

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 385 Transportation

SPONSOR(S): State Affairs Committee, Ways & Means Committee, Transportation & Infrastructure Subcommittee, Avila

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 898

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Johnson	Vickers
2) Ways & Means Committee	17 Y, 0 N, As CS	Curry	Langston
3) State Affairs Committee	20 Y, 0 N, As CS	Johnson	Williamson

SUMMARY ANALYSIS

The bill repeals the Florida Expressway Authority Act, thus repealing the Miami-Dade County Expressway Authority (MDX), and the ability for any county to create its own expressway authority. The bill creates the Greater Miami Expressway Agency (GMX) and transfers all of MDX's liabilities and assets, including all of its toll facilities, to GMX. The bill creates various provisions governing the operation of GMX, including requirements relating to the governing board, the design and construction of expressways, tolling, ethics and public accountability, and bonding. With certain exceptions, these new provisions are substantially similar to the current statutory requirements governing MDX.

The bill prohibits GMX from increasing toll rates until 2029, and requires a two-thirds vote of GMX's governing body prior to implementing any new toll increases. The bill also creates a toll rebate program for SunPass users on GMX facilities.

Due to the repeal of the Florida Expressway Authority Act, the bill relocates current statutory provisions regarding financial disclosures filed by board members of certain expressway, bridge, and regional transportation authorities and relocates, but does not change, existing authority for public-private partnerships to individual expressway authority statutes.

The bill also:

- Revises the authorized uses for the Charter County and Regional Transportation System Surtax in Miami-Dade County.
- Reenacts and extends the Pilot Rebuilt Vehicle Inspection Program in Miami-Dade County.
- Requires DOT to approve certain design plans for transportation projects.
- Requires DOT, effective July 1, 2022, to program all of the turnpike toll revenue collected in Miami-Dade, Broward, and Palm Beach counties for projects in those respective counties.
- Caps the tolls for high-occupancy toll or express lanes located in Miami-Dade County at \$1.25 per mile.
- Revises the membership of the Miami-Dade County metropolitan planning organization.
- Repeals the Osceola County Expressway Authority Law, thus repealing the Osceola County Expressway Authority.

The bill will have fiscal impacts on state and local governments. See Fiscal Analysis for details.

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.

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

Miami-Dade County Expressway Authority

Present Situation

Florida Expressway Authority Act

The Florida Expressway Authority Act (Act)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 as an agency of the state.⁶

The Act provides for the formation and membership of an expressway authority and provides for the authority’s voting membership, the election of officers, and the appointment of employees.⁷ The Act provides the purposes and powers of an expressway system⁸ and authorizes these authorities to acquire, hold, construct, improve, maintain, operate, and own an expressway system.⁹ The Act also authorizes an authority to:

- Appoint DOT as its agent for constructing improvements and extensions to an expressway system for its completion.¹⁰
- Acquire land and property, including by eminent domain proceedings.¹¹

¹ Art. VIII, s. 6, n. 2, Fla. Const.

² Art. VIII, s. 6, n. 3, Fla. Const.

³ Art. VIII, s. 6, n. 4, Fla. Const.

⁴ Florida Association of Counties, *Charter County Information*, available at <http://www.fl-counties.com/charter-county-information> (last visited January 28, 2019).

⁵ Codified in part I of Ch. 348, F.S.

⁶ Section 348.0003(1), F.S.

⁷ Section 348.0003, F.S.

⁸ Section 348.0002(9), F.S., defines the term “expressway system” as any and all expressways within the geographic boundaries of an expressway authority established pursuant to the 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., an expressway system includes a public transportation facility.

⁹ Section 348.0004, F.S.

¹⁰ Section 348.0007, F.S.

¹¹ Section 348.0008, F.S.

- Enter into contracts and other agreements with other units, boards, agencies, and individuals.¹²

Concerning bonding, the Act provides the state's pledge to expressway authority bondholders that the state will not limit or alter the rights vested in an authority and DOT until all bonds are fully paid and discharged.¹³ It 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.¹⁴ The Act also authorizes bonds to be issued on an authority's behalf pursuant to the State Bond Act.¹⁵

Miami-Dade County Expressway Authority

The Miami-Dade County Expressway Authority (MDX) was created in 1994, when the Miami-Dade County Commission adopted ordinance 94-215.¹⁶ MDX is the only expressway authority operating under the Florida Expressway Authority Act.¹⁷ The MDX 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).

In addition to the above provisions, the Act also governs MDX as it relates to tolling, the maximum percentage of revenues that may be used for administrative expenses, the dedication of some of its surplus revenues¹⁸ for transportation projects in Miami-Dade County, the authority to borrow money and refund bonds, mandatory toll decreases for SunPass¹⁹ users, and financial audit requirements.²⁰ While the Act authorizes MDX to issue bonds under the State Bond Act, MDX may also issue its own bonds approved for purposes of s. 11(f), Art. VII of the State Constitution.²¹ Finally, the Act requires MDX to post specified information on its website including board meeting minutes, bond covenants, budgets, and contracts.²²

As of June 30, 2018, MDX had approximately \$2.5 billion in assets and \$1.6 billion in liabilities and deferrals, including approximately \$1.5 billion in bonds payable.²³

¹² Section 348.0009, F.S.

¹³ Section 348.0010, F.S.

¹⁴ Section 348.0011, F.S.

¹⁵ Section 348.0005, F.S. The State Bond Act is codified at ss. 215.57 – 215.83, F.S.

¹⁶ A copy of the ordinance is available at http://miamidade.fl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/ (last visited January 25, 2019).

¹⁷ While MDX is the only authority operating pursuant to the Florida Expressway Authority Act, Polk County formed the Polk County Expressway Authority in 2016; however, that authority does not operate an expressway system or have any outstanding bonds. Additionally, part V of Ch. 348, F.S., creating the Osceola County Expressway Authority, contains numerous references to the Florida Expressway Authority Act.

¹⁸ Section 348.0002(12), F.S., defines the term “surplus revenues” as revenues in any county as defined in s. 125.011(1), F.S., 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.

¹⁹ SunPass is the state's electronic toll collection system.

²⁰ Section 384.0004, F.S.

²¹ Section 11(f), Art. VII of the State Constitution requires each project, building, or facility to be financed or refinanced with revenue bonds first approved by the Legislature by an act relating to appropriations or by general law.

²² Section 348.00115, F.S.

