

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1532

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Expressway Authorities

DATE: February 22, 2002 REVISED: 02/26/02 _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|----------------|------------|-------------------------|
| 1. | <u>McAuliffe</u> | <u>Meyer</u> | <u>TR</u> | <u>Favorable/CS</u> |
| 2. | <u>Bowman</u> | <u>Yeatman</u> | <u>CA</u> | <u>Fav/2 amendments</u> |
| 3. | _____ | _____ | <u>AGG</u> | _____ |
| 4. | _____ | _____ | <u>AP</u> | _____ |
| 5. | _____ | _____ | <u>RC</u> | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The CS authorizes numerous provisions concerning expressway authorities. This Committee Substitute:

- Provides employees or agents of the Florida Department of Transportation (FDOT) and expressway authorities, and law enforcement personnel may remove an incapacitated vehicle from the road;
- Doubles the fine for speeding through a toll-collection facility;
- Gives Miami-Dade County the authority to establish qualifications, terms of office, and the obligations and rights of appointees to the Miami-Dade Expressway Authority;
- Authorizes access to property by expressway authority employees or authorized agents to make necessary examinations for the acquisition of property;
- Authorizes the Orlando Orange County Expressway Authority to issue bonds;
- Authorizes the Tampa-Hillsborough County Expressway Authority to issue bonds and refinance certain projects; and
- Authorizes expressway authorities to utilize the process developed for FDOT to pay mitigation funds into escrow accounts.

This CS substantially amends sections 316.061, 318.18, 348.0003, 348.0008, 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, 348.765, 348.565, and 373.4137, and creates section 348.545 of the Florida Statutes.

II. Present Situation:

Section 1-- Crashes involving damage:

Section 316.061, F.S., provides the driver of any vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person must stop at the scene of the crash and must remain at the scene until aid is rendered, if necessary, identification information is exchanged. A person who violates this commits a misdemeanor of the second degree.

Section 2-- Speed Zones:

Section 318.18, F.S., provides fines for exceeding the speed limit. The standard fine for exceeding the speed limit is:

- A warning for speeding 1-5 mph above the speed limit.
- \$25 for speeding 6-9 mph above the speed limit.
- \$100 for speeding 10-14 mph above the speed limit.
- \$125 for speeding 15-19 mph above the speed limit.
- \$150 for speeding 20-29 mph above the speed limit.
- \$250 for speeding 30 mph or more above the speed limit.

The section provides enhanced penalties for speeding in certain areas. The fine for exceeding the speed limit in a school zone is \$50 for up to five miles per hour over the speed limit. The fine for speeding in a school zone by more than 5 mph is double the standard fine for exceeding the speed limit. The fine for exceeding the speed limit in a posted construction zone is double the standard fine only if construction personnel are present.

Sections 3 and 4-- Expressway authorities:

Chapter 348, F.S., deals with the creation and regulation of expressway authorities. Part I of the chapter, created by the Legislature in 1990, specifies the process for a county or counties to create and operate an expressway authority, including appointment of members. Parts II through IX refer to specific expressway authorities that were legislatively created. But other than the requirement that all the voting members of an authority must live in the county served by the expressway, no other qualifications for authority members are listed in statute.

Sections 5 and 7 -12-- Orlando-Orange County Expressway Authority:

The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963; it's first project, the Beeline Expressway (State Road 528) opened to traffic four years later. Comprising the system are 90 total centerline miles, 11 main-line toll plazas, 42 ramp toll plazas, and 186 total toll lanes. More than 200 million motorists used the toll lanes in fiscal year 2001. The OOCEA has planned a \$1billion program over the next five years including \$758 million in capital improvements.

OOCEA's 2001 Annual Report indicates total system revenues grew from \$125.55 million in 2000 to \$139.6 million in 2001. Forty-one percent of the expressway authority's 2001 revenues were earmarked to pay debt service. The report also indicates that OOCEA owes other government agencies, such as FDOT, a total of \$165,178,000.

