

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 Transportation

BILL: CS/SB 684

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Department of Transportation

DATE: March 10, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Price | Vickers | TR | Fav/CS |
| 2. | | | ATD | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 684 directs the Florida Department of Transportation (FDOT) to allow any person to purchase a commuter pass for each motor vehicle the person owns at an annual cost of \$60 per vehicle, which exempts the motor vehicle from any Pinellas Bayway System tolls during the term of the pass. The annual cost must be adjusted to inflation no more frequently than once a year and no less frequently than once every five years. Funds collected from the sale of the commuter passes must be deposited into the State Transportation Trust Fund (STTF), or in the Turnpike General Reserve Trust Fund if the system is transferred to the Florida Turnpike Enterprise (FTE), and the funds must be used for the operation and maintenance of the system.

The bill increases the annual cost of commuter passes for the Pinellas Bayway System from \$50 to \$60 and requires periodic adjustments to the cost for inflation. See "Fiscal Impact Statement" heading for additional information.

The bill takes effect July 1, 2021.

II. Present Situation:

Pinellas Bayway

The Pinellas Bayway System, currently owned by the Florida Department of Transportation (FDOT), is a tolled system of bridges and causeways that provide a connection between St.

Petersburg Beach, Fort DeSoto Park, and Interstate 275. The system is approximately 15.2 miles in length and includes 1.3 miles of bridges.¹ Tolls on the Pinellas Bayway System are collected by the FTE.

History of the Bayway System

In 1968, the predecessor of the FDOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*.² In the settlement agreement, the State Road Department agreed that owners and residents of real property in the Bayway Isles Development would have the right to purchase an annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for \$15 per vehicle. That agreement remains in place.

In 1985, the Legislature authorized a \$50 “annual” pass for any person’s owned motor vehicles which exempted such vehicles from Bayway tolls during the term of the pass. Funds collected from sales of the pass were to be used first for payment of annual operating costs and, second, to discharge bond indebtedness. Thereafter, these funds, together with tolls collected for use of the Bayway, were to be used for a reserve construction account for “Phase II” of Bayway improvements. Upon completion, toll collection was to continue and be used to reimburse the FDOT for all accrued maintenance costs for the Bayway.³

In 1995, enacted legislation amending the 1985 law required a portion of the tolls collected to first be used for construction of Blind Pass Road/SR 699 improvements, and then for Phase II of the Bayway improvements. On-going toll collection after completion of Phase II remained in place to be used to reimburse the FDOT for all accrued maintenance costs.⁴

In 2014, section 48 of ch. 2014-223, L.O.F., repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard. By the time the Blind Pass Road/SR 699 improvements had been completed, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient. However, no funds for replacement of the bridge were included in the FDOT District work program. The FDOT advised that transfer of the Bayway system from the FDOT to the FTE would allow replacement of the structurally deficient bridge to be moved up from 2020 to 2017 in the FDOT work program and to be funded through a combination of the accrued reserve account revenues and other financing available to the FTE.

In the 2016 Session, HB 7061 was enacted. Among other transportation-related provisions, the legislation created s. 338.165(11), F.S., authorizing the FDOT to transfer the Pinellas Bayway System to become part of the turnpike system. The bill also preserved the provisions of the *Ratner* settlement agreement and final judgment by retaining the ability to purchase a \$15 annual resident pass. Additionally, the bill transferred the construction reserve account to the FDOT

¹ See the 2020 Toll Operations Annual Report, *Pinellas Bayway System*, available at https://floridasturnpike.com/wp-content/uploads/2021/02/03_Department-owned-Facilities.pdf (last visited March 4, 2021).

² No. 67-1081 (Fla. 2nd Cir. Ct. 1968).

³ Ch. 85-364, L.O.F.

