

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 Transportation

BILL: SB 1562

INTRODUCER: Senator Garcia

SUBJECT: Expressway Authorities

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 1562 creates the “Toll Reform Act.” The bill prohibits the Miami-Dade County Expressway Authority (MDX) from increasing its tolls unless justified by an independent traffic and revenue study, subject to certain requirements. The bill provides the MDX may only increase tolls to the extent necessary to adjust for inflation and must approve toll increases by a two-thirds vote. The bill prohibits the MDX from using more than ten percent of its toll revenues for certain administrative expenses and requires a distance of five miles between specified new toll facilities. The bill requires the MDX to establish a three percent toll rebate program with certain parameters and to post specified financial and operating information on its website.

The bill takes effect July 1, 2017.

The fiscal impact of the bill to the MDX is indeterminate. See Section V., “Fiscal Impact Statement,” for further details.

II. Present 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.”

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

¹ FLA. CONST. art. VIII, s. 6, n. 2.

² FLA. CONST. art. VIII, s. 6, n. 3.

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

Miami-Dade County Expressway Authority

The Florida Expressway Authority Act (Act),⁵ authorizes any county or two or more contiguous counties within a single Florida Department of Transportation (FDOT) district, by resolution adopted by the board of county commissioners, to form an expressway authority, which is an agency of the state.⁶ The Miami-Dade County Commission adopted ordinance 94-215 in 1994 creating the Miami-Dade County Expressway Authority (MDX).⁷ MDX is the only expressway authority created under the Act.

MDX's system⁸ 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).

MDX Governing Board

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 the FDOT, 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 FDOT district secretary in the district that contains such county, who is an ex officio voting member of the authority.

Purposes and Powers

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.⁹ However, such right and power may

³ FLA. CONST. art. VIII, s. 6, n. 4.

⁴ Florida Association of Counties, Charter County Information, <https://www.fl-counties.com/charter-county-information#>. (Last visited March 19, 2017.)

⁵ Part I of Ch. 348, F.S.

⁶ Section 348.0003(1), F.S.

⁷ A copy of the ordinance is available at http://miamidadefl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/. (Last visited March 19, 2017.)

⁸ See MDX System Map available at [http://mdxway.com/about/expressway-map\(last](http://mdxway.com/about/expressway-map(last) visited March 19, 2017).

⁹ 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 FDOT until all bonds, together with their interest, are fully paid and discharged.

be assigned or delegated by the authority to the FDOT. As provided in s. 348.004(7), F.S., and after a public hearing and county approval, MDX may use surplus toll revenues to fund:

- County public transportation facilities;
- Intermodal facilities;
- Multimodal corridors, including bicycle facilities or greenways that improve transportation services in the county; or
- Any programs or projects that improve the expressway system's level of service.

These expenditures must be consistent with the metropolitan planning organization's adopted long-range plan.

MDX Frequent Drivers Rewards Program

The MDX currently offers frequent users a rewards program, the operation of which the MDX describes as follows:

Each fiscal year (July 1st to June 30th) after the close of its financial books, MDX will declare a toll distribution of dividends to members of the Frequent Driver Rewards Program. This is after the agency meets its financial obligations, including making its annual principal and interest payments, meeting its senior debt coverage ratio, and covering its operation and maintenance costs. MDX will give back those savings generated by operational efficiencies of the agency directly to its customers through the Frequent Driver Rewards Program.¹⁰

To participate in the program, MDX customers must register each year, be a SunPass customer in good standing, have a two-axle vehicle, and spend at least \$100 annually between July 1st to June 30 in tolls per transponder on any of the MDX's five expressways. Any tolls paid using Toll-By-Plate¹¹ or Image Toll transactions (IToll) are considered ineligible for the annual calculation. Eligibility of SunPass tolls paid during the fiscal year is determined solely by the MDX. The most recent registration period for tolls paid between July 1, 2016, to June 30, 2017, ended on March 31, 2017. Reward checks to eligible recipients are expected in December of 2017.¹²

Procedure for Toll Rate Adjustments for Inflation

Section 338.165(3), F.S., requires the FDOT 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 an FDOT rule.

