

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1119 Tolls

SPONSOR(S): Jacobs and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1552

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	12 Y, 0 N, As CS	Willson	Vickers
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Toll facilities are operated by a variety of agencies located throughout the state of Florida. Many toll facilities no longer offer the option for payment in cash.

A number of national and local companies offer rental cars in Florida. The companies vary in their policies regarding the use of toll facilities.

In sum, the bill:

- Requires toll facilities to ensure the presence of signage notifying drivers if cash payment is not an option.
- Requires rental car companies which impose an additional fee to renters who incur a toll from an electronic toll collection system:
 - to include the applicable terms and conditions in the rental car agreement, and
 - to post the applicable terms and conditions in a conspicuous location on the business premises or in the electronic rental disclosure provided to the renter.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Toll Facilities

Drivers in Florida will encounter a variety of toll facilities located throughout the state. Many of these facilities are operated at the state level by the Department of Transportation (DOT) or its subsidiary agency, Florida's Turnpike Enterprise (FTE). At the local level, toll facilities are operated by entities such as the expressway and bridge authorities,¹ county governments, and independent special districts.

Chapter 338, F.S., sets forth several provisions related to tolling. Section 338.155, F.S., requires the payment of tolls on toll facilities with some exceptions (e.g., any person operating a fire or rescue vehicle when on official business). Section 338.165, F.S., authorizes the collection of tolls on a revenue-producing project after the discharge of any bond indebtedness, and allows tolls to be increased. Except for high occupancy toll lanes or express lanes, no tolls may be charged for the use of an interstate highway where tolls were not charged as of July 1, 1997.² DOT's toll rate schedule is published by rule.³

Section 338.151, F.S., prohibits DOT from establishing a new toll on an untolled lane that existed prior to July 1, 2012. However, high-occupancy vehicle lanes, express lanes, and the turnpike system are exempted from this prohibition.

Electronic Toll Collection Systems

Electronic Toll Collection (ETC) systems use vehicle-to-roadside communication technologies to perform an electronic monetary transaction between a vehicle passing through a toll station and the toll agency. ETC systems require onboard units (such as a transponder), vehicle detection and classification, as well as enforcement technologies. ETC equipment removes the need for manual collection of tolls at toll booths. ETC also allows transactions to be performed while vehicles travel at almost highway cruising speed. SunPass is an ETC system used by DOT. Florida motorists may purchase a SunPass transponder which can be used electronically to pay tolls on Florida's toll roads and most toll bridges.

Drivers passing through a SunPass toll station may encounter one or more of the following types of toll collection lane:⁴

- SunPass Only Lanes
- SunPass Express Lanes
- Exact Change/SunPass Lanes
- Change Provided/SunPass Lanes

¹ Chapter 348, F.S. authorizes the expressway and bridge authorities, which include the: Miami-Dade Expressway Authority, Tampa-Hillsborough Expressway Authority, Central Florida Expressway Authority, Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority

² s. 338.165(5), F.S.

³ See Rule 14-15.0081, F.A.C. "Toll Facilities Description and Toll Rate Schedule" Facilities included in the schedule are as follows: Alligator Alley (Everglades Parkway), Sunshine Skyway Bridge, Pinellas Bayway, Florida Department of Transportation segment of Wekiva Parkway, Florida's Turnpike Mainline (Southern Coin, Ticket, and Northern Coin Systems, the Homestead Extension of Florida's Turnpike, and Beachline West Expressway), Polk Parkway, Sawgrass Expressway, Southern Connector Extension, Seminole Expressway, Suncoast Parkway, Veterans Expressway, Florida's Turnpike System segment of the Western Beltway Part C, I-4 Connector, Beachline East Expressway and First Coast Expressway.

⁴ SUNPASS, <https://www.sunpass.com/howLanesWork>, (last visited January 14, 2016)

- Change Provided Lanes
- Exact Change Lanes

“All-electronic tolling” refers to a toll station that uses open-road toll collection exclusively, without an option for cash payment. All-electronic tolling is expanding within the tolling industry in Florida, and many all-electronic locations already exist, including:

- Florida’s Turnpike between Ft. Lauderdale and Miami/Homestead
- Sawgrass Expressway, west of Ft. Lauderdale
- Veteran’s Expressway
- I-4 Connector
- Lee-Roy Selmon Expressway
- The Rickenbacker, Venetian and Broad causeways in Miami.
- Mid-Bay Connector in Niceville
- the five MDX expressways⁵

SunPass transactions account for 81 percent of all toll transactions on the Turnpike System.⁶ The FTE holds that, since the introduction of SunPass in 1999, their goal has been to completely eliminate cash toll collection on its roads because electronic tolling is the safest, most convenient and most efficient way to pay tolls.⁷

When a motor vehicle passes through a toll collection facility and the toll payment is not made by either using cash or an electronic transponder, a photographic image of the vehicle's license plate will be captured at the toll lane.⁸ An invoice is mailed to the vehicle’s registered owner for the monthly accumulated toll amounts and a \$2.50 administrative charge.

Section 338.161, F.S authorizes DOT to advertise, operate and promote toll facilities and electronic toll collection products and services.

