

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 230
 INTRODUCER: Senator Simmons
 SUBJECT: Orlando-Orange County Expressway Authority
 DATE: December 12, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Pre-meeting
2.			CA	
3.			AP	

I. Summary:

SB 230 re-names the Orlando-Orange County Expressway Authority (OOCEA) as the Central Florida Expressway Authority (CFX) and expands the area served by CFX to include the counties of Seminole, Lake, and Osceola Counties, in addition to Orange County. The bill provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the OOCEA System to CFX and, in addition:

- Provides for the composition of the governing body of CFX, the appointment of its officers and the expiration of terms of standing OOCEA board members, and revises quorum and voting requirements applicable to CFX.
- Removes the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.
- Removes the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.
- Provides that upon termination of the lease-purchase agreement, title in fee simple to the former OOCEA system will be transferred to the state, and extends the term of authorized lease-purchase agreements from 40 to 99 years.
- Provides for the transfer of the Osceola County Expressway System to CFX and provides for the repeal of part V of chapter 348, Florida Statutes, when the Osceola County Expressway System is transferred to CFX.
- Provides an effective date of July 1, 2015.

II. Present Situation:

The Orlando Orange County Expressway Authority (OOCEA) currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.¹

The OOCEA governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County mayor and the Florida Department of Transportation's (FDOT) district five secretary serve as *ex-officio* members of the Board.²

The OOCEA currently owns and operates 109 centerline miles of roadway in Orange County, which includes:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);
- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 9 miles of the John Land Apopka Expressway (SR 414).³

Pursuant to an existing Memorandum of Understanding (MOU) and lease-purchase agreement between the FDOT and OOCEA, the authority will independently finance, build, own and manage certain portions of the Wekiva Parkway. In order to ensure that funds are available to the FDOT for the Wekiva Parkway, the 2012 Legislature codified references to the existing MOU and lease-purchase agreements, and established a repayment schedule for OOCEA to reimburse the FDOT for the costs of operation and maintenance of the Orlando-Orange County Expressway System in accordance with terms of the MOU.⁴

The OOCEA was required to pay FDOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay off the long-term debt obligation to the FDOT. The FDOT advises that the OOCEA's long-term debt as of November 30, 2013, is \$211,334,985.29.

Osceola County Expressway Authority (OCX)

Created in 2010, the Osceola County Expressway Authority currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act, including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.⁵

¹ Section 348.754(2)(n), F.S.

² Section 348.753, F.S.

³ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 40.

⁴ Chapter 2012-128, L.O.F.

⁵ Section 348.0004, F.S.

OCX Governing Board

The OCX governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.⁶

OCX Facilities

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The FDOT provided a \$2.5 million grant to OCX in May of 2012, and the funds will be used for two Project Development and Environment Studies that will be conducted by the Florida Turnpike Enterprise. OCX adopted a 2040 Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension. OCX has an agreement with Osceola County under which the county will advance funds for operation and startup costs until OCX has a revenue-producing project and which requires OCX to repay the county within 15 years of receiving the funds. A 2012 agreement calls for issuance of bonds by the county to pay for the Poinciana Parkway project costs incurred by OCX, and OCX will design and construct the parkway pursuant to a lease-purchase agreement with the county.⁷

Seminole County and Lake County

The Seminole County Expressway Authority was abolished by the Legislature in 2011;⁸ Seminole County is not currently served by any expressway authority. Lake County is also not currently served by any expressway authority. The Florida Turnpike Enterprise currently owns and operates Florida's Turnpike, parts of which are located within Seminole and Lake Counties.

III. Effect of Proposed Changes:

Generally, the bill re-names the OOCEA as the CFX; expands the area served by CFX beyond Orange County to include in addition Seminole, Lake, and Osceola Counties; and transfers governance and control of the OOCEA system to CFX.

Section 1 amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Section 2 amends s. 348.752, F.S., to define:

- the Central Florida Expressway Authority to mean the "body politic and corporate and agency of the state created by this chapter";

⁶ Section 348.9952, F.S.

⁷ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 171.

⁸ Ch. 2011-64, L.O.F.

- the Central Florida Expressway System,” to mean “any expressway and appurtenant facilities including all approaches, roads, bridges, and avenues for the expressway and any rapid transit, trams, or fixed guideways located within the right-of-way of an expressway; and
- “transportation facilities” to mean the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities. Administrative and other office space used by the authority is also included in the term.

This section of the bill also deletes the definitions of “city” and “county,” revises various definitions to conform terminology to the renaming, and makes technical changes.

Section 3 amends s. 348.753, F.S., in which the OOCEA is created, to replace and rename the OOCEA as the Central Florida Expressway Authority (CFX) and requires that CFX assume the governance and control of the OOCEA System effective July 1, 2015.

The bill also provides for eleven members of the CFX governing board as follows:

- three members appointed by the chairs of the boards of county commission of Seminole, Lake, and Osceola Counties, who may be a commission member or chair;
- six citizen members appointed by the Governor, two of which must be citizens of Orange County; one member each from Seminole, Lake, and Osceola Counties; and one member from any of the identified counties;
- the mayor of Orange County; and
- the mayor of the City of Orlando.

