

1989

## Session Law 89-240

Florida Senate & House of Representatives

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**S 1388 GENERAL BILL/CS by Transportation: Langley (Compare CS/H 1207)**

Expressway Authorities; specifies purposes for which Seminole Co. & Orlando-Orange Co. Expressway Authorities may acquire private or public property & property rights; provides that authorities may acquire an entire lot, block, or tract of land if cost of such acquisition will be equal to or less than acquiring portion of property; provides legislative finding of public purpose re such acquisition, etc. Amends 348.957..759. Effective Date: 06/28/89.

04/11/89 SENATE Filed

04/19/89 SENATE Introduced, referred to Transportation -SJ 188

04/28/89 SENATE Extension of time granted Committee Transportation

05/12/89 SENATE Extension of time granted Committee Transportation

05/15/89 SENATE On Committee agenda—Transportation, 05/17/89, 3:15 pm, Room-C-(LL-32)

05/17/89 SENATE Comm. Report: CS by Transportation, placed on Calendar -SJ 404

05/24/89 SENATE CS read first time -SJ 412

05/30/89 SENATE Placed on Special Order Calendar -SJ 560; CS passed; YEAS 33 NAYS 1 -SJ 607

05/30/89 HOUSE In Messages

05/31/89 HOUSE Received, placed on Calendar -HJ 969; Taken up in lieu of CS/HB 1207; Read second time; Read third time; CS passed; YEAS 106 NAYS 6 -HJ 972

06/01/89 Ordered enrolled -SJ 691

06/12/89 Signed by Officers and presented to Governor

06/28/89 Became Law without Governor's Signature; Chapter No. 89-240

**NOTES:** Above bill history from Division of Legislative Information's **FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS**. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

REVISED: \_\_\_\_\_

BILL NO. CS/SB 1368

DATE: May 18, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Mohler</u>	<u>Gargiulo</u>	1. <u>TR</u>	<u>FAV/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Seminole County/Orlando-Orange  
County Expressway Authorities

BILL NO. AND SPONSOR:

CS/SB 1368 by Transportation  
and Senator Langley

I. SUMMARY:

A. Present Situation:

Chapter 348, F.S., establishes various expressway and bridge authorities.

Part VIII of the chapter, ss. 348.95-348.963, F.S., establishes the powers and responsibilities of the Seminole County Expressway Authority.

Section 348.957, F.S., authorizes the authority to acquire 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.

Subsection (2) of the section provides that the authority may acquire an entire lot, block, or tract of land if, by so doing, the interests of the public will be best served, even though the entire lot, block, or tract is not immediately needed for the right-of-way proper.

Part IV of the chapter, ss. 348.751-348.765, F.S., establishes the powers and responsibilities of the Orlando-Orange County Expressway Authority.

Section 348.759, F.S., authorizes the authority to acquire 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 as necessary for any purpose under the part.

Subsection (2) of the section provides that the authority may acquire an entire lot, block, or tract of land if, by so doing, the interests of the public will be best served, even though the entire lot, block, or tract is not immediately needed for the right-of-way proper.

B. Effect of Proposed Changes:

The bill amends ss. 348.957 and 348.759, F.S., to authorize the Seminole County Expressway Authority and the Orlando-Orange County Expressway Authority to acquire public or private property or property rights for any purpose under chapter 348, F.S., 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 a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities on such authority's expressway system or in a transportation corridor designated by such authority; or for the purposes of screening, relocation, removal, or

disposal of junkyards and scrap metal processing facilities. The authorities would also have the power to condemn any material and property necessary for such purposes.

The bill further amends the sections to authorize the authorities to acquire an entire lot, block, or tract of land, if by so doing, the acquisition costs to such authority would be equal to or less than the cost of acquiring a portion of the property. The bill provides that a legislative finding that this means of limiting the rising costs of property acquisition is a public purpose and that, without such limitation, the viability of many public projects would be threatened.

One final amendment to the sections provides that when such authority acquires property for a transportation facility or in a transportation corridor, it is not subject to any liability imposed under chapter 376, F.S., or chapter 403, F.S., for preexisting soil or groundwater contamination due solely to its ownership. This provision would not affect the rights or liabilities of any past or future owners of the acquired property nor would it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Regulation would be authorized to enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by such authority.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STORAGE NAME: S1368-F.HSC  
DATE: August 10, 1989

HOUSE OF REPRESENTATIVES  
Committee on Highway Safety & Construction  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/SB 1368

RELATING TO: Expressway Authorities/Eminent Domain

SPONSOR(S): Senate Transportation Committee, and Senator Langley

EFFECTIVE DATE: Upon becoming law

DATE BECAME LAW: June 28, 1989

CHAPTER #: 89-240, Laws of Florida

COMPANION BILL(S): Compare to CS/HB 1207

OTHER COMMITTEES OF REFERENCE: (1) None

(2)

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I. SUMMARY:

This bill modifies the land acquisition powers of the Seminole County Expressway Authority (SCEA) and of the Orlando-Orange County Expressway Authority (OOCEA) to provide the authorities with similar condemnation powers as those given to the Department of Transportation. The bill also provides the authorities with a limitation of liability for preexisting environmental contamination that is due solely to ownership.

