

CHAPTER 2011-64

Senate Bill No. 2152

An act relating to transportation; amending s. 120.80, F.S.; providing that requirements relating to rulemaking and statements of estimated regulatory costs do not apply to the adjustment of tolls; amending s. 338.26, F.S.; requiring that excess funds generated from Alligator Alley tolls be used to develop and operate a fire station to provide fire, rescue, and emergency management services in adjacent counties along Alligator Alley; repealing s. 343.805(6), F.S., relating to the definition of the term “lease-purchase agreement” as it relates to the Northwest Florida Transportation Corridor Authority and the Department of Transportation; amending s. 343.835, F.S.; deleting references to lease-purchase agreements; amending s. 343.836, F.S.; deleting references to lease-purchase agreements in remedies to bondholders as they relate to the U.S. 98 Corridor System; repealing s. 343.837, F.S., relating to lease-purchase agreements that provide for the leasing of the U.S. 98 Corridor System to the Department of Transportation; repealing s. 343.885, F.S., relating to the enforceability of pledges by bondholders; repealing s. 343.91(1)(h), F.S., relating to the definition of the term “lease-purchase agreement” as it relates to the Tampa Bay Area Regional Transportation Authority and the Department of Transportation; amending s. 343.94, F.S.; deleting references to lease-purchase agreements; amending s. 343.944, F.S.; deleting references to lease-purchase agreements in remedies to bondholders as they relate to the Tampa Bay Area Regional Transportation Authority; repealing s. 343.945, F.S., relating to the enforceability of pledges to the Tampa Bay Area Regional Transportation Authority; repealing s. 343.946, F.S., relating to lease-purchase agreements that provide for the leasing of projects of the Tampa Bay Area Regional Transportation Authority to the Department of Transportation; repealing s. 348.0002(11), F.S., relating to the definition of the term “lease-purchase agreement” as it relates to expressway authorities and the Department of Transportation; amending s. 348.0004, F.S.; authorizing authorities created pursuant to the Florida Expressway Authority Act to own expressway systems; deleting the power of such authorities to lease such systems; deleting obsolete provisions; amending s. 348.0005, F.S.; deleting a reference to the Department of Transportation to conform to changes made by the act; repealing s. 348.0006, F.S., which provides for lease-purchase agreements in the Florida Expressway Authority Act; repealing part II of ch. 348, F.S., which provides for the creation and operation of the Brevard County Expressway Authority; repealing part III of ch. 348, F.S., which provides for the creation and operation of the Broward County Expressway Authority; repealing part VI of ch. 348, F.S., which provides for the creation and operation of the Pasco County Expressway Authority; repealing part VII of ch. 348, F.S., which provides for the creation and operation of the St. Lucie County Expressway and Bridge Authority; repealing part VIII of ch. 348, F.S., which provides for the creation and

operation of the Seminole County Expressway Authority; repealing part X of ch. 348, F.S., which provides for the creation and operation of the Southwest Florida Expressway Authority; repealing s. 348.9955, F.S., relating to the power of the Osceola Expressway Authority to enter into lease-purchase agreements with the Department of Transportation; repealing s. 349.02(1)(d), F.S., relating to the definition of the term "lease-purchase agreement" as it relates to the Jacksonville Transportation Authority and the Department of Transportation; amending s. 349.04, F.S.; deleting the authority of the Jacksonville Transportation Authority to enter lease-purchase agreements; amending s. 349.05, F.S.; deleting authorization for lease-purchase agreements in bond agreements of the Jacksonville Transportation Authority; repealing s. 349.07, F.S., relating to lease-purchase agreements that provide for the leasing of the Jacksonville Expressway System to the Department of Transportation; amending s. 349.15, F.S.; deleting certain bond authority of the department; amending s. 364.02, F.S.; revising definitions; providing legislative intent; providing that any purchase of new equipment, machinery, or other inventory by state agencies as a result damage caused by fire, smoke, water, or any incident be limited to purchases that are absolutely necessary and are irreparable; requiring that all state agencies develop and adopt assessment protocols for evaluating and determining whether equipment, machinery, or other inventory needs repair or restored; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsection (17) is added to section 120.80, Florida Statutes, to read:

120.80 Exceptions and special requirements; agencies.—

(17) DEPARTMENT OF TRANSPORTATION.—Sections 120.54(3)(b) and 120.541 do not apply to the adjustment of tolls pursuant to s. 338.165(3).