²³ Miami-Dade County Expressway Authority, *2018 Comprehensive Annual Financial Report*, Fiscal Years ended June 30, 2018 and 2017; available at https://www.mdxway.com/pdf/annual_reports/CAFR_2018.pdf (last visited January 25, 2019).

Recent Legislation

In 2017, the Legislature required MDX to, subject to compliance with its bond covenants, 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.²⁴

In 2018, the Legislature required MDX, by October 1, 2018, to submit to the Governor information regarding its compliance with the minimum 5 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 DOT district secretary, a new board was to be appointed. Qualifications and appointments to the new board remained the same.²⁵ On May 29, 2018, MDX's board approved a toll rate reduction on MDX's facilities, providing a 5.7 to 8 percent reduction in the toll rate, depending on the existing rate. The new toll rates took effect July 1, 2018.²⁶

MDX has challenged the legality of some portions of the 2017 and 2018 legislation, arguing that the legislation violates the constitutional prohibition against impairment of contracts, and violates a statutory covenant that the state will not alter the rights vested in the authority until all bonds are fully paid and discharged.²⁷

Effect of Proposed Changes

The bill repeals part I of Ch. 348, F.S., repealing the Florida Expressway Authority Act. This results in the repeal of the Miami-Dade County Expressway Authority and prevents any other county from creating its own expressway authority.

The bill dissolves the Miami-Dade County Expressway Authority and creates the Greater Miami Expressway Agency (GMX) in Miami-Dade County. The bill transfers MDX's assets and liabilities to GMX and provides GMX with statutory authority that is substantially similar to the statutory provisions currently applicable to MDX. The following discussion summarizes the new part I of Ch. 348, F.S., which is renamed the "Greater Miami Expressway Agency Act," and highlights the differences between the former MDX and the newly created Greater Miami Expressway Agency.

Greater Miami Expressway Agency

The bill creates 348.0304, F.S., establishing the "Greater Miami Expressway Agency." The bill provides that the governing body of GMX consists of seven voting members, six members appointed by the Governor and one member appointed by the metropolitan planning organization (MPO) for Miami-Dade County.²⁸ Each member must be a permanent resident of Miami-Dade County; however, no member may:

- Hold elected office;
- Be a member of the former MDX governing board;
- Be a lobbyist²⁹ or, in the previous four years, lobbied GMX or the former MDX;

²⁴ Ch. 2017-182, L.O.F.

²⁵ Ch. 2018-145, L.O.F.

²⁶ 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 (last visited January 28, 2019).

²⁷ *Miami Dade County Expressway Authority v. Bondi*, Case No. 2018 CA 001200, Second Judicial Circuitry, Leon County Florida.

²⁸ The bill also provides that the DOT district secretary serving Miami-Dade County serves as a nonvoting advisor to the governing body.

²⁹ The bill defines the term "lobbyist" as a person who is employed and receives payment, or who contracts for economic consideration, to lobby or a person who is principally employed for governmental affairs by another person or entity to lobby on behalf of such person or entity. A lobbyist is not a person who: represents a client in a judicial proceeding or in a formal administrative proceeding before the GMX; an officer or employee of any governmental entity acting in the normal course of his or her duties; consults under contract with, or communicates with, GMX regarding issues related to the scope of contract services; is an expert witness; or seeks to procure a contract less than \$20,000 or a contract pursuant to s. 287.056, F.S., which governs purchasing agreements and state term contracts.

- In the previous four years, conducted business, or been an employee of a person that has done business, with GMX or the former MDX; or
- In the previous two years, been an employee of GMX or the former MDX.

In addition, the bill provides that each member may only serve two terms of four years each and staggers the initial appointments. The bill also requires members of GMX's governing body to take and subscribe to an oath that they will honestly, faithfully, and impartially perform their duties. Members of the governing body may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office.

Before July 31, 2019, the bill requires the Governor to appoint an interim executive director who will hold office for six months while the agency hires a permanent executive director. The interim executive director is not prohibited from applying for the position of executive director; however, a current or former executive director of the former MDX may not serve as the executive director for GMX.

Ethics Requirements

The bill creates s. 348.0305, F.S., establishing new ethics requirements for GMX. The bill provides that GMX members and employees are subject to the Code of Ethics for Public Officers and Employees.³⁰ An officer,³¹ employee, or consultant of GMX or of the former MDX may not, after vacation of his or her position with the agency:

- Lobby³² the agency for two years;
- Have an employment or contractual relationship with a business entity in connection with a contract in which the officer, employee, or consultant personally and substantially participated in discussions or decisions regarding the contract while an officer, employee, or consultant of the agency; or
- Have or hold any employment or contractual relationship with a business entity in connection with any contract for contractual services for which he or she was responsible for while an officer, employee, or consultant.³³

The bill requires each officer, employee, and consultant of GMX to promptly disclose:³⁴

- Relationships that may create a conflict of interest;
- Any relative³⁵ and any employment or contractual relationship of such relative which, if held by the officer, employee, or consultant, would violate the standards of conduct for public officers and certain public employees,³⁶
- Any relative who is a lobbyist and the lobbyist's principal;³⁷ or
- Any direct or indirect interest in real property and the interest of any relative if such property is located within 1/2 mile of any actual or prospective agency project.

A violation of the ethics provisions is considered a violation of the violator's official, employment, or contractual duties to GMX. GMX officers, employees, and consultants must be adequately informed and trained on these requirements and the state code of ethics and must receive ongoing ethics training.

³⁰ Ch. 112, part III, F.S.

³¹ The bill defines the term "officer" to mean a member of the GMX governing body.

³² The bill defines the term "lobby" to mean to seek to influence GMX, on behalf of another person, with respect to a decision of the agency in an area of policy or procurement or to attempt to obtain the goodwill of an officer, employee, or consultant of GMX. The term does not include representing a client in any stage of applying for or seeking approval of any administrative action, or opposition to such action, provided such action does not require legislative discretion and is subject to judicial review by petitioning for writ of certiorari.

³³ The bill authorizes certain exceptions for when a GMX employee's position is eliminated.

³⁴ The bill provides that the disclosure is to be filed with GMX's general council, unless the disclosure is filed by the general counsel, then a copy of the disclosure must be provided to GMX's executive director.

³⁵ The term "relative" has the same meaning as in s. 112.312, F.S.

³⁶ Section 112.313, F.S.

³⁷ The term "principal" has the same meaning as in s. 112.3215, F.S.

