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CS/HB 1049, Engrossed 2

2017 Legislature

1  
2 An act relating to limited access and toll facilities;  
3 amending s. 338.166, F.S.; authorizing the Department  
4 of Transportation to require the use of an electronic  
5 transponder interoperable with the department's  
6 electronic toll collection system for the use of high-  
7 occupancy toll lanes or express lanes; requiring, as  
8 of a specified date, that a customer be charged the  
9 minimum express lane toll if his or her average travel  
10 speed for a trip in an express lane falls below a  
11 specified rate; providing measurement of a customer's  
12 express lane average travel speed; amending s.  
13 338.2216, F.S.; authorizing the Florida Turnpike  
14 Enterprise to require the use of an electronic  
15 transponder interoperable with the department's  
16 electronic toll collection system for the use of  
17 express lanes on the turnpike system; prohibiting  
18 variable pricing from being implemented in express  
19 lanes when the level of service in the express lane,  
20 determined in accordance with specified criteria, is  
21 equal to level of service A; specifying that variable  
22 pricing in express lanes when the level of service in  
23 the express lane is level of service B may only be  
24 implemented by charging the general toll lane toll  
25 amount plus an amount set by department rule;

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

26 providing that pricing in express lanes when the level  
27 of service is other than level of service A or level  
28 of service B may vary in the manner established by the  
29 Florida Turnpike Enterprise to manage congestion in  
30 the express lanes; requiring, as of a specified date,  
31 that a customer be charged a general toll lane toll  
32 amount plus an amount set by department rule if his or  
33 her average travel speed for a trip in an express lane  
34 falls below a specified rate; providing for  
35 measurement of a customer's express lane average  
36 travel speed; amending s. 338.231, F.S.; extending the  
37 timeframe during which the department must program  
38 sufficient funds in the tentative work program such  
39 that the percentage of turnpike toll and bond financed  
40 commitments in Miami-Dade County, Broward County, and  
41 Palm Beach County are at least a specified percent of  
42 a certain share of certain net toll collections;  
43 amending s. 348.0004, F.S.; providing applicability;  
44 requiring toll increases by authorities in certain  
45 counties to be justified by an independent study by a  
46 third party; providing an exception for an increase to  
47 adjust for inflation pursuant to a specified procedure  
48 for toll rate adjustments; requiring toll increases to  
49 be approved by a specified margin in a vote of the  
50 expressway authority board; prohibiting the amount of

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

51 toll revenues used for administrative expenses by the  
52 authority from being greater than a specified  
53 percentage above the annual state average of  
54 administrative costs; requiring the Florida  
55 Transportation Commission to determine the annual  
56 state average of administrative costs based on the  
57 annual administrative expenses of all the expressway  
58 authorities of this state; authorizing the commission  
59 to adopt certain rules; requiring a specified distance  
60 between main through-lane tolling points on  
61 transportation facilities constructed after a  
62 specified date; providing applicability; conforming a  
63 cross-reference; requiring authorities in certain  
64 counties to reduce toll charges by a specified amount  
65 at the time that any toll is incurred for certain  
66 SunPass registrants, subject to certain requirements;  
67 prohibiting such authorities from imposing additional  
68 requirements for receipt of the reduced toll amount;  
69 requiring an authority in certain counties to  
70 determine its surplus revenues and dedicate a certain  
71 amount of the annual surplus revenues to  
72 transportation- and transit-related expenses for  
73 projects in the area served by the authority;  
74 requiring the metropolitan planning organization for  
75 certain counties to annually select a project or

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

76 projects within the counties to be funded by the  
77 authority's dedicated surplus revenues and provide to  
78 the authority a list reflecting the selected project  
79 or projects; requiring the authority to select from  
80 the list for funding from the authority's dedicated  
81 surplus revenues transportation- and transit-related  
82 expenses that have a rational nexus to the  
83 transportation facilities of the authority; requiring  
84 a rational nexus to demonstrate that the proposed  
85 transportation expenditure makes a substantial impact  
86 on the capacity or use of the transportation  
87 facilities of the authority or that the proposed  
88 transit expenditure complements the operation of, or  
89 expands the access to, the transportation facilities  
90 of the authority; requiring certain counties to have a  
91 financial audit of the revenues and expenditures of  
92 the county's transportation plan conducted by an  
93 independent third party not less than biennially and  
94 to post the audits on the counties' websites to be  
95 eligible to receive the dedicated surplus revenues;  
96 requiring that an authority established in certain  
97 counties have an audit conducted by an independent  
98 third party not less than biennially; requiring the  
99 audit report be made publicly available on the  
100 authority's website; creating s. 348.00115, F.S.;

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

101 requiring authorities in certain counties to post  
 102 certain information on a website; defining the term  
 103 "contract"; providing an effective date.