Section 2. Subsection (3) of section 338.26, Florida Statutes, is amended to read:

338.26 Alligator Alley toll road.—

(3) Fees generated from tolls shall be deposited in the State Transportation Trust Fund, and any amount of funds generated annually in excess of that required to reimburse outstanding contractual obligations, to operate and maintain the highway and toll facilities, including reconstruction and restoration, and to pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994, and to develop and operate a fire station at mile marker 63 on Alligator Alley to provide fire, rescue, and emergency management services to the adjacent counties along Alligator Alley, may be transferred to

the Everglades Fund of the South Florida Water Management District. The South Florida Water Management District shall deposit funds for projects undertaken pursuant to s. 373.4592 in the Everglades Trust Fund pursuant to s. 373.45926(4)(a). Any funds remaining in the Everglades Fund may be used for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects shall be limited to:

(a) Highway redesign to allow for improved sheet flow of water across the southern Everglades.

(b) Water conveyance projects to enable more water resources to reach Florida Bay to replenish marine estuary functions.

(c) Engineering design plans for wastewater treatment facilities as recommended in the Water Quality Protection Program Document for the Florida Keys National Marine Sanctuary.

(d) Acquisition of lands to move STA 3/4 out of the Toe of the Boot, provided such lands are located within 1 mile of the northern border of STA 3/4.

(e) Other Everglades Construction Projects as described in the February 15, 1994, conceptual design document.

Section 3. Subsection (6) of section 343.805, Florida Statutes, is repealed.

Section 4. Paragraph (b) of subsection (2) and paragraph (a) of subsection (3) of section 343.835, Florida Statutes, are amended to read:

343.835 Bonds of the authority.—

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

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

(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 that are 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 authorizes, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of ~~or lease-purchase agreement relating to U.S. 98 corridor improvements and the duties of the authority and others, including the department,~~ with reference thereto.

Section 5. Section 343.836, Florida Statutes, is amended to read:

343.836 Remedies of the bondholders.—

(1) The rights and the remedies in this section conferred upon or granted to the bondholders are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by a ~~lease-purchase agreement,~~ deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If the authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to the provisions of this part after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, ~~or the department defaults in any payments under, or covenants made in, any lease-purchase agreement between the authority and the department,~~ and such default continues for a period of 30 days, or if the authority ~~or the department~~ fails or refuses to comply with the provisions of this part or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding may appoint a trustee to represent such bondholders for the purposes hereof, if such holders of 25 percent in aggregate principal amount of the bonds then outstanding shall first give notice of their intention to appoint a trustee to the authority ~~and to the department~~. Such notice shall be deemed to have been given if given in writing, deposited in a securely sealed postpaid wrapper, mailed at a regularly maintained United States post office box or station, and addressed, ~~respectively,~~ to the chair of the authority ~~and to the secretary of the department at the principal office of the department~~.

(2) Such trustee and any trustee under any deed of trust, indenture, or other agreement may, and upon written request of the holders of 25 percent or such other percentages as are specified in any deed of trust, indenture, or other agreement aforesaid in principal amount of the bonds then outstanding shall, in any court of competent jurisdiction, in his, her, or its own name:

(a) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the authority to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.

~~(b) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and the department, including the right to require the department to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement, to require the department to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.~~

(b)(e) Bring suit upon the bonds.

~~(c)(d)~~ By action or suit in equity, require the authority ~~or the department~~ to account as if it were the trustee of an express trust for the bondholders.

