

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 574

INTRODUCER: Rules Committee; Ethics and Elections Committee; and Senators Flores and Gaetz

SUBJECT: Expressway Authorities

DATE: February 18, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.	Carlton	Roberts	EE	<b>Fav/CS</b>
3.	Price	Phelps	RC	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 574 reduces the Miami-Dade County Expressway Authority (MDX) governing body from thirteen to nine members, prohibits appointment of a person to serve as an MDX governing body member under certain circumstances, and provides for immediate termination from the MDX governing body for specified violations.

**II. Present Situation:**

**The Miami-Dade County Expressway Authority**

The Florida Expressway Authority Act (Act), codified in part I of ch. 348, F.S.,<sup>1</sup> authorizes any county or two or more contiguous counties within a single district of the Florida Department of Transportation (FDOT) to form an expressway authority by resolution adopted by the board of county commissioners. The Miami-Dade County Expressway Authority (MDX), an agency of the state,<sup>2</sup> is the only expressway authority created under the Act.

The qualifications, terms of office, and obligations and rights of the members of the MDX, by statute, are determined by resolution or ordinance of the Miami-Dade County Commission

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<sup>1</sup> Part I of ch. 348, F.S., consists of ss. 348.0001 through 348.0012, F.S. Per the exemptions in s. 348.0012, F.S., Part I applies only to the Miami-Dade County Expressway Authority.

<sup>2</sup> Section 348.0003(1), F.S.

consistent with specified statutory provisions relating to the MDX governing body.<sup>3</sup> The MDX was created by the Miami-Dade County Commission in 1994, pursuant to Chapter 2, Article XVIII of the Miami-Dade County Code of Ordinances.<sup>4</sup>

The MDX's system consists of the following roadways in Miami-Dade County:

- Airport Expressway (State Road 112);
- Dolphin Expressway (State Road 836);
- Don Shula Expressway (State Road 874);
- Snapper Creek Expressway (State Road 878); and
- Gratigny Parkway (State Road 924).<sup>5</sup>

### ***The MDX Governing Body***

Section 348.0003(2)(d), F.S., provides the MDX governing body consists of up to 13 members, seven of whom are appointed by the County Commission and five of whom are appointed by the Governor. The 13<sup>th</sup> member is the FDOT's district six secretary, who is an ex-officio voting member. If the MDX governing body includes any member originally appointed by the County Commission as a nonvoting member, that member is replaced by a Governor's appointee when the nonvoting member's term expires, until the MDX governing body is composed of seven members appointed by the County Commission and five members appointed by the Governor.<sup>6</sup>

Members of the MDX governing body must comply with the applicable financial disclosure requirements of Article II, Section 8 of the State Constitution.<sup>7</sup> A lobbyist may not serve as a member.<sup>8</sup>

### ***Post-Employment Restrictions, Ethical Prohibitions, and Financial Disclosures***

A member and the MDX executive director are prohibited from:

- Personally representing another person or entity for compensation before the MDX for two years after leaving his or her position;<sup>9</sup>
- Having an employment or contractual relationship, after retirement or termination, with a business entity other than an agency<sup>10</sup> in connection with a contract in which the member or executive director personally and substantially participated while he or she was a member or employee;<sup>11</sup> and

<sup>3</sup> Section 348.0003(2)(d), F.S.

<sup>4</sup> A copy of the ordinance is available at <http://mdxway.com/about/history> (Last visited Nov. 4, 2015).

<sup>5</sup> See the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal Year 2014 Report*, at p.2, <http://www.ftc.state.fl.us/reports/TAMO.shtm>. (last visited Nov. 4, 2015).

<sup>6</sup> Section 348.0003(2)(d), F.S.

<sup>7</sup> Section 348.0003(4)(c), F.S.

<sup>8</sup> Section 348.0003(5)(a), F.S.

<sup>9</sup> Section 348.0003(5)(b)1., F.S. *See also* s. 112.313(9)(a)3.a., F.S.

<sup>10</sup> Defined to mean "any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012."

Section 112.312(2), F.S.

<sup>11</sup> Section 348.0003(5)(b)2., F.S.

