

**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 Infrastructure and Security

BILL: SB 898

INTRODUCER: Senator Diaz

SUBJECT: Transportation

DATE: March 11, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	<b>Pre-meeting</b>
2.			ATD	
3.			AP	

**I. Summary:**

SB 898 contains various provisions relating to transportation. More specifically, the bill:

- Repeals the Florida Expressway Authority Act, thereby repealing the Miami-Dade County Expressway Authority (MDX or Authority).
- Transfers the operational and financial control of Miami-Dade County expressway system to the Florida Department of Transportation (FDOT) and requires the FDOT to acquire the assets and assume the liabilities of the MDX.
- Prohibits the FDOT from collecting tolls on a former MDX facility after the discharge of any outstanding bond obligations related to such facility.
- Prohibits the FDOT from charging a toll exceeding \$5 on a HOT lane or express lane in Miami-Dade County.
- Prohibits the FDOT from using toll revenue from a high-occupancy toll (HOT) lane or express lane to offset funding that the facility would receive if the facility were not a HOT lane or express lane.
- Revises the membership of the Miami-Dade County metropolitan planning organization.
- Relocates public-private partnership authorization and related provisions from the repealed Expressway Authority Act to provisions relating specifically to the Tampa-Hillsborough County Expressway Authority and the Central Florida Expressway Authority.
- Requires the FDOT to program sufficient funds in its tentative work program such that all, rather than 90 percent, of the net toll collections attributable to users of turnpike facilities in Miami-Dade, Broward, and Palm Beach Counties are committed to projects and bond finance commitments in those counties.
- Revises the authorized uses of proceeds from the Charter County and Regional Transportation System Surtax.
- Reenacts statewide, makes permanent, and revises the rebuilt motor vehicle inspection program overseen by the Department of Highway Safety and Motor Vehicles.

- Requires the FDOT to approve design plans for projects impacting its rights-of-way if the plans meet FDOT standards.
- Revises the FDOT’s authorization for innovative highway projects to innovative transportation projects demonstrating innovative techniques of bridge design.
- Provides an additional exception from the FDOT prohibition against selling property at a price less than the FDOT’s current estimate of value after determining property of a specified value is not needed for a transportation facility.
- Repeals the Osceola County Expressway Authority, which has transferred its projects to the Central Florida Expressway Authority.

The bill presents an increase in state revenues and expenditures, and a reduction of the same to the MDX, due to the transfer of the assets and liabilities of the MDX to the FDOT. Other provisions present a fiscal impact to both state and local government. See the “Fiscal Impact” heading for more specific information.

Except as otherwise provided, the bill takes effect July 1, 2019.

## II. Present Situation:

This bill addresses a wide variety of transportation issues related to the FDOT, expressway authorities, toll lanes and revenues, transportation surtaxes, transportation planning organizations, and motor vehicles. For ease of organization and readability, the Present Situation for the provisions in each section of the bill is discussed in conjunction with the Effect of Proposed Changes.

## III. Effect of Proposed Changes:

### Florida Expressway Authority Act

#### *Present Situation*

The Florida Expressway Authority Act (FEAA), codified in part I of Ch. 348, F.S.,<sup>1</sup> authorizes any county or two or more contiguous counties within a single Florida Department of Transportation (FDOT) district,<sup>2</sup> to form an expressway authority as an agency of the state, by resolution adopted by the board (or boards) of county commissioners.<sup>3</sup>

Section 348.0003, F.S., provides for the formation and membership of an expressway authority established under the FEAA. This section of the statues provides for an authority’s voting membership, election of officers, and appointment of employees, and also provides ethics requirements applicable only to MDX.<sup>4</sup>

<sup>1</sup> Part I of Ch. 348, F.S., consists of ss. 348.0001 through 348.0012, F.S.

<sup>2</sup> The FDOT is statutorily organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each headed by an executive director. Section 20.23(4)(a), F.S. For a map of the FDOT districts, see [https://fdotwww.blob.core.windows.net/sitefinity/images/default-source/content1/info/moredot/district-map-lg.jpg?sfvrsn=4afe7389\\_2](https://fdotwww.blob.core.windows.net/sitefinity/images/default-source/content1/info/moredot/district-map-lg.jpg?sfvrsn=4afe7389_2) (last visited March 10, 2019).

<sup>3</sup> Section 348.0003(1), F.S.

<sup>4</sup> Section 348.0003(5), F.S.

Section 348.0004, F.S., provides the purposes and powers of an expressway authority created pursuant to the FEAA. These authorities may acquire, hold, construct, improve, maintain, operate, and own an expressway system.<sup>5</sup> Section 348.0004, F.S., also authorizes each authority to exercise various powers required to carry out its purpose. Finally, s. 348.0004, F.S., contains provisions applicable to MDX relating to tolling, the maximum percentage of revenues that may be used for administrative expenses, the dedication of some of its surplus revenues<sup>6</sup> for transportation projects in Miami-Dade County, the authority to borrow money and refund bonds, a mandatory toll decrease for SunPass<sup>7</sup> users, and financial audit requirements.

Section 348.0005, F.S., authorizes bonds to be issued on an authority's behalf pursuant to the State Bond Act.<sup>8</sup> However, MDX may issue its own bonds that are approved for purposes of s. 11(f), Art. VII of the State Constitution.<sup>9</sup>

Section 348.0007, F.S., authorizes an authority to appoint the FDOT as its agent for the purpose of constructing improvements and extensions to an expressway system and for the system's completion.

Section 348.0008, F.S., authorizes expressway authorities to acquire land and property, including by eminent domain proceedings.

Section 348.0009, F.S., expressly authorizes other units, boards, agencies, and individuals, to enter into contracts and other agreements with an expressway authority.

Section 348.0010, F.S., provides the state's pledge to expressway authority bondholders that the state will not limit or alter the rights vested in an authority and the FDOT until all bonds are fully paid and discharged.

Section 348.0011, F.S., provides a specified tax exemption for expressway authorities and provides that the authority's bonds are exempt from taxation except for income tax on interest, income, or profits on debt obligations owned by corporations.

Section 348.00115, F.S., requires MDX to post specified information on its website including board meeting minutes, bond covenants, budgets and contracts.

