

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1049 Expressway Authorities
SPONSOR(S): Avila and Nunez
TIED BILLS: IDEN./SIM. **BILLS:** SB 1562

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N	Davis	Davis
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Florida Expressway Authority Act (Act), codified in part I of Ch. 348, F.S., authorizes any county or two or more contiguous counties within a single Department of Transportation (DOT) district to form an expressway authority. Miami-Dade County Expressway Authority (MDX) is the only expressway authority created under this Act.

The bill creates the "Toll Reform Act." The bill provides that MDX, subject to any contractual requirements contained in documents securing indebtedness, may not increase its tolls unless justified by an independent traffic and revenue study. The bill stipulates that MDX may only increase tolls to the extent necessary to adjust for inflation and approve toll increases by a two-thirds vote of the board. The bill also prohibits MDX from using more than 10 percent of its toll revenues for administrative expenses. Additionally, on transportation facilities constructed after July 1, 2017, there must be a distance of at least five miles between toll collection facilities.

The bill also requires MDX to place certain documents on its website, including board and committee meeting agendas and minutes, budgets, contracts, and bond covenants.

The bill limits MDX's ability to increase tolls, therefore, decreasing its ability to raise revenues. MDX may also incur some expenses associated with traffic and revenue studies and placing certain documents on its website. The fiscal impact of the bill is indeterminate.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Miami-Dade County

Section 125.011(1), F.S. defines a county as:

[A]ny 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, 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,¹ Dade County,² and Hillsborough County.³ Of these, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957, under this constitutional provision.⁴ Therefore, Miami-Dade County is the only county that meets the definition in s. 125.011(1), F.S.

Miami-Dade County Expressway Authority

The Florida Expressway Authority Act (Act), codified in part I of Ch. 348, F.S.,⁵ authorizes any county or two or more contiguous counties within a single Department of Transportation (DOT) district to, by resolution adopted by the board of county commissioners, form an expressway authority, which shall be an agency of the state.⁶ The Miami-Dade County Expressway Authority (MDX) was created in 1994, when the Miami-Dade County Commission adopted ordinance 94-215.⁷ MDX is the only expressway authority created under the Act.⁸

MDX’s system consists of the following roadways in Miami-Dade County:

- Airport Expressway (SR 112);
- Dolphin Expressway (SR 836);
- Don Shula Expressway (SR 874);
- Snapper Creek Expressway (SR 878); and
- Gratigny Parkway (SR 924).

Section 348.0003(2)(d), F.S., F.S., provides that in any county as defined in s. 125.011(1), the authority’s governing body consists of up to nine members, and the following provisions specifically apply. Except for the district secretary of Department of Transportation (DOT), authority members must be residents of the county. Five voting members are appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of these members may be elected officials residing in the county. Three voting members are appointed by the Governor. One member is the DOT

¹ FLA. CONST. art. VIII, s. 6, n. 2.

² FLA. CONST. art. VIII, s. 6, n. 3.

³ FLA. CONST. art. VIII, s. 6, n. 4.

⁴ Florida Association of Counties, *Charter County Information*, <http://www.fl-counties.com/about-floridas-counties/charter-county-information> (last visited May 2, 2014).

⁵ Part I of ch. 348, F.S. is comprised of ss. 348.0001 through 348.0012, F.S.

⁶ S. 348.0003(1), F.S.

⁷ A copy of the ordinance is available at http://miamidade.fl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/ (Last visited November 09, 2015).

⁸ While MDX is the only authority created pursuant to the Act, part V of Ch. 348, F.S., creating the Osceola County Expressway Authority, contains numerous references to the Act.

district secretary in the district that contains such county, who is an ex officio voting member of the authority. If the governing body 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 must be replaced by a member appointed by the Governor until the governing body of the authority is composed of five members appointed by the governing body of the county and three members appointed by the Governor.

Section 348.0004, F.S., provides the purposes and powers of expressway authority's created in part I of Ch. 348, F.S. Section 348.0004(2)(e), F.S., gives expressway authorities created under the Act the power 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 of Transportation (DOT). Notwithstanding s. 338.165, F.S.,⁹ or any other provision of law to the contrary, in any county as defined in s. 125.011(1), F.S., to the extent surplus revenues exist, they may be used for purposes enumerated in s. 348.0004(7), F.S., 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.

Expressway and Bridge Authorities – Covenant of the State

Section 348.0010, F.S., provides a covenant of the state relating to the Florida Expressway Authority Act. In that statute the state pledges that it will not limit or alter the rights vested in an authority and DOT until all bonds, together with their interest, are fully paid and discharged.

Proposed Changes

The bill creates the "Toll Reform Act."

The bill amends s. 348.0004(2)(e), F.S., providing that notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any indebtedness outstanding on July 1, 2017, in Miami-Dade County:

- The authority¹⁰ may not increase a toll unless the toll increase is justified to the satisfaction of the authority by a traffic and revenue study conducted by a third party.
- The authority may only increase tolls to the extent necessary to adjust for inflation pursuant to the index of toll rate adjustments provide pursuant to s. 338.165, F.S.
- A toll increase must be approved by a two-thirds vote of the expressway authority board.
- The authority may not use more than 10 percent of its toll revenue for administrative expenses. The bill provides that administrative expenses include, but are not limited to, employee salaries and benefits, small business outreach, insurance, professional service contracts not directly related to the operation and maintenance of the expressway system, and other overhead costs.
- On transportation facilities constructed after July 1, 2017, the bill requires a minimum distance of 5 miles between toll collection facilities.

⁹ Section 338.165, F.S., relates to the continuation of tolls.

¹⁰ Section 348.0002(2), F.S., defines "authority" as 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).

The bill creates s. 318.00115, F.S., relating to public accountability. The bill requires an expressway authority in Miami-Dade County to post the following information on its website:

- Audited financial statements and any interim financial reports.
- Board and committee meeting agendas, meeting packets, and minutes.
- Bond covenants for any outstanding bonds issues.
- Authority budgets.
- Authority contracts.¹¹
- Authority expenditure data, which must include the name of the payee, the date of the expenditure, and the amount of the expenditure. Such data is required to be searchable by name of the payee, name of the paying agency, and fiscal year and must be in a downloadable format allowing offline access.
- Information relating to current, recently completed, and future projects on authority facilities.

B. SECTION DIRECTORY:

Section 1 provides a short title.

Section 2 amends s. 348.0004, F.S., relating to purposes and powers.

Section 3 creates s. 348.00115, F.S., relating to public accountability.

Section 4 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will potentially make it more difficult for MDX to increase its tolls, therefore, making it more difficult to increase its revenues. According to MDX, the bill limits its ability to set toll rates, which may make its bonds less favorable in the financial markets.¹²

2. Expenditures:

The bill limits MDX's administrative expenses to 10 percent of toll revenues. Additionally, MDX may incur some costs associated with posting certain information on its website.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who use the facilities of MDX may see a reduction in the frequency and amount of toll increases.

¹¹ The bill defines contract as a written agreement of purchase order for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.

¹² Email from MDX March 10, 2016. (Copy on file with Transportation & Infrastructure Subcommittee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

On line 44 the words “expressway” and “board” may not be needed.

Lines 52 through 54 are not parallel to other ideas in that subparagraph. Sub-subparagraphs (a) through (d) provide prohibitions on MDX increasing its tolls. Sub-subparagraph (e), which may be better suited as its own subparagraph, provides a minimum distance between toll collection locations on new toll facilities.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.