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PUBLIC TRANSPORTATION EXPRESSWAY AND BRIDGE AUTHORITIES

CHAPTER 348

EXPRESSWAY AND BRIDGE AUTHORITIES

PART I

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348.0001 Short title.—Sections 20-31 of chapter 90-136, Laws of Florida, may be cited as the “Florida Expressway Authority Act.”

History.—s. 22, ch. 90-136.

348.0002 Definitions.—As used in the Florida Expressway Authority Act, the term:

(1) “Agency of the state” means and includes the state and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the state.

(2) “Authority” means an expressway authority established pursuant to the Florida Expressway Authority Act which is a body politic and corporate and a public instrumentality. For purposes of the provisions of this part authorizing an authority to issue bonds directly pursuant to this part, “authority” shall mean an authority established within a county as defined in s. 125.011(1).

(3) “Bonds” means and includes the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in either temporary or definitive form, which an authority issues pursuant to the Florida Expressway Authority Act.

(4) “County gasoline tax funds” means all the 80-percent surplus gasoline tax funds accruing in each year to the department for use within the geographic boundaries of an expressway authority established pursuant to the Florida Expressway Authority Act under the provisions of s. 9, Art. XII of the State Constitution, after deduction only of any amounts of such gasoline tax funds heretofore pledged by the department or a county for outstanding obligations.

(5) “Department” means the Department of Transportation.

(6) “Division” means the Division of Bond Finance of the State Board of Administration.

(7) “Express written consent” means prior express written consent given in the form of a resolution adopted by a board of county commissioners.

(8) “Expressway” means a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are

excluded; or they may be facilities open to use by all customary forms of street and highway traffic.

(9) "Expressway system" means any and all expressways within the geographic boundaries of an expressway authority established pursuant to the Florida Expressway Authority Act and appurtenant facilities thereto, including, but not limited to, all approaches, roads, bridges, and avenues of access for such expressway. In any county as defined in s. 125.011(1), for purposes of this part, an expressway system includes a public transportation facility.

(10) "Federal agency" means and includes the United States, the President of the United States, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the United States.

(11) "Lease-purchase agreement" means a lease-purchase agreement which an authority may enter with the department pursuant to the Florida Expressway Authority Act.

(12) "Public transportation facility" means real and personal property, structures, improvements, buildings, personnel, equipment, plant, vehicle parking or other facilities, rights-of-way, or any combination thereof used or useful for the purposes of transporting passengers by means of a street railway, elevated railway or guideway, subway, motor vehicle, motor bus, or any bus or other means of conveyance operating as a common carrier by a county, as defined in s. 125.011(1).

(13) "Surplus revenues" means revenues in any county as defined in s. 125.011(1) derived from rates, fees, rentals, tolls, and other charges for the services and facilities of an expressway system as may exist at the end of a fiscal year after payment of all annually required operating and maintenance expenses for the fiscal year and all debt service payable in the fiscal year on bonds issued or other debts incurred for any purpose in connection with an expressway system, including debt incurred to finance the construction, extension, repair, or maintenance of an expressway system.

History.—s. 23, ch. 90-136; s. 287, ch. 92-279; s. 55, ch. 92-326; s. 54, ch. 94-237.

348.0003 Expressway authority; formation; membership.—

(1) Any county, or two or more contiguous counties located within a single district of the department, may, by resolution adopted by the board of county commissioners, form an expressway authority, which shall be an agency of the state, pursuant to the Florida Expressway Authority Act.

(2) The governing body of an authority shall consist of not fewer than five nor more than nine voting members. The district secretary of the affected department district shall serve as a nonvoting member of the governing body of each authority located within the district. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(a) Two members of the authority shall be appointed for terms of 4 years by the Governor, subject to confirmation by the Senate. Such persons may not hold elective office during their terms of office.

(b) For a single-county authority, the remaining members shall be appointed by the board of county commissioners for terms of 3 years.

(c) For a multicounty authority, the remaining members shall be apportioned, based on the population of such counties, among the counties within the authority. Each such member shall be appointed by the applicable board of county commissioners for a term of 3 years.

