

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 141	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Transportation	114	Y's 0	N's
SPONSOR(S):	Government Accountability Committee; Transportation & Infrastructure Subcommittee; Harrison and others	GOVERNOR'S ACTION:	Approved	
COMPANION BILLS:	CS/SB 1012			

SUMMARY ANALYSIS

CS/HB 141 passed the House on March 5, 2018, and subsequently passed the Senate on March 9, 2018. The bill includes portions of SB 336, SB 356, CS/CS/SB 1104, and CS/CS/HB 1287.

The Florida Turnpike Enterprise operates 483 miles of tolled highways. Current law provides that no governmental entity other than the Department of Transportation (DOT) may acquire, construct, maintain, or operate the turnpike system, except upon specific authorization of the Legislature. The bill authorizes, but does not require, DOT to enter into certain agreements with local governmental entities regarding Turnpike projects.

Current law requires the payment of tolls for the use of toll facilities and provides certain exceptions, including an exception for law enforcement officers operating marked official vehicles when on official law enforcement business. The bill exempts law enforcement officers operating an official vehicle on official law enforcement business from paying tolls on toll facilities.

Alligator Alley is a 78-mile tolled portion of Interstate 75 connecting Naples and Fort Lauderdale. A portion of the fees generated through tolls is used to reimburse Collier County for the costs of operating a fire station located at mile marker 63. Reimbursement occurs through an interlocal agreement effective July 1, 2014, through June 30, 2018. The bill extends DOT's statutory obligation to reimburse a county or another local governmental entity for the direct actual costs of operating the fire station from June 30, 2018, to June 30, 2019.

The Miami-Dade County Expressway Authority (MDX) is created pursuant to the Florida Expressway Authority Act. In 2017, the Legislature required MDX, subject to bond covenants, to reduce its tolls for qualifying SunPass users. The bill requires the Miami-Dade County Expressway Authority to submit a report to the Governor regarding the implementation of the statutorily required toll reduction. If the toll reduction does not take place, the bill provides that MDX's current board will be dissolved and replaced with a new board.

The Revenue Estimating Conference reviewed the toll exemption for law enforcement vehicles and adopted an indeterminate negative impact on the State Transportation Trust Fund, Turnpike trust funds, and local trust funds. The fiscal impact associated with the costs of operating the fire station is indeterminate.

The bill was approved by the Governor on April 6, 2018, ch. 2018-145, L.O.F., and will become effective on July 1, 2018.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0141z1.TIS

DATE: April 10, 2018

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Turnpike Projects

Current Situation

Part of the Department of Transportation (DOT), the Florida Turnpike Enterprise operates 483 miles of tolled highways.¹ Section 338.222, F.S., provides that no governmental entity other than DOT may acquire, construct, maintain, or operate the turnpike system subsequent to the enactment of this law, except upon specific authorization of the Legislature.² DOT may contract with any local governmental entity³ for the design, right-of-way acquisition, or construction of any legislatively approved turnpike project. Local governmental entities may negotiate with DOT for the design, right-of-way acquisition, and construction of any section of the turnpike project within areas of their respective jurisdictions or within counties with which they have interlocal agreements.⁴

Effect of the Bill

The bill amends s. 338.222(2), F.S., providing that DOT may, but is not required to, contract with any local governmental entity for the transfer, purchase, sale, acquisition, or other conveyance of the ownership, operation, or maintenance of any legislatively approved turnpike projects. The bill authorizes local governmental entities to contract with DOT for the transfer, purchase, sale, acquisition, or other conveyance of the ownership, operation, or maintenance of any section of the turnpike project within areas of its respective jurisdiction or within counties with which it has interlocal agreements.

Toll Exemptions for Law Enforcement Vehicles

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;
- Certain handicapped persons;
- 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; or
- Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property.

¹ <http://www.fdot.gov/agencyresources/districts/> (Last visited March 9, 2018).

² Section 338.222(1), F.S.

³ Section 334.03(13), F.S., defines “local governmental entity” as a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

⁴ Section 338.222(2), F.S.

