

## CHAPTER 2017-182

### Committee Substitute for House Bill No. 1049

An act relating to limited access and toll facilities; amending s. 338.166, F.S.; authorizing the Department of Transportation to require the use of an electronic transponder interoperable with the department's electronic toll collection system for the use of high-occupancy toll lanes or express lanes; requiring, as of a specified date, that a customer be charged the minimum express lane toll if his or her average travel speed for a trip in an express lane falls below a specified rate; providing measurement of a customer's express lane average travel speed; amending s. 338.2216, F.S.; authorizing the Florida Turnpike Enterprise to require the use of an electronic transponder interoperable with the department's electronic toll collection system for the use of express lanes on the turnpike system; prohibiting variable pricing from being implemented in express lanes when the level of service in the express lane, determined in accordance with specified criteria, is equal to level of service A; specifying that variable pricing in express lanes when the level of service in the express lane is level of service B may only be implemented by charging the general toll lane toll amount plus an amount set by department rule; providing that pricing in express lanes when the level of service is other than level of service A or level of service B may vary in the manner established by the Florida Turnpike Enterprise to manage congestion in the express lanes; requiring, as of a specified date, that a customer be charged a general toll lane toll amount plus an amount set by department rule if his or her average travel speed for a trip in an express lane falls below a specified rate; providing for measurement of a customer's express lane average travel speed; amending s. 338.231, F.S.; extending the timeframe during which the department must program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade County, Broward County, and Palm Beach County are at least a specified percent of a certain share of certain net toll collections; amending s. 348.0004, F.S.; providing applicability; requiring toll increases by authorities in certain counties to be justified by an independent study by a third party; providing an exception for an increase to adjust for inflation pursuant to a specified procedure for toll rate adjustments; requiring toll increases to be approved by a specified margin in a vote of the expressway authority board; prohibiting the amount of toll revenues used for administrative expenses by the authority from being greater than a specified percentage above the annual state average of administrative costs; requiring the Florida Transportation Commission to determine the annual state average of administrative costs based on the annual administrative expenses of all the expressway authorities of this state; authorizing the commission to adopt certain rules; requiring a specified distance between main through-lane tolling points on transportation facilities constructed after a specified date; providing applicability; conforming a cross-reference; requiring authorities in certain counties

to reduce toll charges by a specified amount at the time that any toll is incurred for certain SunPass registrants, subject to certain requirements; prohibiting such authorities from imposing additional requirements for receipt of the reduced toll amount; requiring an authority in certain counties to determine its surplus revenues and dedicate a certain amount of the annual surplus revenues to transportation- and transit-related expenses for projects in the area served by the authority; requiring the metropolitan planning organization for certain counties to annually select a project or projects within the counties to be funded by the authority's dedicated surplus revenues and provide to the authority a list reflecting the selected project or projects; requiring the authority to select from the list for funding from the authority's dedicated surplus revenues transportation- and transit-related expenses that have a rational nexus to the transportation facilities of the authority; requiring a rational nexus to demonstrate that the proposed transportation expenditure makes a substantial impact on the capacity or use of the transportation facilities of the authority or that the proposed transit expenditure complements the operation of, or expands the access to, the transportation facilities of the authority; requiring certain counties to have a financial audit of the revenues and expenditures of the county's transportation plan conducted by an independent third party not less than biennially and to post the audits on the counties' websites to be eligible to receive the dedicated surplus revenues; requiring that an authority established in certain counties have an audit conducted by an independent third party not less than biennially; requiring the audit report be made publicly available on the authority's website; creating s. 348.00115, F.S.; requiring authorities in certain counties to post certain information on a website; defining the term "contract"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (5) and (6) of section 338.166, Florida Statutes, are redesignated as subsections (6) and (7), respectively, subsection (4) of that section is amended, and a new subsection (5) is added to that section, to read:

338.166 High-occupancy toll lanes or express lanes.—

(4) The department may implement variable rate tolls on high-occupancy toll lanes or express lanes. The department may require the use of an electronic transponder interoperable with the department's electronic toll collection system for the use of high-occupancy toll lanes or express lanes.

(5) Effective July 1, 2018, if a customer's average travel speed for a trip in an express lane falls below 40 miles per hour, the customer must be charged the minimum express lane toll. A customer's express lane average travel speed is his or her average travel speed from the customer's entry point to the customer's exit point.

Section 2. Paragraph (d) of subsection (1) of section 338.2216, Florida Statutes, is amended, and paragraph (e) is added to that subsection, to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(1)

(d) The Florida Turnpike Enterprise shall pursue and implement new technologies and processes in its operations and collection of tolls and the collection of other amounts associated with road and infrastructure usage. Such technologies and processes must include, without limitation, video billing and variable pricing. The Florida Turnpike Enterprise may require the use of an electronic transponder interoperable with the department’s electronic toll collection system for the use of express lanes on the turnpike system. Variable pricing may not be implemented in express lanes when the level of service in the express lane, determined in accordance with the criteria established by the Transportation Research Board Highway Capacity Manual (5th Edition, HCM 2010), as amended from time to time, is equal to level of service A. Variable pricing in express lanes when the level of service in the express lane is level of service B may only be implemented by charging the general toll lane toll amount plus an amount set by department rule. Except as otherwise provided in this subsection, pricing in express lanes when the level of service is other than level of service A or level of service B may vary in the manner established by the Florida Turnpike Enterprise to manage congestion in the express lanes.