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<sup>5</sup> Section 348.0002(9), F.S., defines "expressway system" as 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), F.S., for purposes of this part, an expressway system includes a public transportation facility. A "county" as defined in s. 125.011(1), F.S., means Miami-Dade County. *Infra* note 27.

<sup>6</sup> Section 348.0002(12), F.S., defines "surplus revenues" as revenues in Miami-Dade County, *id.*, 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.

<sup>7</sup> SunPass is the state's primary electronic toll collection system.

<sup>8</sup> Sections 215.57 through 215.83, F.S.

<sup>9</sup> Section 11(f), Art. VII of the State Constitution requires each project, building, or facility to be financed or refinanced with revenue bonds to first be approved by the Legislature by an act relating to appropriations or by general law.

Section 348.0012, F.S., provides that except as expressly provided in the FEAA, the FEAA does not apply in a county in which an expressway authority has been created in another part of Ch. 348, F.S.,<sup>10</sup> or to the Jacksonville Transportation Authority.<sup>11</sup>

#### Miami-Dade County Expressway Authority (MDX or Authority)

The Miami-Dade County Commission created the MDX in 1994 through adoption of an ordinance pursuant to the authorization in the FEAA allowing formation of an expressway authority as an agency of the state.<sup>12</sup> The MDX is the only expressway authority operating under the FEAA.<sup>13</sup> The MDX system consists of the following roadways in Miami-Dade County:

- S.R. 112/Airport Expressway,
- S.R. 836/Dolphin Expressway,
- S.R. 874/Don Shula Expressway,
- S.R. 878/Snapper Creek Expressway, and
- S.R. 924/Gratigny Parkway.<sup>14</sup>

#### Recent Legislation and Litigation

In 2017, legislation became law which required the MDX, subject to compliance with its bond covenants, to reduce the toll charged on any of its toll facilities by at least 5 percent, but not more than 10 percent, for each SunPass account in good standing.<sup>15</sup>

In 2018, additional legislation became law which required the MDX's governing body, by October 1, 2018, to submit to the Governor information regarding its compliance with the minimum five-percent toll reduction prescribed in 2017. If the required toll reduction had not taken place, effective October 31, 2018, the existing board was to be dissolved and, except for the FDOT district secretary, a new board was to be appointed by that date. The 2018 legislation also provided that a member of the board on October 1, 2018, was prohibited from being appointed to the new board. Qualifications and appointments to the new board remained the

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<sup>10</sup> Chapter 348, F.S., also creates the Tampa-Hillsborough County Expressway Authority, the Central Florida Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority.

<sup>11</sup> The Jacksonville Transportation Authority is created in Ch. 349, F.S.

<sup>12</sup> See Miami-Dade County Code of Ordinances, Part III, Chapter 2, Article XVIII available at [http://miamidade.fl.elaws.us/code/coor\\_ptiii\\_ch2\\_artxviii](http://miamidade.fl.elaws.us/code/coor_ptiii_ch2_artxviii) (last viewed March 7, 2019).

<sup>13</sup> While the MDX is the only authority operating pursuant to the Florida Expressway Authority Act, Polk County formed the Polk Expressway Authority in 2016. See Orlando Sentinel, *Polk greenlights authority for \$1.5B toll road*, January 27, 2016, available at <http://www.orlandosentinel.com/news/breaking-news/os-polk-expressway-authority-support-20160127-story.html> (last viewed March 7, 2019). However, that authority does not currently operate an expressway system, and research suggests the authority has no outstanding bonds. Also, Part V of Ch. 348, F.S., establishing the Osceola County Expressway Authority, contains numerous references to the Florida Expressway Authority Act.

<sup>14</sup> MDX, *About MDX*, available at <https://www.mdxway.com/about/mdx> (last viewed March 7, 2019). Operational and financial control of the system, comprised of the identified expressways, was transferred by the FDOT to the MDX in 1996 (copy of the Transfer Agreement on file in the Senate Infrastructure and Security Committee). The FDOT retains the underlying title to the facilities. See The Florida Senate Committee on Transportation Issue Brief 2011-227, *Toll Facility Lease-Purchase Agreements*, October 2010, p. 7, available at [http://archive.flsenate.gov/data/Publications/2011/Senate/reports/interim\\_reports/pdf/2011-227tr.pdf](http://archive.flsenate.gov/data/Publications/2011/Senate/reports/interim_reports/pdf/2011-227tr.pdf) (last viewed March 8, 2019).

<sup>15</sup> HB 1049, Ch. 2017-182, L.O.F.

same.<sup>16</sup> On May 29, 2018, the MDX's board approved a toll rate reduction on the Authority's facilities, providing a 5.7 to 8 percent reduction in the toll rate, depending upon the existing toll rate. The new toll rates took effect on July 1, 2018.<sup>17</sup>

The MDX has challenged the legality of some portions of the 2017 and 2018 legislation, on grounds that the legislation violates the constitutional prohibition against an impairment of contracts and violates a statutory covenant of the state that the state will not alter the rights vested in the authority until all bonds are fully paid and discharged.<sup>18</sup>

### *Effect of Proposed Changes*

**Section 15** of the bill repeals Part I of Ch. 348, F.S., thereby repealing the FEAA and the MDX. Repeal of the FEAA precludes any other county, or two or more contiguous counties within a single FDOT district, from creating an expressway authority under that provision.

**Section 16** creates an undesignated section of law transferring the Authority by a type two transfer<sup>19</sup> to the FDOT. The bill provides that any binding contract or interagency agreement entered into between the Authority or an agent of the Authority and any other agency, entity, or person continues to be a binding contract or agreement of the Authority for the remainder of the term of such contract or agreement.

**Section 9** amends s. 338.165, F.S., which in part currently authorizes the FDOT to continue to collect tolls on a revenue-producing project after the discharge of any bond indebtedness related to such project. The bill directs the FDOT to acquire the assets and assume the liabilities of the Authority, subject to the terms and covenants of any outstanding bond of the Authority. The acquisition may not act to the detriment of the bondholders or decrease the quality of the bonds.

Additionally, this section of the bill "notwithstanding" the authorization to continue to collect tolls after bond obligations are discharged and prohibits the FDOT from collecting tolls on a facility of the former Authority after the discharge of any outstanding bond obligations related to such facility.<sup>20</sup> Lastly, this section removes cross-references to a provision in Part I of Chapter 348, F.S., which the bill repeals.

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<sup>16</sup> HB 141, Ch. 2018-145, L.O.F.

