

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 Budget Committee

BILL: SB 2152 (SPB 7198)

INTRODUCER: Budget Committee

SUBJECT: Transportation Conforming Bill

DATE: April 1, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Meyer, C.		SPB 7198 Favorable
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill conforms the following provisions to the General Appropriations Act by:

- Consolidating 3 tolling authorities into the Turnpike Enterprise;
- Clarifying how seaport funds are to be expended; and
- Authorizing the Florida Department of Transportation to manage the economic development road fund.

This bill substantially amends the following sections of the Florida Statutes: 310.002, 311.07, 311.09, 338.165, 338.2215, 338.231, 338.2275, 343.835, 343.836, 343.837, 343.91, 343.94, 343.944, 343.945, 348.04, 348.05, 348.06, 349.04, 349.05, 349.07, 349.15, 374.976, 403.021, 403.061, 403.813, 403.816, 212.08.

This bill repeals 338.251, 343.805, ,343.885, 343.91(1)(h). 343.946, 348.002(11), part II, III, IV, V, VI, VII, VIII, and X of chapter 348, 348.9985, 349.02(1)(d), of the Florida Statutes, and chapter 2000-411, Laws of Florida.

This bill creates s. 339.2821, of the Florida Statutes.

II. Present Situation:

Florida Department of Transportation/Toll Facilities

The Florida Department of Transportation (FDOT or department) owns and/or operates nine toll systems through the state. There are also other toll systems that operate in Florida, receiving financial assistance from the department. Toll facilities provide approximately 765 miles of

roads, approximately 95 percent of which are included in the Florida Strategic Intermodal System's 4,088 miles.

Florida's Turnpike Enterprise

In 1953, the Legislature created an independent Florida State Turnpike Authority to finance, build and operate the Sunshine State Parkway. By 1964, the original 265-mile Mainline, connecting Miami to Wildwood, was completed. With the passage of the State Government Reorganization Act of 1969, the authority was dissolved and oversight responsibility of the Florida Turnpike shifted to FDOT. In 1990, the Legislature authorized the expansion of Florida's Turnpike to include construction of non-contiguous roads to assist in meeting the State's backlog of needed highway facilities.

The Florida Turnpike Enterprise was created by the Legislature in 2002. Today, the Florida Turnpike is a system of toll-financed expressways that serve sixteen Florida counties covering 460 miles. Toll facilities operated by the Turnpike Enterprise include the mainline, the Homestead Extension, Seminole Expressway, Southern Connector Extension, Beachline West, Polk Parkway, Veterans Expressway, Sawgrass Expressway, Suncoast Parkway I, and Western Beltway Part C. The Florida Turnpike includes eight service plazas located along the mainline which contain restaurants, concessions and service stations for the benefit of the 1.6 million motorists using this system on a daily basis.

In Fiscal Year 2009-2010, the Turnpike Enterprise generated \$606.9 million gross revenue and estimated revenues for Fiscal Year 2010-2011 is \$606.8 million. This reliable and steady stream of revenue supports the repayment of state bonds issued to build turnpike projects, and finances their operation and maintenance. One of the reasons the Florida Turnpike Enterprise is financially solid is projects are required to meet an economic feasibility test. Turnpike projects are required by law to generate sufficient revenue to pay at least 50 percent of its bond debt service by the end of its 12th year in operation, and to pay at least 100 percent of its debt service by the end of the 22nd year.

Orlando – Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) is an agency of the state, created in 1963 under ch. 348, Part V, F.S., for the purpose of construction and operation of an expressway road system in Central Florida. OOCEA has the right to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards together with the right to construct, repair, replace, operate, install, and maintain electronic toll payment systems outside of Orange County with the respective county's written consent. The authority is also authorized to issue toll revenue bonds to finance portions of the system.

OOCEA currently owns and operates 105 miles of roadway in Orange County. The roadways include: 22 miles of the East-West Expressway (SR 408), 23 miles of the Beachline (formerly Beeline) Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414).

The OOCEA reported toll revenue of \$206 million in FY 2009 based on 293 million transactions. Major future projects in the authority's \$1.4 billion Five-Year Work Plan (FY 2010

through FY 2014) include: right-of-way and interchange for John Land Apopka Expressway (phase two); partial design and right-of-way for Wekiva Parkway; partial widening of SR 408 and SR 417; resurfacing of SR 429 (part A); new interchanges; conversion of SR 528 Beachline Airport toll plaza to open road tolling (ORT); a new express lane toll plaza at Dallas Boulevard on SR 528, and toll collection system upgrades.

