2

3

4

5

6

7

8

9

10

1112

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

By the Committee on Transportation; and Senator Simmons

596-01759-12 2012354c1

A bill to be entitled An act relating to the Seminole County Expressway Authority; creating the Seminole County Expressway Authority Law; providing definitions; creating the Seminole County Expressway Authority; prohibiting an entity or body or another authority from exercising jurisdiction, control, authority, or power over an expressway system in Seminole County without the consent of the Seminole County Expressway Authority; providing for membership and terms of the authority; authorizing staffing; providing for certain reimbursement for authority members; providing for the powers and duties of the authority; providing for the assumption of duties and responsibilities of the prior Seminole County Expressway Authority for certain contracts and agreements; requiring notice of public hearing and an opportunity for municipal officials and residents to discuss and advise the authority; providing for the issuance of bonds; providing for lease-purchase agreements between the Department of Transportation and the authority; providing criteria for the lease-purchase agreements; providing for use of certain revenues as payments for the lease-purchase agreements; authorizing the Department of Transportation to use funds for the operation of the authority and to generate preparatory information necessary for an expressway system; providing for an agent for construction; authorizing the authority to appoint the department as its agent under certain

596-01759-12 2012354c1

circumstances; authorizing the authority to acquire land and properties; providing for the cooperation of other entities to further the purposes of the act; prohibiting the state from changing the terms of the bonds; exempting the authority from certain taxes; providing for the bond's eligibility for investments and security; providing for the enforcement by bondholders of any pledge relating to the bonds issued by the department; providing for the extent of the powers authorized by the act; providing an effective date.

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

Section 1. Short title.—Sections 1-14 of this act may be cited as the "Seminole County Expressway Authority Law."

 Section 2. <u>Definitions.—As used in sections 1-14 of this</u> act, the term:

(1) "Agency of the state" means the state and any department of, or corporation, agency, or instrumentality created, designated, or established by, the state.

(2) "Authority" means the Seminole County Expressway Authority.

(3) "Bond" means a note, bond, refunding bond, or other evidence of indebtedness or obligation, in temporary or definitive form, which the authority issues pursuant to this part.

(4) "County" means Seminole County.

(5) "Department" means the Department of Transportation

596-01759-12 2012354c1

existing under chapters 334-339, Florida Statutes.

(6) "Expressway" means the same as limited access expressway.

- (7) "Federal agency" means the United States, the President of the United States, and any department of, or corporation, agency, or instrumentality created, designated, or established by, the United States.
- (8) "Gasoline tax funds of Seminole County" mean all of the 80 percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Seminole County under the provisions of s. 9, Article XII of the State Constitution, or all constitutional gas funds as may otherwise be provided by the State Constitution or by statute for use in Seminole County, after deduction of any amount of such gasoline tax funds pledged by the Department of Transportation or the county for outstanding obligations.
- (9) "Lease-purchase agreement" means an agreement that the authority may enter into with the Department of Transportation pursuant to this part.
- (10) "Limited access expressway" means a street or highway especially designed for through traffic and over, from, or to which no person has the right of easement, use, or access except in accordance with the rules and regulations adopted by the authority for the use of such facility. The street or highway may be a parkway from which trucks, buses, and other commercial vehicles are excluded, or it may be a freeway open to use by all customary forms of street and highway traffic.
- (11) "Members" mean the governing body of the authority, and the term "member" means one of the individuals constituting

596-01759-12 2012354c1

the governing body.

(12) "Seminole County Expressway System" or "system" means any expressway and appurtenant facilities thereto in Seminole County, including, but not limited to, all approaches, roads, bridges, and avenues of access for the expressway.

(13) "State Board of Administration" means the body corporate existing under s. 9, Article XII of the State Constitution or any successor thereto.