Pursuant to state law, the State Board of Administration's Division of Bond Finance issues bonds for OOCEA's projects on behalf of the authority. Pursuant to the State Bond Act discussed in chapter 215, F.S., and chapter 348, F.S., the State Board of Administration's Division of Bond Finance issues revenue bonds for OOCEA's projects on behalf of the authority. Pursuant to its statutory authority, the Division of Bond Finance independently reviews the recommendations of a paid financial adviser retained by the OOCEA. The Division's review does not focus solely upon the current transaction; it also reviews the issuance in light of the entire bonded indebtedness of the State of Florida. The Division also maintains its own independent in-house legal staff to assist with issues which may arise during the financing. All financings issued through the Division must receive the approval of the Governor and Cabinet. Additional state oversight is currently provided by the Department of Transportation, which participates through significant financial contributions to the construction, operation and maintenance of OOCEA's expressways. The revenue bonds issued by the Division on behalf of OOCEA pledge the toll revenues generated by the authority's expressway system as repayment.

Some local-government transportation entities, such as the Miami-Dade County Expressway Authority, the Santa Rosa Bay Bridge Authority and the Mid Bay Bridge Authority, have specific authority to issue their own revenue bonds, independently of the Division of Bond Finance.

Sections 6 and 13-- Tampa-Hillsborough County Expressway Authority:

In 1997 the Tampa-Hillsborough Expressway Authority was authorized to issue revenue bonds to finance and refinance certain projects. These revenue bonds are not backed by the full faith and credit of the State of Florida. In addition to existing facilities, the authority was authorized to issue bonds to finance Brandon area feeder roads, capitol improvements to the expressway system including the toll collection equipment, and the widening of the Lee Roy Selmon Crosstown Expressway System.

Specific projects by the Tampa-Hillsborough County Expressway Authority must be approved by the Legislature, by amending s. 348.565, F.S.

Section 14-- Wetlands Mitigation Requirements for expressway and bridge authorities:

Many Florida Department of Transportation (FDOT) projects involve the dredging and filling of wetlands, Florida's environmental "kidneys" that filter surface water runoff before it is absorbed into the ground, help hold floodwaters, and provide natural habitat. Since the 1970s, the state's environmental agencies have required "mitigation" for damage done to wetlands by human development. Originally, this mitigation was either done on-site, or adjacent to the damaged area, by trying to create or restore a wetland area, or to leave existing green space untouched. But a wealth of biological studies in the early 1990s indicted that this piece-meal, project-by-project approach to mitigation was largely unsuccessful in restoring an ecosystem. Florida and other states began developing regional or basin approaches to mitigating for wetlands damage.

In 1996, the Legislature created s. 373.4137, F.S., detailing a process by which FDOT could pay a per-acre sum of money to the Department of Environmental Protection (DEP) and the water management districts (WMDs) for their staffs to perform basin-wide mitigation to offset the

adverse environmental impacts of road projects. Currently, FDOT, DEP and the WMDs match up transportation projects with wetlands impacts, and develop environmental impact inventories for each WMD region of the state. Based on a current \$80,000 per acre of impact cost, FDOT makes quarterly deposits in a special escrow account within the State Transportation Trust Fund, and DEP can withdraw funds from it to pay for the mitigation projects within the basins overseen by each WMD. Much of the funds have been spent over the years to acquire and preserve lands from future development.

From FDOT's perspective, this has proven to be a cost-effective and environmentally sound approach.

III. Effect of Proposed Changes:

Section 1-- Crashes involving damage:

Section 316.061, F.S., is amended to provide employees or agents of the FDOT and expressway authorities, and law enforcement personnel may remove an incapacitated vehicle from the road. The section further provides the owner of the vehicle or the persons removing the vehicle are not liable or fault regarding the cause of the accident solely by reason of moving the vehicle.

Section 2-- Speed Zones:

Section 318.18, F.S., is amended to provide exceeding the speed limit within a zone posted for any electronic or manual toll-collection facility will be assessed a fine double the standard speeding fines.

Sections 3 and 4-- Expressway authorities:

The CS amends s. 348.003(2)(d), F.S., to give a charter county, as defined by s. 125.011(1), F.S., the authority to establish qualifications, terms of office, and the obligations and rights of appointees to an expressway authority within its jurisdiction. Although there are several charter counties in Florida, only Miami-Dade County meets all of the conditions relevant to the section being amended. So, only the Miami-Dade County Expressway Authority will be impacted by the law change.

