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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/26/2017	.	
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The Committee on Appropriations (Brandes and Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

338.166 High-occupancy toll lanes or express lanes.—

(4) The department may implement variable rate tolls on



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11 high-occupancy toll lanes or express lanes. The department may
12 require the use of an electronic transponder interoperable with
13 the department's electronic toll collection system for the use
14 of high-occupancy toll lanes or express lanes.

15 (5) Effective July 1, 2018, if a customer's average travel
16 speed for a trip in an express lane falls below 40 miles per
17 hour, the customer must be charged the minimum express lane
18 toll. A customer's express lane average travel speed is his or
19 her average travel speed from the customer's entry point to the
20 customer's exit point.

21 Section 2. Paragraph (d) of subsection (1) of section
22 338.2216, Florida Statutes, is amended, and paragraph (e) is
23 added to that subsection, to read:

24 338.2216 Florida Turnpike Enterprise; powers and
25 authority.—

26 (1)

27 (d) The Florida Turnpike Enterprise shall pursue and
28 implement new technologies and processes in its operations and
29 collection of tolls and the collection of other amounts
30 associated with road and infrastructure usage. Such technologies
31 and processes must include, without limitation, video billing
32 and variable pricing. The Florida Turnpike Enterprise may
33 require the use of an electronic transponder interoperable with
34 the department's electronic toll collection system for the use
35 of express lanes on the turnpike system. Variable pricing may
36 not be implemented in express lanes when the level of service in
37 the express lane, determined in accordance with the criteria
38 established by the Transportation Research Board Highway
39 Capacity Manual (5th Edition, HCM 2010), as amended from time to



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40 time, is equal to level of service A. Variable pricing in
41 express lanes when the level of service in the express lane is
42 level of service B may only be implemented by charging the
43 general toll lane toll amount plus an amount set by department
44 rule. Except as otherwise provided in this subsection, pricing
45 in express lanes when the level of service is other than level
46 of service A or level of service B may vary in the manner
47 established by the Florida Turnpike Enterprise to manage
48 congestion in the express lanes.

49 (e) Effective July 1, 2018, if a customer's average travel
50 speed for a trip in an express lane falls below 40 miles per
51 hour, the customer must be charged the general toll lane toll
52 amount plus an amount set by department rule. A customer's
53 express lane average travel speed is his or her average travel
54 speed from the customer's entry point to the customer's exit
55 point.

56 Section 3. Paragraph (a) of subsection (3) of section
57 338.231, Florida Statutes, is amended to read:

58 338.231 Turnpike tolls, fixing; pledge of tolls and other
59 revenues.—The department shall at all times fix, adjust, charge,
60 and collect such tolls and amounts for the use of the turnpike
61 system as are required in order to provide a fund sufficient
62 with other revenues of the turnpike system to pay the cost of
63 maintaining, improving, repairing, and operating such turnpike
64 system; to pay the principal of and interest on all bonds issued
65 to finance or refinance any portion of the turnpike system as
66 the same become due and payable; and to create reserves for all
67 such purposes.

68 (3) (a) For the period July 1, 1998, through June 30, 2027



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69 ~~2017~~, the department shall, to the maximum extent feasible,
70 program sufficient funds in the tentative work program such that
71 the percentage of turnpike toll and bond financed commitments in
72 Miami-Dade County, Broward County, and Palm Beach County as
73 compared to total turnpike toll and bond financed commitments
74 shall be at least 90 percent of the share of net toll
75 collections attributable to users of the turnpike system in
76 Miami-Dade County, Broward County, and Palm Beach County as
77 compared to total net toll collections attributable to users of
78 the turnpike system. This subsection does not apply when the
79 application of such requirements would violate any covenant
80 established in a resolution or trust indenture relating to the
81 issuance of turnpike bonds. The department may at any time for
82 economic considerations establish lower temporary toll rates for
83 a new or existing toll facility for a period not to exceed 1
84 year, after which the toll rates adopted pursuant to s. 120.54
85 shall become effective.

86 Section 4. Present subsections (6) through (9) of section
87 348.0004, Florida Statutes, are redesignated as subsections (7)
88 through (10), respectively, paragraph (e) of subsection (2) of
89 that section is amended, and a new subsection (6) and
90 subsections (11), (12), and (13) are added to that section, to
91 read:

92 348.0004 Purposes and powers.—

93 (2) Each authority may exercise all powers necessary,
94 appurtenant, convenient, or incidental to the carrying out of
95 its purposes, including, but not limited to, the following
96 rights and powers:

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



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98 rates, fees, rentals, and other charges for the services and
99 facilities system, which tolls, rates, fees, rentals, and other
100 charges must always be sufficient to comply with any covenants
101 made with the holders of any bonds issued pursuant to the
102 Florida Expressway Authority Act. However, such right and power
103 may be assigned or delegated by the authority to the department.