Section 3. Seminole County Expressway Authority.-

- (1) There is created a body politic and corporate, an agency of the state, to be known as the "Seminole County Expressway Authority" and referred to as "authority."
- (2) The authority has exclusive right to exercise all the powers under sections 1-14 of this act, and no other entity, body, or authority within or without Seminole County may directly or indirectly exercise jurisdiction, control, authority, or power in any manner relating to any expressway system within Seminole County without the express consent of the authority or as otherwise provided in sections 1-14 of this act.
- (3) The governing body of the authority consists of seven members. Five members must be members of the Board of County Commissioners of Seminole County, and the term of each member is concomitant with his or her term as a county commissioner. Two members shall be appointed by the board of county commissioners from among the duly elected municipal officers within the county, and the municipal members serve 2-year terms unless reappointed. Each 2-year term runs from the date of appointment and automatically terminates if the member ceases to be a duly elected municipal officer. The board of county commissioners

596-01759-12 2012354c1

shall fill a municipal membership vacancy within 45 days after the occurrence of the vacancy, and the board must appoint an individual who is jointly recommended to the board of county commissioners by two-thirds of the municipalities in the county within 30 days after the vacancy.

- of the authority. The authority shall elect a secretary and a treasurer, who need not be members of the authority. The chair, secretary, and treasurer hold the office at the will of the authority. Four members of the authority constitute a quorum, and the affirmative vote of three members is necessary for any action taken by the authority. A vacancy in the authority does not impair the right of the quorum to exercise the rights and perform the duties of the authority.
- (5) Each appointed member of the authority shall enter upon his or her duties upon the effective date of his or her appointment, or as soon thereafter as practicable.
- (6) The authority may employ an executive secretary, an executive director, and its own counsel and legal staff, technical experts, engineers, and other employees, permanent or temporary, as it may require; determine the qualifications and fix the compensation of the persons, firms, or corporations; and employ a fiscal agent. However, the authority shall solicit at least three sealed proposals for the performance of any services as the fiscal agent. The authority may delegate to one or more of its agents or employees any of its powers as it deems necessary to carry out the purposes of sections 1-14 of this act, subject to the supervision and control of the authority.
 - (7) The authority shall reimburse its members for travel

596-01759-12 2012354c1

and other necessary expenses incurred in connection with the
business of the authority as provided in s. 112.061, Florida

Statutes, but the members may not draw salaries or other
compensation.

Section 4. Powers and duties.-

- (1) (a) The authority may acquire, hold, construct, improve, maintain, operate, own, and lease, in the capacity of lessor, the Seminole County Expressway System.
- (b) The authority, in the construction of the Seminole

 County Expressway System, may construct any extension, addition,
 or improvement to the system or appurtenant facilities,
 including all necessary approaches, roads, bridges, and avenues
 of access, with any change, modification, or revision of the
 project as deemed necessary.
- (2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the implementation of sections 1-14 of this act, including, but not limited to, the following:
- (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, hold, lease as lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest necessary to implement the purposes of sections 1-14 of this act; and to sell, lease as lessor, transfer, and dispose of, at any time, any property or interest acquired by the authority;
- (d) To enter into and make leases for terms not exceeding 40 years, as lessee or lessor, and to implement the right to

596-01759-12 2012354c1

lease as provided in sections 1-14 of this act;

(e) To enter into and make lease-purchase agreements with the department for terms not exceeding 40 years or until any bond secured by a pledge of rental, and any refund, are fully paid, whichever is longer;

- (f) To fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services and facilities of the Seminole County Expressway System, which rates, fees, rentals, and other charges are sufficient to comply with any covenant made with the holders of any bonds issued pursuant to sections 1-14 of this act; however, the authority may assign or delegate to the department any of its rights and powers;
 - (g) 1. To borrow money as provided by the State Bond Act.
- 2. To reimburse Seminole County for any sums expended from the gasoline tax funds of Seminole County and any other revenues provided to the authority by Seminole County and used for the payment of the obligations. If the authority deems it practicable, the authority may repay disbursed revenues from Seminole County or gasoline tax funds, together with interest at the highest rate applicable, to any obligations of the authority for which funds or revenues were used to pay debt service.
- 3. To hire and retain independent certified public accountants and auditors to audit the books and records of the authority and the department with respect to the Seminole County Expressway System or any part thereof, so long as any bonds of the authority are outstanding;
- (h) To make contracts and to execute all instruments necessary to conduct its business;
 - (i) Without limitation of the foregoing, to borrow money

