, relocate, equip, repair, and manage those public transportation projects, such as express bus services; bus rapid transit services; light rail, commuter rail, heavy rail, or other transit services; ferry services; transit stations; park-and-ride lots; transit-oriented development nodes; or feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities, that are intended to address critical transportation needs or concerns in the Jacksonville, Duval County, metropolitan area. These projects may also include all necessary approaches, roads, bridges, and avenues of access that are desirable and proper with the concurrence of the department, as applicable, if the project is to be part of the State Highway System.

(f)(e) The authority, in addition to the other powers and duties provided, shall have the power and responsibility to formulate and implement a plan for a mass transit system that which will serve Duval County and the greater consolidated City of Jacksonville area.

(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 without being limited to, the right and power:

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

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

(c) To acquire, purchase, construct, hold, lease as lessee or lessor, and use any franchise or any property, real, personal, or mixed, tangible or intangible, or any 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, including, without limitation, land, buildings, and other facilities located within or comprising transit-oriented developments which enhance the use or utility of transportation facilities owned or constructed by the authority and administrative and other buildings for the use of the authority in carrying out its powers and obligations granted in this chapter.

(d) To enter into and make leases for terms not exceeding 40 years, as either lessee or lessor, in order to carry out the right to lease as set forth in this chapter.

(e) To enter into and make lease-purchase agreements with the department for terms not exceeding 40 years, 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 Jacksonville Expressway System and any other transportation facilities of the authority, 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 chapter; this right and power may be assigned or delegated by the authority to the department.

(g)1. 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 chapter sometimes called "bonds"), of the authority, for the purpose of funding or refunding, at or prior to maturity, any bonds theretofore issued by the authority, or by the Florida State Improvement Commission to finance part of the cost of the Jacksonville Expressway System, and purposes related thereto, and for the purpose of financing or refinancing all or part of the costs of completion, ~~or~~ improvement, or extension of the Jacksonville Expressway System, and appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access for the Jacksonville Expressway System and for any other purpose authorized by this chapter, such bonds to mature in not exceeding 40 years from the date of the issuance thereof; and 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, including all or any portion of the Duval County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department; and in general to provide for the security of such bonds and the rights and remedies of the holders thereof.

2. In the event that the authority determines to fund or refund any bonds theretofore issued by the authority, or by the commission as aforesaid, 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 chapter that such outstanding bonds may be funded or refunded by the issuance of bonds pursuant to this chapter notwithstanding that part of such outstanding bonds will not mature or become redeemable until 6 years after the date of issuance of bonds pursuant to this chapter to fund or refund such outstanding bonds.

(h) To make contracts of every name and nature 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, the County of Duval, the City of Jacksonville, or 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, including all or any portion of the Duval County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, 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 chapter or any other law.

(m) To invest and 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, of the authority for the purpose of financing or refinancing all or a part of funding or refunding the cost of the acquisition or improvement of transportation facilities motor or street railway vehicles, passenger terminals, automobile parking facilities, or administrative offices and for any other purposes authorized by this chapter, such bonds to mature in not exceeding 40 years from the date of the issuance thereof; 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, including, without limitation, all or any portion of local option taxes or county gasoline tax funds received by the authority; and in general to provide for the security of such bonds and the rights and remedies of the holders thereof.

(n) To adopt rules to carry out the powers and obligations herein granted, which set forth a purpose, necessary definitions, forms, general conditions and procedures, and fines and penalties, including, without limitation, suspension or debarment, and charges for nonperformance, with respect to any aspect of the work or function of the authority for the permitting, planning,

funding, design, acquisition, construction, equipping, operation, and maintenance of transportation facilities, transit and highway, within the state, provided or operated by the authority or others in cooperation with or at the direction of the authority, and for carrying out all other purposes of the authority set forth or authorized in this chapter.

(o) To establish and fund reserve accounts with respect to its operations and functions, make withdrawals therefrom, and replenish such accounts, as the governing body may reasonably determine.

(p) To adopt and approve an annual budget, and to utilize purchasing schedules and master purchasing contracts of the state, any municipality, or any federal agency, to the extent permitted by law.

(q) To retain legal counsel and financial, engineering, real estate, accounting, design, planning, and other consultants from time to time as the authority may determine to assist in the carrying out of the powers and obligations granted in this chapter.

(r) With the consent of the county within whose jurisdiction the following activities occur, to construct, own, operate, and maintain transportation facilities outside the jurisdictional boundaries of Duval County, with all necessary and incidental powers to accomplish the foregoing.

