

HB 353

2014

1 A bill to be entitled
2 An act relating to expressway authorities; amending s.
3 338.165, F.S.; revising provisions for toll rate
4 adjustments to limit applicability to specified
5 authorities; amending s. 348.0003, F.S.; revising
6 membership provisions for certain authorities;
7 amending s. 348.0004, F.S.; revising powers of certain
8 authorities to impose tolls and incur debt; requiring
9 periodic audits of certain authorities; amending s.
10 348.0005, F.S.; revising authority of certain
11 authorities to issue bonds; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsection (3) of section 338.165, Florida
17 Statutes, is amended to read:

18 338.165 Continuation of tolls.—

19 (3) Notwithstanding any other provision of law, the
20 department, including the turnpike enterprise, shall index toll
21 rates on existing toll facilities to the annual Consumer Price
22 Index or similar inflation indicators. Toll rate adjustments for
23 inflation under this subsection may be made no more frequently
24 than once a year and, except as provided in s. 348.0004(2), must
25 be made no less frequently than once every 5 years as necessary
26 to accommodate cash toll rate schedules. Except as provided in
27 s. 348.0004(2), toll rates may be increased beyond these limits
28 as directed by bond documents, covenants, or governing body

29 authorization or pursuant to department administrative rule.

30 Section 2. Paragraph (d) of subsection (2) of section
 31 348.0003, Florida Statutes, is amended to read:

32 348.0003 Expressway authority; formation; membership.—

33 (2) The governing body of an authority shall consist of
 34 not fewer than five nor more than nine voting members. The
 35 district secretary of the affected department district shall
 36 serve as a nonvoting member of the governing body of each
 37 authority located within the district. Each member of the
 38 governing body must at all times during his or her term of
 39 office be a permanent resident of the county which he or she is
 40 appointed to represent.

41 (d) Notwithstanding any provision of ~~to the contrary in~~
 42 this subsection, in any county as defined in s. 125.011(1), the
 43 governing body of an authority shall consist of nine ~~up to 13~~
 44 members, and the following provisions of this paragraph shall
 45 apply specifically to such authority. Except for the district
 46 secretary of the department, the members must be residents of
 47 the county. Four ~~Seven~~ voting members shall be appointed by the
 48 governing body of the county. At the discretion of the governing
 49 body of the county, up to two of the members appointed by the
 50 governing body of the county may be elected officials residing
 51 in the county. Four ~~Five~~ voting members of the authority shall
 52 be appointed by the Governor. One member shall be the district
 53 secretary of the department serving in the district that
 54 contains such county. This member shall be an ex officio voting
 55 member of the authority. A member of the authority appointed by
 56 the governing body of the county or appointed by the Governor

HB 353

2014

57 | may not serve as a member of any other transportation-related
58 | board, commission, or organization, such as the Florida
59 | Transportation Commission or a metropolitan planning
60 | organization, while serving as a member of the authority. If the
61 | governing board of an authority includes any member originally
62 | appointed by the governing body of the county as a nonvoting
63 | member, when the term of such member expires, that member shall
64 | be replaced by a member appointed by the Governor until the
65 | governing body of the authority is composed of seven members
66 | appointed by the governing body of the county and five members
67 | appointed by the Governor. The qualifications, terms of office,
68 | and obligations and rights of members of the authority shall be
69 | determined by resolution or ordinance of the governing body of
70 | the county in a manner that is consistent with this paragraph
71 | and subsections (3) and (4).

72 | Section 3. Paragraphs (e) and (f) of subsection (2) and
73 | subsection (7) of section 348.0004, Florida Statutes, are
74 | amended to read:

75 | 348.0004 Purposes and powers.—

76 | (2) Each authority may exercise all powers necessary,
77 | appurtenant, convenient, or incidental to the carrying out of
78 | its purposes, including, but not limited to, the following
79 | rights and powers:

80 | (e)1. To fix, alter, charge, establish, and collect tolls,
81 | rates, fees, rentals, and other charges for the services and
82 | facilities system, which tolls, rates, fees, rentals, and other
83 | charges must always be sufficient to comply with any covenants
84 | made with the holders of any bonds issued pursuant to the