596-01759-12 2012354c1

and accept grants from, and to enter into contracts, leases, or
other transactions with, any federal agency, the state, any
agency of the state, Seminole County, 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, Florida Statutes;
- (k) To pledge, hypothecate, or otherwise encumber all parts of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the gasoline tax funds of Seminole County or other revenues received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department or any other agreement between the authority and Seminole County, as security for any of the obligations of the authority;
- (1) To do all acts necessary for the conduct of its business and the general welfare of the authority in order to implement the powers granted to it by sections 1-14 of this act or any other law;
- (m) To employ fiscal agents as provided by section 3 of this act. 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 may be issued pursuant to section 5 of this act. The State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any debt service or fund or asset available for any bond issued pursuant to section 5 of this act. The authority may enter into a deed of trust, an indenture, a resolution, or another agreement with its fiscal

2.42

596-01759-12 2012354c1

agent, a financial institution, an insurance company, or a bank or trust company within or without the state, as security for the bonds, and may, under the agreement, sign and pledge any of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including any portion of the gasoline tax funds of Seminole County or other revenues received by the authority pursuant to the terms of a lease-purchase agreement between the authority and the department or any other agreement between the authority and Seminole County. The deed of trust, indenture, resolution, or other agreement may contain provisions as are customary in such instruments, or, if the authority authorizes, may include, without limitation, provisions as to:

- 1. The completion, improvement, operation, extension, maintenance, and repair of the Seminole County Expressway

 System; the lease of, or lease-purchase agreement for, the system; and the duties of the authority and others, including the department.
- 2. The availability and application of funds and the safeguarding of funds on hand or on deposit.
- 3. The rights and remedies of the trustee and the holders of the bonds and any institution providing liquidity or credit support for the bonds.
- 4. The terms and provisions of the bonds or the resolutions authorizing the issuance of the bonds.
- 5. The terms and conditions pursuant to which the authority or any trustee for the bonds is entitled to receive any revenues from Seminole County to pay the principal of or interest on the bonds; and
 - (n) To assume and resume all duties and responsibilities of

2.62

596-01759-12 2012354c1

the prior Seminole County Expressway Authority for any contract or agreement that existed on June 30, 2011, and to which the prior Seminole County Expressway Authority was a party.

- (3) The authority may not pledge the credit or taxing power of the state or any political subdivision or agency of the state, including Seminole County. The obligations of the authority are not deemed obligations of the state, or any political subdivision or agency of the state. The state, or any political subdivision or agency of the state, except the authority, is not liable for the payment of the principal of or interest on the obligations. However, the gasoline tax funds of Seminole County or other revenues may be pledged for the payment of the principal of or interest on the obligations pursuant to the terms of a lease-purchase agreement between the authority and the department or any other agreement between the authority and Seminole County.
- (4) The consent of a municipality is not necessary for any project of the authority, notwithstanding any provision in sections 1-14 of this act or any other law to the contrary or whether the project lies within the boundaries of any municipality, in whole or in part. However, an official or a resident of a municipality in which a project of the authority is located, in whole or in part, must have reasonable opportunity to discuss the project and advise the authority of his or her position at a duly advertised public hearing. Notice of the public hearing must be advertised in a newspaper published in Seminole County and circulated in the affected municipalities. The notice must be published once at least 2 weeks before the public hearing and must contain the time and

596-01759-12 2012354c1

place of the public hearing and a short description of the subject to be discussed. The public hearing may be adjourned from time to time and set for a time and place certain without necessity of further advertisement. In routing and locating an expressway or its interchange in or through a municipality, the authority must consider the effect of such location on the municipality as a whole and must not unreasonably split or divide an area of the municipality or separate one area of the municipality from another.

Section 5. <u>Bonds.—Bonds may be issued on behalf of the</u> authority as provided by the State Bond Act.

Section 6. Lease-purchase agreement.