Under terms defined in a revised lease-purchase agreement, FDOT is responsible for paying Operations and Maintenance (O&M) costs for portions of the authority's expressway system. The authority is reimbursed by the department for a portion of the operating and maintenance costs of the Beachline Expressway and the East-West Expressway which are recorded as advances because these are to be repaid to FDOT from future toll revenues after all bonds are retired and all other financial obligations have been met.

As of June 30, 2010, the Orlando-Orange County Expressway Authority's total long-term debt liability to FDOT from lease-purchase-related O&M advances was \$227,573,891. The subordinate nature of the authority's obligations to FDOT, as structured by the lease-purchase agreement and bond resolutions, would not require their repayment until the year 2042. Assuming such non-interest bearing advances continue to accrue at the conservative rate¹ of 3.5% annually and that the payoff date is not further extended, OOCEA's obligations to FDOT would total \$695 million at that time.

Tampa Hillsborough Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA) was created in 1963 as an agency of the state under ch. 348, Part IV, F.S., for the purposes of and having the power to construct, reconstruct, improve, extend, repair, maintain and operate the expressway system within Hillsborough County. THEA owns the Selmon Expressway, a 15-mile, four-lane, limited-access toll road traversing the city of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The Selmon Expressway connects St. Petersburg (via the Gandy Bridge) with Tampa and Brandon. Since their opening in August 2006, Reversible Express Lanes (REL) in the median of the Selmon Expressway, operate in the peak travel direction depending on the time of day.

Significant projects in the Five-Year Work Plan include deck replacement on various bridges, development of the I-4 Connector Project that will connect I-4 to the existing Expressway, and toll system conversion to All Electronic Tolling (AET). These projects are being completed in partnership with FDOT and are funded either from the STTF or bond proceeds.

THEA is authorized to issue toll revenue bonds to finance improvements or extension of the expressway system. In 2009, the Legislature revised s. 348.54, F.S., to enable THEA to issue toll revenue bonds without having to go through the Division of Bond Finance of the State Board of Administration or obtaining the department's consent.

As a result of design errors on the REL project, THEA incurred additional costs to complete that project. The authority made claims against its builder's risk insurer and filed suit against the

¹ FDOT's O&M payments to OOCEA can vary dramatically from year to year. The average annual variance from 1992 to 2010 was an increase of 7.5%.

design engineers to recover the additional costs incurred. In FY 2009, the authority recovered approximately \$75 million from a mediation settlement, \$70 million of which has been collected to date. THEA has set aside \$10 million of the settlement as a capital reserve fund to cover costs in excess of funds in the FDOT Work Program for replacement of tolling systems on the Selmon Expressway. Based on a revised forecast of declining revenues due to the recession, the THEA Board approved using \$60 million of the settlement funds to partially defease current outstanding bonds in order to meet its future debt service coverage requirements. According to THEA, this defeasance will improve THEA's current financial position, including increasing debt service coverage ratios, reducing long term debt obligations, and strengthening credit ratings. The defeasance will also provide an offset for negative revenue impacts that may result from construction of the Bridge Deck Replacement Project and the I-4 Connector Project.

Under the requirements of the lease-purchase agreement, FDOT agrees to pay the costs of O&M and R&R on the expressway system. The department is reimbursed for O&M and long-term debt, if toll revenues are sufficient, after the authority pays its current year debt service. If the amount is not reimbursed annually, the payments are added to the authority's long term debt owed to the department.

As of June 30, 2010, the Tampa Hillsborough Expressway Authority's total long-term debt liability to FDOT from lease-purchase-related O&M advances and R&R costs was \$120,217,454. Under the terms of a revised lease purchase agreement, THEA has scheduled repayments of long term debt to FDOT in Fiscal Year 2014-15 of \$5.9 million, and \$6.8 million in 2015-2016. Beginning in Fiscal Year 2025-2026, repayments of \$11.5 million per year are scheduled through 2044-2045.

Mid-Bay Bridge Authority

The Mid-Bay Bridge Authority was created in 1986 by special act of the Legislature. The authority operates the three-mile long Mid-Bay Bridge across the Choctawhatchee Bay and four-miles in approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. Highway 98 east of Destin is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton counties.

Under a lease-purchase agreement with the authority, FDOT pays O&M and renewal and replacement (R&R) expenses for the bridge and remits all tolls collected to the authority as lease payments. The agreement remains in effect until all outstanding bonds have been repaid and all obligations owed to FDOT by the authority have been fully discharged, at which point FDOT will own the bridge. Though the current agreement states FDOT is to be reimbursed annually from toll revenues for payment of O&M, these reimbursements are deeply subordinated to bond debt service in the flow of toll revenue funds hierarchy.

As of June 30, 2010, the Mid-Bay Bridge Authority's total long-term debt liability to FDOT from lease-purchase-related O&M (and R&R) advances was \$16,181,629.