(d)(e) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.

(3) Any trustee, when appointed as aforesaid or acting under a deed of trust, indenture, or other agreement, and whether or not all bonds have been declared due and payable, may appoint a receiver who may enter upon and take possession of the system or the facilities or any part or parts thereof, the rates, fees, rentals, or other revenues, charges, or receipts from which are or may be applicable to the payment of the bonds so in default, and, ~~subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department,~~ operate and maintain the same for and on behalf of and in the name of the authority, ~~the department,~~ and the bondholders, and collect and receive all rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority ~~or the department~~ might do, and shall deposit all such moneys in a separate account and apply such moneys in such manner as the court shall direct. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any rates, fees, rentals, or other charges, revenues, or receipts derived from the system or the facilities or services or any part or parts thereof, ~~including payments under any such lease-purchase agreement as aforesaid,~~ which rates, fees, rentals, or other charges, revenues, or receipts may be applicable to the payment of the bonds so in default. Such trustee, in addition to the foregoing, possesses all of the powers necessary for the exercise of any functions specifically set forth herein or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this part does not authorize any receiver appointed pursuant hereto for the purpose, ~~subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department,~~ of operating and maintaining the system or any facilities or part or parts thereof, to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this part to limit the powers of such receiver; ~~subject to and in compliance with the provisions of any lease-purchase~~

~~agreement between the authority and the department, to the operation and maintenance of the system or any facility or part or parts thereof, as the court may direct, in the name and for and on behalf of the authority, the department, and the bondholders. In any suit, action, or proceeding at law or in equity, a holder of bonds on the authority, a trustee, or any court may not compel or direct a receiver to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority. A receiver also may not be authorized to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority in any suit, action, or proceeding at law or in equity.~~

Section 6. Section 343.837, Florida Statutes, is repealed.

Section 7. Section 343.885, Florida Statutes, is repealed.

Section 8. Section 343.91(1)(h), Florida Statutes, is repealed.

Section 9. Paragraph (b) of subsection (3) and paragraph (a) of subsection (4) of section 343.94, Florida Statutes, are amended to read:

343.94 Bond financing authority.—

(3) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions that are part of the contract with the holders of such bonds, as to:

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

(4) 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 that are 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 authorizes, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, ~~or lease-purchase agreement relating to,~~ highway, bridge, and related transportation facilities and appurtenances and the duties of the authority and others, ~~including the department,~~ with reference thereto.

Section 10. Section 343.944, Florida Statutes, is amended to read:

343.944 Remedies of the bondholders.—

(1) The rights and the remedies in this section conferred upon or granted to the bondholders are in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by a lease-purchase agreement, deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If the authority defaults in the payment of the principal of or interest on any of the bonds issued pursuant to the provisions of this part after such principal of or interest on the bonds becomes due, whether at maturity or upon call for redemption, ~~or the department defaults in any payments under, or covenants made in, any lease-purchase agreement between the authority and the department,~~ and such default continues for a period of 30 days, or if the authority or the department fails or refuses to comply with the provisions of this part or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding may appoint a trustee to represent such bondholders for the purposes hereof, if such holders of 25 percent in aggregate principal amount of the bonds then outstanding shall first give notice of their intention to appoint a trustee to the authority ~~and to the department.~~ Such notice shall be deemed to have been given if given in writing, deposited in a securely sealed postpaid wrapper, mailed at a regularly maintained United States post office box or station, and addressed, respectively, to the chair of the authority ~~and to the secretary of the department at the principal office of the department.~~

(2) Such trustee and any trustee under any deed of trust, indenture, or other agreement may and, upon written request of the holders of 25 percent or such other percentages as are specified in any deed of trust, indenture, or other agreement aforesaid in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in his, her, or its own name:

(a) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the authority, to carry out any other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this part.

~~(b) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and the department, including the right to require the department to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement and to require the department to carry out any other covenants and agreements with or for~~

~~the benefit of the bondholders and to perform its and their duties under this part.~~

~~(b)(e)~~ Bring suit upon the bonds.