Additionally, the secretary of DOT or the secretary's designee may suspend tolls when necessary to assist in emergency evacuation.⁵

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.⁶

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.⁷ 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.⁸ 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.⁹

Turnpike Bonds

Section 338.227, F.S., authorizes DOT to borrow money as provided in the State Bond Act¹⁰ 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.¹¹

Section 338.229, F.S., provides that, in connection with the issuance of Turnpike bonds, the state will 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 agreed not to take any action impairing the bondholder's rights or remedies until the bonds, together with interest on the bonds, are fully paid.¹² Statutes creating the state's expressway and bridge authorities contain similar provisions.¹³

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 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.¹⁴

In section 5.08 of the bond covenants, DOT agrees that it will not allow or permit any free use of the Toll roads of the Florida Turnpike, except to DOT officials or employees 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 the Resolution."¹⁵

⁵ Sections 338.155(1) and (2), F.S.

⁶ Department of Transportation HB 141 Bill Analysis, p. 2. Copy on file with Transportation & Infrastructure Subcommittee.

⁷ Chapters 2012-128 and 2012-174, L.O.F.

⁸ Rule 14-100.006, F.A.C., is DOT's rule regarding express lane toll exemptions for various transit vehicles.

⁹ Department of Transportation HB 141 Bill Analysis, p.3.

¹⁰ Sections 215.57 through 215.83, F.S.

¹¹ Section 338.227(1), F.S.

¹² Department of Transportation HB 141 Bill Analysis, p.2.

¹³ See ss. 348.0010, 348.64, 348.761, and 348.974, F.S.

¹⁴ Department of Transportation HB 141 Bill Analysis, p.2.

¹⁵ *Id.*

DOT has also issued bonds to fund capital improvements to Alligator Alley.¹⁶ The resolution under which the Alligator Alley bonds were sold contains a similar covenant regarding use of Alligator Alley.¹⁷

Effect of the Bill

The bill amends s. 338.155(1), F.S., exempting law enforcement officers operating an official vehicle while on official law enforcement business from paying tolls.

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

Alligator Alley Toll Road

Current Situation

Use of Alligator Alley Toll Funds to Fund Fire Station

Section 338.26, F.S., establishes Alligator Alley as a toll road, because the construction of the road “contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades.” It is a 78-mile toll road connecting Naples and Fort Lauderdale. Collier County provides fire, rescue, and emergency management services along Alligator Alley through a fire station located at mile marker 63 (MM63) on Alligator Alley.

Current law sets forth required uses of the fees generated from tolls for the use of Alligator Alley, which are deposited into the State Transportation Trust Fund. Fees must be used to reimburse outstanding contractual obligations and to operate and maintain the highway and toll facilities, including reconstruction and restoration. With regard to the fire station on Alligator Alley, the fees must be used:

- To design and construct the fire station at MM63, which may be used by a county or other local governmental entity to provide services to the public on Alligator Alley; and
- To reimburse a county or other local governmental entity for the direct actual costs of operating the fire station. Reimbursement occurs through an interlocal agreement effective July 1, 2014, through no later than June 30, 2018.¹⁸

Funds generated annually in excess of those required to pay the above-described expenses may be transferred to the Everglades Trust Fund and used for certain environmental projects.¹⁹ Upon termination of the interlocal agreement for the fire station, DOT would be authorized to use the excess fees for such environmental projects.

Toll Revenues and Expenses

According to DOT’s 2016 Annual Report for its Enterprise Toll Operations,²⁰ for Fiscal Year (FY) 2016-2017 through FY 2020-2021, Alligator Alley will average \$34.5 million in gross toll revenue each year with annual operating and maintenance expenses averaging \$8.9 million and annual debt service payments averaging \$3.45 million. The maintenance expenses include funding for rest area improvements, fire station operations, and interchange lighting projects.

¹⁶ Alligator Alley Bonds were issued pursuant to s. 338.26, F.S.

¹⁷ Department of Transportation HB 141 Bill Analysis, p.2.

¹⁸ Section 338.26(3)(a), F.S.