A. PRESENT SITUATION:

The SCEA is provided for by ss. 348.95-348.963, F.S. The authority is granted the right to acquire, hold, construct, improve, maintain, operate, own and lease the Seminole County Expressway System.

Section 348.957, F.S., provides SCEA the authority to acquire property, including access, air, view and light rights by gift, purchase or condemnation as the authority deems necessary. The right of eminent domain is required to be exercised as provided by law (Chapters 73 and 74, F.S.). SCEA is also authorized, in its discretion, to acquire an entire parcel of land if it is in the best interest of the public to do so, even though the entire parcel is not immediately needed for right-of-way purposes.

The OOCEA is provided for by ss. 348.751-348.765, F.S. The authority is granted the right to acquire, hold, construct, improve, maintain, operate, own and lease the Orlando-Orange County Expressway System.

Section 348.759, F.S., provides OOCEA the authority to acquire property, including access, air, view and light rights by gift, purchase or condemnation necessary for any authorized purpose. The right of eminent domain is required to be exercised as provided by law (Chapters 73 and 74, F.S.). All property acquired by OOCEA must be by fee simple. OOCEA is also authorized to acquire an entire parcel of land if it is in the best interest of the public to do so, even though the entire parcel is not immediately needed for right-of-way purposes.

**B. EFFECT OF PROPOSED CHANGES:**

This bill substantially rewords sections 348.759, and 348.957, F.S., to broaden the property acquisition powers of the OOCEA and the SCEA. In addition to existing powers, the authorities would be able to acquire property necessary for: securing permits; access management; borrow pits; water drainage and retention areas; rest areas; replacing access impaired due to construction; replacing right-of-way for relocated rail and utility facilities; existing, proposed, or anticipated transportation facilities on the system or in a designated corridor; or for screening, relocation, removal or disposal of junkyards and scrap metal facilities. The power to condemn any material, and property necessary for such purposes is also provided to the authorities by the bill.

The bill modifies the authority of OOCEA and SCEA to acquire an entire parcel rather than a portion of the parcel, to allow such acquisitions when it is cost effective to do so. The bill also contains a specific legislative recognition that utilizing this means of limiting costs is a public purpose.

This bill also provides both authorities with a limitation of liability due solely to ownership for preexisting soil or groundwater contamination on acquired land. Liability for creating or exacerbating a pollution source would not be limited by this provision, and liability of past or future owners of the acquired property would not be affected. The authorities would be authorized to enter into agreements with the Department of Environmental Regulation for investigations and remedial acts necessary for acquired property.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

**1. Non-recurring or First Year Start-Up Effects:**

None

**2. Recurring or Annualized Continuation Effects:**

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

A. LEGISLATIVE HISTORY:

1. Enacted Bill:

Senate Transportation Committee: SB 1368 originally addressed only the Seminole County Expressway Authority. The committee amended the bill to add the provisions relating to the Orlando-Orange County Expressway Authority, and reported the bill favorably as a committee substitute.

STORAGE NAME: S1368-F.HSC  
DATE: August 10, 1989  
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Senate Chamber: Passed CS/SB 1368.

House Chamber: Took up passed CS/SB 1368 in lieu of CS/HB 1207.

2. Companion Bill:

House Committee On Highway Safety and Construction: HB 1207 originally addressed only the Orlando-Orange County Expressway Authority. The committee amended the bill to add the provisions relating to the Seminole County Expressway Authority, and reported the bill favorably as a committee substitute.

House Appropriations: The bill was withdrawn from this committee.

House Chamber: CS/SB 1368 taken up and passed in lieu of CS/HB 1207.

B. OTHER COMMENTS

The property acquisition powers provided to SCEA and OOCEA by this bill are similar to those powers currently given to DOT by s. 337.27 (1) & (2), F.S. The limitation on liability for environmental contamination provided to the authorities is also similar to the existing liability limitation provided to DOT by s. 337.27 (5), F.S.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
Phillip B. Miller

Staff Director:

  
Bill Ham