104 1. Notwithstanding any other provision of law to the
105 contrary, but subject to any contractual requirements contained
106 in documents securing any indebtedness outstanding on July 1,
107 2017, in any county as defined in s. 125.011(1):

108 a. The authority may not increase a toll unless the
109 increase is justified to the satisfaction of the authority by a
110 traffic and revenue study conducted by an independent third
111 party, except for an increase to the extent necessary to adjust
112 for inflation pursuant to the procedure for toll rate
113 adjustments provided in s. 338.165.

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

116 c. The amount of toll revenues used for administrative
117 expenses by the authority may not be greater than 10 percent
118 above the annual state average of administrative costs
119 determined as provided in this sub-subparagraph. The Florida
120 Transportation Commission shall determine the annual state
121 average of administrative costs based on the annual
122 administrative expenses of all the expressway authorities of
123 this state. For purposes of this sub-subparagraph,
124 administrative expenses include, but are not limited to,
125 employee salaries and benefits, small business outreach,
126 insurance, professional service contracts not directly related



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127 to the operation and maintenance of the expressway system, and
128 other overhead costs. The commission may adopt rules necessary
129 for the implementation of this sub-subparagraph.

130 d. On transportation facilities constructed after July 1,
131 2017, there must be a distance of at least 5 miles between main
132 through lane tolling points. The distance requirement of this
133 sub-subparagraph does not apply to entry and exit ramps.

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

140 3. Notwithstanding any other provision of law to the
141 contrary, but subject to any contractual requirements contained
142 in documents securing any outstanding indebtedness payable from
143 tolls, in any county as defined in s. 125.011(1), the board of
144 county commissioners may, by ordinance adopted on or before
145 September 30, 1999, alter or abolish existing tolls and
146 currently approved increases thereto if the board provides a
147 local source of funding to the county expressway system for
148 transportation in an amount sufficient to replace revenues
149 necessary to meet bond obligations secured by such tolls and
150 increases.

151 (6) Subject to compliance with any covenants made with the
152 holders of any bonds issued pursuant to the Florida Expressway
153 Authority Act, an authority in any county as defined in s.
154 125.011(1) shall, at the time that any toll is incurred, reduce
155 the toll charged on any of the authority's toll facilities by at



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156 least 5 percent, but not more than 10 percent, for each SunPass
157 registrant having an account in good standing and having the
158 license plate of the vehicle or vehicles incurring the toll
159 registered to the SunPass account at the time the toll is
160 incurred. The authority may not impose additional requirements
161 for receipt of the reduced toll amount.

162 (11) Notwithstanding any other provision of the Florida
163 Expressway Authority Act, an authority in any county as defined
164 in s. 125.011(1) shall determine its surplus revenues as defined
165 in s. 348.0002(12). The authority shall then dedicate at least
166 20 percent, but not more than 50 percent, of the annual surplus
167 revenues to transportation- and transit-related expenses for
168 projects in the area served by the authority. The metropolitan
169 planning organization for any county as defined in s. 125.011(1)
170 shall annually select a project or projects within the county to
171 be funded by the authority's dedicated surplus revenues as
172 provided in this subsection and provide to the authority a list
173 reflecting the selected project or projects. The authority shall
174 select from the list for funding from the authority's dedicated
175 surplus revenues transportation- and transit-related expenses
176 that have a rational nexus to the transportation facilities of
177 the authority and may include, but are not limited to, expenses
178 associated with the planning, design, acquisition, construction,
179 extension, rehabilitation, equipping, preservation, maintenance,
180 or improvement of public transportation facilities, transit
181 facilities, intermodal facilities, or multimodal corridors owned
182 or operated by such municipality or county; and transit-related
183 expenses that impact the capacity or use of the transportation
184 facilities of the authority. For the purpose of this subsection,



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185 a rational nexus must demonstrate that the proposed
186 transportation expenditure makes a substantial impact on the
187 capacity or use of the transportation facilities of the
188 authority, or that the proposed transit expenditure complements
189 the operation of, or expands the access to, the transportation
190 facilities of the authority.

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

197 (13) An authority established in any county as defined in
198 125.011(1) must have a financial audit conducted by an
199 independent third party not less than biennially, and the audit
200 report must be made publicly available on the authority's
201 website.