- (1) The authority may enter into a lease-purchase agreement with the department relating to and covering the Seminole County Expressway System.
- (2) The lease-purchase agreement shall provide for the leasing of the Seminole County Expressway System by the authority, as lessor, to the department, as lessee; shall prescribe the terms of the agreement and the rentals to be paid; and shall provide that, upon the completion of the faithful performance of the agreement and the termination of such lease-purchase agreement, the authority shall transfer to the state title in fee simple absolute to the Seminole County Expressway System and the authority shall deliver to the department deeds and conveyances necessary to vest title in fee simple absolute in the state.
- (3) The lease-purchase agreement may include other provisions, agreements, and covenants as the authority and the department deem necessary, including, but not limited to,

596-01759-12 2012354c1

provisions as to the bonds to be issued pursuant to this part; the completion, extension, improvement, operation, and maintenance of the Seminole County Expressway System and the expenses and the cost of operation of the authority and the system; the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities; the application of federal or state grants or aid made or given to assist the authority in the completion, extension, improvement, operation, and maintenance of the Seminole County Expressway System, which the authority may accept and apply to these purposes; the enforcement of payment and collection of rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of, and full performance under, the lease-purchase agreement.

- (4) The department, as lessee under such lease-purchase agreement, may pay, as rentals under the agreement, any rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the Seminole County Expressway System and the gasoline tax funds or other revenues of Seminole County used to pay the principal of or interest on any obligations issued to finance any portion of the system and may also pay, as rentals, any appropriations received by the department pursuant to state law. The lease-purchase agreement or any holder of bonds issued pursuant to section 5 of this act may not require the making or continuance of any appropriations.
- (5) Gasoline tax funds or other revenues of Seminole County may not be pledged as rentals under a lease-purchase agreement or another agreement without the consent of Seminole County, evidenced by a resolution adopted by the board of county

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

596-01759-12 2012354c1

commissioners of the county at a public hearing held pursuant to due notice thereof published at least once a week for 3 consecutive weeks before the hearing in a newspaper of general circulation in the county. The resolution must provide that, for bonds issued on behalf of the authority, any excess of the pledged gasoline tax funds and other revenues of Seminole County which is not required for debt service or for reserves for debt service shall be distributed to Seminole County as provided by law. Before making any application for the pledge of gasoline tax funds, the authority shall present the plan of its proposed project to the Seminole County Planning and Zoning Commission for comments and recommendations. The department may covenant in a lease-purchase agreement that it will pay all or part of the cost of the system, and any part of the cost of completing the system to the extent that the proceeds of bonds issued for the project are insufficient, from sources other than the revenues derived from the operation of the system and the gasoline tax funds or any other revenue of Seminole County pledged for such purpose. The department may agree to make payments from any moneys available to Seminole County, in connection with the construction or completion of the system, as deemed by the department to be fair and proper under any covenant that is entered into.

(6) The system is a part of the state road system, and the department may, upon the request of the authority, expend money out of any funds available for the purpose and use its engineering and other powers deemed necessary by the department for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications,

596-01759-12 2012354c1

estimates of cost, and other preliminary engineering and other studies. However, the aggregate amount of moneys expended for this purpose by the department may not exceed the sum of \$500,000.

Section 7. Agent for construction.—The authority may appoint the department as its agent for the construction of and improvements and extensions to the Seminole County Expressway System and for the completion of the system. If the department is appointed, the authority shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating to the system; shall request the department to do the construction work, including the planning, surveying, and actual construction of the completion, extension, and improvement to the Seminole County Expressway System; and shall transfer the necessary funds for the construction to the credit of an account of the department in the State Treasury. The department shall proceed with the construction and shall use the funds that are authorized for the construction of roads and bridges.

Section 8. Acquisition of lands and property.-

- (1) The Seminole County Expressway Authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by an eminent domain proceeding, as the authority deems necessary to implement sections 1-14 of this act. The property that the authority may acquire includes, but is not limited to, any land:
- (a) Reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage

ditches, water retention areas, rest areas, replacement access
for landowners whose access is impaired due to the construction
of a facility, and replacement rights-of-way for relocated rail
and utility facilities;

(b) For existing, proposed, or anticipated transportation
facilities on the Seminole County Expressway System or in a
transportation corridor designated by the authority; or

(c) For the purposes of screening, relocation, removal, or
disposal of junkyards and scrap metal processing facilities.