(s) To form, alone or with one or more other agencies of the state or local governments, public benefit corporations to carry out the powers and obligations granted in this chapter or the powers and obligations of such other agencies or local governments.

(t) To require or elect not to require bid bonds and protest bonds, to prequalify bidders or proposers in various categories of work or services, and to suspend or debar consultants and contractors in accordance with the rules of the authority.

(u) To create and operate an employees' benefit fund for employees of the authority or public benefit corporations controlled by it. The proceeds of vending machines located on the premises of the authority or such corporations shall be paid into the fund and used for such benefits and purposes as the authority may determine.

(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; nor shall any of the obligations of the authority 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. However, this provision is not applicable to the type or manner of financing authorized by s. 9(c)(5), Art. XII of the State Constitution, as amended, and laws enacted pursuant thereto.

(4) By a resolution of its governing body, the authority may expand its service area and enter into a partnership with any county that is contiguous to the then-current service area of the authority. The governing body shall

determine the conditions and terms of the partnership, except as provided in this section. However, the authority may not expand its service area without the consent of the governing body representing the proposed expansion area.

(5) Except as otherwise expressly provided in this chapter, none of the powers and obligations herein granted to the authority shall be subject to the supervision or require the approval or consent of any municipality or county, except as may be agreed upon by the authority in an interlocal agreement with a municipality or county.

(6) No oral modification of a contract, whether for construction of high-way facilities or other transportation facilities, shall be binding upon the authority or form the basis for a claim against the authority. Only the chair of the governing body or executive director of the authority, or the designee of either, may bind the authority. The authority may provide for liquidated damages for delays by contractors in construction of transportation facilities for the authority, or the authority may provide for other contractually agreed-upon damages measures for delays.

(7) The authority shall be deemed to be an “authority” for purposes of s. 337.403, shall have all of the powers granted to authorities under s. 337.403, and shall have the powers granted to the Department of Transportation under s. 337.274 with respect to its powers and obligations granted in this chapter.

Section 4. Section 349.041, Florida Statutes, is amended to read:

349.041 Provision of funds and services by city to authority; ~~employment of legal counsel.~~—

(1) The authority shall prepare and submit annually its requests for such funds as it may require from the city for the ensuing year to the council of the city on or before June 1, setting forth its estimation for related estimated gross revenues and estimated requirements for operations, maintenance expenses, and debt service. A copy of such requests shall be furnished to the Department of Transportation. The council and the mayor of the City of Jacksonville may appropriate such funds as they deem appropriate for the use of the authority, and the use of such funds shall be subject to audit by the Council Auditor of the City of Jacksonville.

(2) Except as the council may provide, and except as otherwise required by any trust indenture outstanding on September 1, 1971, the authority may use shall utilize, on a cost-accounted basis, the central services of the city, and shall pay therefor. ~~The authority may, however, employ legal counsel it deems necessary, upon resolution of the authority.~~

Section 5. Section 349.042, Florida Statutes, is repealed.

Section 6. Section 349.043, Florida Statutes, is created to read:

349.043 Public hearings for transportation facilities.—Transportation facilities may not be designated or relocated by the authority, nor may

substantive changes be made thereto, until after a public hearing is conducted by the authority. Any interested party shall have the opportunity to be heard either in person or by counsel and to introduce testimony in such person's behalf at the hearing. Reasonable notice of each such public hearing shall be published in a newspaper of general circulation in each county directly affected by the proposed transportation facility not less than 14 days prior to the hearing. In addition, the authority shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Section 7. Section 349.05, Florida Statutes, is amended to read:

349.05 Bonds of the authority; bonds not debt or pledges of credit of state.—

(1)(a) Bonds may be issued on behalf of the authority pursuant to the State Bond Act or, alternatively, the authority may issue bonds pursuant to paragraph (b).

(b)1. The bonds of the authority issued pursuant to the provisions of this chapter, whether an original issuance or on refunding, shall be authorized by resolution of the members thereof and may be issued in one or more series, may be either term or serial bonds, and shall bear such date or dates, be payable on demand or mature at such time or times, not exceeding 40 years from their respective dates, bear interest, fixed or variable, at such rate or rates, not exceeding the maximum lawful interest rate payable semi-annually, 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, with or without premium, and other terms, have such rank, and be entitled to such remedies and priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority including all or any portion of local option sales tax or the Duval county gasoline tax funds received by the authority pursuant to the terms of any lease purchase agreement between the authority and the department, as the authority may determine 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 that 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.