Florida Seaports

Florida has 14 public deepwater seaports that are considered significant economic drivers for the regions in which they are located and for the state. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements.

Construction to widen and modernize the Panama Canal is nearing completion, and seaports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic boon in maritime transit of oil, foodstuffs, consumer goods, and other cargo. States such as California, Maryland, South Carolina, Alabama, and Texas are exploring options to finance major port improvements that will attract increased international shipping activity, and to handle the larger tankers and cargo ships that will be traveling through the Panama Canal.

Seaport Funding

Florida seaports are eligible, per s. 311.07, F.S., for a minimum of \$8 million a year² in grants from the State Transportation Trust Fund for projects to improve the “movement and intermodal transportation” of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation. Most years, the Legislature appropriates more than \$8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend \$21.9 million on seaport grants and \$25.6 million in FY 10-11.³

The ports also benefit from an additional \$25 million in debt service paid with motor vehicle license fees⁴ from the State Transportation Trust Fund for 1996 and 1999 bond issues, per ch. 315, F.S., which financed \$375.4 million in major port projects. These bond issues will be paid off in 2026 and 2029, respectively.

III. Effect of Proposed Changes:

Section 1 amends s. 310.002, F.S., to provide for the inclusion of Port Citrus in the definition of “port”.

Section 2 amends s. 311.07, F.S., to provide a minimum of \$100 million from the State Transportation Trust Fund beginning in Fiscal Year 2011-12 and each of the four fiscal years thereafter, to fund the Florida Deepwater Seaport Program for port infrastructure projects.

Section 3 amends s. 311.09, F.S., to provide for the inclusion of the port director of Port Citrus in the Florida Seaport Transportation and Economic Development Council.

Section 4 amends s. 338.165, F.S., to clarify toll rates are adjusted by the department by rule, subject to public notice and public hearing requirements, and these adjustments are not regulatory costs under ch. 120, F.S..

² Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least \$15 million for FSTED projects.

³ In 2007, the Legislature appropriated an additional \$50 million for port projects as a line-item.

⁴ Section 320.20(3) and (4), F.S.

Section 5 creates an unspecified section of law transferring the governance and control of THEA, OOCEA, and Mid-Bay Bridge Authority, including all assets and liabilities to the Florida Turnpike Enterprise.

This section clarifies any excess revenues from these three systems shall be used for Turnpike tolling projects in the county or counties in which the revenue is collected.

Section 6 amends s. 338.2215, F.S., to specify the Turnpike Enterprise consists of the following toll facilities: the Florida's Turnpike System, the Beachline Expressway (SR 528), the Mid-Bay Bridge (SR 293), the Selmon Expressway (SR 618), the East-West Expressway (SR 408), the Central Florida GreeneWay (SR 417), the John Land Apopka Expressway (SR 414), and the Daniel Webster Western Beltway (SR 429).

Section 7 amends s. 338.231, F.S., to specify that the toll rates for both electronic and cash collection shall be the same effective July 1, 2011.

Section 8 amends s. 338.2275, F.S., to provide for bonding authority for turnpike projects and to specify that no more than \$13.5 billion of bonds may be outstanding.

Section 9 repeals s. 338.251, F.S., which establishes the Toll Facilities Revolving Trust Fund in FDOT.

Section 10 creates an unspecified section of law transferring the fund balance, and all future obligations to the Turnpike General Reserve Trust Fund.

Section 11 creates s. 339.2821, F.S., creating the Economic Development Road Fund within FDOT.

Section 12 repeals s. 343.805, F.S., which provides definitions as they relate to the Northwest Florida Transportation Corridor Authority (NWFTCA).

Section 13 amends s. 343.835, F.S., to delete references to lease purchase agreements as they relate to the NWFTC to enter into lease-purchase agreements with FDOT.

Section 14 amends s. 343.836, F.S., to delete references to lease purchase agreements as they relate to the NWFTC to enter into lease-purchase agreements with FDOT

Section 15 repeals s. 343.837, F.S., which allows the NWFTC to enter into a lease purchase agreement with FDOT relating to and covering the U.S. 98 Corridor System.

Section 16 repeals s. 343.885, F.S., which provides intent language relating to financial obligations specified in the lease purchase agreement between the NWFTC and FDOT to bondholders of the authority.

Section 17 repeals s. 343.91(1)(h), F.S., which provides the definition of lease purchase agreement as it relates to the Tampa Bay Area Regional Transportation Authority (TBARTA) and FDOT.

Section 18 amends s. 343.94, F.S., to delete references to lease purchase agreements as it relates to TBARTA and FDOT.

Section 19 amends s. 343.944, F.S., to delete references to lease purchase agreements as it relates to TBARTA and FDOT.