85 Florida Expressway Authority Act. However, such right and power
 86 may be assigned or delegated by the authority to the department.
 87 Notwithstanding any other provision of law, but subject to any
 88 contractual requirements contained in documents securing any
 89 indebtedness outstanding on July 1, 2014, that is payable from
 90 tolls, in any county as defined in s. 125.011(1), the authority
 91 may increase tolls only to the extent necessary to adjust for
 92 inflation pursuant to the index toll adjustments provided for
 93 under s. 338.165. Notwithstanding s. 338.165 or any other
 94 provision of law, in any county as defined in s. 125.011(1), any
 95 such toll increase pursuant to the index toll adjustments
 96 provided for under s. 338.165 must first be approved by
 97 resolution adopted by a supermajority vote, consisting of one
 98 vote greater than a majority, of the governing board of the
 99 county. Notwithstanding s. 338.165 or any other provision of
 100 law, in any county as defined in s. 125.011(1), toll rates may
 101 not be increased beyond the index toll adjustments provided for
 102 under s. 338.165 unless required for compliance with contractual
 103 requirements contained in documents in existence on July 1,
 104 2014, securing any outstanding indebtedness payable from tolls.
 105 Notwithstanding s. 338.165 or any other provision of law ~~to the~~
 106 ~~contrary~~, in any county as defined in s. 125.011(1), to the
 107 extent surplus revenues exist, they may be used only as provided
 108 in s. 338.165(2) or to pay debt obligations outstanding on July
 109 1, 2014 for purposes enumerated in subsection (7), provided the
 110 ~~expenditures are consistent with the metropolitan planning~~
 111 ~~organization's adopted long-range plan.~~ Notwithstanding any
 112 other provision of law ~~to the contrary~~, but subject to any

HB 353

2014

113 contractual requirements contained in documents securing any
114 outstanding indebtedness payable from tolls, in any county as
115 defined in s. 125.011(1), the board of county commissioners may,
116 by ordinance adopted on or before September 30, 1999, alter or
117 abolish existing tolls and currently approved increases thereto
118 if the board provides a local source of funding to the county
119 expressway system for transportation in an amount sufficient to
120 replace revenues necessary to meet bond obligations secured by
121 such tolls and increases.

122 2. In any county as defined in s. 125.011(1), any toll
123 increase after January 1, 2014, and any toll increase approved
124 to take effect after January 1, 2014, which do not comply with
125 subparagraph 1. are rescinded. Any such toll that was increased
126 after January 1, 2014, which increase is rescinded by this
127 subparagraph, must, by August 1, 2014, be reduced to the rate
128 that existed as of January 1, 2014.

129 (f) In any county as defined in s. 125.011(1), until July
130 1, 2014, to borrow money, make and issue negotiable notes,
131 bonds, refund bonds and other evidence of indebtedness, either
132 in temporary or definitive form, of the authority, which bonds
133 or other evidence of indebtedness may be issued pursuant to the
134 State Bond Act, or in the alternative, pursuant to the
135 provisions of s. 348.0005(2), to finance an expressway system
136 within the geographic boundaries of the authority, and to
137 provide for the security of the bonds or other evidence of
138 indebtedness and the rights and remedies of the holders of the
139 bonds or other evidence of indebtedness. Any bonds or other
140 evidence of indebtedness pledging the full faith and credit of

HB 353

2014

141 the state shall only be issued pursuant to the State Bond Act.
142 Effective July 1, 2014, bonds may not be issued by the authority
143 or on behalf of the authority by any state agency or county
144 government, except that refunding bonds may be issued by or for
145 the authority as necessary and prudent for administration and
146 discharge of outstanding debt.

147 1. An authority shall reimburse the county in which it
148 exists for any sums expended from any county gasoline tax funds
149 used for payment of such obligations. Any county gasoline tax
150 funds so disbursed shall be repaid in accordance with the terms
151 of any lease-purchase or interlocal agreement with any county or
152 the department together with interest, at the rate agreed to in
153 such agreement. In no event shall any county gasoline tax funds
154 be more than a secondary pledge of revenues for repayment of any
155 obligations issued pursuant to this part.

156 2. To the extent allowable by federal tax law, in any
157 county as defined in s. 125.011(1), an authority may refund any
158 bonds previously issued, ~~to the extent allowable by federal tax~~
159 ~~laws,~~ to finance or refinance an expressway system regardless of
160 whether the bonds being refunded were issued by such authority,
161 an agency of the state, or a county.

