

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 961 Expressway Authority Toll Revenue
SPONSOR(S): Government Accountability Committee; Transportation & Tourism Appropriations Subcommittee, Nuñez
TIED BILLS: **IDEN./SIM. BILLS:** SB 1282

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	10 Y, 0 N, As CS	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 district to form an expressway authority. Miami-Dade County Expressway Authority (MDX) is the only expressway authority created under this Act.

The bill 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 also provides that no less than 20 percent of annual surplus revenues, in excess of the MDX required operating and maintenance costs and debt obligations, are transferred on an annual basis to Miami-Dade County for specified transportation projects. Miami-Dade County is required to submit an annual report to the Legislature outlining these projects and their specific funding details.

There will be costs to MDX associated with providing toll rebates. Additionally the bill transfers specified revenues from MDX to Miami-Dade County; however, the amount of revenue to be transferred is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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 must 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 348.0004, 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 DOT. Notwithstanding s. 338.165, F.S.,⁹ or any other provision of law to the contrary, in any

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 A copy of the ordinance is available at http://miamidade.fl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/ (last visited Nov. 9, 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.

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

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), F.S., 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.¹⁰

Section 348.0004(7), F.S., provides that in any county as defined in s. 125.011(1), F.S., an expressway authority may finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of a public transportation facility or transportation facilities owned or operated by such county, an intermodal facility or facilities, multimodal corridor or corridors, including, but not limited to, bicycle facilities or greenways that will improve transportation services within the county, or any programs or projects that will improve the levels of service on an expressway system, subject to approval of the governing body of such county after public hearing.

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.¹¹

Expressway and Bridge Authorities – Covenant of the State

Section 348.0010, F.S., provides covenant of the state relating to the Florida Expressway Authority Act. It provides that 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 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 also creates s. 348.0004(11), F.S., providing that notwithstanding any other provision of the Act, no less than 20 percent of annual surplus revenues, in excess of the MDX required operating and maintenance costs and debt obligations, are transferred on an annual basis to Miami-Dade County within 180 days after the conclusion of the authority's fiscal year. The transferred funds must be used to finance, design, acquire right-of-way for, pay project delivery costs for, and construct new, or make improvements or extensions to existing public transportation facilities, transit facilities, intermodal facilities, or multimodal corridors owned, acquired, or operated by Miami-Dade County. Additionally, these projects may be implemented through a public-private partnership or design-build contract, and the funds may be considered local match for any federal or state funds for such projects.

By February 1 of each year, beginning in 2018, Miami-Dade County must submit a report to the President of the Senate and the Speaker of the House of Representatives that includes a description of

¹⁰ Section 348.0004(2)(e), F.S.

¹¹ MDX Website <http://mdxway.com/frequentdriver/landing> (Last visited March 6, 2017).

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

each project funded or to be funded, the proposed budget, the proposed funding partners, and the completion date for each such project.

B. SECTION DIRECTORY:

Section 1 amends s. 348.0004, F.S., relating to purposes and powers.

Section 2 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 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.¹³ 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.

The bill provides that no less than 20 percent of annual surplus revenues, in excess of the MDX required operating and maintenance costs and debt obligations, are transferred on an annual basis to Miami-Dade County for specified transportation projects. However, the amount of revenue generated by this provision is unknown at this time.

2. Expenditures:

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.¹⁴

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

According to MDX, the requirement to rebate a portion of its toll collections and to transfer no less than 20 percent of its excess revenues to Miami-Dade County may reduce its credit rating. A reduced credit rating would increase MDX's borrowing costs.¹⁵

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

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:

The mechanics of the toll rebate program are not clear in the bill. Specifically, it is uncertain whether it would be an annual rebate or an automatic rebate when persons use a SunPass.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Transportation & Tourism Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that no less than 20 percent of MDX surplus revenues are transferred annually to Miami-Dade County for specified transportation projects. The amendment further authorized using public-private partnerships or design build contracts for such projects, and that the transferred funds may be considered local matching funds.

On April 6, 2017, the Government Accountability Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised provisions relating to toll refunds, changed the time frame for MDX to transfer the excess revenues to Miami-Dade County, and changed the date in which the report to the Governor and Legislature is due.

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