<sup>17</sup> Miami-Dade Expressway Authority Press Release, *MDX Board of Directors Approves Toll Reduction*, June 8, 2019, available at

[https://www.mdxway.com/press\\_releases/downloads/592/original\\_TOLL\\_REDUCTION\\_PRESS\\_RELEASE\\_FINAL.pdf?1531322342](https://www.mdxway.com/press_releases/downloads/592/original_TOLL_REDUCTION_PRESS_RELEASE_FINAL.pdf?1531322342) (last viewed March 7, 2019).

<sup>18</sup> *Miami Dade County Expressway Authority v. Bondi*, Case No. 2018 CA 001200, Second Judicial Circuit, Leon County, Florida.

<sup>19</sup> A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. All of the statutory powers, duties, and functions of an agency or department transferred by a type two transfer, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, are transferred to the agency or department receiving the transfer, except those transferred elsewhere or abolished. Section 20.06(2), F.S.

<sup>20</sup> As of June 30, 2018, the MDX had approximately \$2.5 billion in assets and \$1.6 billion in liabilities and deferrals, including approximately \$1.5 billion in bonds outstanding. Miami-Dade County Expressway Authority, *2018 Comprehensive*

The operational and financial control of the five identified expressways in Miami-Dade County are transferred to the FDOT, and the FDOT would acquire the assets and assume the liabilities of the former Authority subject to the terms and covenants of any outstanding Authority bonds on July 1, 2019. When any outstanding bond obligations are discharged, the FDOT will be prohibited from charging a toll for use of the five identified expressways.

#### Technical Revisions Related to the FEAA Repeal and the MDX Transfer

**Section 1** of the bill amends s. 20.23(2)(b)8., F.S., relating to the Florida Transportation Commission's duty to monitor specified transportation, bridge, and expressway authorities, to remove reference to "any authority formed using part I of chapter 348," as the bill repeals that part of Chapter 348, F.S.

**Section 3** amends s. 215.68(2), F.S., which currently authorizes bond issuance under the State Bond Act, as well as various related terms and conditions, and recites that those terms and conditions do not supersede the limitations of the FEAA relating to bond issuance. The bill removes the recitation, thus conforming the statute to the repeal of the FEAA.

**Section 14** amends s. 343.1003(6), relating to the Northeast Florida Regional Transportation Commission (NFRTC), which currently requires members of the NFRTC, *notwithstanding s. 348.0003(4)(c), F.S.*, to file a statement of financial interest with the Commission on Ethics pursuant to s. 112.3145, F.S. The bill removes the reference to that section of law contained within the FEAA, as the bill repeals that section. The obligation of the members of the NFRTC to file statements of financial interests remains in place.

### **High Occupancy Toll Lanes and Express Lanes**

#### *Present Situation*

A high-occupancy-vehicle (HOV) lane is generally a lane of a public roadway designated for use by vehicles in which there is more than one occupant.<sup>21</sup> A high-occupancy toll lane is an HOV lane, the use of which requires payment of a toll.

Current law does not define the terms "high-occupancy toll lane" or "express lane." However, the FDOT provides the following descriptions:

Managed lanes are a [] strategy in which a set of lanes within an existing highway facility proactively implements a managed response to changing traffic conditions. A combination of tools such as access control, vehicle eligibility, and dynamic pricing<sup>22</sup> are used for a managed lane, and there are several different

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*Annual Financial Report*, Fiscal Years ended June 30, 2018 and 2017, available at [https://www.mdxway.com/pdf/annual\\_reports/CAFR\\_2018.pdf](https://www.mdxway.com/pdf/annual_reports/CAFR_2018.pdf) (last viewed March 8, 2017).

<sup>21</sup> Section 316.0741(1)(a), F.S.

<sup>22</sup> Also known as "variable pricing." See s. 338.165, F.S.

types of managed lanes such as High-occupancy Vehicle (HOV) lanes, high-occupancy toll lanes, express toll lanes, reversible lanes, and bus lanes.<sup>23</sup>

Express lanes are a type of managed travel lane that is physically separated from the general use or general toll lanes within an existing roadway corridor. FDOT implements express lanes for congestion management purposes by designing them to operate at free-flow speed. Free-flow conditions in the express lanes are established when vehicles can safely operate at speeds of 45 miles per hour or higher, [and toll] amounts in the express lanes are dynamically updated to support free-flow conditions.<sup>24</sup>

Section 338.166, F.S., authorizes the FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on HOT lanes or express lanes established on FDOT-owned facilities. The FDOT may continue to collect the tolls on HOT lanes or express lanes after any bond debt is discharged. Such tolls must first be used to pay the annual cost of operation, maintenance, and improvement of the HOT lanes or express lanes project or associated transportation system.<sup>25</sup>

The FDOT must use any remaining toll revenue from HOT lanes or express lanes for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the toll revenues were collected or to support express bus service on the facility where the toll revenues were collected.

Under current law, funding for expenses such as resurfacing, bridge repair and rehabilitation, and other programs, are allocated to the FDOT districts based on quantitative needs assessments.<sup>26</sup> If indicated by a needs assessment, a facility in a given FDOT district would presumably receive transportation maintenance funds for certain expenses, such as lane resurfacing, regardless of whether the facility includes a HOT lane or express lane generating toll revenues available for maintenance of the lane.

### *Effect of Proposed Changes*

**Section 10** of the bill amends s. 338.166, F.S., to prohibit the FDOT from using toll revenue from a HOT lane or express lane to offset funding that the facility would receive if the facility were not a HOT lane or express lane. To the extent that the FDOT currently uses toll revenue from a HOT lane or express lane to offset the funding an FDOT district would receive for expenses such as resurfacing, such offsets would be prohibited.

This section of the bill also prohibits a toll that is more than \$5 on any HOT lane or express lane in a county as defined in s. 125.011(1), F.S.; *i.e.*, Miami-Dade County.<sup>27</sup> Thus, the FDOT will be

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<sup>23</sup> See FDOT, SIS Connections, *Florida's Strategic Intermodal System*, December 2018, at p. 6, available at [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/sis\\_newsletter\\_winter2019.pdf?sfvrsn=d6a066fc\\_4](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/sis_newsletter_winter2019.pdf?sfvrsn=d6a066fc_4) (last visited February 18, 2019.)

