

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1387 Express Lanes

SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Nuñez

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1570

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	12 Y, 0 N	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	13 Y, 0 N, As CS	Davis	Davis
3) Government Accountability Committee			

SUMMARY ANALYSIS

Current law authorizes the Department of Transportation (DOT) and the Florida Turnpike Enterprise (FTE) to implement high-occupancy toll (HOT) or express lanes on their facilities.

The bill requires DOT and the FTE to ensure reasonable and practicably feasible entry and exit points on their respective express lanes and to undertake efforts to expand such entry and exit points to increase accessibility and ease of entry and exit to and from those express lanes while meeting operational performance goals.

The bill also provides that, effective July 1, 2018, if a person's average speed for a trip in an express lane falls below 40 miles per hour, the person shall be charged the minimum express lane toll. Likewise, effective July 1, 2018, if a person's average speed for a trip in an FTE express lane falls below 40 miles per hour, the person shall be charged the general toll lane toll amount plus 25 cents.

CS/HB 1387 extends the sunset provision in current law which authorizes DOT to allocate 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade, Broward and Palm Beach counties be programmed in the department's Work Program for such counties.

The bill has an indeterminate, negative fiscal impact to DOT and FTE associated with a possible reduction in toll revenues. See Fiscal Analysis for details.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Express Lanes

In 2012, the Legislature created s. 338.151, F.S.,¹ authorizing DOT to establish tolls on “new” limited access facilities on the State Highway System (SHS), lanes added to existing limited access facilities on the SHS, new major bridges on the SHS over waterways, and replacements for existing major bridges on the SHS over waterways. The tolls are to be used to fully or partially pay for the cost of such projects.² The Legislature also amended s. 338.166, F.S., to expand DOT’s authority to request issuance of bonds secured by toll revenues collected on express lanes from only those lanes located on I-95 in Miami-Dade and Broward counties, to express lanes established on DOT owned facilities.

Section 338.166, F.S., authorizes DOT, after discharge of any bond indebtedness relating to a given project, to continue to collect tolls on express lanes. The statutes also authorize variable rate tolls on express lanes.³ All collected tolls are first to be used to pay the annual cost of operations, maintenance and improvement of the express lanes project or the associated transportation system. DOT may use any remaining tolls from express lanes for construction, maintenance or improvement of any road on the State Highway System within the county or counties in which the toll revenues were collected or to support express bus service on the facility where the toll revenues were collected.

Section 338.166⁴, F.S., expressly does not apply to the Turnpike system.⁵ However, s. 338.2216(1)(d), F.S., directs the FTE to pursue and implement new technologies and processes in its operations and collection of tolls and the collection of other amounts associated with road and infrastructure usage. Such technologies and processes must include, without limitation, video billing and variable pricing.

The term, “express lane,” is not statutorily defined. However, the DOT’s Topic No. 525-030-020-a⁶ provides the following definitions:

Managed Lanes - Highway facilities or sets of lanes within a highway facility where operational strategies are proactively implemented and managed in response to changing conditions with a combination of tools. These tools may include accessibility, vehicle eligibility, pricing, or a combination thereof. Types of managed lanes include high occupancy vehicle (HOV) lanes, high occupancy toll (HOT) lanes, truck only lanes, truck only toll lanes, bus rapid transit lanes, reversible lanes, and express lanes.

Express Lanes - A type of managed lane where dynamic pricing through electronic tolling is applied to lanes with through traffic, having fewer access points. Express lanes can co-locate within an existing non-tolled facility to manage congestion and provide a more reliable trip time.

¹ Chapter 2012-128, L.O.F.

² Chapter 2012-174, L.O.F.

³ Section 338.166(4), F.S.

⁴ Section 338.166(6), F.S.

⁵ Section 338.2216(1)(a), F.S., grants to the FTE, in addition to the powers granted to the FDOT, full authority to exercise all powers granted to the FTE under Ch. 338, F.S. Section 338.2216(4), F.S., provides the powers conferred upon the FTE under the Florida Turnpike Enterprise Law (ss. 338.22 through 338.241, F.S.) is in addition and supplemental to the existing powers of the FDOT and the FTE.

⁶ On file in the Transportation & Infrastructure Subcommittee. The directive, however, expressly does not apply to Florida Turnpike facilities.

According to DOT, there are currently 119 lane miles of express lanes currently open, 349 lane miles of express lanes under construction and 575 lane miles of express lanes in the planning phase.⁷ These facilities are located (or planned) in major urbanized areas throughout the state.