(d) Notwithstanding any provision to the contrary in this subsection, in any county as defined in s. 125.011(1), the governing body of an authority shall consist of up to 13 members, and the following provisions of this paragraph shall apply specifically to such authority. Except for the

district secretary of the department, the members must be residents of the county. Seven voting members shall be appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of the members appointed by the governing body of the county may be elected officials residing in the county. Five voting members of the authority shall be appointed by the Governor. One member shall be the district secretary of the department serving in the district that contains such county. This member shall be an ex officio voting member of the authority. If the governing board of an authority includes any member originally appointed by the governing body of the county as a nonvoting member, when the term of such member expires, that member shall be replaced by a member appointed by the Governor until the governing body of the authority is composed of seven members appointed by the governing body of the county and five members appointed by the Governor. The qualifications, terms of office, and obligations and rights of members of the authority shall be determined by resolution or ordinance of the governing body of the county in a manner that is consistent with subsections (3) and (4).

(3)(a) The governing body of each authority shall elect one of its members as its chair and shall elect a secretary and a treasurer who need not be members of the authority. The chair, secretary, and treasurer shall hold their offices at the will of the authority. A simple majority of the governing body of the authority constitutes a quorum, and the vote of a majority of those members present is necessary for the governing body to take any action. A vacancy on an authority shall not impair the right of a quorum of the authority to exercise all of the rights and perform all of the duties of the authority.

(b) Upon the effective date of his or her appointment, or as soon thereafter as practicable, each appointed member of an authority shall enter upon his or her duties.

(4)(a) An authority may employ an executive secretary, an executive director, its own counsel and legal staff, technical experts, and such engineers and employees, permanent or temporary, as it may require and shall determine the qualifications and fix the compensation of such persons, firms, or corporations. An authority may employ a fiscal agent or agents; however, the authority must solicit sealed proposals from at least three persons, firms, or corporations for the performance of any services as fiscal agents. An authority may delegate to one or more of its agents or employees such of its power as it deems necessary to carry out the purposes of the Florida Expressway Authority Act, subject always to the supervision and control of the authority. Members of an authority may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(b) Members of an authority are entitled to receive from the authority their travel and other necessary expenses incurred in connection with the business of the authority as provided in s. 112.061, but they may not draw salaries or other compensation.

(c) Members of each expressway authority, transportation authority, bridge authority, or toll authority, created pursuant to this chapter, chapter 343, or chapter 349 or any other legislative enactment shall comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. This paragraph does not subject any statutorily created authority, other than an expressway authority created under this part, to any other requirement of this part except the requirement of this paragraph.

History.—s. 24, ch. 90-136; s. 17, ch. 90-502; s. 55, ch. 94-237; s. 977, ch. 95-148; s. 26, ch. 97-280; s. 89, ch. 2002-20; s. 53, ch. 2007-196; s. 20, ch. 2009-85.

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, own, and lease an expressway system.

(b) Each authority, in the construction of an expressway system, shall construct expressways. Construction of an expressway system may be completed in segments, phases, or stages, in a manner which will permit the expansion of these segments, phases, or stages to the desired expressway configuration. Each authority, in the construction of an expressway system, may construct any extensions of, additions to, or improvements to, the expressway system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access, with such changes, modifications, or revisions of the project that are deemed desirable and proper. An authority may only add additional expressways to an expressway system, under the terms and conditions set forth in the Florida Expressway Authority Act, with the prior express written consent of the board of county commissioners of each county located within the geographic boundaries of the authority, and only if such additional expressways lack adequate committed funding for implementation, are financially feasible, and are compatible with the existing plans, projects, and programs of the authority.

(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:

(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 therein necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

(d) To enter into and make leases, either as lessee or as lessor, in order to carry out the right to lease as set forth in the Florida Expressway Authority Act.

(e) 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.

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to the extent surplus revenues exist, they may be used for purposes enumerated in subsection (7), provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan.

Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any outstanding indebtedness payable from tolls, in any county as defined in s. 125.011(1), the board of county commissioners may, by ordinance adopted on or before September 30, 1999, alter or abolish existing tolls and currently approved increases thereto if the board provides a local source of funding to the county expressway system for transportation in an amount sufficient to replace revenues necessary to meet bond obligations secured by such tolls and increases.

(g) In any county as defined in s. 125.011(1), to borrow money, make and issue negotiable notes, bonds, refund bonds and other evidence of indebtedness, either in temporary or definitive form, of the authority, which bonds or other evidence of indebtedness may be issued pursuant to the State Bond Act, or in the alternative, pursuant to the provisions of s. 348.0005(2), to finance an expressway system within the geographic boundaries of the authority, and to provide for the security of the bonds or other evidence of indebtedness and the rights and remedies of the holders of the bonds or other evidence of indebtedness. Any bonds or other evidence of indebtedness

pledging the full faith and credit of the state shall only be issued pursuant to the State Bond Act.

