

By the Committees on Appropriations; and Transportation; and
Senator Garcia

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1 A bill to be entitled
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;
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

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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
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

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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
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

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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; providing an effective date.

101
102 Be It Enacted by the Legislature of the State of Florida:

103
104 Section 1. Present subsections (5) and (6) of section
105 338.166, Florida Statutes, are redesignated as subsections (6)
106 and (7), respectively, subsection (4) is amended, and a new
107 subsection (5) is added to that section, to read:

108 338.166 High-occupancy toll lanes or express lanes.—

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

114 (5) Effective July 1, 2018, if a customer's average travel
115 speed for a trip in an express lane falls below 40 miles per
116 hour, the customer must be charged the minimum express lane

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117 toll. A customer's express lane average travel speed is his or
118 her average travel speed from the customer's entry point to the
119 customer's exit point.

120 Section 2. Paragraph (d) of subsection (1) of section
121 338.2216, Florida Statutes, is amended, and paragraph (e) is
122 added to that subsection, to read:

123 338.2216 Florida Turnpike Enterprise; powers and
124 authority.—

125 (1)

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

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146 established by the Florida Turnpike Enterprise to manage
147 congestion in the express lanes.

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

155 Section 3. Paragraph (a) of subsection (3) of section
156 338.231, Florida Statutes, is amended to read:

157 338.231 Turnpike tolls, fixing; pledge of tolls and other
158 revenues.—The department shall at all times fix, adjust, charge,
159 and collect such tolls and amounts for the use of the turnpike
160 system as are required in order to provide a fund sufficient
161 with other revenues of the turnpike system to pay the cost of
162 maintaining, improving, repairing, and operating such turnpike
163 system; to pay the principal of and interest on all bonds issued
164 to finance or refinance any portion of the turnpike system as
165 the same become due and payable; and to create reserves for all
166 such purposes.

167 (3) (a) For the period July 1, 1998, through June 30, 2027
168 ~~2017~~, the department shall, to the maximum extent feasible,
169 program sufficient funds in the tentative work program such that
170 the percentage of turnpike toll and bond financed commitments in
171 Miami-Dade County, Broward County, and Palm Beach County as
172 compared to total turnpike toll and bond financed commitments
173 shall be at least 90 percent of the share of net toll
174 collections attributable to users of the turnpike system in

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

185 Section 4. Present subsections (6) through (9) of section
186 348.0004, Florida Statutes, are redesignated as subsections (7)
187 through (10), respectively, paragraph (e) of subsection (2) of
188 that section is amended, and a new subsection (6) and
189 subsections (11), (12), and (13) are added to that section, to
190 read:

191 348.0004 Purposes and powers.—

192 (2) Each authority may exercise all powers necessary,
193 appurtenant, convenient, or incidental to the carrying out of
194 its purposes, including, but not limited to, the following
195 rights and powers:

196 (e) To fix, alter, charge, establish, and collect tolls,
197 rates, fees, rentals, and other charges for the services and
198 facilities system, which tolls, rates, fees, rentals, and other
199 charges must always be sufficient to comply with any covenants
200 made with the holders of any bonds issued pursuant to the
201 Florida Expressway Authority Act. However, such right and power
202 may be assigned or delegated by the authority to the department.

203 1. Notwithstanding any other provision of law to the

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204 contrary, but subject to any contractual requirements contained
205 in documents securing any indebtedness outstanding on July 1,
206 2017, in any county as defined in s. 125.011(1):

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

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

215 c. The amount of toll revenues used for administrative
216 expenses by the authority may not be greater than 10 percent
217 above the annual state average of administrative costs
218 determined as provided in this sub-subparagraph. The Florida
219 Transportation Commission shall determine the annual state
220 average of administrative costs based on the annual
221 administrative expenses of all the expressway authorities of
222 this state. For purposes of this sub-subparagraph,
223 administrative expenses include, but are not limited to,
224 employee salaries and benefits, small business outreach,
225 insurance, professional service contracts not directly related
226 to the operation and maintenance of the expressway system, and
227 other overhead costs. The commission may adopt rules necessary
228 for the implementation of this sub-subparagraph.

229 d. On transportation facilities constructed after July 1,
230 2017, there must be a distance of at least 5 miles between main
231 through-lane tolling points. The distance requirement of this
232 sub-subparagraph does not apply to entry and exit ramps.

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

239 3. Notwithstanding any other provision of law to the
240 contrary, but subject to any contractual requirements contained
241 in documents securing any outstanding indebtedness payable from
242 tolls, in any county as defined in s. 125.011(1), the board of
243 county commissioners may, by ordinance adopted on or before
244 September 30, 1999, alter or abolish existing tolls and
245 currently approved increases thereto if the board provides a
246 local source of funding to the county expressway system for
247 transportation in an amount sufficient to replace revenues
248 necessary to meet bond obligations secured by such tolls and
249 increases.

250 (6) Subject to compliance with any covenants made with the
251 holders of any bonds issued pursuant to the Florida Expressway
252 Authority Act, an authority in any county as defined in s.
253 125.011(1) shall, at the time that any toll is incurred, reduce
254 the toll charged on any of the authority's toll facilities by at
255 least 5 percent, but not more than 10 percent, for each SunPass
256 registrant having an account in good standing and having the
257 license plate of the vehicle or vehicles incurring the toll
258 registered to the SunPass account at the time the toll is
259 incurred. The authority may not impose additional requirements
260 for receipt of the reduced toll amount.

261 (11) Notwithstanding any other provision of the Florida

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262 Expressway Authority Act, an authority in any county as defined
263 in s. 125.011(1) shall determine its surplus revenues as defined
264 in s. 348.0002(12). The authority shall then dedicate at least
265 20 percent, but not more than 50 percent, of the annual surplus
266 revenues to transportation- and transit-related expenses for
267 projects in the area served by the authority. The metropolitan
268 planning organization for any county as defined in s. 125.011(1)
269 shall annually select a project or projects within the county to
270 be funded by the authority's dedicated surplus revenues as
271 provided in this subsection and provide to the authority a list
272 reflecting the selected project or projects. The authority shall
273 select from the list for funding from the authority's dedicated
274 surplus revenues transportation- and transit-related expenses
275 that have a rational nexus to the transportation facilities of
276 the authority and may include, but are not limited to, expenses
277 associated with the planning, design, acquisition, construction,
278 extension, rehabilitation, equipping, preservation, maintenance,
279 or improvement of public transportation facilities, transit
280 facilities, intermodal facilities, or multimodal corridors owned
281 or operated by such municipality or county; and transit-related
282 expenses that impact the capacity or use of the transportation
283 facilities of the authority. For the purpose of this subsection,
284 a rational nexus must demonstrate that the proposed
285 transportation expenditure makes a substantial impact on the
286 capacity or use of the transportation facilities of the
287 authority, or that the proposed transit expenditure complements
288 the operation of, or expands the access to, the transportation
289 facilities of the authority.

290 (12) A county as defined in s. 125.011(1) must have a

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291 financial audit of the revenues and expenditures of the county's
292 transportation plan conducted by an independent third party not
293 less than biennially and must post the audits on the county's
294 website to be eligible to receive the dedicated surplus revenues
295 as provided in subsection (11).

296 (13) An authority established in any county as defined in
297 125.011(1) must have a financial audit conducted by an
298 independent third party not less than biennially, and the audit
299 report must be made publicly available on the authority's
300 website.

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