Express Lane Management

As previously noted, a number of express lane projects in Florida are either in operation, under construction, or proposed.⁸ These projects have or are planned to have express lanes with adjacent general use lanes (with no tolls) and, on the turnpike system, express lanes adjacent to general toll lanes (lanes that generally have fixed tolls). DOT describes its management of express lanes as follows:

The express lanes are managed using a combination of eligibility, access, and pricing. Only two axle vehicles are eligible with buses eligible regardless of number of axles. This reduces the number of vehicles that can choose to use the express lanes. The access (entry and exit points on the express lanes) is limited to certain locations, providing a choice for users making longer distance trips to the major origin and destination patterns in the area. Trips that are shorter and more local must use the general use lanes. As the volume in the express lanes increases, the price to use the express lanes increases. The toll amount posted on the sign is dynamically priced based on the congestion in the express lanes with a goal of providing a free flow condition [in the express lanes].

The traffic density, which is a combination of speed and volume, is used to determine the toll amount needed to optimize traffic flow in the express lanes. Volume and speed data is collected from roadside detectors and used to calculate the traffic density by dividing the volume in the express lanes by the speed in the express lanes. The toll amount is not related to the amount of congestion, speed, or performance of the general use lanes. Where there is no congestion in the express lanes, regardless of the performance or amount of congestion in the general use lanes, the minimum toll amount in the express lanes is \$0.50.⁹

These directives indicate that in implementing and managing express lanes, DOT considers entry and exit point locations, and currently does not establish express lane toll amounts based on congestion, speed, or performance in adjacent general use lanes.

Turnpike Tolls

Current law provides that the department shall at all times fix, adjust, charge and collect such tolls and amounts for the use of the turnpike system as are required to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating the turnpike system.¹⁰

Additionally, between July 1, 1998, and June 30, 2017, the department shall program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade County, Broward County, and Palm Beach County as compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system.¹¹

⁷ DOT HB 1387 (2017) Agency Bill Analysis. (On file in the Transportation & Infrastructure Subcommittee)

⁸ See the project map with links to express lane project information available on the FDOT's website at: <http://www.floridaexpresslanes.com/projects/project-map/>. (Last visited March 19, 2017.) The FTE is not currently operating any express lanes. See the DOT HB 1387 (2017) Agency Bill Analysis, at 8. (On file in the Transportation & Infrastructure Subcommittee)

⁹ *Supra* note 6 at 2.

¹⁰ Section 338.231, F.S.

¹¹ Section 338.231(3)(a), F.S.

Proposed Changes

The bill requires DOT to ensure reasonable and practicably feasible entry and exit points on its express lanes and to undertake efforts to expand those points to increase accessibility and ease of entry and exit to and from its express lanes. Effective July 1, 2018, if a person's average speed for a trip in an express lane falls below 40 miles per hour, the person shall be charged the minimum express lane toll.

The bill requires the FTE to also ensure reasonable and practicably feasible entry and exit points and to undertake the same expansion of access points efforts on its express lanes. Effective July 1, 2018, if a person's average speed for a trip in an FTE express lane falls below 40 miles per hour, the person shall be charged the general toll lane toll amount plus 25 cents.

CS/HB 1387 extends the sunset date in current law from 2017 to 2037, authorizing DOT to allocate 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade, Broward and Palm Beach counties be programmed in the department's Work Program for such counties.

B. SECTION DIRECTORY:

Section 1 amends s. 338.166, F.S., relating to high-occupancy toll lanes or express lanes.

Section 2 amends s. 338.2216, F.S., relating to the powers and the authority of the Florida Turnpike Enterprise.

Section 3 amends s. 338.231, F.S., relating to turnpike tolls, pledging of tolls and other revenues.

Section 4 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent that the bill results in lower tolls on express lanes when average vehicle speeds drop below 40 miles per hour, less toll revenue will be collected by DOT and the FTE.

2. Expenditures:

DOT and the FTE may incur some expenditures administering provisions of the bill related to collecting and calculating average vehicle speeds traveling in express lanes. This provision is effective July 1, 2018, and the amount of these expenditures is indeterminate but should be absorbed within existing department resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the bill results in lower tolls, the users of these express lanes would benefit through reduced tolls.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Without further criteria or objective standards being specified in the bill, the use of the terms "reasonable and practically feasible" as it relates to locations for points of express lane access and exit may lead to difficulties in agency interpretation of these provisions.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 17, 2017, the Transportation & Tourism Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides for reduced tolls on DOT and FTE express lanes should vehicle average speeds drop below 40 miles per hour. It further extends a sunset provision relating to use of turnpike tolls in Miami-Dade, Broward, and Palm Beach counties. The analysis is drawn to the committee substitute.