104  
 105 Be It Enacted by the Legislature of the State of Florida:

106  
 107 Section 1. Present subsections (5) and (6) of section  
 108 338.166, Florida Statutes, are redesignated as subsections (6)  
 109 and (7), respectively, subsection (4) of that section is  
 110 amended, and a new subsection (5) is added to that section, to  
 111 read:

112 338.166 High-occupancy toll lanes or express lanes.—

113 (4) The department may implement variable rate tolls on  
 114 high-occupancy toll lanes or express lanes. The department may  
 115 require the use of an electronic transponder interoperable with  
 116 the department's electronic toll collection system for the use  
 117 of high-occupancy toll lanes or express lanes.

118 (5) Effective July 1, 2018, if a customer's average travel  
 119 speed for a trip in an express lane falls below 40 miles per  
 120 hour, the customer must be charged the minimum express lane  
 121 toll. A customer's express lane average travel speed is his or  
 122 her average travel speed from the customer's entry point to the  
 123 customer's exit point.

124 Section 2. Paragraph (d) of subsection (1) of section  
 125 338.2216, Florida Statutes, is amended, and paragraph (e) is

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

126 added to that subsection, to read:

127 338.2216 Florida Turnpike Enterprise; powers and  
128 authority.—

129 (1)

130 (d) The Florida Turnpike Enterprise shall pursue and  
131 implement new technologies and processes in its operations and  
132 collection of tolls and the collection of other amounts  
133 associated with road and infrastructure usage. Such technologies  
134 and processes must include, without limitation, video billing  
135 and variable pricing. The Florida Turnpike Enterprise may  
136 require the use of an electronic transponder interoperable with  
137 the department's electronic toll collection system for the use  
138 of express lanes on the turnpike system. Variable pricing may  
139 not be implemented in express lanes when the level of service in  
140 the express lane, determined in accordance with the criteria  
141 established by the Transportation Research Board Highway  
142 Capacity Manual (5th Edition, HCM 2010), as amended from time to  
143 time, is equal to level of service A. Variable pricing in  
144 express lanes when the level of service in the express lane is  
145 level of service B may only be implemented by charging the  
146 general toll lane toll amount plus an amount set by department  
147 rule. Except as otherwise provided in this subsection, pricing  
148 in express lanes when the level of service is other than level  
149 of service A or level of service B may vary in the manner  
150 established by the Florida Turnpike Enterprise to manage

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

151 congestion in the express lanes.

152 (e) Effective July 1, 2018, if a customer's average travel  
 153 speed for a trip in an express lane falls below 40 miles per  
 154 hour, the customer must be charged the general toll lane toll  
 155 amount plus an amount set by department rule. A customer's  
 156 express lane average travel speed is his or her average travel  
 157 speed from the customer's entry point to the customer's exit  
 158 point.

159 Section 3. Paragraph (a) of subsection (3) of section  
 160 338.231, Florida Statutes, is amended to read:

161 338.231 Turnpike tolls, fixing; pledge of tolls and other  
 162 revenues.—The department shall at all times fix, adjust, charge,  
 163 and collect such tolls and amounts for the use of the turnpike  
 164 system as are required in order to provide a fund sufficient  
 165 with other revenues of the turnpike system to pay the cost of  
 166 maintaining, improving, repairing, and operating such turnpike  
 167 system; to pay the principal of and interest on all bonds issued  
 168 to finance or refinance any portion of the turnpike system as  
 169 the same become due and payable; and to create reserves for all  
 170 such purposes.

