

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1049 Expressway Authorities
SPONSOR(S): Government Accountability Committee; Avila and Nunez
TIED BILLS: **IDEN./SIM. BILLS:** CS/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	21 Y, 0 N, As CS	Johnson	Williamson

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 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 main through-lane tolling points.

The bill also requires MDX to provide to each person who pays a toll on an MDX transportation facility using SunPass a rebate of 3 percent of such toll.

The bill 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.

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, 1957.⁴ Therefore, Miami-Dade County is the only county that meets the definition in s. 125.011(1), F.S.

Florida Expressway Authority Act

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 form an expressway authority, by resolution adopted by the board of county commissioners, which will be an agency of the state.⁶

Section 348.0004, F.S., provides the purposes and powers of expressway authorities created in part I of Ch. 348, F.S. It provides expressway authorities with 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 DOT. Notwithstanding s. 338.165, F.S.,⁷ 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, may use such revenues 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 such county, 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.

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 Section 348.0003(1), F.S.

⁷ Section 338.165, F.S., relates to the continuation of tolls.

Miami-Dade County Expressway Authority

The Miami-Dade County Expressway Authority (MDX) was created in 1994, when the Miami-Dade County Commission adopted ordinance 94-215.⁸ MDX is the only expressway authority created under the Act.⁹ 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).

The governing body of MDX consists of the following nine members: five Miami-Dade County Commission appointees, three gubernatorial appointees, and the DOT district secretary. Except for the district secretary, all members must be residents of Miami.

MDX Frequent Driver Rewards Program

MDX currently has a Frequent Driver Rewards Program allowing drivers spending at least \$100 a year on MDX tolls to receive cash back. The program is designed to give back savings that MDX identifies from the operations of the agency directly to the daily commuters, frequent users, and businesses, after meeting its annual financial obligations.¹⁰

Procedure for Toll Rate Adjustments for Inflation

Section 338.165(3), F.S., requires the DOT and the Turnpike Enterprise to index toll rates on their existing toll facilities to the annual Consumer Price Index or similar inflation indicators. Toll adjustments for inflation may be made no more than once a year, and no less than once every five years, as necessary to accommodate cash toll rate schedules. Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to DOT rule.

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 authority¹¹ 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.
- A toll increase must be approved by a two-thirds vote of the expressway authority board.

⁸ A copy of the ordinance is available at http://miamidade.fl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/ (Last visited November 09, 2015).

⁹ 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.

¹⁰ MDX Website <http://mdxway.com/frequentdriver/landing> (Last visited March 6, 2017).

¹¹ 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 authority may not use more than 10 percent of its toll revenue for administrative expenses, which 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, there must be a minimum distance of five miles between main through-lane tolling points. The distance requirement does not apply to entry and exit ramps and MDX may not increase a toll on an individual toll facility to implement this provision.

The bill creates s. 348.0004(6), F.S., providing that notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing indebtedness outstanding on July 1, 2017, MDX must provide toll relief by reducing tolls charged to SunPass customers by 3 percent beginning July 1, 2017. According to MDX, its tolls are collected electronically either using SunPass or toll-by-plate.¹²

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.¹³
- 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.

¹² Email from MDX to Transportation & Infrastructure Subcommittee Staff. March 10, 2017 (Copy on file with Transportation & Infrastructure Subcommittee).

¹³ 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.

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.¹⁴

The bill requires MDX to rebate 3 percent of tolls paid by anyone using SunPass. The total amount of the rebate is unknown at this time. According to MDX, the 3 percent rebate of all electronic toll collections, including SunPass, would reduce its revenue for the first year of the rebate by approximately \$7 million.¹⁵ However, this bill only provides a 3 percent rebate for SunPass users, which would appear to result in a fiscal impact that is less than \$7 million.

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.

According to MDX, it would incur significant costs associated with the 3 percent rebate of its toll revenues for SunPass users. MDX uses all electronic tolling (SunPass and toll-by-plate) and processes 400 million toll transactions per year.¹⁶

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 and persons who travel on MDX facilities and use a SunPass will receive a 3 percent rebate on tolls incurred.

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:

None.

¹⁴ Email from MDX to Transportation & Infrastructure Subcommittee staff on March 10, 2016. (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁵ *Id.*

¹⁶ *Id.*

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 6, 2017, the Government Accountability Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised the provision relating to the minimum distance between tolling points on new facilities and added a provision for a 3 percent rebate for tolls paid by SunPass users.

This analysis is written to the committee substitute as reported favorably by the Government Accountability Committee.