202 Section 5. This act shall take effect July 1, 2017.

203
204 ===== T I T L E A M E N D M E N T =====

205 And the title is amended as follows:

206 Delete everything before the enacting clause
207 and insert:

208 A bill to be entitled
209 An act relating to limited access and toll facilities;
210 amending s. 338.166, F.S.; authorizing the Department
211 of Transportation to require the use of an electronic
212 transponder interoperable with the department's
213 electronic toll collection system for the use of high-



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214 occupancy toll lanes or express lanes; requiring, as
215 of a specified date, that a customer be charged the
216 minimum express lane toll if his or her average travel
217 speed for a trip in an express lane falls below a
218 specified rate; providing measurement of a customer's
219 express lane average travel speed; amending s.
220 338.2216, F.S.; authorizing the Florida Turnpike
221 Enterprise to require the use of an electronic
222 transponder interoperable with the department's
223 electronic toll collection system for the use of
224 express lanes on the turnpike system; prohibiting
225 variable pricing from being implemented in express
226 lanes when the level of service in the express lane,
227 determined in accordance with specified criteria, is
228 equal to level of service A; specifying that variable
229 pricing in express lanes when the level of service in
230 the express lane is level of service B may only be
231 implemented by charging the general toll lane toll
232 amount plus an amount set by department rule;
233 providing that pricing in express lanes when the level
234 of service is other than level of service A or level
235 of service B may vary in the manner established by the
236 Florida Turnpike Enterprise to manage congestion in
237 the express lanes; requiring, as of a specified date,
238 that a customer be charged a general toll lane toll
239 amount plus an amount set by department rule if his or
240 her average travel speed for a trip in an express lane
241 falls below a specified rate; providing for
242 measurement of a customer's express lane average



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243 travel speed; amending s. 338.231, F.S.; extending the
244 timeframe during which the department must program
245 sufficient funds in the tentative work program such
246 that the percentage of turnpike toll and bond financed
247 commitments in Miami-Dade County, Broward County, and
248 Palm Beach County are at least a specified percent of
249 a certain share of certain net toll collections;
250 amending s. 348.0004, F.S.; providing applicability;
251 requiring toll increases by authorities in certain
252 counties to be justified by an independent study by a
253 third party; providing an exception for an increase to
254 adjust for inflation pursuant to a specified procedure
255 for toll rate adjustments; requiring toll increases to
256 be approved by a specified margin in a vote of the
257 expressway authority board; prohibiting the amount of
258 toll revenues used for administrative expenses by the
259 authority from being greater than a specified
260 percentage above the annual state average of
261 administrative costs; requiring the Florida
262 Transportation Commission to determine the annual
263 state average of administrative costs based on the
264 annual administrative expenses of all the expressway
265 authorities of this state; authorizing the commission
266 to adopt certain rules; requiring a specified distance
267 between main through-lane tolling points on
268 transportation facilities constructed after a
269 specified date; providing applicability; conforming a
270 cross-reference; requiring authorities in certain
271 counties to reduce toll charges by a specified amount



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272 at the time that any toll is incurred for certain
273 SunPass registrants, subject to certain requirements;
274 prohibiting such authorities from imposing additional
275 requirements for receipt of the reduced toll amount;
276 requiring an authority in certain counties to
277 determine its surplus revenues and dedicate a certain
278 amount of the annual surplus revenues to
279 transportation- and transit-related expenses for
280 projects in the area served by the authority;
281 requiring the metropolitan planning organization for
282 certain counties to annually select a project or
283 projects within the counties to be funded by the
284 authority's dedicated surplus revenues and provide to
285 the authority a list reflecting the selected project
286 or projects; requiring the authority to select from
287 the list for funding from the authority's dedicated
288 surplus revenues transportation- and transit-related
289 expenses that have a rational nexus to the
290 transportation facilities of the authority; requiring
291 a rational nexus to demonstrate that the proposed
292 transportation expenditure makes a substantial impact
293 on the capacity or use of the transportation
294 facilities of the authority or that the proposed
295 transit expenditure complements the operation of, or
296 expands the access to, the transportation facilities
297 of the authority; requiring certain counties to have a
298 financial audit of the revenues and expenditures of
299 the county's transportation plan conducted by an
300 independent third party not less than biennially and



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301 to post the audits on the counties' websites to be
302 eligible to receive the dedicated surplus revenues;
303 requiring that an authority established in certain
304 counties have an audit conducted by an independent
305 third party not less than biennially; requiring the
306 audit report be made publicly available on the
307 authority's website; providing an effective date.