

**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 Appropriations

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BILL: CS/SB 1562

INTRODUCER: Transportation Committee and Senator Garcia

SUBJECT: Expressway Authorities

DATE: April 24, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	<b>Fav/CS</b>
2.	Pitts	Pitts	ATD	<b>Recommend: Fav/CS</b>
3.	Pitts	Hansen	AP	<b>Pre-meeting</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

SB 1562 creates the "Toll Reform Act." Specifically, the bill:

- Prohibits the Miami-Dade County Expressway Authority (MDX) from increasing its tolls unless justified by an independent traffic and revenue study, subject to certain requirements;
- Provides the MDX may only increase tolls to the extent necessary to adjust for inflation and must approve toll increases by a two-thirds vote;
- Prohibits the MDX from using more than ten percent of its toll revenues for certain administrative expenses and requires a distance of five miles between specified new toll facilities;
- Requires the MDX to establish a three percent toll rebate program with certain parameters; and
- Requires the MDX to post specified financial and operating information on its website.

The bill has no impact on state revenues or expenditures. The fiscal impact of the bill to the MDX is indeterminate. See Section V., "Fiscal Impact Statement," for further details.

The bill takes effect July 1, 2017.

## II. Present Situation:

### **Miami-Dade County**

Section 125.011(1), F.S., defines a county as: “[A]ny county operating under a home rule charter adopted pursuant to Art. VIII, ss. 10, 11, and 24 of the State Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the State Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred.”

The local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968 are the City of Key West and Monroe County,<sup>1</sup> Dade County,<sup>2</sup> and Hillsborough County.<sup>3</sup> Of these, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957, under this constitutional provision.<sup>4</sup>

### **Miami-Dade County Expressway Authority**

The Florida Expressway Authority Act (Act)<sup>5</sup> authorizes any county or two or more contiguous counties within a single Florida Department of Transportation (FDOT) district, by resolution adopted by the board of county commissioners, to form an expressway authority, which is an agency of the state.<sup>6</sup> The Miami-Dade County Commission adopted ordinance 94-215 in 1994 creating the Miami-Dade County Expressway Authority (MDX).<sup>7</sup> The MDX is the only expressway authority created under the Act.

The MDX’s system<sup>8</sup> consists of the following roadways in Miami-Dade County:

- Airport Expressway (SR 112);
- Dolphin Expressway (SR 836);
- Don Shula Expressway (SR 874);
- Snapper Creek Expressway (SR 878); and
- Gratigny Parkway (SR 924).

### ***MDX Governing Board***

Section 348.0003(2)(d), F.S., F.S., provides that in any county as defined in s. 125.011(1), the authority’s governing body consists of up to nine members, and the following provisions specifically apply. Except for the district secretary of the FDOT, authority members must be residents of the county. Five voting members are appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of these members may be elected officials residing in the county. Three voting members are appointed by the Governor.

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<sup>1</sup> FLA. CONST. art. VIII, s. 6, n. 2.

<sup>2</sup> FLA. CONST. art. VIII, s. 6, n. 3.

<sup>3</sup> FLA. CONST. art. VIII, s. 6, n. 4.

<sup>4</sup> Florida Association of Counties, Charter County Information, <https://www.fl-counties.com/charter-county-information#>. (Last visited March 19, 2017.)

<sup>5</sup> Part I of Ch. 348, F.S.

<sup>6</sup> Section 348.0003(1), F.S.

<sup>7</sup> A copy of the ordinance is available at [http://miamidadefl.elaws.us/code/coor/coor\\_ptiii\\_ch2\\_artxviii/](http://miamidadefl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/). (Last visited March 19, 2017.)

<sup>8</sup> See MDX System Map available at [http://mdxway.com/about/expressway-map\(last](http://mdxway.com/about/expressway-map(last) visited March 19, 2017).

One member is the FDOT district secretary in the district that contains such county, who is an ex officio voting member of the authority.