1. An authority shall reimburse the county in which it exists for any sums expended from any county gasoline tax funds used for payment of such obligations. Any county gasoline tax funds so disbursed shall be repaid in accordance with the terms of any lease-purchase or interlocal agreement with any county or the department together with interest, at the rate agreed to in such agreement. In no event shall any county gasoline tax funds be more than a secondary pledge of revenues for repayment of any obligations issued pursuant to this part.

2. In any county as defined in s. 125.011(1), an authority may refund any bonds previously issued, to the extent allowable by federal tax laws, to finance or refinance an expressway system regardless of whether the bonds being refunded were issued by such authority, an agency of the state, or a county.

(h) To enter contracts and to execute all instruments necessary or convenient for the carrying on of its business.

(i) Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases, or other transactions with, any federal agency, the state, any agency of the state, 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.

(k) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, tolls, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as security for all or any of the obligations of the authority.

(l) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by law.

(3) Any provision of law to the contrary notwithstanding, the consent of any municipality is not necessary for any project of an existing or new authority, whether or not the project lies in whole or in part within the boundaries of the municipality, if the project is consistent with the locally adopted comprehensive plan. However, if a project is inconsistent with the affected municipal comprehensive plan, the project may not proceed without a hearing pursuant to ss. 120.569 and 120.57, at which it is determined that the project is consistent with the adopted metropolitan planning organization transportation improvement plan, if any, and the applicable strategic regional plan, and at which regional interests are determined to clearly override the interests of the municipality.

(4) The use or pledge of all or any portion of county gasoline tax funds may not be made without the prior express written consent of the board of county commissioners of each county located within the geographic boundaries of the authority.

(5) Any authority formed pursuant to this act shall comply with all statutory requirements of general application which relate to the filing of any report or documentation required by law, including the requirements of ss. 189.4085, 189.415, 189.417, and 189.418.

(6) Notwithstanding subsection (3) or any other provision of law to the contrary, in any county as defined in s. 125.011(1), no expressway authority shall undertake any construction that is not consistent with both the metropolitan planning organization's transportation improvement program and the county's comprehensive plan.

(7) In any county as defined in s. 125.011(1), an expressway authority may finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of a public transportation facility or transportation facilities owned or operated by such county, an intermodal facility or facilities, multimodal corridor or

corridors, including, but not limited to, bicycle facilities or greenways that will improve transportation services within the county, or any programs or projects that will improve the levels of service on an expressway system, subject to approval of the governing body of such county after public hearing.

(8) The governing body of the county may enter into an interlocal agreement with an authority pursuant to chapter 163, for the joint performance or performance by either governmental entity of any corporate function of the county or authority necessary or appropriate to enable the authority to fulfill the powers and purposes of this part and promote the efficient and effective transportation of persons and goods in such county.

(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.

(a) Notwithstanding any other provision of the Florida Expressway Authority Act, any expressway authority, transportation authority, bridge authority, or toll authority may receive or solicit proposals and enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of authority transportation facilities or new transportation facilities within the jurisdiction of the authority which increase transportation capacity. An authority may not sell or lease any transportation facility owned by the authority, without providing the analysis required in s. 334.30(6)(e)2. to the Legislative Budget Commission created pursuant to s. 11.90 for review and approval prior to awarding a contract on a lease of an existing toll facility. An authority is authorized to adopt rules to implement this subsection and shall, by rule, establish an application fee for the submission of unsolicited proposals under this subsection. The fee must be sufficient to pay the costs of evaluating the proposals. An authority may engage private consultants to assist in the evaluation. Before approval, an authority must determine that a proposed project:

1. Is in the public's best interest.
2. Would not require state funds to be used unless the project is on or provides increased mobility on the State Highway System.
3. Would have adequate safeguards to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or the cancellation of the agreement by the authority.
4. Would have adequate safeguards in place to ensure that the department, the authority, or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations.
5. Would be owned by the authority upon completion or termination of the agreement.

(b) An authority shall ensure that all reasonable costs to the state which are related to transportation facilities that are not part of the State Highway System are borne by the private entity. An authority shall also ensure that all reasonable costs to the state and substantially affected local governments and utilities related to the private transportation facility are borne by the private entity for transportation facilities that are owned by private entities. For projects on the State Highway System, the department may use state resources to participate in funding and financing the project as provided for under the department's enabling legislation.

(c) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed

to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

(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.

(e) Agreements entered into pursuant to this subsection may authorize the public-private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues shall be regulated by the authority to avoid unreasonable costs to users of the facility.

(f) Each public-private transportation facility constructed pursuant to this subsection shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the authority's rules, policies, procedures, and standards for transportation facilities; and any other conditions that the authority determines to be in the public's best interest.