<sup>24</sup> *Id.*

<sup>25</sup> Section 338.166, F.S., expressly does not apply to the turnpike system.

<sup>26</sup> See s. 339.135(4)(a)1., F.S.

<sup>27</sup> Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county,



prohibited from charging more than a \$5 toll for use of any HOT lane or express lane in Miami-Dade County.<sup>28</sup> The FDOT's ability to manage congestion through variable pricing in such lanes may be negatively affected.

### **Metropolitan Planning Organizations (MPOs)**

MPOs, sometimes referred to as Transportation Planning Organizations (TPOs), are federally-mandated organizations comprised of representatives from local government and transportation authorities. An MPO's role is to develop and maintain the required transportation plans for a metropolitan area to ensure that federal funds support local priorities. Federal law requires MPOs in urbanized areas with populations of 50,000 or more individuals.<sup>29</sup> Section 339.175, F.S., sets out state law with respect to MPOs and generally mirrors federal law.<sup>30, 31</sup>

Federal law allows the state and units of local government to largely determine an MPO's composition.<sup>32</sup> An MPO may be designated:

- By agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population, as determined by the Bureau of the Census; or
- In accordance with procedures established by applicable state law.<sup>33</sup>

In Florida, the Governor generally appoints the membership of an MPO with the agreement of the affected local governments.<sup>34</sup> An MPOs voting membership must be reflected in a Membership Apportionment Plan, consisting of at least five, but no more than 25 apportioned members, with the exact number determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government, as required by federal rules and regulations.<sup>35</sup>

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by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county." The local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968 are the City of Key West and Monroe County, Dade County, and Hillsborough County. Of these, only Miami-Dade County operates under a home-rule charter pursuant to this constitutional provision. Therefore, Miami-Dade County is the only county that meets the definition of "county" in s. 125.011(1), F.S.

<sup>28</sup> For more information on Florida's express lanes, including a map of those in Miami-Dade County, see FDOT, *Florida Express Lanes*, available at <http://floridaexpresslanes.com/> and <http://floridaexpresslanes.com/wp-content/uploads/2018/04/Southeast-Florida-Express-Lanes-Map.pdf> (last viewed March 10, 2019).

<sup>29</sup> 23 U.S.C. s. 134.

<sup>30</sup> MPOs develop and maintain a Long-Range Transportation Plan addressing no less than a 20-year horizon; update and approve a Transportation Improvement Program, a four-year program for highway and transit improvements; develop and adopt a Unified Planning Work Program identifying the MPOs budget and planning activities to be undertaken in the metropolitan planning area; and prepare a Public Participation Plan describing how the MPO involves the public and stakeholder communities in transportation planning.

<sup>31</sup> For a listing of Florida's 27 MPOs and links to each MPO website, see Florida Metropolitan Planning Organization Advisory Council, available at <https://mpoac.org> (last viewed March 9, 2019).

<sup>32</sup> The process for designating MPOs in Florida is referred to as "apportionment." Section 339.175(4), F.S.

<sup>33</sup> 23 U.S.C. s. 134(d), 23 C.F.R. 450.310.

<sup>34</sup> Section 339.175(4)(a), F.S.

<sup>35</sup> Section 339.175(3)(a), F.S.



### Miami-Dade County

The TPO in Miami-Dade County exists pursuant to authorization in s. 339.175(3)(d), F.S., which allows Miami-Dade County to elect to have its county commission serve as the planning organization. The Governor must also appoint four additional members, one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a non-elected resident of the county, and one of whom must be a school board member.

In addition, s. 339.176, F.S., requires the membership of the Miami-Dade County planning organization to include an additional voting member appointed by that city's governing body for each city with a population of 50,000 or more.

In accordance with these provisions, Miami-Dade County's TPO consists of the following 25 members:

- All 13 commissioners from the Miami-Dade County Board of County Commissioners;
- Eight elected officials, one from each municipality with a population of over 50,000 persons;<sup>36</sup> and
- Four persons appointed by the Governor representing:
  - The Miami-Dade County Expressway Authority,
  - The Miami-Dade County School Board,
  - A municipality within the county; and
  - A non-elected official residing in unincorporated Miami-Dade County.<sup>37</sup>

### *Effect of Proposed Changes*

**Section 12** of the bill amends s. 339.175(3)(d), F.S., revising the Governor's required appointment of an elected official representing a municipality within the county, to require that the appointed official represents a municipality that has a population of 65,000 or more within the county.<sup>38</sup> Based on April 2018 population estimates, this revision would restrict the Governor's municipal appointment to an elected official representing one of the following cities: Doral, Hialeah, Homestead, Miami, Miami Beach, and Miami Gardens.<sup>39</sup>

**Section 13** repeals s. 339.176, F.S., currently requiring the Miami-Dade County TPO to include a voting member appointed by the city's governing body for each city with a population of 50,000 or more.

The eight elected officials currently representing Coral Gables, Doral, Hialeah, Homestead, Miami, Miami Beach, Miami Gardens, and North Miami would no longer have a permanent seat

<sup>36</sup> These include Coral Gables, Doral, Hialeah, Homestead, Miami, Miami Beach, Miami Gardens, and North Miami.

<sup>37</sup> See Miami-Dade County Transportation Planning Organization, *Governance*, available at <http://www.miamidadetpo.org/governance.asp?fldr1=MPO-Governing-Board> (last viewed March 9, 2019).

<sup>38</sup> Based on April 1, 2018, population estimates, municipalities with populations of 65,000 or more persons are Doral, Hialeah, Homestead, Miami, Miami Beach, and Miami Gardens.

<sup>39</sup> See Bureau of Economic and Business Research, *Florida Estimates of Population 2018*, available at [https://www.bebr.ufl.edu/sites/default/files/Research%20Reports/estimates\\_2018.pdf](https://www.bebr.ufl.edu/sites/default/files/Research%20Reports/estimates_2018.pdf) (last viewed March 10, 2019).

on the TPO by virtue of those cities having populations over 50,000. This would reduce the total membership of the Miami-Dade TPO from 25 to 17.

Representation by one elected official representing either Doral, Hialeah, Homestead, Miami, Miami Beach, or Miami Gardens, by virtue of having a population over 65,000, would be at the discretion of the Governor.