~~(c)(d)~~ By action or suit in equity, require the authority or the department to account as if it were the trustee of an express trust for the bondholders.

~~(d)(e)~~ By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.

(3) Any trustee, when appointed as aforesaid or acting under a deed of trust, indenture, or other agreement, and regardless of whether all bonds have been declared due and payable, may appoint a receiver who may enter upon and take possession of the system or the facilities or any part or parts thereof, the rates, fees, rentals, or other revenues, charges, or receipts from which are or may be applicable to the payment of the bonds so in default, and, ~~subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department,~~ operate and maintain the same for and on behalf of and in the name of the authority, ~~the department,~~ and the bondholders, and collect and receive all rates, fees, rentals, and other charges or receipts or revenues arising therefrom in the same manner as the authority ~~or the department~~ might do, and shall deposit all such moneys in a separate account and apply such moneys in such manner as the court shall direct. In any suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee and the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any rates, fees, rentals, or other charges, revenues, or receipts derived from the system or the facilities or services or any part or parts thereof, ~~including payments under any such lease-purchase agreement as aforesaid,~~ which rates, fees, rentals, or other charges, revenues, or receipts may be applicable to the payment of the bonds so in default. Such trustee, in addition to the foregoing, possesses all of the powers necessary for the exercise of any functions specifically set forth herein or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) This section or any other section of this part does not authorize any receiver appointed pursuant hereto for the purpose, ~~subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department,~~ of operating and maintaining the system or any facilities or part or parts thereof to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this part to limit the powers of such receiver, ~~subject to and in compliance with the provisions of any lease-purchase agreement between the authority and the department,~~ to the operation and maintenance of the system or any facility or part or parts thereof, as the court may direct, in the name of and for and on behalf of the authority, ~~the department,~~ and the bondholders. In any suit, action, or proceeding at law or in equity, a holder of bonds on the authority, a trustee, or any court may not compel or direct a receiver to sell, assign, mortgage, or otherwise dispose of

any assets of whatever kind or character belonging to the authority. A receiver also may not be authorized to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority in any suit, action, or proceeding at law or in equity.

Section 11. Section 343.945, Florida Statutes, is repealed.

Section 12. Section 343.946, Florida Statutes, is repealed.

Section 13. Subsection (11) of section 348.0002, Florida Statutes, is repealed.

Section 14. Paragraph (a) of subsection (1), paragraph (e) of subsection (2), and paragraph (d) of subsection (9) of section 348.0004, Florida Statutes, are amended, present paragraphs (f) through (l) of subsection (2) of that section are redesignated as paragraphs (e) through (k), respectively, and present paragraphs (e) through (h) of subsection (9) of that section are redesignated as paragraphs (d) through (g), respectively, to read:

348.0004 Purposes and powers.—

(1)(a) An authority created and established pursuant to the Florida Expressway Authority Act may acquire, hold, construct, improve, maintain, operate, and own, ~~and~~ lease an expressway system.

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

~~(c) To enter into and make lease-purchase agreements with the department until any bonds secured by a pledge of rentals thereunder, and any refundings thereof, are fully paid as to both principal and interest.~~

(9) The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public’s interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

~~(d) The department may lend funds from the Toll Facilities Revolving Trust Fund, as outlined in s. 338.251, to public-private partnerships. To be eligible a private entity must comply with s. 338.251 and must provide an indication from a nationally recognized rating agency that the senior bonds for the project will be investment grade or must provide credit support, such as a letter of credit or other means acceptable to the department, to ensure that the loans will be fully repaid.~~

Section 15. Paragraph (b) of subsection (2) of section 348.0005, Florida Statutes, is amended to read:

348.0005 Bonds.—

(2)

(b) The bonds of an authority in any county as defined in s. 125.011(1), issued pursuant to the provisions of this part, whether on original issuance or refunding, must be authorized by resolution of the authority, after approval of the issuance of the bonds at a public hearing, and may be either term or serial bonds, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be payable semiannually, be in such denominations, be in such form, either coupon or fully registered, shall 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 county gasoline tax funds received by an authority pursuant to the terms of any interlocal or lease-purchase agreement between an authority, ~~the department,~~ or a county, as such resolution or any resolution subsequent thereto may provide. The bonds must be executed by such officers as the authority determines under the requirements of s. 279.06.