¹⁹ Section 338.26(3)(b), F.S.

²⁰ The 2016 report is the latest posted to DOT’s Turnpike Enterprise webpage and is available at http://www.floridasturnpike.com/documents/reports/Toll%20Operations%20Annual%20Report/2016/2016%20OTO_Department%20Owned.pdf (last visited February 15, 2018.)

Interlocal Agreement

On May 9, 2014, DOT and the Board of Commissioners of Collier County entered into an interlocal agreement providing the terms and conditions under which DOT would “provide funding to the County for the County’s expenses in purchasing equipment, compensating County employees, and otherwise providing fire, rescue and emergency services utilizing the Fire Station.”²¹

DOT included the fire station in its construction project when it rebuilt the rest area at MM63 and the fire station opened in early 2015.²² The fire station was built for the exclusive use of the County for the duration of the interlocal agreement.²³ DOT owns the fire station and leases it to Collier County;²⁴ however, under the agreement, all equipment, personal property, vehicles, apparatus and supplies acquired by County with funding provided by DOT remain the property of the County.²⁵

For the term of the agreement, DOT agreed to provide a maximum of \$1,761,235 for direct actual capital costs and a maximum of \$1,498,100 for the county’s direct actual costs of operating the fire station.²⁶ The county agreed to bear all expenses in excess of DOT’s specified participation.²⁷ The agreed-upon funding includes various annual operating items such as hired paramedics and firefighters, expenses for administrative and building maintenance, and expenses for bulk fuel and various types of search and rescue equipment. Capital costs include items such as vehicles, radios, and breathing air compressors.²⁸

Information regarding DOT’s Adopted Five-Year Work Program for 2014-2018 reflects the following funding for the MM63 fire station:²⁹

Fiscal Year	Amount
2014	\$1,761,235
2015	\$1,498,100
2016	\$1,522,070
2017	\$1,522,070
2018	\$1,498,100

Effect of the Bill

The bill amends s. 338.26(3)(a), F.S., extending the date through which DOT is statutorily obligated to reimburse Collier County for the direct actual costs of operating the MM63 fire station from June 30, 2018, to no later than June 30, 2019.

²¹ Department-Collier County Interlocal Agreement, CSFA No. 55.036, May 9, 2014, at pp. 2-3.

²² Department-Collier County Interlocal Agreement at p. 2 and 3. Marco Eagle, *New fire/EMS station opens on Alligator Alley*, April 5, 2015, available at <http://www.marconews.com/story/news/2015/04/03/new-fully-staffed-fireems-station-opens-alligator-alley/25238329/> (last visited February 15, 2018).

²³ Department-Collier County Interlocal Agreement at p. 3. The agreement provides that state or local law enforcement may station officers, agents, or response teams at the fire station, based on space and availability.

²⁴ Department-Collier County Interlocal Agreement at p. 12.

²⁵ Department-Collier County Interlocal Agreement at p. 13.

²⁶ The Agreement also authorizes the County to request a Consumer Price Index adjustment of the total operating amount 30 days prior to July 1 for each year after the first covered by the Agreement. Department-Collier County Interlocal Agreement at p. 10.

²⁷ Department-Collier County Interlocal Agreement at p. 11.

²⁸ Department-Collier County Interlocal Agreement at Exhibit B.

²⁹ DOT, Web Application, Office of Work Program and Budget, *Five Year Work Program – Project Summary for Transportation System: Intrastate Interstate, Description: Alligator Alley Fire Station @ MM63*, updated January 10, 2018, available at <http://www2.dot.state.fl.us/fmsupportapps/workprogram/Support/WPItemRept.ASPX?RF=HIS&CD=03&SD=FIRE%20STATION&FY=FALSE|FALSE|FALSE|FALSE|FALSE|FALSE&ITM=435389~1&RP=ITEM> and <http://www2.dot.state.fl.us/fmsupportapps/workprogram/Support/WPItemRept.ASPX?RF=WP&CD=03&SD=FIRE%20STATION&FY=FALSE|FALSE|FALSE|FALSE|FALSE|FALSE&ITM=435389~1&RP=ITEM> (last visited February 15, 2018.)