- Engaging in any relationship that may adversely affect their judgment in carrying out authority business.<sup>12</sup>

The MDX members must make the following annual disclosures:

- Any relationship that affords a current or future financial benefit to a member, or a member's relative<sup>13</sup> or business associate, that a reasonable person would conclude has the potential to create a prohibited conflict of interest.<sup>14</sup>
- Whether a relative of the member is a registered lobbyist and the names of any such lobbyist's clients.<sup>15</sup>
- All interests in real property that a member or a member's immediate family has, if such property is located in or within a ½-mile radius of any actual or prospective authority roadway project.<sup>16</sup>

### *Violations and Penalties*

These restrictions, prohibitions, and financial disclosure requirements are in addition to requirements that members and the executive director are required to follow under ch. 112, F.S.<sup>17</sup> Violations of the prohibitions and financial disclosure requirements are punishable as provided in s. 112.317, F.S. Potential penalties include public censure and reprimand, suspension or dismissal from employment, a \$10,000 civil penalty, loss of some portion of salary, impeachment or removal from office, and restitution of any benefits received because of a violation.

### **III. Effect of Proposed Changes:**

**Section 1** reduces the MDX governing body from thirteen to nine members, providing that five members be appointed by the Miami-Dade County Commission, three members will be appointed by the Governor, and retaining the FDOT district six secretary as an ex-officio voting member. A member serving as of July 1, 2016, is authorized to serve the remainder of his or her term. However, upon conclusion of the term or upon a vacancy, the expired term or vacancy may not be filled except as specified. When a term expires or upon a vacancy, a member may not be replaced by the appointing entity until the MDX governing body is composed of five voting members appointed by the Miami-Dade County Commission and three members appointed by the Governor. The Governor's three appointees do not include the FDOT district six secretary. Assuming no re-appointments before July 1, 2016, no current member would have to be removed or replaced.

The bill makes an exception from the requirement that qualifications, terms, obligations and rights of the MDX members be determined by resolution or ordinance of the Miami-Dade County Commission and prohibits a person from being appointed to or serve as a member of the

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<sup>12</sup> Section 348.0003(5)(d), F.S.

<sup>13</sup> See s. 112.312(21), F.S., for the broad definition of "relative."

<sup>14</sup> Section 348.0003(5)(d)1., F.S.

<sup>15</sup> Section 348.0003(5)(d)2., F.S.

<sup>16</sup> Section 348.0003(5)(d)3., F.S.

<sup>17</sup> Section 348.0003(5)(j), F.S.

governing body of the MDX if the person currently represents or represented in the previous four years:

- Any client for compensation before the authority; or
- Any person or entity that is doing business or has in the previous four years done business with the authority.

The exception obviates the need for the Miami-Dade County Commission to amend its ordinance to include the prohibitions.

In addition to existing penalties under s. 112.317, F.S., the bill also requires immediate termination of a member from the MDX governing body upon a finding of a violation of s. 348.0003(5), F.S., ch. 112, F.S., or for failure to comply within 90 days after receiving a notice of failure to comply with financial disclosure requirements.

**Section 2** provides the bill takes effect upon becoming law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that any of the penalties for specified violations are applied to any individual, that individual may experience a negative fiscal impact.

C. Government Sector Impact:

Indeterminate.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 348.0003 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Rules on February 17, 2016:**

The Committee Substitute provides that a member currently serving on the MDX governing body may serve the remainder of his or her term. It reduces the membership of the MDX governing body through attrition; *i.e.*, an expired member's position or a member position that becomes vacant may not be replaced until the governing body consists of five members appointed by the Miami-Dade County Commission and three members appointed by the Governor. The effective date of the bill is also changed to July 1, 2016.

**CS by Ethics and Elections on December 1, 2015:**

The Committee Substitute differs from the original bill in that it prohibits a person from serving on the authority if he or she currently represents or has represented clients *before the authority* in the past four years. The Committee Substitute also differs from the original bill in that it only prohibits someone from serving on the authority if he or she represents someone who is currently doing business with or has done business *with the authority* in the past four years.

**B. Amendments:**

None.