Section 16. Section 348.0006, Florida Statutes, is repealed.

Section 17. Part II of chapter 348, Florida Statutes, consisting of ss. 348.216, 348.217, 348.218, 348.219, 348.22, 348.221, 348.222, 348.223, 348.224, 348.225, 348.226, 348.227, 348.228, 348.229, and 348.23, is repealed.

Section 18. Part III of chapter 348, Florida Statutes, consisting of ss. 348.24, 348.241, 348.242, 348.243, 348.244, 348.245, 348.246, 348.247, 348.248, 348.249, and 348.25, is repealed.

Section 19. Part VI of chapter 348, Florida Statutes, consisting of ss. 348.80, 348.81, 348.82, 348.83, 348.84, 348.86, 348.87, 348.88, 348.89, 348.90, 348.91, 348.92, 348.93, and 348.94, is repealed.

Section 20. Part VII of chapter 348, Florida Statutes, consisting of ss. 348.9401, 348.941, 348.942, 348.943, 348.944, 348.945, 348.946, 348.947, 348.948, 348.949, and 348.9495, is repealed.

Section 21. Part VIII of chapter 348, Florida Statutes, consisting of ss. 348.95, 348.951, 348.952, 348.953, 348.954, 348.955, 348.956, 348.957, 348.958, 348.959, 348.96, 348.961, 348.962, and 348.963, is repealed.

Section 22. Part X of chapter 348, Florida Statutes, consisting of ss. 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, 348.9947, 348.9948, is repealed.

Section 23. Section 348.9955, Florida Statutes, is repealed.

Section 24. Paragraph (d) of subsection (1) of s. 349.02, Florida Statutes, is repealed.

Section 25. Paragraphs (e) and (g) of subsection (2) of section 349.04, Florida Statutes, are amended, and present paragraphs (f) through (u) of that subsection are redesignated as paragraphs (e) through (t), respectively, to read:

349.04 Purposes and powers.—

(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:

~~(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.~~

(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, 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.

Section 26. Subsections (2) and (3) of section 349.05, Florida Statutes, are amended to read:

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

(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 county gasoline tax funds received by the authority), 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, ~~or 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, 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 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 fiscal agent for the authority and may be 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 county gasoline tax funds received by the authority, thereunder. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or as the authority may authorize, including, 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 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.

Section 27. Section 349.07, Florida Statutes, is repealed.

Section 28. 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, 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 29. Section 364.02, Florida Statutes, is amended to read:

364.02 Definitions.—As used in this chapter, the term:

(1) “Basic local telecommunications service” means voice-grade, single-line, flat-rate residential local exchange service that provides dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as “911,” all locally available interexchange companies, directory assistance, operator services, and relay services, ~~and an alphabetical~~

directory listing. For a local exchange telecommunications company, the term includes any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

(2) “Broadband service” means any service that consists of or includes the offering of the capability to transmit or receive information at a rate that is not less than 200 kilobits per second and either:

(a) Is used to provide access to the Internet; or

(b) Provides computer processing, information storage, information content, or protocol conversion in combination with the service.

The definition of broadband service does not include any intrastate telecommunications services that have been tariffed with the commission on or before January 1, 2005.

(3) “Commercial mobile radio service provider” means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(27) and 332(d).

(4) “Commission” means the Florida Public Service Commission.

(5) “Competitive local exchange telecommunications company” means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(6) “Corporation” includes a corporation, company, association, or joint stock association.