2.(b) Such bonds shall be sold at public or private sale at such price or prices as the authority determines to be in its best interest, except that the interest costs to the authority on such bonds may not exceed the maximum lawful interest rate. The authority shall provide a specific finding by resolution as to the reason requiring any negotiated sale must be sold at public sale in the manner provided by the State Bond Act. However, if the authority, by official action at a public meeting, determines that a negotiated sale

~~of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the Division of Bond Finance of the State Board of Administration. 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.~~

3. The authority may issue bonds pursuant to this paragraph to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this chapter 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, and valid and legally binding covenants of the authority, 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, including the sales surtax adopted pursuant to s. 212.055(1) (including all or any portion of the Duval county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, or any part thereof), or other charges or receipts of any nature of the authority, whether or not derived by the authority from the Jacksonville Expressway System or its other transportation facilities;

(b) The completion, improvement, operation, extension, maintenance, repair, lease, or lease-purchase agreement of said system or transportation facilities, 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 Jacksonville Expressway System or any part thereof or its other transportation facilities;

(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; and

(h) Any other or additional provisions, covenants, and 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 chapter or the State Board of Administration may, upon request by the authority,~~

act as fiscal agent for the authority in the issuance of any bonds that may be issued pursuant to this chapter, and the State Board of Administration may, upon request by 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 chapter. The authority may enter into deeds of trust, indentures, or other agreements with a corporate trustee or trustees, which shall act as its fiscal agent for the authority and may be, ~~or with~~ any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, assign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of local option taxes or the Duval county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, thereunder. Such deed of trust, indenture, or other agreement, may contain such provisions as are ~~is~~ customary in such instruments or, as the authority may authorize, including, ~~but~~ without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, all or any part of transportation facilities authorized in this chapter to be constructed, acquired, developed, or operated by the authority ~~the Jacksonville Expressway 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; and

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

(4) Any of the bonds issued pursuant to this chapter 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 chapter, each project, building, or facility ~~that which~~ has been financed by the issuance of bonds or other evidences of indebtedness under this chapter and any refinancing thereof is hereby approved as provided for in s. 11(f), Art. VII of the State Constitution.

(6) Revenue bonds issued under the provisions of this chapter are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. Each such bond shall contain a statement on its face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principle or interest of such bond. The issuance of revenue bonds under the provisions of this chapter does not directly, indirectly,

or contingently obligate the state to levy or to pledge any form of taxation whatsoever or to make any appropriation for their payment.

Section 8. Section 349.06, Florida Statutes, is repealed.

Section 9. Section 349.061, Florida Statutes, is created to read:

349.061 Bond financing authority.—Pursuant to s. 11(f), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the authority any extensions, additions, and improvements to the Jacksonville Expressway System and any other facilities appurtenant, necessary, or incidental to the system or any transportation facilities herein authorized to be constructed, acquired, or operated by the authority. 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. 349.05(1)(a) or (b), whether currently issued or issued in the future, or by a combination of such bonds.

Section 10. Subsection (7) of section 349.07, Florida Statutes, is amended to read:

349.07 Lease-purchase agreement.—

(7) Regardless of whether the authority enters into a lease-purchase agreement with the department relating to the system or any part thereof, the said system shall be a part of the State Highway road System and the said department is hereby authorized, upon the request of the authority, to expend out of any funds available for the purpose such moneys, and to use such of its engineering and other forces, as may be necessary and desirable in the judgment of the said department, for the operation of the said authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies; provided, however, that the aggregate amount of moneys expended for said purposes by said department shall not exceed the sum of \$375,000.

Section 11. Section 349.10, Florida Statutes, is amended to read:

349.10 Acquisition of lands and property.—

(1) For the purposes of this chapter, law the Jacksonville Transportation 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, 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 transportation facilities, and replacement rights-of-way for relocated rail and utility facilities, and areas necessary for existing, proposed, or anticipated transportation facilities 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 any of the purposes of this chapter. Property already devoted to a public use may be acquired in like manner,

provided that no real property belonging to the state or any political subdivision thereof may be acquired without the state's or affected political subdivision's consent. The right of eminent domain herein conferred in this section shall be exercised by the authority in the manner provided by law. Notwithstanding that the authority is an agency of the state, the authority shall not exercise its powers of condemnation granted in this section with respect to any property or property rights of any county or municipality, including, without limitation, the City of Jacksonville.

(2) The authority may acquire such rights, title, interest, or easements in such lands as it may deem necessary for any of the purposes of this chapter.