Purposes and Powers

The bill creates s. 348.0306, F.S., establishing the purposes and powers of GMX. Substantively similar to the statutory powers previously granted to MDX, GMX has certain powers, including, but not limited to, the power to sue and be sued, acquire and hold property, enter into leases, establish toll rates, and borrow money.

For new capacity projects, the bill requires GMX to use DOT's design standards and, to the maximum extent practicable, design facilities such as DOT would for high-speed limited access facilities. GMX may only add additional expressways to the expressway system if certain requirements are met.

Subject to its bond covenants, GMX may not increase its toll rates until July 1, 2029, including any increase to adjust toll rates pursuant to the Consumer Price Index.³⁸ Additionally, a toll rate increase must be approved by a two-thirds vote of the members of GMX's governing body. The bill also requires GMX to have a distance of at least five miles between main through-lane tolling points. However, GMX may establish toll rates such that the toll rate per mile is equal to the rates in effect on July 1, 2019.

The bill requires GMX to have an annual financial audit conducted by an independent certified public accountant³⁹ and to make the audit report available on its website.

Florida Sunshine Rebate Program

The bill creates 348.0307, F.S., requiring GMX to create the Florida Sunshine Rebate Program. Subject to its bond covenants, GMX, at the time any toll is incurred, must provide a 25-percent rebate to all SunPass holders whose SunPass account is registered to a motor vehicle registered in Miami-Dade County. An eligible SunPass holder is automatically enrolled in the rebate program. However, GMX must provide a mechanism to allow eligible SunPass holders to opt out of the program. GMX may not impose additional requirements for receipt of the reduced toll amount.

Public Private Partnership

The bill creates s. 348.0308, F.S., authorizing GMX to enter into public-private partnerships for the building, operation, ownership, or financing of transportation facilities. These provisions are substantively identical to requirements currently applicable to MDX.

Bonds

The bill creates s. 348.0309, F.S., providing that GMX may have bonds issued on its behalf pursuant to the State Bond Act. Additionally, GMX may issue its own bonds. The authorization for GMX to issue its own bonds is substantively identical to what is currently authorized for MDX; however, the bill provides that when GMX issues its own bonds, the issuance of such bonds is subject to review and approval by the Legislative Budget Commission.

DOT Appointed as Agent of GMX for Construction

The bill creates s. 348.010, F.S., authorizing GMX to appoint DOT as its agent for the purpose of construction improvements to and extensions to an expressway system. The bill provides specific requirements for this authority. This provision is substantively identical to the statutory authority currently provided to MDX.

Acquisition of Land and Property

The bill creates 348.0311, F.S., authorizing GMX to acquire land and property for certain transportation and transportation-related facilities. The bill also authorizes GMX or its authorized agents to enter upon any lands, upon reasonable notice to the landowner, for certain purposes. GMX also has the right of eminent domain and is not subject to liability for preexisting soil or groundwater contamination issues. This provision is substantively identical to the statutory authority currently provided to MDX.

³⁸ Toll rate adjustments to the consumer price index are provided for in s. 338.165, F.S.

³⁹ Certified public accountants are licensed pursuant to Ch. 473, F.S.

Cooperation with other Entities

The bill creates s. 348.0312, F.S., authorizing other governmental entities and individuals to enter into certain agreements with GMX, to the extent consistent with specified chapters in the Florida Transportation Code. This provision is identical to the statutory authority currently provided to governmental entities and individuals to enter into agreements with MDX.

Covenant of the State

The bill creates s. 348.0313, F.S., providing that the state will not limit or alter the rights vested in GMX and DOT until all of the bonds are discharged. This provision is identical to statutory provisions included in the current MDX statute.

Exemption from Taxation

The bill creates s. 348.0314, F.S., providing that GMX's purposes are for the benefit of the people of the state; therefore, it is not required to pay any taxes or assessments on property or revenues. Additionally, its bonds are exempt from taxation, except for income tax on profits or debt obligations owned by corporations. This provision is identical to the statutory provisions currently included in the MDX statute.

Public Accountability

The bill creates s. 348.0315, F.S., to require that GMX include certain information on its website including financial information, governing board documents, bond covenants, and contracts. The same requirements are currently applicable to MDX.

Additionally, the bill provides that beginning October 1, 2020, and annually thereafter, GMX must submit to the Miami-Dade County Board of County Commissioners and the Miami-Dade County MPO a report providing information regarding the amount of tolls collected and how the tolls were used by GMX in the previous fiscal year.

Eligibility for Investments and Security

The bill creates s. 348.0316, F.S., providing that GMX's bonds or other obligations constitute legal investments for various entities. This provision is similar to statutory requirements in place for other expressway authorities.

Pledge Enforceable by Bondholders

The bill creates s. 348.0317, F.S., providing that any pledge by DOT of certain funds and any related agreements may be enforceable in any court against GMX or directly against DOT by any holders of the bonds issued by GMX. The provision is similar to statutory requirements applicable to other expressway authorities.

This Part Complete and Additional Authority

The bill creates s. 348.0318, F.S., providing that the powers conferred by part I of Ch. 348, F.S., are in addition to the powers of DOT and the governing body of GMX. It also provides that various functions of the agency may not be construed to repeal other laws. Additionally, part I of Ch. 348, F.S., does not repeal, rescind, or modify any other law relating to the State Board of Administration, DOT, or the Division of Bond Finance, but supersedes any inconsistent law. This provision is similar statutory requirements applicable to other expressway authorities.

Transfer Provisions

The bill transfers the governance and control of MDX to GMX. MDX's assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights, including MDX's expressway system, are transferred to GMX. GMX succeeds to all of MDX's powers, and the operations and maintenance of the expressway system must be under GMX's control. Revenues collected on the expressway system are considered GMX revenues but are subject to the lien of the trust indentures securing MDX's bonds. GMX also assumes all liability for MDX's bonds and the

satisfaction of any judgment against MDX that may ultimately become due as a result of litigation commenced before July 1, 2019.

The bill requires GMX to, in consultation with the Division of Bond Finance, review all other contracts, financial obligations, and contractual relationships and liabilities of MDX, and authorizes GMX to assume responsibility for the obligations determined to be necessary or desirable for the continued operation of the expressway system. MDX's employees, officers, and board members may not engage in certain transactions other than in the ordinary course of business. The bill specifies certain actions related to the 5-year work program are not considered to be in the ordinary course of business. However, this is not meant to prevent MDX from designing and planning projects in its 5-year work program approved and adopted on December 5, 2018.

