

**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 Transportation

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BILL: SB 818

INTRODUCER: Senator Powell

SUBJECT: Emergency Exemption from Tolls

DATE: January 26, 2018

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Price   | Miller         | TR        | <b>Favorable</b> |
| 2. |         |                | ATD       |                  |
| 3. |         |                | AP        |                  |

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**I. Summary:**

SB 818 provides an exemption from toll payment for persons operating motor vehicles on toll facilities within a county subject to a mandatory evacuation order issued during a state of emergency declared by the Governor. The bill requires the exemption to remain in effect until the evacuation order is lifted. The bill also revises the authority granted to the Florida Department of Transportation (FDOT) regarding suspension of the payment of tolls and makes editorial revisions to improve readability.

The fiscal impact to state, regional, and local toll authority revenues is indeterminate.

The bill takes effect July 1, 2018.

**II. Present Situation:**

Chapter 252, Florida Statutes (F.S.), confers certain emergency powers upon the Governor, the Division of Emergency Management, and the governing bodies of each political subdivision of the state with respect to emergencies that occur within the state.<sup>1</sup>

With respect to the Governor, s. 252.36(2), F.S., provides for declaration of a state of emergency by executive order or proclamation if the Governor finds an emergency or the threat of an emergency has occurred or is about to occur. The law provides that the state of emergency continues until the Governor finds the emergency conditions no longer exist and terminates the state of emergency. However, a state of emergency may not exist for more than 60 days unless the Governor renews it.<sup>2</sup> Section 252.36(5)(a), F.S., additionally empowers the Governor to suspend any regulatory statute or any state agency orders or rules if compliance with them would

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<sup>1</sup> Section 252.32(1)(b), F.S.

<sup>2</sup> The Legislature may terminate a state of emergency at any time by concurrent resolution.

in any way prevent, hinder, or delay necessary action in coping with the emergency, such as the ability to suspend the provisions of s. 338.155(1), F.S., requiring the payment of a toll for the use of any toll facility.

The Governor may also compel evacuation from any stricken or threatened area in the state if he or she determines it necessary to preserve life or facilitate emergency mitigation, response and recovery; and may prescribe routes, modes of transportation, and destinations in connection with evacuation.<sup>3</sup> Counties may also order evacuations of their jurisdictional areas pursuant to authority delegated by the Governor and through each county's emergency management director.<sup>4</sup>

In addition to the Governor's authority to suspend the payment of tolls under 252.36(5)(a), F.S., the Florida Department of Transportation (FDOT) secretary, or designee, may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation under s. 338.155(1), F.S.

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

The bill amends s. 338.155, F.S., providing that a person operating a motor vehicle on a toll facility located in a county subject to a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to s. 252.32, F.S., is exempt from the payment of a toll for use of a toll facility in such county. Thus, if the Governor declares a state of emergency in a given county and issues a mandatory evacuation order for that county, or if the county issues a mandatory evacuation order during the declared state of emergency pursuant to its authority, the bill requires suspension of toll payment until the evacuation order is lifted.

In addition, the FDOT's authority to suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation is made applicable to "other" toll facilities; i.e., those that are not located in a county subject to a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to s. 252.32, F.S.

The bill also contains various editorial revisions to improve statutory readability.

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

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

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or

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<sup>3</sup> Section 252.36(5)(e) and (f), F.S.

<sup>4</sup> See s. 252.36(8) and s. 252.38(1), F.S. See also Florida Attorney General Advisory Legal Opinion, AGO 95-24, dated April 3, 1995, explaining that counties may issue emergency evacuation orders in the absence of a directive from the Governor, where there is a Declaration of Emergency that expressly does not preclude such issuance. Research suggests that such language is routinely included in state emergency declarations. As an example, see the Governor's Executive Order Number 17-235 declaring a State of Emergency in every county in Florida relating to Hurricane Irma, Section 11, at p. 11, available at: <https://www.flgov.com/wp-content/uploads/2017/09/SLG-BIZHUB17090402490.pdf>. (Last visited January 20, 2018.)

counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact,<sup>5</sup> which, based the most recent estimate, was \$2 million or less.<sup>6</sup>

The mandates provision of Article VII, Section 18 of the Florida Constitution, may apply because this bill reduces county authority to raise revenue by requiring suspension of the collection of tolls on county-owned toll facilities for the duration of any specified mandatory evacuation orders. The Revenue Estimating Conference has not reviewed the impact of this bill. However, the impact may be insignificant, depending on the number and duration of those orders.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Users of toll facilities in a county subject to a mandatory evacuation order issued during a state of emergency declared by the Governor will not be required to pay a toll for use of the facilities until the evacuation order is lifted.

**C. Government Sector Impact:**

The fiscal impact to state, regional, and local toll authority revenues, individually or in total, is dependent on the number of declared states of emergency and the number of mandatory evacuation orders issued during them, the number of counties affected by such an order, and the duration of the order. The fiscal impact is therefore indeterminate.

**VI. Technical Deficiencies:**

None.

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<sup>5</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>. (Last visited January 20, 2018.)

<sup>6</sup> See the Demographic Estimating Conference's population adopted on December 5, 2017, available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>. (Last visited January 20, 2018.)

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 338.155.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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