Express Lanes⁹

According to FTE, Turnpike express lanes are managed lanes that utilize a combination of driver choice and pricing to offer a transportation benefit to the traveling public while simultaneously improving traffic management efficiency in the corridor. Toll rates are based on traffic volume, operating speeds and level of service, and rates will be adjusted up or down based on the supply of free-flow traffic as well as driver demand.¹⁰

Section 338.166, F.S., authorizes DOT to request the issuance of bonds secured by revenues collected on high occupancy toll lanes or express lanes. DOT is authorized to implement variable rate tolls on these lanes, which run parallel to the general purpose lanes. Prior to reaching the entrance to the express lane, dynamic message signs alert drivers to the current toll price from the point of entry to one or more exit locations.¹¹

FTE operates variable rate express lanes on I-595 in Broward County and Interstate 95 in Broward and Miami-Dade Counties (95 Express). Express lane tolls must be paid electronically using a SunPass (or

⁵ The last remaining MDX cash plazas closed on November 14, 2014. MDX operates and maintains the: SR 924/Gratigny Parkway, SR 112/Airport Expressway, SR 836/Dolphin Expressway, SR 924/Don Shula Expressway and SR 878/Snapper Creek Expressway.

⁶ Florida’s Turnpike, *All-Electronic, No-Cash Tolling Frequently Asked Questions*, September 2015
<http://www.floridasturnpike.com/all-electronic-tolling/faqs.html> (Last accessed January 27, 2015)

⁷ *Id.*

⁸ TOLL-BY-PLATE, <https://www.tollbyplate.com/faq>, (last visited January 14, 2016)

⁹ Section 316.0741(6) provides that “Vehicles having decals by virtue of compliance with the minimum fuel economy standards under 23 U.S.C. s. 166(f)(3)(B), and which are registered for use in high-occupancy-vehicle toll lanes or express lanes in accordance with Department of Transportation rule, shall be allowed to use any HOV lanes redesignated as high-occupancy-vehicle toll lanes or express lanes without requiring payment of a toll.”

¹⁰ Florida’s Turnpike System, *Comprehensive Annual Financial Report for fiscal years 2015 and 2014*, at 10

¹¹ Rule 14-100.003(6), F.A.C. establishes criteria for the display of toll amounts for express lane tolling by DOT.

interoperable¹² transponder) linked to a prepaid account.¹³ If a driver uses an express lane in a vehicle that does not have prepaid SunPass account, the driver is charged \$25 per trip plus the applicable toll amount.¹⁴ Certain vehicle types may qualify for a toll exemption on the 95 Express system.¹⁵

Rental Car Companies

Many state and national car rental companies offer car rental services in Florida. The companies have developed different policies for dealing with toll facilities. Some offer their customers a daily or weekly fee plus the cost of tolls incurred, others charge a flat fee for unlimited tolls over a set period of time, and a few simply charge a flat rate per toll incurred.¹⁶ The rental car company receives a bill from the toll agency and matches the toll charges with the person renting the car. According to FTE, the rental car company pays the toll bill on behalf of the customer, often charging extra fees for their time and service, based on the car rental agreement. These fees vary from as low as \$3.95 for each day a toll is incurred, up to \$15 per toll. Some, but not all, car rental companies provide vehicles equipped with a SunPass transponder.

FTE has agreements with third-party companies to process toll charges incurred by rental vehicles. These companies provide FTE with constantly updated lists of rental car fleet license plates so that FTE can bill the companies. Rental car customers are advised to review rental agreement carefully, as each company has a different payment arrangement.¹⁷

Proposed Changes

The bill creates s. 338.155(7), F.S., requiring a toll facility to post signage when cash payment is not an option.

The bill creates s. 338.163, F.S., requiring those rental car companies which impose a fee in addition to the toll charge that is incurred by the renter while using an electronic toll collection system to include the applicable terms and conditions in the rental agreement that is issued to the renter, and to post them in either a conspicuous location on the business premises or provide them in the electronic rental disclosure provided to the renter.

B. SECTION DIRECTORY:

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|-----------|---|
| Section 1 | Amends s. 338.155, F.S., relating to payment of toll on toll facilities required; exemptions. |
| Section 2 | Creates s. 338.163, F.S., relating to rental car companies; charges for tolls. |
| Section 3 | Provides an effective date. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹²Interoperable transponders include E-PASS and LeeWay transponders (Florida-based), as well as Peach Pass (GA) and NC Quick Pass transponders (NC).

¹³ Rule 14-100.003, F.A.C.

¹⁴ Rule 14-100.003(7), F.A.C. If a violator does not pay the invoice within 30 days, a second invoice will be sent. If the toll violations amounts are not paid within 30 days from the date of the second invoice, a Uniform Traffic Citation will be issued or the amounts owed by the violator will be pursued to collection.

¹⁵ Rule 14-100.004, F.A.C. Upon proper registration, exempt vehicles include carpools, vanpools, Inherently Low Emission Vehicles or Hybrid vehicles, certain transit and school buses, Over-the-Road buses, and motorcycles.

¹⁶ See <http://www.floridasturnpike.com/all-electronic tolling/FAQs.cfm?RentalCars>

¹⁷ *Id.*

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill appears to have a negative, but likely insignificant, impact on state expenditures, due to the requirement for installation of additional signage at certain toll facilities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill may have a negative, but likely insignificant, impact on state expenditures, due to the requirement for installation of additional signage at certain toll facilities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a negative, but insignificant, fiscal impact on rental car companies associated with the heightened consumer disclosure requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 2, 2016, the Transportation and Ports Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed the provision limiting the amount that rental car companies could charge their customers in addition to the toll charge incurred by the renter while using an electronic toll collection system, including the limitations on the frequency and timing of additional charges.
- Requires rental car companies which impose an additional fee to renters who incur a toll from an electronic toll collection system:
 - to include the applicable terms and conditions in the rental car agreement, and
 - to post the applicable terms and conditions in a conspicuous location on the business premises or in the electronic rental disclosure provided to the renter.

The analysis is drafted to the committee substitute as passed by the Transportation and Ports Subcommittee.