

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 141 Exemptions from Toll Payment
SPONSOR(S): Transportation & Infrastructure Subcommittee; Harrison
TIED BILLS: **IDEN./SIM. BILLS:** SB 336, SB 356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	11 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	9 Y, 0 N	Davis	Davis
3) Government Accountability Committee			

SUMMARY ANALYSIS

Current law requires the payment of tolls for the use of toll facilities and provides certain exceptions, including law enforcement officers in marked official vehicles on official law enforcement business. Under current law, unmarked law enforcement vehicles are required to pay tolls.

The bill provides that all marked or unmarked official law enforcement vehicles on official law enforcement business are exempt from paying tolls on toll facilities. The bill also defines "official law enforcement business."

The bill also changes references to "handicapped persons" in the toll exemption statute to "disabled persons" and makes other technical changes to the statute.

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted an indeterminate negative impact on the State Transportation Trust Fund, Turnpike trust funds, and local trust funds.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Toll Exemptions

Section 338.155, F.S., requires the payment of tolls on toll facilities and provides the following exemptions:

- Employees of the agency operating the toll facility on official state business;
- State military personnel while on official military business;
- Handicapped persons as provided below;
- Persons exempt from toll payment by the authorizing resolution for bonds issued to finance the toll facility;
- Persons exempt on a temporary basis when a toll facility is part of a detour route;
- Any law enforcement officer operating a **marked** official vehicle when on official law enforcement business;
- Any person operating a fire vehicle or a rescue vehicle when on official business;
- Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty;
- Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property.

Additionally, the secretary of the Department of Transportation (DOT) or the secretary's designee may suspend tolls when necessary to assist in emergency evacuation.¹

According to DOT, law enforcement agencies with marked vehicles submit a "SunPass Non-Revenue Account Application." In that application, the agency lists each marked vehicle that will have a non-revenue SunPass transponder along with certain identifying information regarding each vehicle. The agency representative attests that the vehicles listed on the application qualify for the toll exemption for marked law enforcement vehicles.²

Turnpike Bonds

Section 338.227, F.S., authorizes DOT to borrow money as provided in the State Bond Act³ to pay all or any part of the cost of any one or more legislatively approved turnpike projects. The principal of, and the interest on, these bonds is paid solely from revenues pledged for their payment.⁴

In s. 338.229, F.S., in connection with the issuance of Turnpike bonds, the state covenants to not limit or restrict the rights vested in DOT to establish and collect tolls for the use of the Turnpike System and to fulfill the terms of any agreements made with bondholders. The state also covenants to take no action that will impair the rights or remedies of the bondholders until the bonds, together with interest on the bonds, are fully paid and discharged.⁵ Statutes creating the state's expressway and bridge authorities contain similar provisions.⁶

The Turnpike's master bond resolution, originally adopted in 1988, and amended and restated in 2005, under which the outstanding Turnpike bonds were issued, contains DOT's commitments regarding the funding and operation of the Turnpike System. Section 5.03 of the bond covenants provides that the

¹ Sections 338.155(1) and (2), F.S.

² Department of Transportation HB 141 Bill Analysis, p. 2. Copy on file with Transportation & Infrastructure Subcommittee.

³ Sections 215.57 through 215.83, F.S.

⁴ Section 338.227(1), F.S.

⁵ Department of Transportation HB 141 Bill Analysis, p.2.

⁶ See ss. 348.0010, 348.64, 348.761, and 348.974, F.S.

resolution is a contract with the bondholders and is enforceable in court by the bondholders. The resolution may not be amended in any way that affects “the unconditional promises of the Department to fix, maintain and collect tolls for the use of the Turnpike System” without consent of all the holders of outstanding Turnpike bonds.⁷

In section 5.08 of the bond covenants, DOT covenants that it “shall not allow or permit any free use of the Toll roads of the Florida Turnpike, except to officials or employees of the Department whose official duties in connection with the Florida Turnpike require them to travel over the Florida Turnpike, or except as may be provided by laws in effect on the date of the adoption of this Resolution.”⁸