(e) Effective July 1, 2018, if a customer’s average travel speed for a trip in an express lane falls below 40 miles per hour, the customer must be charged the general toll lane toll amount plus an amount set by department rule. A customer’s express lane average travel speed is his or her average travel speed from the customer’s entry point to the customer’s exit point.

Section 3. Paragraph (a) of subsection (3) of section 338.231, Florida Statutes, is amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls and amounts for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(3)(a) For the period July 1, 1998, through June 30, ~~2027~~ 2017, the department shall, to the maximum extent feasible, program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade County, Broward County, and Palm Beach County as compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections

attributable to users of the turnpike system in Miami-Dade County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system. This subsection does not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds. The department may at any time for economic considerations establish lower temporary toll rates for a new or existing toll facility for a period not to exceed 1 year, after which the toll rates adopted pursuant to s. 120.54 shall become effective.

Section 4. Present subsections (6) through (9) of section 348.0004, Florida Statutes, are redesignated as subsections (7) through (10), respectively, paragraph (e) of subsection (2) of that section is amended, and a new subsection (6) and subsections (11), (12), and (13) are added to that section, to read:

348.0004 Purposes and powers.—

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(e) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department.

1. Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any indebtedness outstanding on July 1, 2017, in any county as defined in s. 125.011(1):

a. The authority may not increase a toll unless the increase is justified to the satisfaction of the authority by a traffic and revenue study conducted by an independent third party, except for an increase to the extent necessary to adjust for inflation pursuant to the procedure for toll rate adjustments provided in s. 338.165.

b. A toll increase must be approved by a two-thirds vote of the expressway authority board.

c. The amount of toll revenues used for administrative expenses by the authority may not be greater than 10 percent above the annual state average of administrative costs determined as provided in this sub-subparagraph. The Florida Transportation Commission shall determine the annual state average of administrative costs based on the annual administrative expenses of all the expressway authorities of this state. For purposes of this sub-subparagraph, administrative expenses include, but are not limited

to, employee salaries and benefits, small business outreach, insurance, professional service contracts not directly related to the operation and maintenance of the expressway system, and other overhead costs. The commission may adopt rules necessary for the implementation of this sub-subparagraph.

d. On transportation facilities constructed after July 1, 2017, there must be a distance of at least 5 miles between main through-lane tolling points. The distance requirement of this sub-subparagraph does not apply to entry and exit ramps.

2. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to the extent surplus revenues exist, they may be used for purposes enumerated in subsection (8) (7), provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan.

3. Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any outstanding indebtedness payable from tolls, in any county as defined in s. 125.011(1), the board of county commissioners may, by ordinance adopted on or before September 30, 1999, alter or abolish existing tolls and currently approved increases thereto if the board provides a local source of funding to the county expressway system for transportation in an amount sufficient to replace revenues necessary to meet bond obligations secured by such tolls and increases.

(6) Subject to compliance with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act, an authority in any county as defined in s. 125.011(1) shall, at the time that any toll is incurred, reduce the toll charged on any of the authority's 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. The authority may not impose additional requirements for receipt of the reduced toll amount.

(11) Notwithstanding any other provision of the Florida Expressway Authority Act, an authority in any county as defined in s. 125.011(1) shall determine its surplus revenues as defined in s. 348.0002(12). The authority shall then dedicate at least 20 percent, but not more than 50 percent, of the annual surplus revenues to transportation- and transit-related expenses for projects in the area served by the authority. The metropolitan planning organization for any county as defined in s. 125.011(1) shall annually select a project or projects within the county to be funded by the authority's dedicated surplus revenues as provided in this subsection and provide to the authority a list reflecting the selected project or projects. The authority shall select from the list for funding from the authority's dedicated surplus revenues transportation- and transit-related expenses that have a rational nexus to the transportation facilities of the authority and may include, but

are not limited to, expenses associated with the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of public transportation facilities, transit facilities, intermodal facilities, or multimodal corridors owned or operated by such municipality or county; and transit-related expenses that impact the capacity or use of the transportation facilities of the authority. For the purpose of this subsection, a rational nexus must demonstrate that the proposed transportation expenditure makes a substantial impact on the capacity or use of the transportation facilities of the authority, or that the proposed transit expenditure complements the operation of, or expands the access to, the transportation facilities of the authority.

(12) A county as defined in s. 125.011(1) must have a financial audit of the revenues and expenditures of the county's transportation plan conducted by an independent third party not less than biennially and must post the audits on the county's website to be eligible to receive the dedicated surplus revenues as provided in subsection (11).

(13) An authority established in any county as defined in 125.011(1) must have a financial audit conducted by an independent third party not less than biennially, and the audit report must be made publicly available on the authority's website.

Section 5. Section 348.00115, Florida Statutes, is created to read:

348.00115 Public accountability.—An expressway authority in a county as defined in s. 125.011(1) shall post the following information on its website:

- (1) Audited financial statements and any interim financial reports.
- (2) Board and committee meeting agendas, meeting packets, and minutes.
- (3) Bond covenants for any outstanding bond issues.
- (4) Authority budgets.
- (5) Authority contracts. For purposes of this subsection, the term "contract" means a written agreement or purchase order issued for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.
- (6) Authority expenditure data, which must include the name of the payee, the date of the expenditure, and the amount of the expenditure. Such data must be searchable by name of the payee, name of the paying agency, and fiscal year and must be downloadable in a format that allows offline analysis.
- (7) Information relating to current, recently completed, and future projects on authority facilities.

Section 6. This act shall take effect July 1, 2017.

Approved by the Governor June 26, 2017.

Filed in Office Secretary of State June 26, 2017.