### ***Purposes and Powers***

Section 348.0004, F.S., provides the purposes and powers of expressway authority's created in Part I of ch. 348, F.S. Section 348.0004(2)(e), F.S., gives expressway authorities created under the Act the power to fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act.<sup>9</sup> However, such right and power may be assigned or delegated by the authority to the FDOT. As provided in s. 348.004(7), F.S., and after a public hearing and county approval, the MDX may use surplus toll revenues to fund:

- County public transportation facilities;
- Intermodal facilities;
- Multimodal corridors, including bicycle facilities or greenways that improve transportation services in the county; or
- Any programs or projects that improve the expressway system's level of service.

These expenditures must be consistent with the metropolitan planning organization's adopted long-range plan.

### ***MDX Frequent Drivers Rewards Program***

The MDX currently offers frequent users a rewards program, the operation of which the MDX describes as follows:

Each fiscal year (July 1st to June 30th) after the close of its financial books, MDX will declare a toll distribution of dividends to members of the Frequent Driver Rewards Program. This is after the agency meets its financial obligations, including making its annual principal and interest payments, meeting its senior debt coverage ratio, and covering its operation and maintenance costs. MDX will give back those savings generated by operational efficiencies of the agency directly to its customers through the Frequent Driver Rewards Program.<sup>10</sup>

To participate in the program, MDX customers must register each year, be a SunPass customer in good standing, have a two-axle vehicle, and spend at least \$100 annually between July 1st to June 30 in tolls per transponder on any of the MDX's five expressways. Any tolls paid using Toll-By-Plate<sup>11</sup> or Image Toll transactions (IToll) are considered ineligible for the annual

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<sup>9</sup> Section 348.0010, F.S., provides a covenant of the state relating to the Florida Expressway Authority Act. In that statute the state pledges that it will not limit or alter the rights vested in an authority and FDOT until all bonds, together with their interest, are fully paid and discharged.

<sup>10</sup> See the MDX website available at: <http://mdxway.com/frequentdriver/faqs>. (Last visited March 19, 2017.)

<sup>11</sup> Toll-By-Plate is an FDOT image-based electronic toll collection system that uses photographic images of the vehicles license plate to identify the customer responsible for payment. This feature is available on the Homestead Extension of Florida's Turnpike from Florida City to Miramar in Miami-Dade County. See the FDOT website available at: <https://www.tollbyplate.com/index>. (Last visited March 20, 2017.)

calculation. Eligibility of SunPass tolls paid during the fiscal year is determined solely by the MDX. The most recent registration period for tolls paid between July 1, 2016, to June 30, 2017, ended on March 31, 2017. Reward checks to eligible recipients are expected in December of 2017.<sup>12</sup>

### **Procedure for Toll Rate Adjustments for Inflation**

Section 338.165(3), F.S., requires the FDOT and the Turnpike Enterprise to index toll rates on their existing toll facilities to the annual Consumer Price Index or similar inflation indicators. Toll adjustments for inflation may be made no more than once a year, and no less than once every five years, as necessary to accommodate cash toll rate schedules. Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to an FDOT rule.

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

**Section 1** cites the act as the “Toll Reform Act.”

**Section 2** amends s. 348.0004(2)(e), F.S., providing that the MDX, notwithstanding any law to the contrary, and subject to any contractual requirements contained in documents securing indebtedness outstanding on July 1, 2017:

- May not increase a toll unless the increase is justified to the MDX’s satisfaction by a traffic and revenue study conducted by an independent third party.
- May only increase tolls to the extent necessary to adjust for inflation under the toll rate adjustment procedure in s. 338.165, F.S.
- Must approve a toll increase by a two-thirds vote of the MDX governing board.
- May not use more than 10 percent of its toll revenues for administrative expenses, including, but not limited to:
  - Employee salaries and benefits;
  - Small business outreach;
  - Insurance;
  - Professional service contracts not directly related to the operation and maintenance of the expressway system; and
  - Other overhead costs.

Additionally, on transportation facilities constructed after July 1, 2017, there must be a distance of at least five miles between main through-lane tolling points.<sup>13</sup> The distance requirement does not apply to entry and exit ramps. The MDX is prohibited from increasing tolls to implement the distance requirement.

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<sup>12</sup> *Supra* note 10.