This transfer is subject to all terms and covenants provided for the protection of the holders of MDX's bonds in the trust indentures or resolutions adopted in connection with the issuance of such bonds. Further, the bill provides that the transfer does not impair contracts between MDX and its bondholders and does not act to the detriment of the bondholders, and does not diminish the security for the bonds. After the transfer, GMX must operate and maintain the expressway system and any other MDX facilities in accordance with the terms, conditions, and covenants contained in the trusts indentures or bond resolutions. GMX must collect toll revenues and apply them to the payment of debt service and expressly assumes all obligations relating to the bonds to ensure that the transfer of MDX will have no adverse impact on the security for MDX's bonds.

Finally, the bill makes conforming changes related to the repeal of MDX and the creation of GMX.

Transportation Authority Financial Disclosure

Present Situation

Section 8(a), Art. II of the State Constitution requires all elected constitutional officers and candidates for such offices and, as may be determined by law, other public officials, candidates, and employees to file full and public disclosure of their financial interests. Full and public disclosure of financial interests means filing a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with either a copy of the person's most recent federal income tax return, or a sworn statement identifying each separate source and amount of income exceeding \$1,000. The disclosure is filed with the Florida Commission on Ethics.⁴⁰

The Florida Expressway Authority Act requires members of each expressway authority, transportation authority, bridge authority, or toll authority, created pursuant to Ch. 343, F.S.,⁴¹ Ch. 348, F.S.,⁴² or any other general law, to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution.⁴³ While this requirement is codified in the Florida Expressway Authority Act, it applies to authorities created in Ch. 343, F.S., and in other parts of Ch. 348, F.S.

Effect of Proposed Change

The bill moves the statutory provision regarding financial disclosure forms filed by transportation and expressway authorities from s. 348.0003(4)(c), F.S., to s. 112.3144(1), F.S. The actual financial disclosure requirements do not change.

⁴⁰ Section 112.3144(1), F.S.

⁴¹ Chapter 343, F.S., creates various regional transportation authorities.

⁴² Chapter 348, F.S., creates various expressway and bridge authorities.

⁴³ Section 348.0003(4)(c), F.S.

Charter County and Regional Transportation System Surtax

Present Situation

Section 212.055(1), F.S., 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 1 percent.⁴⁴ Thirty-one counties are eligible to levy the surtax;⁴⁵ however, only Broward, Duval, Hillsborough, and Miami-Dade counties currently levy the surtax. Duval and Miami-Dade counties both levy the tax at a rate of 0.5 percent.⁴⁶ Duval County began levying the surtax in 1989 and Miami-Dade County began levying it in 2003.⁴⁷ In November 2018, Broward and Hillsborough counties voted to levy the surtax, effective January 1, 2019, at a rate of 1 percent.

In Miami-Dade County, the surtax is dedicated to support the People's Transportation Plan.⁴⁸ In 2002, Miami-Dade County voters approved the surtax for funding the People's Transportation Plan, including plans to build rapid transit lanes, expand bus service, purchase additional buses, improve traffic signalization, improve roads and highways, and provide funding to municipalities for road and transportation projects. The ordinance also establishes the Citizens' Independent Transportation Trust as an advisory entity created to oversee the use of the surtax proceeds.⁴⁹

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,⁵⁰ and related costs of a fixed guideway rapid transit system;
- Remitted by the county governing body to an expressway, transit, or transportation authority for 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, pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; and
- Used by the county for planning, development, construction, operation, and maintenance of roads and bridges, bus and fixed guideway systems, and on-demand transportation services, and for the payment of principal and interest on bonds issued for such purposes. Pursuant to an interlocal agreement, the county may distribute tax proceeds to a municipality or an expressway or transportation authority.⁵¹

Effect of Proposed Changes

⁴⁴ Section 212.055(1)(a) and (b), F.S.

⁴⁵ The counties eligible to levy the surtax are Alachua, Bay, Brevard, Broward, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton. 2018 Florida Tax Handbook, p. 227.

⁴⁶ 2018 Florida Tax Handbook, p. 227.

⁴⁷ 2003 Florida Tax Handbook. p. 154.

⁴⁸ Information on Miami-Dade County's People's Transportation Plan is available at <https://www.miamidade.gov/publicworks/peoples-transportation.asp> (last visited February 14, 2019).

⁴⁹ Florida Department of Transportation, Agency Analysis of 2019 HB 385, p. 5 (January 22, 2019).

⁵⁰ 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.

⁵¹ Section 212.055(1)(d), F.S.

Effective October 1, 2022, the bill revises the authorized uses of the Charter County and Regional Transportation Surtax in Miami-Dade County. To the extent not prohibited by contracts or bond covenants in effect on that date, the bill requires Miami-Dade County to use the Charter County and Regional Transportation Surtax proceeds only for 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, and for the development of dedicated facilities for autonomous vehicles.⁵²
- The purchase of buses or other capital costs for bus systems.
- The payment of principal and interest on bonds previously issued related to fixed guideway rapid transit systems or bus systems.
- As security to refinance existing bonds or to issue new bonds for the planning, design, engineering, or construction of fixed guideway rapid transit systems or bus systems.

To the extent not prohibited by contracts or bond covenants in effect on that date, no more than 25 percent of the surtax proceeds may be distributed to municipalities in total in Miami-Dade County. Each municipality in Miami-Dade County may use its surtax proceeds to plan, develop, construct, operate, and maintain roads and bridges in the municipality and to pay the principal and interest on bonds issued to construct roads or bridges. The governing body of the municipality may pledge the proceeds for bonds issued to refinance existing bonds or new bonds issued to construct such roads and bridges. Additionally, each such municipality may use surtax proceeds for transit systems within the municipality.

Additionally, the bill prohibits the use of the Charter County and Regional Transportation Surtax proceeds in Miami-Dade County for salaries or other personnel expenses for the county transportation department.

Rebuilt Vehicle Inspection Program

Present Situation

Under Florida law, a person may not sell a rebuilt vehicle until the vehicle's title labels that vehicle as rebuilt, which requires the motor vehicle go through a physical rebuilt motor vehicle inspection conducted by the Department of Highway Safety and Motor Vehicles (DHSMV).⁵³ The purpose of the rebuilt vehicle inspection is to assure the identity of the vehicle and all major component parts that have been repaired or replaced. After an approved rebuilt vehicle inspection, DHSMV affixes a decal to the vehicle identifying the vehicle as a rebuilt vehicle.