(3) In connection with the acquisition of property or property rights as herein provided, the authority may in its discretion acquire an entire lot, block, or tract of land, if by so doing the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

(4) 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 that 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 for the costs of the investigative and remedial acts necessary for property acquired by the authority.

Section 12. Section 349.12, Florida Statutes, is amended to read:

349.12 Covenant of the state.—The state does hereby pledge to, and agree ~~agrees~~, with any person, firm, ~~or~~ corporation, or federal or state agency subscribing to, or acquiring the bonds to be issued by the authority for the purposes of this chapter 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 and any federal agency that, in the event that any federal agency shall construct or contribute any funds for the completion, extension, or improvement of the Jacksonville Expressway System or other transportation facilities of the authority, 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 that which ~~that~~ would be inconsistent with the continued maintenance and operation of the Jacksonville Expressway System or other transportation facilities of the authority or the completion, extension, or improvement thereof, or that ~~that~~ 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 chapter and the purposes of

the United States in the completion, extension, or improvement of the Jacksonville Expressway System or other transportation facilities of the authority, or any part or portion thereof.

Section 13. Section 349.13, Florida Statutes, is amended to read:

349.13 Exemption from taxation.—The effectuation of the authorized purposes of the authority created under this chapter 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 and other obligations issued under this chapter 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, or 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. When property of the authority is leased, it shall be exempt from ad valorem taxes only if the use by the lessee qualifies the property for exemption under s. 196.199.

Section 14. Section 349.15, Florida Statutes, is amended to read:

349.15 Remedies; pledges enforceable by bondholders.—Any holder of bonds issued under this chapter, except to the extent such rights may be restricted by the resolution, deed of trust, indenture, or other proceeding relating to the issuance of such bonds, may by civil action, mandamus, or other appropriate action, suit, or proceeding in law or in equity, in any court of competent jurisdiction, protect and enforce any and all rights of such bondholder granted under the proceedings authorizing the issuance of such bonds and enforce any pledge made for payment of the principal and interest on bonds, or any covenant or agreement relative thereto, against the authority or directly against the department, as may be appropriate. It is the express intention of this chapter that any pledge by the department of rates, fees, revenues, Duval county gasoline tax funds, 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.

Section 15. Section 349.17, Florida Statutes, is amended to read:

349.17 Chapter complete and additional authority.—

(1) The powers conferred by this chapter shall be in addition and supplemental to the existing powers of said board and the Department of Transportation, and this chapter 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 chapter, and to

provide a complete method for the exercise of the powers granted in this chapter. The refunding of any of the bonds of Florida State Improvement Commission heretofore issued to finance part of the cost of said Jacksonville Expressway System, and the completion, extension, and improvement of said 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 chapter without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, without limitation, s. 215.821, and no approval of any bonds issued under this chapter by the qualified electors or qualified electors who are freeholders in the state or in said County of Duval, or in said City of Jacksonville, or in any other political subdivision of the state, shall be required for the issuance of such bonds pursuant to this chapter.

(2) This chapter 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 said Florida State Improvement Commission, but shall be deemed to and shall supersede such other law or laws in the exercise of the powers provided in this chapter insofar as such other law or laws are inconsistent with the provisions of this chapter, including, without limitation, s. 215.821.

Section 16. Section 349.21, Florida Statutes, is amended to read:

349.21 Powers conferred by s. 212.055(1).—Notwithstanding any other provision of law, any transportation authority created by this chapter shall have all the powers conferred by s. 212.055(1). The revenues provided by this section ~~may shall~~ be used or pledged to pay principal and interest on bonds as set forth in s. 212.055(1). In no event may local transportation surtax moneys collected in Duval County be expended on transportation facilities outside the boundaries of Duval County for which tolls have been pledged. ~~The powers provided by this section shall expire when all such bonds in existence on the effective date of this act have been retired.~~

Section 17. Section 349.22, Florida Statutes, is created to read:

349.22 Public-private transportation facilities.—

(1) The authority may receive or solicit proposals and enter into agreements with private entities or consortia thereof for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities. Before approval, the authority must determine that a proposed project:

(a) Is in the public's best interest.

(b) Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.

(c) Would have adequate safeguards to ensure that additional costs or unreasonable service disruptions would not be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the authority.

(2) The authority shall ensure that all reasonable costs to the state related to transportation facilities that are not part of the State Highway System are borne by the private entity that develops or operates the facilities. The authority shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System or that provide increased mobility on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(3) The authority may request proposals and receive unsolicited proposals for public-private transportation projects and, upon receipt of any unsolicited proposal or determination to issue a request for proposals, must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation in the county in which the proposed project is located at least once a week for 2 weeks requesting proposals or, if an unsolicited proposal was received, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer. Any person submitting an unsolicited proposal shall submit with the proposal the sum of \$25,000 to the authority to be applied by the authority to its costs of review and analysis of the proposal, and such person shall remain liable for any additional costs and expenses of the authority incurred for the review and analysis.