## **Expressway Authority Public-Private Partnerships**

### ***Present Situation***

The FEAA authorizes any expressway authority, transportation authority, bridge authority, or toll authority to receive or solicit proposals and enter into public-private partnership agreements, for the building, operation, ownership, or financing of authority transportation facilities or new transportation facilities within the authority's jurisdiction which increase transportation capacity. The statute provides determinations that must be made regarding a proposed project, requires certain costs to be borne by the private entity, provides how transportation authorities are to provide notice of certain proposals and allows these authorities to exercise certain powers related to these agreements.<sup>40</sup>

### ***Effect of Proposed Changes***

**Sections 17 and 18** of the bill create s. 348.635, F.S., relating to the Tampa-Hillsborough County Expressway Authority, and s. 348.7605, F.S., relating to the Central Florida Expressway Authority, to generally relocate public-private partnership authorization and related provisions being repealed in the FEAA. The relocated provisions are substantively the same as the statutory language currently in the FEAA. Any other expressway, transportation, bridge, or toll authority currently relying on the FEAA provisions for authorization to engage in public-private partnerships will no longer be authorized.

## **Southeast Florida Turnpike Toll Revenue**

### ***Present Situation***

Section 338.21, F.S., requires the FDOT to fix, adjust, charge, and collect such tolls on the turnpike system as are required in order to provide a fund sufficient with other turnpike system revenues to pay the cost of maintaining, improving, repairing, and operating the turnpike system; to pay the principal and interest on any bonds issued to finance or refinance any portion of the turnpike system as the bonds become due and payable; and to create reserves for such purposes.

Section 338.231(3)(a), F.S., requires the FDOT, for the period July 1, 1998, through June 30, 2027, to the maximum extent feasible, to program sufficient funds in its tentative work program developed pursuant to s. 339.135(4), F.S., such that the percentage of turnpike toll and bond financed commitments in Miami-Dade, Broward, and Palm Beach Counties, as compared to total turnpike toll and bond financed commitments, is at least 90 percent of the share of net toll

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<sup>40</sup> Section 348.0004(10), F.S. The FDOT's similar authority is contained in s. 334.30, F.S.

collections attributable to users of the turnpike system.<sup>41</sup> This requirement does not apply when its application would violate any bond covenants for turnpike bonds.

### *Effect of Proposed Changes*

**Section 11** of the bill amends s. 338.231(3)(a), F.S., to remove the maximum feasibility and date references, making permanent the FDOT's duty to program sufficient funds in its tentative work program such that *all* of the net toll collections attributable to users of turnpike facilities in the three identified counties are committed to projects and bond finance commitments in such counties. The bill retains the current provision rendering the requirement inapplicable when application would violate bond covenants.

## **Charter County and Regional Transportation System Surtax**

### *Present Situation*

Section 212.055(1), creates the Charter County and Regional Transportation System Surtax, authorizing each charter county, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority to levy, subject to voter approval, a discretionary sales surtax of up to one percent.<sup>42</sup>

Thirty-one counties are currently eligible to levy the surtax.<sup>43</sup> However, only Broward, Duval, Hillsborough, and Miami-Dade Counties currently impose the surtax. Duval and Miami-Dade both levy the tax at a rate of one-half percent.<sup>44</sup>

Currently, proceeds from the Charter County and Regional Transportation System Surtax may be applied to as many or as few of the uses provided below in whatever combination the county commission deems appropriate:

- Deposited by the county in the trust fund and used for a countywide bus system, on-demand transportation services,<sup>45</sup> and related costs of a fixed guideway rapid transit system;
- Remitted by the governing body of the county to an expressway, transit, or transportation authority to be used roads or bridges, a bus system, on-demand transportation services, for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be

<sup>41</sup> The 2017 Legislature last amended this provision, previously set to sunset on June 30, 2017, to extend the expiration date to June 30, 2027. *Supra* note 15.

<sup>42</sup> Section 212.055(1)(a) and (b), F.S.

<sup>43</sup> The counties eligible to levy the surtax are Alachua, Bay, Brevard, Broward, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton. *See* the 2018 Florida Tax Handbook, p. 227, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last viewed March 9, 2019).

<sup>44</sup> In Miami-Dade County, the surtax is dedicated to support the People's Transportation Plan. In 2002, Miami-Dade County's voters approved the surtax for the purpose of funding the Plan, including plans to build rapid transit lanes, expand bus service, purchase additional buses, improve traffic signalization, improve major and neighborhood roads and highways, and provide funding to municipalities for road and transportation projects. For more information on the Plan, *see* Miami.gov available at <https://www.miamidade.gov/publicworks/peoples-transportation.asp> (last viewed March 9, 2019).

<sup>45</sup> Section 212.055(1)(e), F.S., defines "on-demand transportation services" as transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; or

- Used by the county for roads and bridges; bus and fixed guideway systems; on-demand transportation services; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges. Pursuant to an interlocal agreement, the county may distribute tax proceeds to a municipality, or an expressway or transportation authority.<sup>46</sup>

### ***Effect of Proposed Changes***

**Section 2** of the bill amends s. 212.055 (1)(d) and (e), F.S., effective July 1, 2022, to remove the current authorized uses<sup>47</sup> of proceeds of the surtax and the definition of “on-demand transportation services.” To the extent not prohibited by contracts or bond covenants, the bill limits use of proceeds from the surtax to only the following purposes:

- The planning, design, engineering, or construction of, or the acquisition of rights-of-way for, fixed guideway rapid transit systems and bus systems, including bus rapid transit systems, and for the development of dedicated facilities for autonomous vehicles.<sup>48</sup>
- The purchase of buses or other capital costs for bus systems, including bus rapid transit systems or bus systems.
- The payment of principal and interest on bonds previously issued related to fixed-guideway rapid transit systems or bus systems.
- As security by the governing body of the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, or construction of fixed-guideway rapid transit systems, bus rapid transit systems, or bus systems.

The bill additionally prohibits use of proceeds from the surtax for salaries or other personnel expenses for any governmental entity receiving these funds.

