

STORAGE NAME: h0407a.ca
DATE: March 23, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: House Bill 407
RELATING TO: Toll Exemptions/Official Business
SPONSOR(S): Representative Miller and others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION (EDC) YEAS 10 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
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I. SUMMARY:

In addition to a number of other exemptions, current law exempts certain law enforcement officers from paying tolls on toll facilities if operating a marked official vehicle while on official business. This bill adds exemptions from paying tolls for the following: 1) any law enforcement officer operating a marked or unmarked official vehicle when on law enforcement business; 2) any person operating a fire vehicle when on official business, and; 3) any person operating a rescue vehicle when on official business.

Granting additional exemptions from paying tolls appears to be a violation of bond covenants with Turnpike bondholders. It cannot be determined whether this violation would be viewed as significant enough to warrant legal action by bondholders or for bond rating agencies to modify the Turnpike's bond ratings.

The bill will have a negative fiscal impact on revenues of the Turnpike and other toll facilities. The amount of this impact cannot be accurately estimated. According to the Department of Transportation (DOT), the bill's reduction of revenues for all toll facilities in the state may exceed \$3 million annually. The bill would benefit local governments and some private entities by reducing the amount paid for tolls by law enforcement officers, firefighters, and rescue personnel. See D. Fiscal Comments under part III of this analysis for details.

Note: Please see Part VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES for the effect of an amendment adopted by the Committee on Transportation which is traveling with the bill. The amendment removed the exemption in the bill for 'unmarked' law enforcement vehicles. This amendment will reduce the fiscal impact of the bill and allow for more efficient administration of toll exemptions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Toll facilities such as the Turnpike, expressways, and toll bridges are owned by either the state, expressway, bridge and transportation authorities, or various local governments. Many of these toll facilities are operated by the DOT's Toll Operations Office under agreement with the owning governmental entity. Outstanding Turnpike bond issues are subject to bond covenants that restrict free use of Florida's Turnpike to those exemptions in place on the date the covenants were signed (1989), and to official use by officials or employees of the Turnpike. Also, s. 338.229, F.S., provides that the state will not limit or restrict the rights of DOT to fulfill the terms of the bond agreements and will not impair the rights of the bondholders until the bonds are paid.

Current law makes it illegal to use a toll facility without paying the required toll. Failure to pay a prescribed toll is a noncriminal traffic infraction, under s. 316.1001, F.S., punishable as a moving violation pursuant to s. 318.18, F.S. The following exemptions from paying tolls are provided in s. 338.155 (1), F.S.: 1) employees of the agency operating the toll project when using the toll facility on official state business; 2) state military personnel while on official military business; 3) handicapped persons who are disabled so that the person's ability to deposit coins in toll baskets is impaired; 4) persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and; 5) persons exempt on a temporary basis where use of the toll facility is required as a detour route. In addition, the DOT secretary may suspend the payment of tolls when necessary to assist in emergency evacuation.

In regard to law enforcement officers, s. 338.155, F.S., provides that any Florida highway patrol officer, sheriff, deputy sheriff, or municipal police officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. This provision was added by the Legislature in 1994, after it was determined that marked law enforcement vehicles provide a sense of safety to motorists and may lower travel speed, and this benefits the toll patron and the bond holder. The exemption was narrowly drawn to make the revenue impact negligible.

According to DOT, a fire or rescue vehicle that is responding to an emergency is never required to pay a toll. Further, emergency travel is expedited by DOT toll collection personnel by clearing a lane of existing vehicles if a fire or rescue vehicle is approaching a toll booth with lights and sirens operating.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 338.155, F.S., to exempt any marked and unmarked law enforcement vehicles on official law enforcement business, fire vehicles on official business, and rescue vehicles on official business from the payment of tolls on toll facilities.

Granting additional exemptions from paying tolls appears to be a violation of bond covenants with Turnpike bondholders. It cannot be determined whether this violation would be viewed as significant enough to warrant legal action by bondholders or for bond rating agencies to modify the Turnpike's bond ratings.

The bill will have a negative fiscal impact on revenues of the Turnpike and other toll facilities. The amount of this impact cannot be accurately estimated. According to the Department of Transportation (DOT), the bill's reduction of revenues for all toll facilities in the state may exceed \$3 million annually. The bill would benefit local governments and some private entities by reducing the amount paid for tolls by law enforcement officers, firefighters, and rescue personnel.

There may be some confusion over the definition of law enforcement, with the result that more classes than intended are granted the waiver of toll fees.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 338.155, F.S.; Broadens exempted classes of those otherwise subject to toll fees to include any law enforcement officer driving a marked or unmarked vehicle, any person driving a fire vehicle, and any person driving a rescue vehicle, provided that the driver is on official business.