Section 20 repeals s. 343.945, F.S., which expresses intent to delete intent language relating to financial obligations specified in the lease purchase agreement between the TBARTA and FDOT to bondholders of the authority.

Section 21 repeals s. 343.946, F.S., which allows TBARTA to enter into a lease purchase agreement with FDOT relating to and covering authority projects within the seven county Tampa Bay region.

Section 22 repeals subsection (11) of s. 348.002, F.S., which provides the definition of lease purchase agreement as it relates to the expressway authorities and FDOT within the Florida Expressway Authority Act.

Section 23 amends s. 348.004, F.S., to delete references to lease-purchase agreements as it relates to express authorities and FDOT within the Florida Expressway Act.

Section 24 amends s. 348.005, F.S., to delete a reference to lease purchase agreement between an expressway authority and FDOT being subject to bond covenants under the Florida Expressway Authority Act.

Section 25 repeals s. 348.006, F.S., which allows expressway authorities to enter into lease purchase agreements with FDOT within the Florida Expressway Authority Act.

Section 26 repeals Part II of ch. 348, F.S., which provides for the creation and operation of the Brevard County Expressway Authority.

Section 27 repeals Part III of ch. 348, F.S., which provides for the creation and operation of the Broward County Expressway Authority.

Section 28 repeals Part IV of ch. 348, F.S. which provides for the creation and operation of the Tampa-Hillsborough County Expressway Authority.

Section 29 repeals Part V of ch. 348, F.S., which provides for the creation and operation of the Orlando-Orange County Expressway Authority.

Section 30 repeals Part VI of ch. 348, F.S., which provides for the creation and operation of the Pasco County Expressway Authority.

Section 31 repeals Part VII of ch. 348.F.S., which provides for the creation and operation of the St. Lucie County Expressway and Bridge Authority.

Section 32 repeals Part VIII of ch. 348, F.S., which provides for the creation and operation of the Seminole County Expressway Authority.

Section 33 repeals Part X of ch. 348, F.S., which provides for the creation and operation of the Southwest Florida Expressway Authority.

Section 34 repeals s. 348.9955, F.S., which provides authority for the Osceola County Expressway Authority to enter into lease purchase agreements with FDOT.

Section 35 repeals paragraph (d) of subsection (1) of s. 349.02, F.S., which provides the definition of lease purchase agreement for the Jacksonville Transportation Authority.

Section 36 amends s. 349.04, F.S., to delete the authority for the Jacksonville Transportation Authority to enter into a lease purchase agreement with FDOT.

Section 37 amends s. 349.05, F.S., to delete a reference to lease purchase agreement between the Jacksonville Transportation Authority and FDOT being subject to bond covenants.

Section 38 repeals s. 349.07, F.S., which provides the authority for the Jacksonville Transportation Authority to enter into lease-purchase agreements with FDOT.

Section 39 amends s. 349.15, F.S., to delete intent language relating to financial obligations specified in the lease purchase agreement between the Jacksonville Transportation Authority and FDOT to bondholders of the authority.

Section 40 amends s. 374.96, F.S., to provide for the inclusion of Port Citrus in the waterways which may receive assistance from inland navigation districts.

Section 41 amends s. 403.021, F.S., to provide for the inclusion of Port Citrus in the legislative declaration of intent regarding preserving and maintaining Florida's deepwater ports.

Section 42 amends s. 403.061, F.S., to provide for the inclusion of Port Citrus in the ports over which the Department of Environmental Protection has the duty to control and prohibit water and air pollution.

Section 43 amends s. 403.813, F.S., to provide for the inclusion of Port Citrus in the list of seaports for which certain dredging permits may be issued.

Section 44 amends s. 403.816, F.S., to provide for the inclusion of Port Citrus in the list of seaports for which certain dredging permits may be issued.

Section 45 repeals ch. 2000-411, F.S., which provides for the creation and operation of the Mid Bay Bridge Authority.

Section 46 amends s. 212.08, F.S., to correct a statutory cross reference.

Section 47 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

This bill eliminates the SunPass Discount effective July 1, 2011 and provides toll rates for electronic collection shall be equal to the rates for cash collection effective July 1, 2011.

C. Government Sector Impact:

The consolidation of the Orlando Orange County Expressway Authority, the Tampa-Hillsborough County Expressway Authority and the Mid-Bay Bridge Authority with the Florida Turnpike is expected to increase gross toll revenues by approximately \$330 million as estimated by the Turnpike Enterprise. Administrative efficiencies resulting from consolidation are also expected to save approximately \$24 million annually.

The consolidation is estimated to increase the 5 Year Work Program total for Turnpike Enterprise by at least \$1.7 billion. An additional \$1.3 billion increase is expected in the second 5 years of the Turnpike Work Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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.