## **Rebuilt Motor Vehicle Inspection Program**

### ***Present Situation***

In 2013, the Legislature created s. 319.141, F.S., creating a Pilot Rebuilt Vehicle Inspection Program (PRVIP) in Miami-Dade and Hillsborough counties through June 30, 2018.<sup>49</sup> DHSMV set standards for the program and certified private sector inspection facilities in Miami-Dade County. The program’s purpose was to evaluate private sector alternatives for rebuilt inspection services, including the feasibility of using private facilities, the cost impact to consumers, and the potential savings to DHSMV. DHSMV was required to establish a memorandum of understanding (MOU) allowing private parties participating in the pilot program to conduct rebuilt vehicle inspections and specifies requirements for oversight, bonding and insurance, procedure and forms, and requires the electronic submission of documents.

<sup>46</sup> Section 212.055(1)(d), F.S.

<sup>47</sup> Primarily, for roads and bridges and “on-demand transportation services.” *Supra* note 45.

<sup>48</sup> Section 316.003(3), F.S., defines “autonomous vehicle” as any vehicle equipped with autonomous technology.

<sup>49</sup> Section 319.14(1)(c)3., defines “rebuilt vehicle” for purposes of that section as a motor vehicle or motor home built from salvage or junk.

To be approved for the program, an applicant was required to:

- Have and maintain a surety bond or irrevocable letter of credit in the amount of \$100,000, executed by the applicant;
- Secure and maintain a facility at a permanent structure at an address recognized by the U.S. Postal Service where the only services provided are rebuilt inspection services;
- Annually attest that he or she is not employed by or does not have an ownership interest in or financial arrangement with a motor vehicle repair shop, motor vehicle dealer, towing company, storage company, vehicle auction, insurance company, salvage yard, metal retailer, or metal rebuilder, from which he or she receives remuneration for the referral of customers for rebuilt inspection services;
- Have and maintain garage liability and other insurance required by DHSMV;
- Have completed criminal background checks of the owners, partners, and corporate officers and the inspectors employed by the facility; and
- Meet any additional criteria DHSMV determines necessary to conduct proper inspections.<sup>50</sup>

As required by law, in 2015, DHSMV submitted a report<sup>51</sup> that summarized the implementation of the pilot program and program results. DHSMV certified eight private businesses in the Miami area to conduct rebuilt vehicle inspections.<sup>52</sup> DHSMV employees in Miami-Dade County were responsible for conducting rebuilt vehicle inspections at the DHSMV Regional Office and at various off-site locations, and for monitoring the PRVIP businesses to ensure inspections were conducted in accordance with program standards.<sup>53</sup>

According to DHSMV, each of the eight pilot program participants met all of the statutory requirements and the MOU executed with DHSMV.<sup>54</sup> Statutorily authorized state rebuilt inspection fees (\$40) and re-inspection fees (\$20) were collected and remitted to the state as required. In addition, each pilot program participant was allowed to assess customers a service fee for each inspection. Service fees ranged from \$50 to \$85 and were not regulated in any manner by DHSMV.<sup>55</sup>

As provided in its authorizing legislation, the PRVIP was repealed on July 1, 2018, as it was not saved from repeal or reauthorized by the Legislature.

### *Effect of Proposed Changes*

**Section 4** of the bill revives, reenacts, and amends s. 319.141, F.S., notwithstanding its repeal on July 1, 2018. The bill makes the inspection program statewide and permanent, revising the DHSMV's duty to oversee a program in which the DHSMV authorizes alternatives to the rebuilt inspection services currently provided by private sector operators. The bill retains the

<sup>50</sup> Section 319.141(4), F.S.

<sup>51</sup> DHSMV, *Florida's Private Rebuilt Vehicle Inspection Program – Pilot Program Report* (Jan. 30, 2015), available at <http://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last viewed March 9, 2019). No entities from Hillsborough County applied to participate in the pilot program.

<sup>52</sup> DHSMV, Office of Inspector General, *Rebuilt Vehicle Inspection Program Audit Report 201617-24* (Dec. 5, 2017), available at <https://www.flhsmv.gov/pdf/igoffice/20161724.pdf> (last viewed March 9, 2019).

<sup>53</sup> *Supra* note 48 at p. 3.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

requirement that such authorization be based on the continued use of private facilities, the cost impact to consumers, and the potential savings to the DHSMV.

## **FDOT Mission, Goals, and Objectives**

### *Present Situation*

Section 334.046, F.S., sets out the prevailing principles to be considered by the FDOT in planning and developing an integrated, balanced statewide transportation system. These are:

- Preserving the existing transportation infrastructure,
- Enhancing Florida's economic competitiveness, and
- Improving travel choices to ensure mobility.

The preservation principle includes:

- Ensuring that 80 percent of the pavement on the State Highway System (SHS) meets FDOT standards,
- Ensuring that 90 percent of department-maintained bridges meet FDOT standards, and
- Ensuring that the FDOT achieve 100 percent of the acceptable maintenance standard on the SHS.

### *Effect of Proposed Changes*

**Section 5** of the bill amends s. 334.046(4)(a), F.S., relating to the preservation principle of the FDOT's goals, to add to the principle ensuring that all work on the SHS meets FDOT standards. This provision would broaden the preservation principle to include any work on the SHS, not just work related to pavement, bridges, and highway maintenance.

## **FDOT Review of Design Plans**

### *Present Situation*

Section 334.175, F.S., requires all design plans and surveys prepared by or for the FDOT to be signed, sealed, and certified by the duly registered professional engineer or surveyor, architect, or landscape architect responsible for the project work. However, while DOT may review plans for highway projects impacting its right-of-way but not prepared by or for the FDOT, the FDOT is not required to approve the design plans.<sup>56</sup>

### *Effect of Proposed Changes*

**Section 6** of the bill amends s. 334.175, F.S., requiring that for all transportation projects on, under, over, or abutting right-of-way owned by FDOT, the FDOT must approve the design plans if the plans meet FDOT standards. This requirement would apply regardless of the transportation project's funding source.

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<sup>56</sup> A pedestrian bridge collapsed under construction at Florida International University in Miami collapsed onto the state-owned U.S. 41/Tamiami Trail. The National Traffic Safety Board (NTSB) has issued preliminary reports indicating flaws in the bridge's design may have existed. NTSB information on the bridge collapse is available on the NTSB website at <https://www.nts.gov/investigations/Pages/HWY18MH009.aspx> (last viewed March 9, 2019).