<sup>13</sup> The Federal Highway Administration (FHWA) defines “tolling point” as the location along a roadway lane where either a toll is charged to an established account using an electronic process for vehicles having a valid transponder or by capturing the vehicle’s license plate and assessing a toll to the registered vehicle owner. *See* the FHWA website available at: <https://mutcd.fhwa.dot.gov/rpt/tcstoll/glossary.htm>. (Last visited March 22, 2017.)

The bill limits the MDX's authority to increase tolls and, therefore, decreases its ability to raise revenues. The bill also limits the MDX's use of its toll revenues for the defined administrative expenses to ten percent.

The bill also creates a new subsection (6) of s. 348.0004, F.S., requiring the MDX, at the time that any toll is incurred, to reduce the toll charged on any of the MDX's toll facilities by 25 percent for each SunPass registrant having an account in good standing and having the license plate of the vehicle or vehicles incurring the toll registered to the SunPass account at the time the toll is incurred. The bill prohibits the MDX from imposing additional requirements for receipt of the reduced toll amount.

This revision significantly reduces the amount of the MDX's toll revenues. The revenue reduction will limit the amount of funds available to pay debt service on MDX bonds and may therefore violate outstanding bond covenants. To the extent that bondholders' rights are substantially impaired, this revision would conflict with the pledge of the state under s. 348.0010, F.S., that it will not limit or alter the rights of bondholders.

**Section 3** creates s. 348.00115, F.S., relating to public accountability. The bill requires an expressway authority in Miami-Dade County to post the following information on its website:

- Audited financial statements and any interim financial reports;
- Board and committee meeting agendas, meeting packets, and minutes;
- Bond covenants for any outstanding bonds issues;
- Authority budgets;
- Authority contracts;<sup>14</sup>
- Authority expenditure data, which must include the name of the payee, the date of the expenditure, and the amount of the expenditure; be searchable by name of the payee, name of the paying agency, and fiscal year; and be in a downloadable format allowing offline access; and
- Information relating to current, recently completed, and future projects on authority facilities.

**Section 4** provides the bill takes effect on July 1, 2017.

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

##### **A. Municipality/County Mandates Restrictions:**

To the extent the bill reduces the revenues generated by the tolls established as necessary to meet debt service or other bond covenants, this bill may impair those contracts.

##### **B. Public Records/Open Meetings Issues:**

None.

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<sup>14</sup> The bill defines "contract" as a written agreement or purchase order issued for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Users of the MDX's facilities may see a reduction in the frequency and amount of toll increases. Eligible SunPass users of the MDX's toll facilities would benefit from a 25 percent reduction in toll charges. The amount of this reduction is dependent on the number of eligible trips on MDX toll facilities, and is therefore unknown.

The MDX may find it necessary to delay future projects due to the reduced revenue anticipated from provisions of the bill. Therefore, users of the expressway may see a decline in roadway maintenance as well as a decline in the level of service of the facilities.

C. Government Sector Impact:

The MDX is an independent agency of the state. The bill will potentially make it more difficult for the MDX to increase its tolls, making it more difficult to increase its revenues. According to the MDX, the bill limits its ability to set toll rates, which may make its bonds less favorable in the financial markets.<sup>15</sup>

The MDX may incur expenses associated with the required traffic and revenue studies and placing the required documents on its website.

The bill's provision of a 25 percent reduction of tolls charged for SunPass-user eligible trips significantly reduces the MDX's revenues. The amount of the revenue reduction is dependent on the number of eligible trips on MDX toll facilities, and is therefore unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>15</sup> See the MDX email to House Transportation & Infrastructure Committee Staff, March 10, 2017. (On file in the Senate Transportation Committee.)

**VIII. Statutes Affected:**

This bill amends section 348.0004 of the Florida Statute.

This bill creates section 348.00115 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 22, 2017:**

The CS makes the following changes to the bill:

- Clarifies that the distance of five miles is required between main through-lane tolling points, excluding entry and exit ramps;
- Requires the MDX to reduce the toll charged on any of its toll facilities by 25 percent for SunPass registrants in good standing; and
- Prohibits the MDX from imposing additional requirements for receipt of the reduced toll amount.

- B. **Amendments:**

None.