Further, the CS amends s. 348.0008, F.S., to authorize expressway authority employees or authorized agents to enter any lands, waters, premises, upon giving reasonable notice to the landowner, for the purpose of making surveys, soundings, drillings, appraisals, environmental and archeological assessments, and other such examinations necessary for the acquisition of property. The CS provides such entry does not constitute a trespass or an entry that would constitute a taking in an eminent domain proceeding. The section further provides the expressway authority must reimburse the property owner for any damage to property as a result of such activities.

Sections 5 and 7-12-- Orlando-Orange County Expressway Authority (OOCEA):

Sections 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S., are amended to give the OOCEA authority to issue its own bonds, without having to seek the state's review and approval. In addition to s. 348.7543, F.S., is amended to delete the limitation that the OOCEA was only authorized to use bond financing for projects to the "legislatively approved expressway system." The manner in which the limitations have been removed will permit the authority to construct projects whether or not they are part of the legislatively defined OOCEA or not.

With either interpretation of s. 348.754(4), F.S., OOCEA would no longer be required to seek the approval of the Governor and Cabinet before issuance of bonds, as is currently required by s. 215.73, F.S. The State Bond Act, ss. 215.57-215.83, F.S., includes a number of requirements to ensure the integrity and fiscal sufficiency of bonds issued on behalf of the state. The CS would authorize the Board of the OOCEA to approve the issuance of bonds. The cumulative effect of these changes would be to shift the final decision from the state-wide perspective of the Governor and Cabinet to a local perspective. OOCEA would retain the option of going through the Division of Bond Finance.

The CS amends s. 348.755, F.S., to provide that the bonds sold by OOCEA "shall not pledge the full faith and credit of the state," meaning the State of Florida would not be legally liable for repaying them. While a default upon the bonds of OOCEA would not result in a legal obligation to pay off the bonds, the State may determine that it has a moral obligation to do so. In addition, it is possible that the bond rating of the State of Florida or of other Florida bond issuers may suffer adversely from default upon the OOCEA's obligations.

The CS also expands the use of funds from bonds issued by OOCEA to include acquiring, financing, improving and equipping facilities interchanges, future extensions, necessary approaches, roads, and bridges on or appurtenant to the expressway system. The CS also authorizes the refinancing of the Northwest Beltway Part A and the Western Beltway Part C.

Section 6 and 13-- Tampa-Hillsborough County Expressway Authority:

This CS adds the connector highway linking Lee Roy Selmon Crosstown Expressway to Interstate 4 to the list of projects that could be financed through the Tampa-Hillsborough County Expressway bonds. The Expressway Authority plans to sell \$90 million to finance the project.

Further, s. 348.545, F.S., is created to authorize the Tampa-Hillsborough County Expressway Authority to finance, through bonds, toll collection facilities, interchanges and other facilities on, appurtenant, necessary, or incidental to, the approved expressway system.

Section 14-- Wetlands Mitigation Requirements for expressway and bridge authorities:

Section 373.4137, F.S., is amended throughout to allow expressway authorities to utilize the process developed for FDOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article VII, section 11(d), of the State Constitution, states that:

Revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues.

Because the CS modifies existing law to grant the OOCEA very broad authority to determine the projects it undertakes, in contrast to limitations based on “the legislatively approved expressway system,” projects undertaken by the OOCEA may not qualify as projects authorized by law within the constitutional meaning expressed in Article VII, section 11 of the State Constitution. If a court were to determine that projects undertaken by the district are not considered fixed capital outlay projects authorized by law, the OOCEA would not have the option of issuing bonds under the State Bond Act.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Comprehensive Planning, Local and Military Affairs:

Deletes section 5 of the bill, which section broadens an exemption applicable to certain expressway authorities from the Florida Expressway Authority Act.

#2 by Comprehensive Planning, Local and Military Affairs:

Deletes sections 7-12 of the bill that apply only to the Orlando-Orange County Expressway Authority and would authorize the authority to issue its own revenue bonds.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