In 2013, the Legislature created s. 319.141, F.S., establishing a Pilot Rebuilt Vehicle Inspection Program (pilot program) in Miami-Dade and Hillsborough counties. DHSMV set standards for the program and certified private sector inspection facilities in Miami-Dade County.⁵⁴ The pilot 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. This section also specified requirements for oversight, bonding and insurance, procedure, and forms and required the electronic submission of documents.

To be approved for the pilot 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;

⁵² Section 316.003(3), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology.

⁵³ Section 319.14(1)(b), F.S. A rebuilt vehicle is one that has been built from salvage or junk.

⁵⁴ No entities from Hillsborough County applied to participate in the program.

- 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 the applicant 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 determined necessary to conduct proper inspections.⁵⁵

As required by law, in 2015, DHSMV submitted a report⁵⁶ that summarized the implementation of the pilot program and its results. DHSMV had certified eight private businesses in the Miami area to conduct rebuilt vehicle inspections.⁵⁷ During Fiscal Year (FY) 2016-2017, 71,342 rebuilt vehicle inspections were conducted in the state, of which 35,325 were conducted by pilot program operators.⁵⁸

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 pilot program businesses to ensure inspections were conducted in accordance with program standards.⁵⁹

According to DHSMV, each of the eight pilot program participants met all of the statutory requirements and the MOU executed with DHSMV. 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.⁶⁰

The pilot program repealed July 1, 2018, since it was not saved from repeal through reenactment by the Legislature.

Effect of Proposed Changes

The bill revives, reenacts, and amends the former Pilot Rebuilt Vehicle Inspection Program in Miami-Dade County.

The bill amends the definition of the term “rebuilt inspection services” to require, if available, a photograph be taken of the interior driver and passenger sides of the vehicle if the airbags were previously deployed and replaced.

The bill requires DHSMV, by October 1, 2019, to implement the pilot program in Miami-Dade County. DHSMV may select up to four applicants, deemed in its discretion to be most qualified. Each selected participant must enter into a MOU with DHSMV allowing such participant to conduct rebuilt motor vehicle inspections and specifying certain requirements. DHSMV may examine all records pertaining to any inspection or related service performed under the pilot program.

Before a participant is authorized to perform such rebuilt inspection service, DHSMV must ensure that the participant meets basic criteria designed to protect the public. At a minimum, the participant must meet all of the previous statutory requirements, with the following changes:

⁵⁵ Section 319.141(4), F.S.

⁵⁶ DHSMV, *Florida’s Private Rebuilt Vehicle Inspection Program – Pilot Program Report* (January 30, 2015), available at <http://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last visited Jan. 22, 2019).

⁵⁷ DHSMV, Office of Inspector General, *Rebuilt Vehicle Inspection Program Audit Report 201617-24* (December 5, 2017), available at <https://www.flhsmv.gov/pdf/igoffice/20161724.pdf> (last visited January 22, 2019).

⁵⁸ *Id.*

⁵⁹ DHSMV, *Pilot Program Report*.

⁶⁰ DHSMV, *Pilot Program Report*.

- The surety bond or irrevocable letter of credit must be executed in favor of DHSMV and be issued by entities licensed to do business in Florida.
- The facility must be at an address identified by a county-issued tax folio number, have permanent signage containing specified information, be designed with specified features, have surveillance cameras with recording capabilities for the rebuilt inspection area, and have sufficient onsite customer parking.
- The participant must annually attest that he or she does not have a direct or indirect interest in any motor vehicle that a facility has inspected or proposes to inspect, and that there have been no changes to the ownership structure of the approved facility.
- The garage liability insurance must have a minimum of \$100,000 single-limit liability coverage, including bodily injury and property damage protection, and any other insurance required by DHSMV.
- The criminal background checks must demonstrate the certain persons have not been convicted of, pled guilty to, pled nolo contendere to, or been incarcerated for a felony in the previous 10 years.

The bill prohibits a participant from conducting an inspection of a vehicle in complete rebuilt condition without DHSMV approval. A person or entity other than DHSMV or a DHSMV-authorized participant may not conduct rebuilt inspection services.

The bill provides that a vehicle owner who fails an initial rebuilt inspection may only have that vehicle re-inspected by DHSMV or the facility that conducted the original inspection.

The bill requires DHSMV to, at least once per quarter, conduct an onsite facility inspection and immediately terminate any participant who fails to meet the statutory eligibility requirements.

DHSMV may adopt rules to implement and enforce statutory provisions related to the pilot program.

On or before July 1, 2022, DHSMV must submit a written report to the President of the Senate, and the Speaker of the House of Representatives evaluating the effectiveness of the pilot program and whether to expand the program to other counties.

The bill repeals the pilot program on July 1, 2022, unless it is saved from repeal by an act of the Legislature.

Design Plans and Innovative Transportation Projects and Techniques

Present Situation

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

Section 337.025, F.S., authorizes DOT to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance that 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 techniques that have the potential to reduce project life cycle costs. DOT may annually enter into contracts for innovative transportation projects up to \$120 million. However, the annual cap does not apply to turnpike enterprise projects and transportation projects funded by the American Recovery and Reinvestment Act of 2009.⁶¹

⁶¹ Pub. L. 111-5.

On March 15, 2018, a pedestrian bridge under construction at Florida International University in Miami collapsed onto the state-owned eight-lane US 41/Tamiami Trail. The bridge collapse resulted in the deaths of six persons, and four additional persons were injured. The National Transportation Safety Board is investigating the cause of the bridge collapse and has issued some preliminary reports indicating that there may have been flaws with the bridge's design.⁶²

Effect of Proposed Changes

The bill creates s. 334.175(2), F.S., providing that for all transportation projects on, under, over, or abutting a DOT-owned right-of-way, and regardless of funding source, DOT must approve the design plans for such projects, if such design plans meet DOT standards.

The bill amends s. 337.025(1), F.S., changing DOT's authorization for innovative highway projects to innovative transportation projects. This new authorization specifically includes innovative techniques for bridge design that have the effect of measuring resiliency and structural integrity. The bill also authorizes the use of innovative transportation projects for new and existing bridge design.