(4) Agreements entered into pursuant to this section may authorize the authority or the private project owner, lessee, or operator to impose, collect, and enforce tolls or fares for the use of the transportation facility. However, the amount and use of toll or fare revenues shall be regulated by the authority to avoid unreasonable costs to users of the facility.

(5) Each public-private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the authority determines to be in the public's best interest.

(6) The authority may exercise any of its powers, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this section. The authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity, for which services it shall receive full or partial reimbursement.

(7) Except as provided in this section, this section is not intended to amend existing law by granting additional powers to or imposing further restrictions on the governmental entities with regard to regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

Section 18. Paragraph (b) of subsection (2) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system including highway, transit, rail, seaport, intermodal development, and aviation components of the system and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

5. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission pursuant to s. 334.045.

6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

7. Recommend to the Governor and the Legislature improvements to the department's organization in order to streamline and optimize the efficiency of the department. In reviewing the department's organization, the commission shall determine if the current district organizational structure is responsive to Florida's changing economic and demographic development patterns. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The commission may retain such experts as are reasonably necessary to effectuate this subparagraph, and the department shall pay the expenses of such experts.

8. Monitor the efficiency, productivity, and management of the authorities created under chapters 343, ~~and 348,~~ and 349, including any authority formed using the provisions of part I of chapter 348. The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

Section 19. Subsection (1) of section 334.30, Florida Statutes, is amended to read:

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department may advance projects programmed in the adopted 5-year work program or projects increasing transportation capacity and greater than \$500 million in the 10-year Strategic Intermodal Plan using funds provided by public-private partnerships or private entities to be reimbursed from department funds for the project as programmed in the adopted work program. The department shall by rule establish an application fee for the submission of unsolicited proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before approval, the department must determine that the proposed project:

- (a) Is in the public's best interest;
- (b) Would not require state funds to be used unless the project is on the State Highway System;
- (c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by the department;

(d) Would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and

(e) Would be owned by the department upon completion or termination of the agreement.

The department shall ensure that all reasonable costs to the state, related to transportation facilities that are not part of the State Highway System, are borne by the private entity. The department shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation. Because the Legislature recognizes that private entities or consortia thereof would perform a governmental or public purpose or function when they enter into agreements with the department to design, build, operate, own, or finance transportation facilities, the transportation facilities, including leasehold interests thereof, are exempt from ad valorem taxes as provided in chapter 196 to the extent property is owned by the state or other government entity, and from intangible taxes as provided in chapter 199 and special assessments of the state, any city, town, county, special district, political subdivision of the state, or any other governmental entity. The private entities or consortia thereof are exempt from tax imposed by chapter 201 on all documents or obligations to pay money which arise out of the agreements to design, build, operate, own, lease, or finance transportation facilities. Any private entities or consortia thereof must pay any applicable corporate taxes as provided in chapters 220 and 221, and unemployment compensation taxes as provided in chapter 443, and sales and use tax as provided in chapter 212 shall be applicable. The private entities or consortia thereof must also register and collect the tax imposed by chapter 212 on all their direct sales and leases that are subject to tax under chapter 212. The agreement between the private entity or consortia thereof and the department establishing a transportation facility under this chapter constitute documentation sufficient to claim any exemption under this section.

Section 20. The Department of Transportation shall direct a study to be conducted and funded by the authority created in chapter 349, Florida Statutes, for the purpose of recommending to the Legislature the framework for a regional transportation authority for the northeast region of Florida, composed of the following counties and each of the municipalities located therein: Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns. The study shall include, at a minimum, the existing powers and duties of the authority, as well as the additional powers and duties necessary for the agency to plan, design, finance, construct, operate, and maintain transportation facilities providing a safe, adequate, and efficient surface transportation network for the region, consistent with the statewide transportation network. In addition, the study shall address agency revenue sources, gover-

nance, coordination of work plans, and coordination with local comprehensive plans for all transportation facilities of the agency. Recommendations shall be delivered to the President of the Senate and Speaker of the House of Representatives no later than February 1, 2010.

Section 21. This act shall take effect July 1, 2009.

Approved by the Governor June 1, 2009.

Filed in Office Secretary of State June 1, 2009.