The authority may condemn any material and property necessary
for these purposes.

(2) The authority may exercise the right of eminent domain in the manner provided by law.

(3) If the authority acquires property for a transportation facility or in a transportation corridor, the authority is not subject to any liability imposed by chapter 376 or chapter 403, Florida Statutes, 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 an interagency agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

Section 9. Cooperation with other units, boards, agencies, and individuals.—Any county, municipality, drainage district,

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458459

460

461

462

463

464

596-01759-12 2012354c1

road or bridge district, school district, or any other political subdivision, board, commission, or individual in or of the state may make and enter into a contract, lease, conveyance, or other agreement consistent with sections 1-14 of this act with the authority. The authority may make and enter into a contract, lease, conveyance, or other agreement with any political subdivision, agency, or instrumentality of the state, any federal agency, any corporation, or any individual to implement sections 1-14 of this act.

Section 10. Covenant of the state. - The state pledges to, and agrees with, any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds issued by the authority pursuant to section 5 of this act that the state will not limit or alter the rights vested in the authority and the department until all bonds at any time issued, together with the interest on the bonds, are fully paid and discharged. The state pledges to, and agrees with, the United States that, when any federal agency constructs or contributes any funds for the completion, extension, or improvement of the Seminole County Expressway System or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner that would be inconsistent with the continued maintenance and operation of the Seminole County Expressway System or the completion, extension, or improvement of the system, or that is inconsistent with the due performance of the agreement between the authority and the federal agency. The authority and the department have and may exercise all powers granted in sections 1-14 of this act necessary to implement the purposes of sections 1-14 of this act and the

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492493

596-01759-12 2012354c1

purposes of the United States in the completion, extension, or improvement of the Seminole County Expressway System or any part or portion of the system.

Section 11. Exemption from taxation.—The authority created pursuant to sections 1-14 of this act is 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. Because the authority is performing essential governmental functions in carrying out the purposes of sections 1-14 of this act, the authority is exempt from taxes or assessments upon any property acquired or used by it for such purposes, or upon any revenues, rates, fees, rentals, receipts, income, or charges received by it. The bonds issued by the authority, their transfer, and the income from the bonds, including any profits made on the sale of the bonds, are at all times free from taxation of any kind by the state or any political subdivision, taxing agency, or instrumentality of the state. However, the exemption granted by this section is not applicable to any tax imposed under chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned by corporations. When a property of the authority is leased, it is exempt from ad valorem taxes if the use by the lessee qualifies the property for exemption under s. 196.199, Florida Statutes.

Section 12. Eligibility for investments and security.—Any bonds or other obligations issued pursuant to sections 1-14 of this act are legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal, and other public funds, and are

596-01759-12 2012354c1

securities eligible for deposit as security for all state,
municipal, or other public funds, notwithstanding the provisions
of any law.

Section 13. Pledges enforceable by bondholders.—A pledge by the department of rates, fees, revenues, gasoline tax funds of Seminole County, or other funds as rentals to the authority, or any covenant or agreement relative to the pledge, is 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 14. Complete and additional authority.-

- in addition to the existing powers of the authority and the department, and sections 1-14 of this act do not repeal any of the provisions of any other law, general, special, or local. The extension and improvement of the Seminole County Expressway System, and the issuance of bonds pursuant to section 5 of this act to finance all or part of the cost of the system, may be accomplished upon compliance with the provisions of sections 1-14 of this act without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law. Approval of any bonds issued under this part by qualified electors or qualified electors who are freeholders in the state, in Seminole County or in any other political subdivision of the state, is not required for the issuance of bonds pursuant to section 5 of this act.
- (2) Sections 1-14 of this act do not repeal, rescind, or modify any other law relating to the State Board of Administration, the Department of Transportation, or the

	FOC 017F0 10
523	596-01759-12 2012354c1
	Division of Bond Finance of the State Board of Administration,
524	but supersede any law that is inconsistent with the provisions
525	of sections 1-14 of this act.
526	Section 15. This act shall take effect July 1, 2012.