High-occupancy Toll Lanes

Present Situation

A high-occupancy vehicle lane is generally a lane of a public roadway designated for use by vehicles in which there is more than one occupant.⁶³ A high-occupancy toll lane is a high-occupancy vehicle 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 DOT 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 pricing⁶⁴ are used for a managed lane, and there are several different types of managed lanes such as High-occupancy Vehicle (HOV) lanes, high-occupancy toll lanes, express toll lanes, reversible lanes, and bus lanes.⁶⁵

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. DOT 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.⁶⁶

Section 338.166, F.S., authorizes DOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on high-occupancy toll lanes or express lanes established on DOT-owned facilities. DOT may continue to collect the tolls on high-occupancy toll lanes or express lanes after any bond debt is discharged. Such toll revenues must first be used to pay the annual cost of operation, maintenance, and improvement of the high-occupancy toll lanes or express lanes project or associated transportation system. DOT must use any remaining toll revenue from high-occupancy toll lanes or express lanes for the construction, maintenance, or improvement of any road on the State Highway

⁶² National Transportation Safety Board information on the FIU bridge collapse is available at <https://www.nts.gov/investigations/Pages/HWY18MH009.aspx> (last visited January 9, 2019).

⁶³ Section 316.0741(1)(a), F.S.

⁶⁴ Also known as "variable pricing." See s. 338.165, F.S.

⁶⁵ See DOT, 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 (last visited March, 13 2019).

⁶⁶ *Id.*

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.⁶⁷

DOT's rule regarding express lane toll rates provides that:

The maximum toll for an authorized user on Interstate 95 between Mile Marker 4 and Mile Marker 12 will not exceed \$1.50 per mile. If those express lanes reach the maximum toll on any 45 days in a six month period, the maximum toll will increase by \$0.50 per mile effective the first day of the following month. The maximum toll for authorized users of those express lanes will increase by \$0.50 in any subsequent six months meeting the same condition.⁶⁸

Effect of Proposed Changes

The bill amends s. 338.166, F.S., providing to the extent not prohibited by contract or bond covenants, and notwithstanding any other provision of law to the contrary, that the cost of any toll on a high-occupancy toll lane or express lane located in Miami-Dade County may not exceed \$1.25 per mile.

Further, the bill requires DOT to submit annually detailed reports to the Miami-Dade Board of County Commissioners and the Miami-Dade County Transportation Planning Organization. The initial report is due no later than October 1, 2020, and subsequent reports are due by October 1 each year thereafter. These reports must include detailed information regarding the toll collections, costs, and net revenues collected on the expressway system and turnpike operating in Miami-Dade County, and include details on projects funded and scheduled to be funded by toll revenues, including revenues from the Florida Turnpike Enterprise, in Miami-Dade County.

Southeast Florida Turnpike Toll Revenue

Present Situation

Section 338.231, F.S., requires DOT to fix, adjust, charge, and collect 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 of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the bonds become due and payable; and to create reserves for all such purposes. The section requires DOT, through June 30, 2027, to program sufficient funds in its tentative work program⁶⁹ 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 collections attributable to users of the turnpike system in those counties as compared to total net toll collections attributable to users of the turnpike system. This requirement is not applicable if it would violate any bond covenants for turnpike bonds.

Effect of Proposed Changes

Effective July 1, 2022, the bill amends s. 338.231(3)(a), F.S., requiring DOT 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 each respective county. The bill maintains that this requirement does not apply when its application would violate any bond covenants for turnpike bonds.

⁶⁷ Section 338.166, F.S., expressly does not apply to the turnpike system. The Florida Turnpike Enterprise is not currently operating any express lanes.

⁶⁸ R. 14-100.0003(3)(d)

⁶⁹ DOT's tentative work program is developed pursuant to s. 339.135(4), F.S.

Metropolitan Planning Organizations

Present Situation

Federal Law

MPOs, also referred to as transportation planning organizations, are federally-mandated transportation planning organizations comprised of representatives from local governments and transportation authorities. The 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.⁷⁰

State Law

Section 339.175, F.S., governs MPOs and generally mirrors applicable federal law. MPOs carry out four primary activities:

- Developing and maintaining a Long-range Transportation Plan, addressing no less than a 20-year planning horizon.
- Updating and approving a Transportation Improvement Program, a four-year program for highway and transit improvements.
- Developing and adopting a Unified Planning Work Program, identifying the budget and planning activities to be undertaken in the metropolitan planning area.
- Preparing a Public Participation Plan, describing the involvement of the public and stakeholder communities in transportation planning.

MPO Board Composition

Federal law allows the state and units of local government to largely determine the MPO's composition.⁷¹ Florida law refers to this process as "apportionment."⁷² The Governor apportions the membership of the MPO with the agreement of the affected local governments.⁷³ Each MPO reviews the composition of its membership in conjunction with each decennial census. Each existing and emerging MPO must submit a Membership Apportionment Plan meeting federal and state requirements.⁷⁴

The MPO voting membership, as reflected in the Membership Apportionment Plan, must consist of at least five, but no more than 25 apportioned members. The exact number of members is 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.⁷⁵ For Miami-Dade County, it may elect to have its county commission serve as the MPO board if the MPO jurisdiction is wholly contained within the county.⁷⁶ In addition, the voting membership of any MPO in Miami-Dade County must include an additional voting member appointed by that municipality's governing body for each municipality with a population of 50,000 or more residents.⁷⁷

Florida law requires DOT representatives to serve as nonvoting advisors to MPO governing boards. The appropriate district secretary, or his or her designee, represents DOT. The MPO may appoint additional nonvoting advisors as deemed necessary.

⁷⁰ 23 U.S.C. s. 134

⁷¹ 23 U.S.C. s. 134(d), 23 C.F.R. 450.310

⁷² Section 339.175(4), F.S.

⁷³ Section 339.175(4)(a), F.S.

⁷⁴ These requirements are contained in ss. 339.175(3) and (4), F.S., and 23 C.F.R. 450.310.

⁷⁵ Section 339.175(3)(a), F.S.

⁷⁶ Miami-Dade County's MPO is solely within Miami-Dade County.

⁷⁷ Section 339.176, F.S.

Miami-Dade County's MPO, which is its transportation planning organization, 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;⁷⁸ and
- Four persons appointed by the Governor representing MDX, the Miami-Dade County School Board, a municipality within Miami-Dade County, and a non-elected official residing in unincorporated Miami-Dade County.⁷⁹

MPO Membership Fees

Section 339.175(6)(f), F.S., requires DOT to allocate to each MPO, for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds. Some Florida MPOs receive funds from their members (primarily municipal and county governments) for work that is beyond what federal funds will pay for or for work that is not eligible for federal or state funds. For example, in Miami-Dade County the MPO conducted a pedestrian safety campaign that was not eligible for federal transportation planning funds.