## **Innovative Transportation Projects and Techniques**

### ***Present Situation***

Section 337.025, F.S., entitled *innovative highway projects*, authorizes the FDOT to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction and maintenance; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. DOT may annually enter into up to \$120 million in contracts for innovative transportation projects. However, the annual cap does not apply to turnpike enterprise projects and to certain transportation projects funded in the past by the federal government.<sup>57</sup>

### ***Effect of Proposed Changes***

**Section 7** of the bill amends s. 337.025, F.S., revising its title to *innovative transportation projects* and authorizing the FDOT to establish a program for such projects, including those demonstrating innovative techniques of bridge design (along with those of highway, construction, maintenance, and finance), which in addition to controlling time and cost increases have the intended effect of measuring resiliency and structural integrity.

## **Disposal of Real Property for Transportation Rights-of-Way**

### ***Present Situation***

Section 337.25(4), F.S., authorizes the FDOT to convey in the name of the state any land, building, or other property, real or personal, which was acquired for transportation rights-of-way if the FDOT has determined the property is not needed for the construction, operation, and maintenance of a transportation facility. Once the determination is made, the FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest, with due advertisement for property valued by the FDOT at greater than \$10,000.

The FDOT is prohibited from selling property at a price less than the FDOT's current estimate of value, except in the following conveyance transactions:

- If the property has been donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for construction, and the property is not located in a transportation corridor, the donating governmental entity may authorize re-conveyance for no consideration to the original donor or the donor's heirs.
- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity. The FDOT may offer a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is situated.
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the FDOT may negotiate the sale as

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<sup>57</sup> See the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.



replacement housing. However, the state must receive at least its investment in the property or the FDOT's current estimate of value, whichever is lower.

- If the FDOT determines the property requires significant costs to be incurred or that continued ownership exposes the FDOT to significant liability risks, the FDOT may use the projected costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero. Again, the FDOT may offer a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is situated.
- If, at the discretion of the FDOT, a sale to a person other than an abutting owner would be inequitable, the property may be sold to the abutting owner for the FDOT's current estimate of value.

### *Effect of Proposed Changes*

**Section 8** of the bill amends s. 337.25(4), F.S., providing an additional exception from the FDOT prohibition against selling property at a price less than the FDOT's current estimate of value after determining the property is not needed for a transportation facility. If the subject property is valued by the FDOT at greater than \$1 million, the FDOT must give the previous property owner the opportunity to repurchase the property at fair market value. The previous owner has 30 days to respond to the FDOT indicating the wish to repurchase the property and, if repurchase is desired, the FDOT must halt all other actions related to the subject property until an agreement is reached with the prior owner or until an agreement evidently cannot be reached. If an agreement is not reached, the FDOT must dispose of the property in accordance with other provisions of s. 337.25(4), F.S. The FDOT may not afford a right of first refusal to the local government or other political subdivision in the jurisdiction in which the property is situated. The bill also inserts conforming references related to this newly-created exception.

### **Osceola County Expressway Authority**

#### *Present Situation*

In 2010, the Legislature created the Osceola County Expressway Authority Law, codified in part V of Ch. 348, F.S.<sup>58</sup> The Osceola County Expressway Authority law contains many references to the FEAA. The Osceola County Expressway Authority (OCX) operated the Poinciana Parkway in Osceola County.

In 2014, the Legislature passed SB 230,<sup>59</sup> creating the Central Florida Expressway Authority (CFX), in part III of Ch. 348, F.S. In summary, the Legislature transferred the former Orlando-Orange County Expressway Authority to CFX. At the time of its creation, CFX included Lake, Osceola, Orange, and Seminole Counties. Brevard County was subsequently added to the authority. The 2014 act limited the exercise of OCX's powers. Under that act, OCX could only exercise its powers for the purpose of studying, planning, designing, financing, constructing, operating, and maintaining projects that were identified in its May 8, 2012, Master Plan. However, the bill authorized OCX to exercise these same powers on an additional, specified extension of the Osceola Parkway Extension.

<sup>58</sup> Ch. 2010-225, L.O.F. Part V of Ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

<sup>59</sup> Ch. 2014-171, L.O.F.

The 2014 act provided that on December 31, 2018, all powers, governance, and control of the Osceola County Expressway System were transferred to CFX, as were all assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX. At that time, each OCX facility was considered a “non-system project.”<sup>60</sup> The effective date of the transfer was required to be extended until the date on which the current and forecasted total debt service coverage ratios could be certified to be equal to or greater than 1.5 for each and every year during which debt obligations are outstanding. However, if the effective date was extended, then OCX could only exercise its powers through a contract with another governmental entity (or entities).<sup>61</sup>

The 2014 act provided that Part V of Ch. 348, F.S., is repealed on the same date that the OCX is transferred to CFX. Following the repeal and transfer, uncompleted elements of OCX’s May 8, 2012, Master Plan were to be included in the CFX’s master or long-range plan.<sup>62</sup> An additional, specified extension of the Osceola Parkway Extension was also to be included. In all cases, these uncompleted elements are considered “non-system projects” of the CFX.

OCX has entered into a lease purchase agreement with Osceola County to acquire the Poinciana Parkway, a facility owned by the County and financed by Osceola County, Polk County, and the FDOT. Toll revenues from Poinciana are pledged to the repayment of the bonds that Osceola County has issued. OCX, Osceola County and CFX have entered into an Interlocal Agreement addressing the operation of the Parkway, services provided by CFX and the potential acquisition of the Parkway by CFX. OCX, Osceola County and CFX are working on the transfer of the Parkway lease purchase agreement to CFX. OCX does not own other facilities and has not issued bonds to finance facilities.<sup>63</sup>

On December 11, 2018, the OCX board voted to transfer all of its projects to the CFX.<sup>64</sup>

### *Effect of Proposed Changes*

The bill repeals the Osceola County Expressway Authority Law codified in part V of Ch. 348, F.S. Due to the OCX’s board vote to transfer all of its projects to CFX, the OCX is effectively dissolved, and this repeal will have no impact on its or other entities’ operations.

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<sup>60</sup> To be defined in the then-current master senior lien bond resolution of the CFX.

<sup>61</sup> The powers exercised pursuant to contract may only be for the purpose of operating and maintaining those projects which were completed before such date, in accordance with the requirements of any agreement, resolution, or indenture under which bonds or other debt obligations were issued to finance such projects, and completing construction of those projects for which financing of the full estimated costs of acquisition, design, and construction was obtained and construction began before December 31, 2018.