¹⁰ See the MDX website available at: <http://mdxway.com/frequentdriver/faqs>. (Last visited March 19, 2017.)

¹¹ Toll-By-Plate is an FDOT image-based electronic toll collection system that uses photographic images of the vehicles license plate to identify the customer responsible for payment. This feature is available on the Homestead Extension of Florida's Turnpike from Florida City to Miramar in Miami-Dade County. See the FDOT website available at: <https://www.tollbyplate.com/index>. (Last visited March 20, 2017.)

¹² *Supra* note 10.

III. Effect of Proposed Changes:

Section 1 cites the act as the “Toll Reform Act.”

Section 2 amends s. 348.0004(2)(e), F.S., providing that the MDX, notwithstanding any law to the contrary, and subject to any contractual requirements contained in documents securing indebtedness outstanding on July 1, 2017:

- May not increase a toll unless the increase is justified to the MDX’s satisfaction by a traffic and revenue study conducted by an independent third party.
- May only increase tolls to the extent necessary to adjust for inflation under the toll rate adjustment procedure in s. 338.165, F.S.
- Must approve a toll increase by a two-thirds vote of the MDX governing board.
- May not use more than 10 percent of its toll revenues for administrative expenses, including, but 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.

Additionally, on transportation facilities constructed after July 1, 2017, there must be a distance of at least five miles between toll facilities. The MDX is prohibited from increasing tolls to implement the distance requirement.

The bill limits the MDX’s authority to increase tolls and, therefore, increases its ability to raise revenues. The bill also limits the MDX’s use of its toll revenues for the defined administrative expenses to ten percent.

The bill also creates a new subsection (6) of s. 348.0004, F.S., requiring the MDX to establish a toll rebate program with all of the following parameters:

- Program participants are those SunPass¹³ registrants having an account in good standing, with the license plate of the vehicle or vehicles incurring the tolls for which a rebate is required being registered to the SunPass account at the time of any toll transaction during the applicable rebate period;
- The MDX may not require participants to complete any form of registration to be eligible for rebates;
- The MDX must provide biannually a SunPass account credit to each participant incurring tolls on the MDX’s toll facilities; and
- The credit amount must be three percent of the total tolls paid for the applicable six-month period, with no threshold spending requirement.

¹³ SunPass is the Florida Turnpike Enterprise’s pre-paid toll program. A transponder inside the vehicle communicates via radio frequency with toll plaza reading equipment. As the car passes through SunPass equipped lanes, the toll charges are electronically deducted from the user’s prepaid toll account. A SunPass customer may use this pre-paid toll account on a variety of non-FDOT facilities. See the SunPass website for additional information and a list of participating agencies, including the MDX, available at: <https://www.sunpass.com/faq>. (Last visited March 19, 2017).

Section 3 creates s. 348.00115, 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;¹⁴
- Authority expenditure data, which must include the name of the payee, the date of the expenditure, and the amount of the expenditure; be searchable by name of the payee, name of the paying agency, and fiscal year; and be in a downloadable format allowing offline access; and
- Information relating to current, recently completed, and future projects on authority facilities.

Section 4 provides the bill take effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Users of the MDX's facilities may see a reduction in the frequency and amount of toll increases. Eligible users of the MDX 's toll facilities would receive SunPass account credits as rebates in an indeterminate amount.

C. Government Sector Impact:

The bill will potentially make it more difficult for the MDX to increase its tolls, making it more difficult to increase its revenues. According to the MDX, the bill limits its ability to

¹⁴ The bill defines "contract" as a written agreement or purchase order issued for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.

set toll rates, which may make its bonds less favorable in the financial markets.¹⁵ The bill also limits the MDX's administrative expenses to ten percent of its toll revenues.

The MDX may incur expenses associated with the required traffic and revenue studies and placing the required documents on its website. It is unknown whether the MDX will be required to undertake infrastructure design revisions or to incur other related costs to comply with the requirement that there be a distance of five miles between toll facilities constructed after July 1, 2017.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 348.0004.
This bill creates the following sections of the Florida Statutes: 348.00115.

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.

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

¹⁵ See the MDX email to House Transportation & Infrastructure Committee Staff, March 10, 2017. (On file in the Senate Transportation Committee.)