

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.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 1090

INTRODUCER: Senators Diaz and Taddeo

SUBJECT: Express Lanes

DATE: January 28, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 1090 prohibits the Florida Department of Transportation (FDOT), effective July 1, 2020, from operating any express lanes or imposing any tolls on State Road 826, notwithstanding any other law. Additionally, as of the same date, the bill requires the FDOT to remove all express lanes on State Road 826, convert those lanes to general purpose lanes, and remove the imposition of any tolls.

The bill is expected to result in a significant but indeterminate negative fiscal impact to the FDOT. See the Fiscal Impact Statement for details.

The bill takes effect July 1, 2020.

II. Present Situation:

Express Lanes

Section 338.166, F.S., authorizes the FDOT to operate tolled express lanes and to request the Division of Bond Finance to issue bonds secured by toll revenues collected on tolled high-occupancy-vehicle lanes (HOT lanes) or express lanes established on FDOT-owned facilities. The FDOT is authorized to continue to collect the tolls on HOT lanes or express lanes after any bond debt is discharged. Such tolls must first be used to pay the annual cost of operation, maintenance, and improvement of the HOT lanes or express lanes project or associated transportation system.

The FDOT must use any remaining toll revenue from HOT lanes or express lanes for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the toll revenues were collected or to support express bus service on the facility where the toll revenues were collected.

State Road 826/Palmetto Expressway

State Road 826 is an FDOT-owned facility having two express lanes some 10 miles in length in either direction between approximately West Flagler Street and Northwest 154th Street in Miami-Dade County, for which tolls are currently being collected.¹ The amount of the toll varies depending on traffic volume and congestion levels. The FDOT advises the existing express lanes on State Road 826 are schedule to be extended south to U.S. Highway 1, and north and east to the Golden Glades interchange, following completion of an in-progress Project Development and Environment (PD&E) Study.² According to the FDOT,

Express lanes on State Road 826 are intended and expected to provide enhanced mobility and improved service on the facility. Speed, travel-time and traffic volume data show that the express lanes on State Road 826 provide a distinct benefit to the express lane users, some benefit to the general purpose lane users, and show an increase in overall traffic flow.³

Operation and Maintenance

As noted, after discharge of any debt, tolls collected from the express lanes on State Road 826 must first be used to pay for operations and maintenance, the costs for which are approximately \$7 million a year and escalating. Renewal and replacement costs are approximately \$4 million each seven to nine years. The FDOT advises the facility currently owes the State Transportation Trust Fund (STTF)⁴ approximately \$7 million for costs of operation and maintenance above the tolls collected, and projected excess revenues over costs for fiscal year 2020 are expected to reduce the amount owed by approximately \$4 million. The remaining \$3 million is expected to be paid off in fiscal year 2021.⁵

III. Effect of Proposed Changes:

The bill creates s. 338.167, entitled *Prohibition of express lanes and tolls on specified facilities*. Notwithstanding any other provision of law, and effective July 1, 2020, the bill prohibits the FDOT from operating any express lanes or imposing any tolls on State Road 826. As of the same date, the FDOT is required to remove all express lanes on State Road 826, convert those express lanes to general purpose (toll-free) lanes, and remove the imposition of tolls.

The bill would eliminate toll revenues effective July 1, 2020. Use of toll revenues to repay the operations and maintenance costs, including renewal and replacement costs, will be eliminated, meaning that these costs would have to be paid from the STTF going forward. The bill also has the effect of eliminating the current source of repayment of the approximate \$3 million owed to the STTF for past operation and maintenance costs of the State Road 826 express lanes.

¹ See the FDOT website, *SR 826/Palmetto Express Lanes*, available at <http://www.fdotmiamidade.com/current-projects/expressways/sr-826palmetto-express-lanes.html>, and *Palmetto Express*, available at <http://palmettoexpresslanes.com/> (last visited January 23, 2020).

² See the FDOT's 2020 Legislative Bill Analysis for SB 1090 (on file in the Senate Infrastructure and Security Committee).

³ *Id.*

⁴ The trust fund is created in s. 206.46, F.S.

⁵ *Supra* note 2.

The FDOT's work program could be impacted, as costs previously supported by toll revenues would have to be replaced by STTF dollars, resulting in the potential delay of other projects.

See "Related Issues" below for additional information.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Payment of a toll would no longer be required for users of the express lanes converted to general purpose lanes. However, removal of the express lanes may increase congestion on State Road 826. According to the FDOT, this would result in a reduction in travel speeds in all lanes and a travel time higher than 18 minutes for all vehicles in the peak period.⁶ Other projects that may reduce congestion may be delayed because STTF revenues would have to replace payment of costs relating to State Road 826 currently paid by toll revenues.

C. Government Sector Impact:

The bill would eliminate State Road 826 toll revenues effective July 1, 2020. These toll revenues will not be available to repay the operations and maintenance costs, including

⁶ *Id.*

renewal and replacement costs, for the express lanes. These future costs would have to be paid from other STTF resources. The bill also eliminates the current source of repayment of the approximate \$3 million owed to the STTF for past operation and maintenance costs of the express lanes.

Other fiscal impacts of the bill are indeterminate. The FDOT notes expenses associated with:

- Evaluating costs associated with prior installation of tolling equipment and removal of such equipment.
- Revising signage on State Road 826.
- Upgrading tolling software, including analysis, business rule changes, coding, unit, system and integration testing, and implementation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDOT notes the following additional concerns relating to the impact of the bill's requirements:

- Beyond project delays, the FDOT notes "there likely would be further impacts concerning the Department's ability to issue bonds for projects in that region which are backed by toll revenues."⁷
- Potential use of excess revenues to pay the costs of operation, maintenance, or improvement of other facilities within Miami-Dade County will be removed.
- Potential use of express bus service in the express lanes on State Road 826 would be eliminated.
- Future capital improvements to other toll facilities in the region would have generated additional eligible expenditures and helped the FDOT meet the federally-required Maintenance of Effort test with respect to earning toll credits. Toll credits may be used toward the non-Federal matching share (the required state match) for eligible Federal-aid highway projects. The FDOT advises of its need to be able to project the amount of toll revenue available and the associated matching funds that will be earned through future capital expenditures. The bill's implications in this regard are not fully identified, according to the FDOT.⁸

VIII. Statutes Affected:

This bill creates section 338.167 of the Florida Statutes.

⁷ *Id.*

⁸ See the FHWA, *Federal-aid Matching Strategies*, for additional information on toll credits, available at https://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_aid/matching_strategies/toll_credits.aspx (last visited January 2020).

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.

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