Effect of Proposed Changes

The bill revises the composition of Miami-Dade County's MPO. The bill eliminates the non-elected official from unincorporated Miami-Dade County from the MPO and changes the MDX representative to a GMX representative.

Additionally, the bill prohibits the Miami-Dade County MPO from assessing any fees for municipalities, counties, or other governmental entities that are members of the MPO.

Expressway Authority Public-private Partnerships

Present Situation

The Florida Expressway Authority Act 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 its jurisdiction, to increase transportation capacity. The Act provides determinations that must be made regarding a proposed project, requires certain costs to be borne by the private entity, provides a notice process for certain proposals, and allows these authorities to exercise certain powers related to the public-private partnership agreement.⁸⁰ While this provision is contained in the Florida Expressway Authority Act, it is applicable to other authorities created in Ch. 348, F.S.

Effect of Proposed Changes

The bill recodifies public-private partnership provisions in the Tampa Hillsborough County Expressway Authority Law⁸¹ and the Central Florida Expressway Authority Law.⁸² These provisions are substantively the same as the statutory language currently in the Florida Expressway Authority Act, which is being repealed by the bill.

⁷⁸ Based on April 1, 2018, population estimates, the municipalities in Miami-Dade County with populations of over 50,000 persons include Coral Gables, Doral, Hialeah, Homestead, Miami, Miami, Beach, and North Miami. Florida Population Estimates for Counties and Municipalities, April 1, 2018, available at http://edr.state.fl.us/Content/population-demographics/data/2018_Pop_Estimates_Revised.pdf (last visited March 8, 2019).

⁷⁹ Miami-Dade County Transportation Planning Organization, *Governance*, <http://www.miamidadetpo.org/governance.asp?fldr1=MPO-Governing-Board> (last visited February 4, 2019).

⁸⁰ Section 348.0004(10), F.S. DOT is given similar authority in s. 334.30, F.S.

⁸¹ Ch. 348, Part II, F.S.

⁸² Ch. 348, Part III, F.S.

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.⁸³ Much of the Osceola County Expressway Authority law references the Florida Expressway Authority Act. The Osceola County Expressway (OCX) operated the Poinciana Parkway in Osceola County.

In 2014, the Legislature passed SB 230,⁸⁴ which, in part, provided that on December 31, 2018, all powers, governance, and control of the OCX System were transferred to the Central Florida Expressway Authority, as were all assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX. Additionally, the Osceola County Expressway Authority Act was repealed on the date it was transferred to the Central Florida Expressway Authority.

On December 11, 2018, OCX's board voted to transfer all of its projects to the Central Florida Expressway Authority; therefore, OCX has ceased to exist.⁸⁵

Effect of Proposed Changes

The bill repeals the Osceola County Expressway Authority Law codified in part V of Ch. 348, F.S. Due to OCX's board vote, OCX is effectively dissolved and this repeal will not have any impact on its operations.

B. SECTION DIRECTORY:

Section 1 amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 amends s. 112.3144, F.S., relating to the full and public disclosure of financial interests.

Section 3 amends s. 212.055, F.S., relating to discretionary sales surtaxes.

Section 4 amends s. 215.68, F.S., relating to the issuance of bonds.

Section 5 revives, reenacts, and amends s. 319.141, F.S., relating to the Pilot Rebuilt Vehicle Inspection Program.

Section 6 amends s. 334.175, F.S., relating to certification of project design plans and surveys.

Section 7 amends s. 337.025, F.S., relating to innovative transportation projects.

Section 8 amends s. 338.165, F.S., conforming cross-references.

Section 9 amends s. 338.166, F.S., relating to high-occupancy toll lanes and express lanes.

Section 10 amends s. 338.231, F.S., relating to turnpike tolls.

Section 11 amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 12 amends s. 343.1003, F.S., removing a cross-reference.

Section 13 repeals part I of CH. 348, F.S., repealing the Florida Expressway Authority Act.

⁸³ Ch. 2010-225, L.O.F. Part V of Ch. 343, F.S., consists of ss. 348.9950 through 348.9961, F.S.

⁸⁴ Ch. 2014-171, F.S.

⁸⁵ 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 visited February 5, 2019).

Section 14 creates part I of Ch. 348, F.S., creating the Greater Miami Expressway Agency.

Section 15 transfers the Miami-Dade County Expressway Authority to the Greater Miami Expressway Agency.

Section 16 dissolves the Miami-Dade County Expressway Authority.

Sections 17 and 18 create ss. 348.635 and 348.7605, F.S., relating to public-private partnerships.

Section 19 repeals part V of Ch. 348, F.S., repealing the Osceola County Expressway Authority Law.

Section 20 provides that except as otherwise expressly provided, the bill has an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOT may experience a reduction in revenues due to the \$1.25 per trip cap on tolls for high-occupancy toll lanes and express lanes located in Miami-Dade County. While the amount of revenue is indeterminate, it will likely be significant.

2. Expenditures:

DHSMV may incur expenditures associated with the reenactment of the Rebuilt Vehicle Inspection Program. It should be able to absorb these costs within existing resources.

DOT may incur costs associated with approving the design plans of projects impacting DOT's right-of-way. However, the cost is indeterminate, but likely can be absorbed within existing resources.

In the long term, DOT may realize some cost savings associated with the use of innovative transportation projects and techniques.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Miami-Dade County MPO may see a reduction in revenues associated with being prohibited from assessing membership fees.

2. Expenditures:

There may be costs associated with the transfer of MDX's assets and liabilities to GMX. However, the cost is indeterminate at this time.

The Miami-Dade County MPO may experience a reduction in expenditures associated with the reduction in the size of its board.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorists traveling in Miami-Dade County may see a reduction in tolls associated with the cap on tolls for high-occupancy toll lanes and express lanes at \$1.25 per mile.

D. FISCAL COMMENTS:

Effective October 1, 2022, the bill revises the authorized uses for the Charter County and Regional Transportation System surtax revenue for Miami-Dade County. While the amount of the surtax will not change under the bill, the authorized uses will change and certain uses currently receiving funds would no longer be eligible to receive surtax revenue. However, entities currently not eligible to receive surtax revenue may become eligible.

Effective July 1, 2022, the bill requires all excess turnpike toll revenue from Palm Beach, Broward, and Miami-Dade counties to be utilized in those counties. The current requirement is that 90 percent of the excess turnpike toll revenue must be committed to those counties. To the extent that some of the toll revenues from those counties are currently being utilized in other parts of the state, the counties currently receiving those funds could see a reduction in projects, while the three specified counties may experience an increase in projects.