(g) An authority may exercise any power possessed by it, including eminent domain, to facilitate the development and construction of transportation projects pursuant to this subsection. An authority may pay all or part of the cost of operating and maintaining the facility or may provide services to the private entity for which it receives full or partial reimbursement for services rendered.

(h) Except as herein provided, this subsection is not intended to amend existing laws by granting additional powers to or further restricting the governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities. Use of the powers granted in this subsection does not subject a statutorily created expressway authority, transportation authority, bridge authority, or toll authority, other than one created under this part, to any of the requirements of this part other than those contained in this subsection.

History.—s. 25, ch. 90-136; s. 148, ch. 92-152; s. 56, ch. 94-237; s. 9, ch. 95-149; s. 88, ch. 96-410; s. 27, ch. 97-280; s. 55, ch. 99-385; ss. 23, 24, ch. 2004-366; s. 54, ch. 2007-196.

348.0005 Bonds.—

(1) Bonds may be issued on behalf of an authority as provided by the State Bond Act.

(2)(a) An authority in any county as defined in s. 125.011(1), may issue bonds pursuant to this part, which do not pledge the full faith and credit of the state in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its corporate purposes.

(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.

(c) Said bonds shall be sold by the authority at public sale by competitive bid. However, if the authority, after receipt of a written recommendation from a financial adviser, shall determine by official action after public hearing by a two-thirds vote of all voting members of the authority that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the county in which the authority exists. The authority shall provide specific findings in a resolution as to the reasons requiring the negotiated sale, which resolution shall incorporate and have attached thereto the written recommendation of the financial adviser required by this subsection.

(d) Any such resolution or resolutions authorizing any bonds hereunder which do not pledge the full faith and credit of the state may contain provisions that are part of the contract with the holders of the bonds, as an authority determines proper. In addition, an authority may enter into 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 the agreements, assign and pledge the revenues, rates, fees, rentals, tolls, or other charges or receipts of an authority, including any county gasoline tax funds received by an authority.

(e) Any of the bonds issued pursuant to this part are negotiable instruments and have all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(f) Notwithstanding any of the provisions of this part, in any county as defined in s. 125.011(1), each project, building, or facility which has been or will be financed by the issuance of bonds or other evidence of indebtedness and that does not pledge the full faith and credit of the state under this part and any refinancing thereof is approved for purposes of s. 11(f), Art. VII of the State Constitution.

History.—s. 26, ch. 90-136; s. 57, ch. 94-237; s. 138, ch. 99-13; s. 112, ch. 99-385; s. 57, ch. 2000-152.

348.0006 Lease-purchase agreement.—

(1) In order to effectuate the purposes of the Florida Expressway Authority Act, an authority may enter into a lease-purchase agreement with the department relating to and covering an expressway system.

(2) The lease-purchase agreement must provide for the leasing of the expressway system by the authority, as lessor, to the department, as lessee, and must prescribe the terms of such lease and the fees to be paid thereunder.

(3) The lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under and for the purposes of the Florida Expressway Authority Act; the completion, extension, improvement, operation, and maintenance

of the expressway system and the expenses and cost of operation of the authority; the charging and collection of tolls, rates, fees, rentals, or other charges for the use of the services and facilities thereof; the application of federal or state grants or aid which may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance of the expressway system, which the authority is authorized to accept and apply to such purposes; the enforcement of payment and collection of tolls, rates, fees, and rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of, and full performance under, such lease-purchase agreement.

(4) Upon the faithful performance thereunder and the termination of such lease-purchase agreement, title in fee simple absolute shall be transferred in accordance with law by the authority to the state. At this point, the department, at its discretion, may provide that any toll, rate, fee, or rental collected may be continued.

(5) The department, as lessee under such lease-purchase agreement, may pay, as rentals thereunder, any tolls, rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the expressway system and from county gasoline tax funds and may also pay, as rentals, any appropriations received by the department pursuant to any act of the Legislature heretofore or hereafter enacted wherein the appropriations are expressly authorized to be used as rentals for the expressway system.

(6) County gasoline tax funds may not be pledged as rentals under such lease-purchase agreement without the consent of each county located within the geographic boundaries of the authority, evidenced by a resolution duly adopted by the board of county commissioners of each such county at a public hearing held pursuant to due notice thereof published in a newspaper of general circulation in the county at least once a week for 3 consecutive weeks before the hearing. The resolution, among other things, must provide that any excess of the pledged gasoline tax funds which is not required for debt service, or reserves for such debt service, for any bonds issued by the authority be returned annually to the department for distribution to the county as provided by law.