162 (7) In any county as defined in s. 125.011(1), an
163 expressway authority must provide a complete financial audit to
164 the governing body of the county every 2 years ~~may finance or~~
165 ~~refinance the planning, design, acquisition, construction,~~
166 ~~extension, rehabilitation, equipping, preservation, maintenance,~~
167 ~~or improvement of a public transportation facility or~~
168 ~~transportation facilities owned or operated by such county, an~~

HB 353

2014

169 ~~intermodal facility or facilities, multimodal corridor or~~
170 ~~corridors, including, but not limited to, bicycle facilities or~~
171 ~~greenways that will improve transportation services within the~~
172 ~~county, or any programs or projects that will improve the levels~~
173 ~~of service on an expressway system, subject to approval of the~~
174 ~~governing body of such county after public hearing.~~

175 Section 4. Section 348.0005, Florida Statutes, is amended
176 to read:

177 348.0005 Bonds.—

178 (1) Bonds may be issued on behalf of an authority as
179 provided by the State Bond Act.

180 (2) (a) An authority in any county as defined in s.
181 125.011(1), may issue only refunding bonds pursuant to this
182 part, which do not pledge the full faith and credit of the state
183 in such principal amount as, in the opinion of the authority, is
184 necessary to provide sufficient moneys to refund outstanding
185 bonds ~~for achieving its corporate purposes.~~

186 (b) The refunding bonds of an authority in any county as
187 defined in s. 125.011(1), issued pursuant to the provisions of
188 this part, ~~whether on original issuance or refunding,~~ must be
189 authorized by resolution of the authority, after approval of the
190 issuance of the refunding bonds at a public hearing, and may be
191 either term or serial bonds, shall bear such date or dates,
192 mature at such time or times, bear interest at such rate or
193 rates, be payable semiannually, be in such denominations, be in
194 such form, either coupon or fully registered, shall carry such
195 registration, exchangeability and interchangeability privileges,
196 be payable in such medium of payment and at such place or

197 places, be subject to such terms of redemption and be entitled
198 to such priorities on the revenues, rates, fees, rentals, or
199 other charges or receipts of the authority including any county
200 gasoline tax funds received by an authority pursuant to the
201 terms of any interlocal or lease-purchase agreement between an
202 authority or a county, as such resolution or any resolution
203 subsequent thereto may provide. The refunding bonds must be
204 executed by such officers as the authority determines under the
205 requirements of s. 279.06.

206 (c) Said bonds shall be sold by the authority at public
207 sale by competitive bid. However, if the authority, after
208 receipt of a written recommendation from a financial adviser,
209 shall determine by official action after public hearing by a
210 two-thirds vote of all voting members of the authority that a
211 negotiated sale of the bonds is in the best interest of the
212 authority, the authority may negotiate for sale of the bonds
213 with the underwriter or underwriters designated by the authority
214 and the county in which the authority exists. The authority
215 shall provide specific findings in a resolution as to the
216 reasons requiring the negotiated sale, which resolution shall
217 incorporate and have attached thereto the written recommendation
218 of the financial adviser required by this subsection.

219 (d) Any such resolution or resolutions authorizing any
220 bonds hereunder which do not pledge the full faith and credit of
221 the state may contain provisions that are part of the contract
222 with the holders of the bonds, as an authority determines
223 proper. In addition, an authority may enter into trust
224 indentures or other agreements with its fiscal agent, or with

HB 353

2014

225 any bank or trust company within or without the state, as
226 security for such bonds, and may, under the agreements, assign
227 and pledge the revenues, rates, fees, rentals, tolls, or other
228 charges or receipts of an authority, including any county
229 gasoline tax funds received by an authority.

230 (e) Any of the bonds issued pursuant to this part are
231 negotiable instruments and have all the qualities and incidents
232 of negotiable instruments under the law merchant and the
233 negotiable instruments law of the state.

234 (f) Notwithstanding any provision ~~of the provisions~~ of
235 this part, in any county as defined in s. 125.011(1), each
236 project, building, or facility which has been ~~or will be~~
237 financed by the issuance of bonds or other evidence of
238 indebtedness before July 1, 2014, and that does not pledge the
239 full faith and credit of the state under this part and any
240 refinancing thereof is approved for purposes of s. 11(f), Art.
241 VII of the State Constitution.

242 Section 5. This act shall take effect upon becoming a law.