Section 2: Provides for an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See D. Fiscal Comments, below.

D. FISCAL COMMENTS:

Granting additional exemptions from paying tolls will have a negative fiscal impact on toll revenues. Because the amount of use of toll facilities by the vehicles exempted by the bill is unknown, the amount of this fiscal impact cannot be accurately estimated. In 1997, DOT estimated the amount of lost revenue to the Turnpike by expanding the law enforcement provision to "unmarked" vehicles to be approximately \$900,000 annually. At the same time, for the toll facilities for which DOT collects tolls, the amount of lost revenue was estimated to be \$3 million. These amounts would be increased to estimate the bill's impact for the current fiscal year.

Because toll facilities are owned by either the state, expressway, bridge and transportation authorities, or various local governments, these various owners would have a loss of toll revenues due to the exemptions created by this bill. On the other hand, the state and local governmental entities pay for the operation of various law enforcement, fire and rescue vehicle operations, and would benefit from not having to pay tolls for these vehicles when using a toll facility. Those private entities which operate rescue vehicles would benefit from not having to pay tolls for their vehicles.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

DOT's evaluation of this bill includes the following comments:

Section 338.155, F.S., presently exempts from tolls Florida Highway Patrol Officers, county sheriffs and their deputies, and municipal police officers driving marked vehicles and on official business. This exemption was added to section 338.155, F.S., in 1994, after legislative negotiations. The Department agreed to the toll exemption for marked cars because there was an apparent benefit to traffic control by the presence of marked patrol cars riding the toll road. Fire and emergency vehicles using sirens and flashing lights are never required to pay a toll.

Outstanding Turnpike bond issues are subject to bond covenants that restrict free use of Florida's Turnpike to those exemptions in place on the date the covenants were signed, which was 1989, and to official use by officials or employees of the Turnpike. Further assurance to bondholders is intended by the statutory covenants found in section 338.229, F.S., which provides that the State will not limit or restrict the rights of the Department to fulfill the terms of the bond agreements and will not impair the rights of the bondholders until the bonds are paid or discharged.

The Turnpike District currently funds more than \$9.5 million annually to the Department of Highway Safety and Motor Vehicles to operate Troop K on the Turnpike.

In 1994, when this issue was previously addressed resulting in the current provision for marked law enforcement toll-free travel, there were three factors that were part of the debate: The definition of law enforcement and what constituted official use; potential violation of existing bond trust indentures; and, the financial and operational impact.

Regarding the definition issue, the general term "law enforcement" has previously been interpreted to include not only municipal police, sheriff, and Florida Highway Patrol vehicles, but also State Attorney, Corrections, Game & Fish, U.S. Treasury, U.S. Marshal Service, and many other law enforcement related units. It is this broadening which would potentially result in the greater loss in revenue. Also, the introduction of unmarked vehicles makes the possible misuse of non-revenue travel provisions greater. Even with the marked vehicles exemption, with many agencies using a vehicle take-home policy, there have been outside inquiries and allegations of abuse of toll-free travel.

Several of the existing bond trust indentures, most notably Florida's Turnpike, but also the Tampa Hillsborough Expressway Authority, Sunshine Skyway, and Alligator Alley indentures, do not allow for law enforcement toll-free travel. When this issue was addressed before, it was argued that marked law enforcement vehicles provide a sense of safety to motorists and may lower travel speed, thus some benefit was provided the toll patron and the bond holder. The exemption was also narrow enough that the revenue impact was negligible. With unmarked vehicles, these arguments become less compelling, and the conflict between trust indentures and law would need to be addressed.

Regarding the operational impacts, there are provisions in place to make the tolled law enforcement transaction the same as the non-tolled one. Currently, several entities have both non-revenue and prepaid revenue accounts with us. For

example, Metro Dade Police has many non-revenue cards which they issue to their marked vehicles. They also have established a pre-paid account with the Department, and have cards that they can issue to their unmarked vehicles. This makes the toll transaction identical except for the color of the card. We have similar provisions with SunPass. We have always expedited emergency travel, not only allowing it to be non-tolled, but also clearing a lane of existing patrons if a vehicle is approaching with lights and sirens. A lot of these issues are what led to the rather narrow provisions which were enacted when law enforcement raised the issue of toll-free travel before.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Transportation considered this bill on March 14, 2000, and adopted an amendment which is traveling with the bill. The amendment removes the exemption in the bill for 'unmarked' law enforcement vehicles. By limiting the bill to exemptions for 'marked' law enforcement, fire and rescue vehicles, this amendment will reduce the fiscal impact of the bill. Further, due to the difficulty in verifying that an unmarked vehicle is a bona fide law enforcement vehicle on official business, removing this exemption from the bill will allow for more efficient administration of toll collections.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

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