Miami-Dade Expressway Authority Board

Current 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 ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

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,³⁰ Dade County,³¹ and Hillsborough County.³² Of these, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957.³³ Therefore, Miami-Dade County is the only government entity meeting the definition of county in s. 125.011(1), F.S.

Miami-Dade County Expressway Authority

The Florida Expressway Authority Act (Act), codified in part I of Ch. 348, F.S.,³⁴ authorizes any county or two or more contiguous counties within a single DOT district to, by resolution adopted by the board of county commissioners, form an expressway authority, which must be an agency of the state.³⁵ The Miami-Dade County Expressway Authority (MDX) was created in 1994, when the Miami-Dade County Commission adopted ordinance 94-215.³⁶ MDX is the only expressway authority created under the Act.³⁷ MDX’s system 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).

Section 348.0003, F.S., provides for the formation and membership of expressway authorities. Section 348.0003(2)(d), F.S., provides that in Miami-Dade County, the governing body of an expressway authority consists of up to nine members. Except for DOT’s district secretary, MDX board members must be residents of Miami-Dade County. Five voting members are appointed by the governing body of the county and, at the discretion of the governing body, up to two members appointed by the governing body of the county may be elected officials residing in the county. Three voting members are appointed by the Governor. One member is the DOT the district secretary serving Miami-Dade County, who is an ex officio voting member of the authority.

³⁰ FLA. CONST. art. VIII, s. 6, n. 2.

³¹ FLA. CONST. art. VIII, s. 6, n. 3.

³² FLA. CONST. art. VIII, s. 6, n. 4.

³³ Florida Association of Counties, *Charter County Information*, <http://www.fl-counties.com/about-floridas-counties/charter-county-information> (last visited February 20, 2018).

³⁴ Part I of Ch. 348, F.S. is comprised of ss. 348.0001 through 348.0012, F.S.

³⁵ Section 348.0003(1), F.S.

³⁶ A copy of the ordinance is available at http://miamidade.fl.elaws.us/code/coor/coor_ptiii_ch2_artxviii/ (last visited Nov. 9, 2015).

³⁷ While MDX is the only authority created pursuant to the Act, part V of Ch. 348, F.S., creating the Osceola County Expressway Authority, contains numerous references to the Act.

House Bill 1049 (2017)

In 2017, the Legislature passed House Bill 1049,³⁸ which provided that subject to compliance with any of its bond covenants, MDX must, at the time that any toll is incurred, reduce the toll charged on any of its toll facilities by at least 5 percent, but not more than 10 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. MDX may not impose additional requirements to receive of the reduced toll amount.

Effect of the Bill

The bill creates s. 348.0003(2)(d)2., F.S., requiring the governing body of MDX by October 1, 2018, to submit to the Governor information regarding its compliance with the minimum 5 percent toll reduction prescribed in s. 348.0004(6), F.S. If the required toll reduction has not taken place, effective October 31, 2018, the existing board is dissolved and, except for the DOT district secretary, a new board must be appointed by that date. No member of the board on October 1, 2018, may be appointed to the new board. Qualifications and appointments to the new board remain the same.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

The bill requires DOT to continue funding the County's direct actual costs of operating the MM63 fire station from the fees generated from tolls collected on Alligator Alley through June 30, 2019. Under current law, DOT may use the fees for other authorized uses described in law. The impact on toll bonds or other agreements is unknown at this time.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

Collier County will receive funding for an additional year for actual operating and capital costs related to the fire station and thus, will only have to expend county funds for expenses above the costs agreed to in the interlocal agreement. The exact amount of such funding is unknown but will likely be based on an agreed-upon estimated schedule of expenses incorporated into a new interlocal agreement or extension of the current interlocal agreement.

³⁸ Chapter 2017-182, L.O.F.

2. Expenditures:

To the extent that local governments utilize official enforcement vehicles on toll facilities, local governments will no longer incur toll expenses associated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.