<sup>62</sup> The CFX’s master or long-range plan will define the term “master plan” or “long range plan.”

<sup>63</sup> Florida Department of Transportation, Agency Analysis of HB 385 (2019), January 22, 2019, at p. 3. (On file in the Senate Infrastructure and Security Committee.)

<sup>64</sup> Stephanie Bechara, *Osceola County Expressway Authority Coming to an End* (December 11, 2018), Available at: <https://www.mynews13.com/fl/orlando/news/2018/12/11/osceola-county-expressway-authority-coming-to-an-end> (last viewed March 9, 2019).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Section 9: Travelers in Miami-Dade County will be able to use the former MDX expressways without payment of a toll when any outstanding bond obligations are discharged.<sup>65</sup>

Section 10: Travelers in Miami-Dade County will be able to use HOT or express lanes for no more than \$5. However, such travelers may experience reduced travel options if the \$5 cap on tolls results in increased congestion in HOT or express lanes.

Section 2: The revisions to authorized uses of the Charter County and Regional Transportation System Surtax may increase mobility for users of fixed-guideway rapid transit systems, bus rapid transit systems, or bus systems.

## C. Government Sector Impact:

Sections 9, 10, and 16: The bill transfers the assets and liabilities of the MDX to the FDOT via type two transfer. All tolls and other revenue collected by the Authority would

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<sup>65</sup> See the Revenue Estimating Conference (REC) analysis of HB 385 (2019) available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/page50-51.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/page50-51.pdf) (last viewed March 10, 2019).

become payable to the FDOT, including any cash balances.<sup>66</sup> The bill also prohibits the FDOT from assessing a toll for use of former MDX facilities after discharge of bonds associated with the facilities. On February 1, 2019, the Revenue Estimating Conference analyzed identical provisions in the as-filed HB 385 (2019) and identified the following positive fiscal impacts to an FDOT trust fund<sup>67</sup> and a corresponding negative impact to the MDX:

2019-2020	\$542.7 million
2020-2021	\$264.1 million
2021-2022	\$269.3 million
2022-2023	\$275.0 million
2023-2024	\$281.5 million

The FDOT will no longer collect toll revenues on the identified expressways once any outstanding bond obligations are discharged, currently in 2044.<sup>68</sup> Toll revenues will no longer support the operations, maintenance, or improvement of the expressways, and funds for these purposes will have to be paid from other sources. The exact amount of such expenses, or the extent of any potential impact of such expenses on projects in the FDOT’s work program in the future, is indeterminate. The \$5 cap on tolls for use of HOT lanes or express lanes in Miami-Dade County may reduce toll revenues collected by the FDOT, thus, reducing available funds for operations and maintenance of the lanes. However, the extent of any such reduction is unknown.

Section 2: Effective July 1, 2022, to the extent that an authorized county levies the Charter County and Regional System Surtax, use of any proceeds of the tax will be limited to the uses specified in the bill and may not be used for currently authorized purposes; e.g., for roads and bridges, or on-demand transportation services, in the county. Funding for fixed-guideway rapid transit systems, bus rapid transit systems, or bus systems is increased in those counties. To the extent that a county authorized to levy the surtax uses the proceeds for salaries or other personnel expenses, those expenses would have to be paid from other sources available to that county.

Section 11: The bill requires to program sufficient funds in its tentative work program such that *all* of the net toll collections attributable to users of turnpike facilities in Miami-Dade, Broward, and Palm Beach Counties are committed to projects and bond finance commitments in such counties. The current requirement is 90 percent of that revenue. To the extent that some of the toll revenues from those counties are currently being used in other parts of the state, these counties could see a reduction in funding for projects, while the three counties may see an increase in funding for projects.

Section 4: The DHSMV may incur indeterminate expenses associated with the reenactment of the Rebuilt Motor Vehicle Inspection Program.

<sup>66</sup> *Id.* at p. 2.

<sup>67</sup> Section 20.06, F.S., requires the financial segregation of inherited funds. *See* the REC analysis of HB 385 at p. 2., for an explanation of “net revenue” that would be available for deposit in a “to be determined” FDOT trust fund. The REC also assumed there is no General Revenue service charge. *Id.*

<sup>68</sup> *Supra* note 63 at p. 2.

Section 6: The FDOT may incur indeterminate expenses associated with approving design plans impacting its rights-of-way.

#### VI. Technical Deficiencies:

If the intended result of amending s. 338.231(3)(a), F.S., is to ensure that funds in the tentative work program are programmed in the three identified counties in the exact amounts of collected tolls attributable to users in each of the three counties, a clarifying amendment may be in order on line 510 of the bill as follows:

Strike line 510 and insert:

in each respective county ~~County as compared to total net toll~~

#### VII. Related Issues:

The FDOT advises the bill's prohibition against using toll revenue from HOT lanes or express lanes to offset funding a facility would otherwise receive removes the ability to pay back the State Transportation Trust Fund for any statewide funds used to help fund start-up of an express lane. Districts that get statewide funding for that purpose would have excess revenues for additional projects in the counties where the tolls are collected. This would benefit regions of the state that have or plan to have such lanes, and be detrimental to areas that don't have or are not ready for such lanes.<sup>69</sup> The FDOT further advises it expects a significant but indeterminate impact on operations and maintenance costs for these lanes, which are currently covered by collected toll revenues. The bill would require these costs to be covered with "regular" non-toll transportation revenues.<sup>70</sup>

#### VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 20.23, 212.055, 215.68, 319.141, 334.046, 334.175, 337.025, 337.25, 338.165, 338.166, 338.231, 339.175, and 343.1003.

This bill creates the following sections of the Florida Statutes: 348.635 and 348.7605.

This bill repeals the following sections of the Florida Statutes: 339.176, 348.0001, 348.0002, 348.0003, 348.0004, 348.0005, 348.0007, 348.0008, 348.0009, 348.0010, 348.0011, 348.00115, 348.0012, 348.9950, 348.9951, 348.9952, 348.9953, 348.9954, 348.9956, 348.9957, 348.9958, 348.9959, 348.9960, and 348.9961.

This bill creates an undesignated section of Florida Law.

<sup>69</sup> See the FDOT's analysis of SB 1044 (2019) at pp. 7-8, which contains the substantively identical language. (On file in the Senate Committee on Infrastructure and Security).

<sup>70</sup> *Id.*

**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.

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

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