DOT currently operates express lanes on I-95 in Miami-Dade County, which are outside the Turnpike System. These express lanes are not subject to bond covenants. However, as provided by law, DOT relies on those toll revenues to pay the costs of operating and maintaining the facility. Toll revenues in excess of operation and maintenance costs are earmarked to fund improvements to the State Highway System within Miami-Dade County or to support express bus service on I-95.⁸⁶ Capping tolls on I-95 express lanes will directly reduce funds that could otherwise be available to fund road improvements and express bus service in Miami-Dade County. A cap would also force DOT to further reduce funding for other planned projects in Miami-Dade County and possibly adjust its work program in order to pay any costs of operating and maintaining I-95 that would have otherwise been covered by toll revenues.⁸⁷

While express lanes generate revenue, their primary purpose is to act as a congestion management tool. Express lane toll rates are set at a level intended to limit traffic volume in the express lane, discourage congestion, and ensure a smooth flow of traffic. Placing a cap on the toll rate may limit the effectiveness of express lanes as a congestion management tool. If a low toll rate increases the volume of traffic in an express lane, it may cause express lane speeds to drop below 40 mph and the current law requirement to charge the minimum toll⁸⁸ would kick in, compounding the issue of collecting enough revenue to cover operations and maintenance.⁸⁹

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:

The bill authorizes DHSMV to adopt rules to implement the Pilot Rebuilt Vehicle Inspection Program.

⁸⁶ Section 338.166, F.S.,

⁸⁷ Email from Jay Ferrin, Director of Legislative Affairs, Department of Transportation, RE. HB 385 Update Fiscal, (March 8, 2019).

⁸⁸ Section 338.166(5), F.S.

⁸⁹ Email from Jay Ferrin, Director of Legislative Affairs, Department of Transportation, RE. HB 385 Update Fiscal, (March 8, 2019).

DOT will need to amend its rules to provide for the maximum per mile toll rate for high-occupancy toll lanes and express lanes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The bonds that have been issued for express lanes on the Turnpike system are subject to the covenants in favor of bondholders in the Turnpike's bond resolution. The bond covenants contain DOT's commitment to establish and collect tolls that provide sufficient revenues to meet certain required coverages. These coverage requirements include 100 percent of the costs of operating and maintaining the Turnpike System, 120 percent of the annual debt service on the bonds, and 100 percent of all other payments required under the resolution, and a covenant not to permit free use of the Turnpike System, except as was authorized by law in effect at the time the resolution was adopted.⁹⁰ Capping or restricting tolls may cause the Turnpike's revenues to fall below required coverages. If that happens, the Turnpike bonds may be declared in default. Capping or eliminating tolls may create a direct cause of action against the state in favor of the Turnpike bondholders. Even without a current default, bondholders may claim that the changes constitute an impairment of their rights in violation of the state's prior statutory covenant to not take such action.⁹¹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Revised the changes to the authorized uses of the Charter County and Regional Transportation surtax so that they only apply in Miami-Dade County.
- Prohibited DOT from adjusting tolls on former MDX facilities to the Consumer Price Index.
- Provided that tolls DOT received from former MDX facilities may only be used for certain purposes.
- Provided that former MDX facilities may not become part of the Florida Turnpike Enterprise.
- Provided additional requirements relating to the transfer of MDX facilities to DOT.
- Revised the membership of the Miami-Dade County metropolitan planning organization.

On March 6, 2019, the Ways and Means Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed language limiting the use of the Charter County and Regional Transportation System surtax proceeds in counties other than Miami-Dade to 25 percent for nontransit purposes.
- Limited the distribution of Charter County and Regional Transportation System surtax proceeds distributed to municipalities in Miami-Dade County in total to 25 percent.
- Limited the cost of high-occupancy toll or express lanes located in Miami-Dade County to \$5 per trip.
- Changed the composition of the in Miami-Dade County Transportation Planning Organization and required the Governor to appoint the members based on recommendations from the Miami-Dade County Commission.
- Prohibited the Miami-Dade County TPO from charging a membership fee.
- Required DOT to consider refinancing outstanding MDX bonds if doing so would result in a net cost savings and to use any resulting cost savings to reduce toll rates.
- Required, to the extent allowed by MDX's bond covenants, DOT to use unencumbered cash balances resulting from the transfer of the MDX to DOT to prepay or defease outstanding MDX bonds or debt.
- Required DOT to display signage, near certain toll signs, indicating the date or year in which the bonds will be paid.
- Required DOT to submit annually a report to the Miami-Dade Board of County Commissions and the Miami-Dade County Transportation Planning Organization.

⁹⁰ Section 338.155(1), F.S., provides the statutory exceptions to the requirement to pay tolls.

⁹¹ Email from Jay Ferrin, Director of Legislative Affairs, Department of Transportation, RE. HB 385 Update Fiscal, (March 8, 2019).

On April 4, 2019, the State Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Reenacted and amended the Rebuilt Motor Vehicle Inspection Program in Miami-Dade County that was repealed July 1, 2018.
- Changed the effective date of the requirement that DOT program all of the turnpike toll revenue collected in Miami-Dade, Broward, and Palm Beach Counties for projects in those counties to July 1, 2022.
- Revised the membership of the Miami-Dade County MPO.
- Required DOT to cap fees on express lanes at \$1.25 per mile.
- Required DOT and the Florida Turnpike Enterprise to provide an annual report to the Miami-Dade County Commission and the Miami-Dade County MPO on express lane revenue and use of funds.
- Created a new Part I of Ch. 348, F.S., creating the Greater Miami Expressway Agency and establishing the governing board, ethics requirements, and powers and duties.
- Provided that GMX board members are subject to financial disclosure reporting under s. 112.3144, F.S.
- Prohibited GMX from increasing tolls until 2029, including any toll increase tied to changes in the Consumer Price Index.
- Required GMX to have a distance of at least 5 miles between tolling locations and provided that new toll rates may be calculated to ensure that the rates remain the same on a per-mile basis as those in effect on July 1, 2019.
- Required GMX to follow procurement and contracting requirements applicable to DOT.
- Created a new Florida Sunshine Rebate Program providing toll rebates to Miami-Dade County residents using a SunPass on GMX facilities.
- Required GMX-issued bonds to receive Legislative approval through the Legislative Budget Commission.

This analysis is drafted to the committee substitute as reported favorably by the State Affairs Committee.