171 (3) (a) For the period July 1, 1998, through June 30, 2027  
 172 ~~2017~~, the department shall, to the maximum extent feasible,  
 173 program sufficient funds in the tentative work program such that  
 174 the percentage of turnpike toll and bond financed commitments in  
 175 Miami-Dade County, Broward County, and Palm Beach County as

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

176 compared to total turnpike toll and bond financed commitments  
 177 shall be at least 90 percent of the share of net toll  
 178 collections attributable to users of the turnpike system in  
 179 Miami-Dade County, Broward County, and Palm Beach County as  
 180 compared to total net toll collections attributable to users of  
 181 the turnpike system. This subsection does not apply when the  
 182 application of such requirements would violate any covenant  
 183 established in a resolution or trust indenture relating to the  
 184 issuance of turnpike bonds. The department may at any time for  
 185 economic considerations establish lower temporary toll rates for  
 186 a new or existing toll facility for a period not to exceed 1  
 187 year, after which the toll rates adopted pursuant to s. 120.54  
 188 shall become effective.

189 Section 4. Present subsections (6) through (9) of section  
 190 348.0004, Florida Statutes, are redesignated as subsections (7)  
 191 through (10), respectively, paragraph (e) of subsection (2) of  
 192 that section is amended, and a new subsection (6) and  
 193 subsections (11), (12), and (13) are added to that section, to  
 194 read:

195 348.0004 Purposes and powers.—

196 (2) Each authority may exercise all powers necessary,  
 197 appurtenant, convenient, or incidental to the carrying out of  
 198 its purposes, including, but not limited to, the following  
 199 rights and powers:

200 (e) To fix, alter, charge, establish, and collect tolls,



ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

201 rates, fees, rentals, and other charges for the services and  
 202 facilities system, which tolls, rates, fees, rentals, and other  
 203 charges must always be sufficient to comply with any covenants  
 204 made with the holders of any bonds issued pursuant to the  
 205 Florida Expressway Authority Act. However, such right and power  
 206 may be assigned or delegated by the authority to the department.

207 1. Notwithstanding any other provision of law to the  
 208 contrary, but subject to any contractual requirements contained  
 209 in documents securing any indebtedness outstanding on July 1,  
 210 2017, in any county as defined in s. 125.011(1):

211 a. The authority may not increase a toll unless the  
 212 increase is justified to the satisfaction of the authority by a  
 213 traffic and revenue study conducted by an independent third  
 214 party, except for an increase to the extent necessary to adjust  
 215 for inflation pursuant to the procedure for toll rate  
 216 adjustments provided in s. 338.165.

217 b. A toll increase must be approved by a two-thirds vote  
 218 of the expressway authority board.

219 c. The amount of toll revenues used for administrative  
 220 expenses by the authority may not be greater than 10 percent  
 221 above the annual state average of administrative costs  
 222 determined as provided in this sub-subparagraph. The Florida  
 223 Transportation Commission shall determine the annual state  
 224 average of administrative costs based on the annual  
 225 administrative expenses of all the expressway authorities of

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

226 | this state. For purposes of this sub-subparagraph,  
227 | administrative expenses include, but are not limited to,  
228 | employee salaries and benefits, small business outreach,  
229 | insurance, professional service contracts not directly related  
230 | to the operation and maintenance of the expressway system, and  
231 | other overhead costs. The commission may adopt rules necessary  
232 | for the implementation of this sub-subparagraph.

233 | d. On transportation facilities constructed after July 1,  
234 | 2017, there must be a distance of at least 5 miles between main  
235 | through-lane tolling points. The distance requirement of this  
236 | sub-subparagraph does not apply to entry and exit ramps.

237 | 2. Notwithstanding s. 338.165 or any other provision of  
238 | law to the contrary, in any county as defined in s. 125.011(1),  
239 | to the extent surplus revenues exist, they may be used for  
240 | purposes enumerated in subsection ~~(8)~~ (7), provided the  
241 | expenditures are consistent with the metropolitan planning  
242 | organization's adopted long-range plan.

243 | 3. Notwithstanding any other provision of law to the  
244 | contrary, but subject to any contractual requirements contained  
245 | in documents securing any outstanding indebtedness payable from  
246 | tolls, in any county as defined in s. 125.011(1), the board of  
247 | county commissioners may, by ordinance adopted on or before  
248 | September 30, 1999, alter or abolish existing tolls and  
249 | currently approved increases thereto if the board provides a  
250 | local source of funding to the county expressway system for

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

251 transportation in an amount sufficient to replace revenues  
 252 necessary to meet bond obligations secured by such tolls and  
 253 increases.