DOT has also issued bonds to fund capital improvements to Alligator Alley.⁹ The resolution under which the Alligator Alley bonds were sold contains a similar covenant regarding use of Alligator Alley.¹⁰

When the Turnpike bond resolution was adopted and restated, and the outstanding Alligator Alley bonds were sold, state law authorized DOT to suspend tolls in the event of emergencies. The law otherwise required the payment of tolls by all users of DOT toll facilities, except the following specifically exempt persons:

- Employees of the agency operating the toll project when using the toll facility on official state business;
- State military personnel while on official military business;
- Certain handicapped persons;
- Persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility;
- Persons exempt on a temporary basis where use of such toll facility is required as a detour route;
- Law enforcement officers operating a marked official vehicle when on official law enforcement business;
- Any person operating a fire vehicle when on official business or a rescue vehicle when on official business; and
- Any person driving an automobile or other vehicle belonging to the Florida Department of Military Affairs used for transporting military personnel, stores, and property.¹¹

In 2005, the Legislature passed HB 1681, extending the list of persons exempt from the payment of tolls to include any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty.^{12,13}

In 2012, the Legislature amended the toll exemption statute, but only with respect to DOT managed toll facilities, whose revenues are not pledged to repayment of bonds.¹⁴ The statute authorizes DOT to, by rule; allow the use of such toll facilities by public transit vehicles or by vehicles participating in a funeral procession for an active-duty military service member without paying tolls.¹⁵ Because the revenues of the Turnpike System are pledged to repayment of bonds, this provision does not apply to the Turnpike System or Alligator Alley.¹⁶

⁷ Department of Transportation HB 141 Bill Analysis, p.2.

⁸ *Id.*

⁹ Alligator Alley Bonds were issued pursuant to s. 338.26, F.S.

¹⁰ Department of Transportation HB 141 Bill Analysis, p.2.

¹¹ *Id.*

¹² Chapter 2005-281, L.O.F.

¹³ Department of Transportation HB 141 Bill Analysis, pp. 2-3.

¹⁴ Chapters 2012-128 and 2012-174, L.O.F.

¹⁵ Rule 14-100.006, F.A.C., is DOT’s rule regarding express lane toll exemptions for various transit vehicles.

¹⁶ Department of Transportation HB 141 Bill Analysis, p.3.

Proposed Changes

The bill amends s. 338.155(1), F.S., exempting law enforcement officers operating a marked or unmarked official vehicle while on law enforcement business from paying tolls. Official law enforcement business includes, but is not limited to, patrol operations, investigative activities, crime prevention activities, or traffic operations.

The bill also changes references to “handicapped persons” in s. 338.155, F.S., to “disabled persons” and makes other technical changes to the statute.

B. SECTION DIRECTORY:

Section 1 amends s. 338.155, F.S., relating to the payment of tolls on toll facilities.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted an indeterminate negative impact to the State Transportation Trust Fund and Turnpike trust funds.

2. Expenditures:

To the extent that state law enforcement agencies utilize unmarked vehicles on toll facilities, the state will no longer incur toll expenses associated with those vehicles.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted an indeterminate negative impact on local trust funds.

2. Expenditures:

To the extent that local governments utilize unmarked law enforcement vehicles on toll facilities, local governments will no longer incur these expenses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

Impairment of Contracts

The bill expands the statutory toll exemption for marked official law enforcement vehicles used in official law enforcement business to include unmarked official law enforcement vehicles. Expanding the toll exemption beyond what was in effect when the outstanding bonds were sold may constitute an impairment of the rights of the bondholders.¹⁷

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Highway Safety and Motor Vehicles, law enforcement officers, while on official law enforcement business, routinely use rental vehicles. It is not clear if these vehicles would be "official vehicles" for purposes of the toll exemption.¹⁸

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment exempted marked and unmarked law enforcement vehicles on official law enforcement business from paying tolls. The amendment also defined "official law enforcement business."

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

¹⁷ Department of Transportation HB 141 Bill Analysis, p.6.

¹⁸ Department of Highway Safety and Motor Vehicles HB 141 Bill Analysis, p. 4. Copy on file with Transportation & Infrastructure Subcommittee.