

**STORAGE NAME:** h0035s1.sgc.doc  
**DATE:** January 29, 2002

**HOUSE OF REPRESENTATIVES  
SMARTER GOVERNMENT COUNCIL  
ANALYSIS**

**BILL #:** HB 35  
**RELATING TO:** Expressway authorities  
**SPONSOR(S):** Representative(s) Allen and Siplin

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION YEAS 12 NAYS 0
- (2) SMARTER GOVERNMENT COUNCIL YEAS 8 NAYS 2
- (3)
- (4)

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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The Orlando-Orange County Expressway Authority (OOCEA) is one of nine such authorities specifically created in law, although there are several other local road or bridge authorities that operate under the general auspices of Part I of Chapter 348, F.S. The majority of these transportation-related authorities must work through the State Board of Administration's Division of Bond Finance in order to issue bonds; exceptions include the Miami-Dade County Expressway Authority, the Santa Rosa Bay Bridge Authority and the Mid Bay Bridge Authority.

HB 35 amends several sections of Chapter 348, F.S., to update or clarify language related to the OOCEA, but the primary changes allow the expressway authority to issue its own revenue bonds. These bonds would be repaid through toll revenues. Also, the revenue bonds issued by the OOCEA would not pledge the full faith and credit of the State of Florida, meaning the state would not be legally required to repay them if OOCEA can not make the debt service payments.

There is no state appropriation in HB 35.

HB 35 takes effect upon becoming law.

**(NOTE: The Transportation Committee adopted without objection a strike-everything amendment during its Dec. 18, 2001, meeting that made a number of technical and conforming changes. The strike-everything amendment is traveling with the bill.)**

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

HB 35 expands government activity because it would allow the OOCEA to issue its own bonds. (See "D. FISCAL COMMENTS" below.)

B. PRESENT SITUATION:

The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963. Its first project, the Beeline Expressway (State Road 528) opened to traffic four years later. Comprising the system are 90 total centerline miles, 11 main toll plazas, 42 ramp toll plazas, and 186 total toll lanes. More than 186 million motorists used the toll lanes in calendar year 2000. OOCEA has adopted a 2025 Expressway Master Plan that includes expansions of the current system to better link with I-4, adding new lanes, and upgrading its toll plazas. Pursuant to s. 348.754 (2)(n), f.s., construction within any county may not occur without the consent of the county within whose jurisdiction the activities are proposed. Pursuant to s. 348.754 (4), f.s., acquisition of right of way for a project within the boundaries of any municipality within Orange County shall not be begun until the route within the municipality has been given prior approval by the municipality.

OOCEA's 2000 Annual Report indicated that for the seventh year in a row, the expressway authority experienced double-digit traffic and revenue growth. For example, total system revenues grew from \$112.4 million in 1999 to \$125.55 million in 2000. Forty-eight percent of the expressway authority's 2000 revenues were earmarked to pay debt service. The vast majority of OOCEA's revenues are from tolls charged to motorists who travel on its expressways.

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.

C. EFFECT OF PROPOSED CHANGES:

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. Changes to s. 348.7543 will no longer require the authority to seek legislative approval prior to constructing additional projects. The manner in which the limitations have been removed will permit the authority to construct projects anywhere within the state of Florida. The limitations of s.348.754 (2)(n),f.s, will continue to require the consent of the county within which the project is to occur prior to commencement of the project. Section 348.754 (4), f.s., on acquisition of right of way within the boundaries of any municipality within Orange County requires the consent of the municipality. A narrow reading of this section could lead to the conclusion that municipal consent to acquisition of right of way is not required outside Orange County.

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. Instead, these decisions would be made by the Board of the OOCEA. 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. A specific amendment to s. 348.755, F.S., specifies 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 a possibility 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.

HB 35 also specifically lists a number of activities related to road construction and maintenance for which OOCEA's revenues may be used. For example, the OOCEA would specifically be able to "acquire, finance ... and equip" any extensions, additions or improvements to its expressway system; current statutes give the OOCEA authority to construct or improve its system. The new language clarifies what OOCEA already has been doing.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 348.0012, F.S., to delete confusing language and to recognize that some expressway authorities may extend into multiple counties.

**Section 2:** Amends s. 348.7544, F.S., to add that the OOCEA may refinance its Northwest Beltway Part A with bonds it issues.

**Section 3:** Amends s. 348.754, F.S., to broaden the type of construction-related activities on which the OOCEA may spend bond proceeds. Rewords the section for clarity.

**Section 4:** Amends s. 348.7573, F.S., to broaden the types of system improvements on which the OOCEA may spend bond funds.

**Section 5:** Amends s. 348.7545, F.S., to add that the OOCEA may refinance its Western Beltway Part C with bonds it issues.

**Section 6:** Amends s. 348.755, F.S., to allow the OOCEA to issue bonds on its own behalf. Specifies that such bonds shall be not pledge the full faith and credit of the state. Restates that bonds may be issued on its behalf pursuant to the State Bond Act. Makes clarifying changes.

**Section 7:** Specifies that this act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See "D. FISCAL COMMENTS" below.

2. Expenditures:

Indeterminate. See "D. FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See "D. FISCAL COMMENTS" below.

D. FISCAL COMMENTS:

Passage of HB 35 will give OOCEA the flexibility to issue bonds for new projects or improvements to existing toll roads and plazas, without having to seek the state's review and approval. In theory, bond buyers favor low-risk investments, meaning those bonds that have secure financial backing. Therefore, it would not be in OOCEA's best interests to stretch thin its projected toll revenues in order to issue too many bonds for new projects.

It is unknown how much more cost, if any, OOCEA would incur by selling its own bonds, or how much more it could receive in bond proceeds if HB 35 passes. Similarly, it is unknown whether construction companies that specialize in toll road or toll plaza projects will benefit from HB 35.

Finally, the state Division of Bond Finance generally cautions against allowing legislatively created authorities or entities to issue bonds -- even revenue bonds that do not pledge the full faith and credit of the State of Florida. In the view of Division staff, even if the state cannot legally be required to repay defaulted bonds, the negative fallout can mar Florida's financial reputation and could result in a lower bond rating for the state.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 35 because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 35 does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 35 does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 35 raises no constitutional issues.

B. RULE-MAKING AUTHORITY:

No rulemaking authority is required for the implementation of HB 35.

C. OTHER COMMENTS:

This bill contains proposed statutory changes nearly identical to those passed during the 2001 legislative session in CS/CS/HB 1053, Enrolled, which was vetoed by the Governor for reasons unrelated to the OOCEA issues.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its December 18, 2001, meeting, the Transportation Committee adopted without objection a strike-everything amendment, sponsored by Rep. Allen, which made a number of technical and conforming changes to HB 35. No new substantive issues related to the OOCEA were in the strike-everything amendment. At the sponsor's request, HB 35 was not made a committee substitute, so the strike-everything amendment is traveling with the bill.

VI. SIGNATURES:

COMMITTEE ON TRANSPORTATION :

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

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AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Staff Director:

Douglas Pile

Lynne Overton

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AS REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:

Staff Director:

Jo Ann Levin

Don Rubottom

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