254 (6) Subject to compliance with any covenants made with the  
 255 holders of any bonds issued pursuant to the Florida Expressway  
 256 Authority Act, an authority in any county as defined in s.  
 257 125.011(1) shall, at the time that any toll is incurred, reduce  
 258 the toll charged on any of the authority's toll facilities by at  
 259 least 5 percent, but not more than 10 percent, for each SunPass  
 260 registrant having an account in good standing and having the  
 261 license plate of the vehicle or vehicles incurring the toll  
 262 registered to the SunPass account at the time the toll is  
 263 incurred. The authority may not impose additional requirements  
 264 for receipt of the reduced toll amount.

265 (11) Notwithstanding any other provision of the Florida  
 266 Expressway Authority Act, an authority in any county as defined  
 267 in s. 125.011(1) shall determine its surplus revenues as defined  
 268 in s. 348.0002(12). The authority shall then dedicate at least  
 269 20 percent, but not more than 50 percent, of the annual surplus  
 270 revenues to transportation- and transit-related expenses for  
 271 projects in the area served by the authority. The metropolitan  
 272 planning organization for any county as defined in s. 125.011(1)  
 273 shall annually select a project or projects within the county to  
 274 be funded by the authority's dedicated surplus revenues as  
 275 provided in this subsection and provide to the authority a list

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

276 reflecting the selected project or projects. The authority shall  
277 select from the list for funding from the authority's dedicated  
278 surplus revenues transportation- and transit-related expenses  
279 that have a rational nexus to the transportation facilities of  
280 the authority and may include, but are not limited to, expenses  
281 associated with the planning, design, acquisition, construction,  
282 extension, rehabilitation, equipping, preservation, maintenance,  
283 or improvement of public transportation facilities, transit  
284 facilities, intermodal facilities, or multimodal corridors owned  
285 or operated by such municipality or county; and transit-related  
286 expenses that impact the capacity or use of the transportation  
287 facilities of the authority. For the purpose of this subsection,  
288 a rational nexus must demonstrate that the proposed  
289 transportation expenditure makes a substantial impact on the  
290 capacity or use of the transportation facilities of the  
291 authority, or that the proposed transit expenditure complements  
292 the operation of, or expands the access to, the transportation  
293 facilities of the authority.

294 (12) A county as defined in s. 125.011(1) must have a  
295 financial audit of the revenues and expenditures of the county's  
296 transportation plan conducted by an independent third party not  
297 less than biennially and must post the audits on the county's  
298 website to be eligible to receive the dedicated surplus revenues  
299 as provided in subsection (11).

300 (13) An authority established in any county as defined in

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

301 125.011(1) must have a financial audit conducted by an  
 302 independent third party not less than biennially, and the audit  
 303 report must be made publicly available on the authority's  
 304 website.

305 Section 5. Section 348.00115, Florida Statutes, is created  
 306 to read:

307 348.00115 Public accountability.—An expressway authority  
 308 in a county as defined in s. 125.011(1) shall post the following  
 309 information on its website:

310 (1) Audited financial statements and any interim financial  
 311 reports.

312 (2) Board and committee meeting agendas, meeting packets,  
 313 and minutes.

314 (3) Bond covenants for any outstanding bond issues.

315 (4) Authority budgets.

316 (5) Authority contracts. For purposes of this subsection,  
 317 the term "contract" means a written agreement or purchase order  
 318 issued for the purchase of goods or services or a written  
 319 agreement for the receipt of state or federal financial  
 320 assistance.

321 (6) Authority expenditure data, which must include the  
 322 name of the payee, the date of the expenditure, and the amount  
 323 of the expenditure. Such data must be searchable by name of the  
 324 payee, name of the paying agency, and fiscal year and must be  
 325 downloadable in a format that allows offline analysis.

ENROLLED

CS/HB 1049, Engrossed 2

2017 Legislature

326            (7) Information relating to current, recently completed,  
327 and future projects on authority facilities.

328            Section 6. This act shall take effect July 1, 2017.