⁴ Ch. 95-382, L.O.F.

when ownership of the system is transferred to the FTE. Further, the bill repealed ch. 85-634, L.O.F., as amended by ch. 95-382 and section 48 of ch. 2014-223, L.O.F., thereby removing the authorization for purchase of the \$50 “annual” pass.

Consistent with the 2016 legislation, the SunPass website currently lists for purchase a \$15 resident pass that “expires on June 30th regardless of when the \$15 pass was purchased. Up to five passes may be purchased for a fee of \$15. The pass is valid at the East Plaza only. Proof of residency is required.”⁵

However, in addition to the resident pass, the site lists for purchase a \$50 “commuter” pass, “a yearly pass system for two-axle vehicles that expires on September 30th regardless of when the \$50 pass per vehicle was purchased. Pass is valid at all three Pinellas Bayway Plazas and available to all motorists.”⁶

Research reveals no specific grant of authority to the FDOT for the sale of “commuter” passes on the Bayway System.

Toll Indexing

Section 338.165(3), F.S., requires the FDOT, including the FTE, to index *toll rates* on existing toll facilities to the annual CPI or similar inflation indicators, no more frequently than once a year and no less frequently than once every 5 years as necessary to accommodate cash toll rate schedules. Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to FDOT administrative rule. It appears that indexing has never been applied to purchase amounts for any *passes*.

III. Effect of Proposed Changes:

The bill provides the FDOT with statutory authority for an existing commuter pass relating to the Pinellas Bayway System, indexes the cost of the pass to the Consumer Price Index, and provides for use of funds collected from sale of the passes.

Section 1 of the bill creates an undesignated section of law directing the FDOT to allow any person to purchase a commuter pass for each motor vehicle the person owns at an annual cost of \$60 per vehicle, exempting the vehicle from any Pinellas Bayway System tolls during the term of the pass. Funds collected from the sale of the commuter passes must be deposited into the STTF, or in the Turnpike General Revenue Fund if the system is transferred to the FTE. The funds must be used for the operation and maintenance of the system.

The bill directs the FDOT or the FTE, as appropriate, to index the annual commuter pass cost to the annual CPI or similar inflation indicators, rounded to the nearest dollar. CPI adjustment to the commuter pass cost may be made no more frequently than once a year and no less frequently than once every five years. This is the same adjustment for inflation required of the FDOT and the FTE.

⁵ See SunPass, *Tolls*, available at <https://www.sunpass.com/en/tolls/tollsSunPass.shtml> (last visited March 4, 2021).

⁶ *Id.*

The bill takes effect July 1, 2021.

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:

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

The bill appears to increase an existing fee and provides for its use. The bill requires approval by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill increases the existing fee for a Bayway System commuter pass from \$50 to \$60 annually, which amount would be adjusted to inflation as specified.

B. Private Sector Impact:

Purchasers of the commuter pass will be required to pay \$60 annually, which amount would be adjusted to inflation as specified.

C. Government Sector Impact:

According to the FDOT, an *average* of approximately 11,000 passes are sold, which under the bill would produce approximately \$110,000 for the first year. However, based on the FDOT’s estimated increase of about \$1.00 to the pass price due to indexing, the

annual cost of a pass upon adjustment would rise to \$61. This would produce approximately \$11,000 in additional revenue in year 2 and beyond for operation and maintenance of the Bayway System.⁷

VI. Technical Deficiencies:

The bill is effective July 1, 2021. Commuter passes expire annually on September 30th, regardless of when the pass was purchased. The FDOT advises that the \$10 increase in the cost of the commuter pass will require rulemaking, which would not be completed in time for passes to be issued beginning October 1, 2021, at the \$60 price.⁸

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

CS by Transportation on March 10, 2021:

The CS removes all of the provisions in the original bill relating to use of revenues for landscaping and beautification of the Bayway System.

B. Amendments:

None.

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

⁷ See the FDOT's email to committee staff dated January 4, 2021 (on filed in the Senate Transportation Committee).

⁸ *Id.*