(7) “Intrastate interexchange telecommunications company” means any entity that provides intrastate interexchange telecommunications services.

(8) “Local exchange telecommunications company” means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

~~(9) “Monopoly service” means a telecommunications service for which there is no effective competition, either in fact or by operation of law.~~

~~(9)~~⁽¹⁰⁾ “Nonbasic service” means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection, resale, or unbundling pursuant to arrangement described in s. 364.16, or a network access service described in s. 364.163. Any combination of basic service along with a nonbasic service or an unregulated service is nonbasic service.

~~(10)~~⁽¹¹⁾ “Operator service” includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(11)(12) “Operator service provider” means a person who furnishes operator service through a call aggregator.

(12)(13) “Service” is to be construed in its broadest and most inclusive sense. The term “service” does not include broadband service or voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service. Notwithstanding s. 364.013, and the exemption of services pursuant to this subsection, the commission may arbitrate, enforce, or approve interconnection agreements, and resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or any other applicable federal law or regulation. With respect to the services exempted in this subsection, regardless of the technology, the duties of a local exchange telecommunications company are only those that the company is obligated to extend or provide under applicable federal law and regulations.

(13)(14) “Telecommunications company” includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term “telecommunications company” does not include:

(a) An entity that provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity that provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company;

(h) An operator services provider; or

(i) An airport that provides communications services within the confines of its airport layout plan.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for

any taxes imposed under chapters 202, 203, and 212 ~~and any fees assessed under s. 364.025~~. Each intrastate interexchange telecommunications company shall continue to be subject to s. ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall provide the commission with the current information as the commission deems necessary to contact and communicate with the company, and shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service.

~~(14)~~(15) “Telecommunications facility” includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

~~(15)~~(16) “VoIP” means any service that:

(a) Enables real-time, two-way voice communications that originate from or terminate to the user’s location in Internet Protocol or any successor protocol;

(b) Uses a broadband connection from the user’s location; and

(c) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network the voice-over-Internet protocol as that term is defined in federal law.

Section 30. (1) It is the intent of the Legislature that purchases of new equipment, machinery, or inventory by any state agency as a result of damage from fire, smoke, water, or any other similar incident be limited to purchases that are absolutely necessary because the damaged equipment, machinery, or inventory is in irreparable condition.

(2) By January 1, 2012, each state agency shall develop and adopt assessment protocols for evaluating and determining whether equipment, machinery, or any other inventory must be repaired or restored before any request to purchase replacement equipment, machinery, or any other inventory is approved.

Section 31. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority,

or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of

“ownership,” buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed “owned” by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator’s provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

Section 32. Subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(a) Any leasehold or other interest that is described in s. 199.023(1)(d), Florida Statutes 2005; or

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, when the service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator’s provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 33. Subsection (6) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States

Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees, or which are for use by a public hospital for the provision of such telecommunications services.

Section 34. Subsection (8) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(8) Notwithstanding any law to the contrary, the Public Service Commission may allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065. Such discounts may be granted for a period not to exceed 5 years. For purposes of this subsection, the term “public utility” has the same meaning as in s. 366.02(1) and the term “telecommunications company” has the same meaning as in s. 364.02(13) ~~s. 364.02(14)~~.

Section 35. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.—

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ~~ss. 364.02(13) 364.02(14)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member’s termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Section 36. Subsection (4) of section 364.602, Florida Statutes, is amended to read:

364.602 Definitions.—For purposes of this part:

(4) “Originating party” means any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term “originating party” does not include any entity specifically exempted from the definition of “telecommunications company” as provided in s. 364.02(13) ~~s. 364.02(14)~~.

Section 37. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(13) ~~s. 364.02(14)~~, and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their

employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term “incidental to their business” for purposes of this subsection.

Section 38. This act shall take effect July 1, 2011.

Approved by the Governor May 26, 2011.

Filed in Office Secretary of State May 26, 2011.