The executive director of Florida’s Turnpike Enterprise serves as a nonvoting advisor to the CFX governing body. The Governor’s appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and the terms of currently standing OOCEA board members expire on July 1, 2015. A person who is an officer or employee of a municipality or county may not be an appointed as a CFX board member.

Section 4 amends s. 348.754, F.S., relating to the purposes and powers of the authority, to:

- specify the area served by the authority to be within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties, except as otherwise specifically provided by law;
- authorize CFX to construct the Central Florida Expressway System, including rapid transit, trams, fixed guideways, thoroughfares, and boulevards;
- authorize CFX to construct, operate, and maintain roads, bridges, and transportation facilities, and electronic toll payment systems on the roads, bridges, and transportation facilities outside the boundaries of Orange, Seminole, Lake, and Osceola Counties with the consent of the county within whose jurisdiction the activities occur; and
- prohibit CFX from constructing any extensions, additions, or improvements to the expressway system in Lake County without the prior consent of the FDOT secretary, to

ensure continued financial feasibility of the construction of the Wekiva Parkway by the FDOT.

The term of authorized existing lease-purchase agreements is extended from 40 to 99 years. However, the bill precludes CFX from entering into any other lease-purchase agreements with the FDOT, and from amending the existing agreement between the OOCEA and the FDOT to expand or increase the FDOT's obligations unless it is determined by the FDOT that an amendment is necessary to permit the refunding of bonds issued prior to July 1, 2013.

Toll revenues attributable to an increase in toll rates charged on or after July 1, 2015, may not be used to construct or expand a different facility, unless a two-thirds majority of the members of the authority approves the use of revenues, with certain exceptions. Notwithstanding s. 338.165, F.S., and except as otherwise prohibited, the bill provides that the authority may, within the right-of-way of the expressway system, use excess revenues to finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of an intermodal facility or facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system.

The requirement for approval of the municipal governing board of a project route prior to the acquisition of right-of-way for a project within the boundaries of Orange County is removed, as are provisions authorizing CFX to waive payment and performance bonds on certain construction contracts and related small business provisions.

Sections 5 through 11 conform terminology and make grammatical and editorial changes by amending:

- s. 348.7543, F.S., relating to bond financing authority for improvements by CFX;
- s. 348.7544, F.S., relating to construction and financing of the Northwest Beltway Part A;
- s. 348.7545, F.S., relating to construction and financing of the Western Beltway Part C;
- s. 348.7546, F.S., relating to construction and financing of the Wekiva Parkway;
- s. 348.7547, F.S., relating to construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment;
- s. 348.755, F.S., relating to bonds of the authority; and
- s. 348.756, F.S., relating to remedies of the bondholders.

Section 12 amends s. 348.757, F.S., to provide that upon the termination of the current lease-purchase agreement between OOCEA and the FDOT, title in fee simple absolute to the former OOCEA system must be transferred to the state.

Sections 13 through 18 conform terminology and make grammatical and editorial changes by amending:

- s. 348.758, F.S., relating to appointment of the FDOT as construction agent for the authority;
- s. 348.759, F.S., relating to acquisition of lands and property;
- s. 348.760, F.S., relating to cooperation with other units, boards, agencies, and individuals;
- s. 348.761, F.S., relating to covenants of the state;

- s. 348.765, F.S., relating to complete and additional authority; and
- s. 369.317, F.S., relating to the Wekiva Parkway.

Section 19 amends s. 369.324, F.S., to remove and replace references to the OOCEA and to the previously repealed Seminole County Expressway Authority and revise the composition of the Wekiva River Basin Commission as a result of the repeal of the Seminole County Expressway Authority.

Section 20 transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX effective upon completion of the construction of the Poinciana Parkway, with provisions for extension under specified circumstances; and repeals part V, ch. 348, F.S., consisting of ss. 348.9950 – 348.9961, F.S., on the same date that the Osceola County Expressway System is transferred to CFX. CFX is also directed to reimburse all obligations of any other governmental entities with respect to the OCX system as specified.

Section 21 provides the act shall take effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the FDOT: “Possible indeterminate negative impact as the proposed legislation extends the maximum term of the lease-purchase agreement from the longer of 40 years and bonds outstanding to the longer of 99 years and bonds outstanding. Provides that the existing lease-purchase agreement may not be amended to expand or increase the

Department's obligations unless they are determined necessary to permit the refunding of bonds issued before July 1, 2013. Current long term debt is over \$211 million and growing.”⁹

VI. Technical Deficiencies:

The title on line 44 states “title in fee simple to the system will be retained by the authority.” The statement is inconsistent with the language on line 807 of the bill stating that “title in fee simple absolute...shall be transferred in accordance with law by the authority, to the state...”

The word “chapter” on line 72 and on line 88 should be changed to “part.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, 348.765, 369.317, and 369.324.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁹ 2014 FDOT Legislative Bill Analysis, SB 230. On file in the Senate Transportation Committee.