(7) The department may covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation or maintenance of an expressway system.

(8) Each expressway system shall be a part of the State Highway System as defined in s. 334.03, and the department may, upon the request of an authority, expend, out of any funds available for the purpose, such moneys, and use such of its engineering and other forces as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies.

History.—s. 27, ch. 90-136.

348.0007 Department may be appointed agent of division for construction.—The department may be appointed by the division as its agent for the purpose of constructing improvements and extensions to an expressway system and for the completion thereof. In such event, the division shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto; shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the expressway system; and shall transfer to the credit of an account of the department in the State Treasury the necessary funds therefor. The department shall thereupon proceed with such construction and use the funds for such purpose in the same manner as it is now authorized to use the funds otherwise provided by law for its use in the construction of roads and bridges.

History.—s. 28, ch. 90-136.

348.0008 Acquisition of lands and property.—

(1) For the purposes of the Florida Expressway Authority Act, an expressway authority may acquire such rights, title, or interest in private or public property and such property rights, including easements, rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings, as the authority may deem necessary for any of the purposes of the Florida Expressway Authority Act, including, but not limited to, any lands 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 an expressway system, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities on the expressway system or in a transportation corridor designated by the authority; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. The authority may also condemn any material and property necessary for such purposes.

(2) An authority and its authorized agents, contractors, and employees are authorized to enter upon any lands, waters, and premises, upon giving reasonable notice to the landowner, for the purpose of making surveys, soundings, drillings, appraisals, environmental assessments including phase I and phase II environmental surveys, archaeological assessments, and such other examinations as are necessary for the acquisition of private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings or as are necessary for the authority to perform its duties and functions; and any such entry shall not be deemed a trespass or an entry that would constitute a taking in an eminent domain proceeding. An expressway authority shall make reimbursement for any actual damage to such lands, water, and premises as a result of such activities. Any entry authorized by this subsection shall be in compliance with the premises protections and landowner liability provisions contained in s. 472.029.

(3) The right of eminent domain conferred by the Florida Expressway Authority Act must be exercised by each authority in the manner provided by law.

(4) When an authority acquires property for an expressway system or in a transportation corridor as defined in s. 334.03, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This subsection 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 which create or exacerbate a pollution source. An authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

History.—s. 29, ch. 90-136; s. 179, ch. 94-356; s. 64, ch. 99-385; s. 90, ch. 2002-20; s. 6, ch. 2006-45.

348.0009 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of the Florida Expressway Authority Act with an authority. An authority may enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, and 339 and other provisions of the laws of the state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the

provisions of the Florida Expressway Authority Act.

History.—s. 30, ch. 90-136; s. 113, ch. 99-385.

348.0010 Covenant of the state.—The state does hereby pledge to, and agrees with, any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by an authority for the purposes of the Florida Expressway Authority Act that the state will not limit or alter the rights hereby vested in an authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged, insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to, and agrees with, the United States that, in the event any federal agency constructs, or contributes any funds for the completion, extension, or improvement of, an expressway system or any part or portion thereof, the state will not alter or limit the rights and powers of an authority and the department in any manner which would be inconsistent with the continued maintenance and operation of the expressway system or the completion, extension, or improvement thereof or which would be inconsistent with the due performance of any agreement between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers granted so long as the same shall be necessary or desirable for carrying out the purposes of the Florida Expressway Authority Act and the purposes of the United States in the completion, extension, or improvement of the expressway system or any part or portion thereof.

History.—s. 31, ch. 90-136.

348.0011 Exemption from taxation.—The effectuation of the authorized purposes of an expressway authority is in all respects 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. For this reason, each authority is not required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired by it or used by it for such purposes or upon any revenues at any time received by it. The bonds issued by or on behalf of an authority, their transfer, and the income therefrom, including any profits made on the sale thereof, are exempt from taxation of any kind by the state or by any political subdivision or other taxing agency or instrumentality thereof. The exemption granted by this section does not apply to any tax imposed under chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 32, ch. 90-136; s. 58, ch. 94-237.

348.0012 Exemptions from applicability.—The Florida Expressway Authority Act does not apply:

- (1) In a county in which an expressway authority has been created pursuant to parts II-IX of this chapter, except as expressly provided in this part; or
- (2) To a transportation authority created pursuant to chapter 349.

History.—s. 33, ch. 90-136; s. 147, ch. 92-152; s. 59, ch. 94-237; s. 55, ch. 2007-196.