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'Political interference' brings downgrade to a Florida toll road authority

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The Florida legislature's “persistent political interference” in the operations of the Miami-Dade County Expressway Authority resulted in a one-notch downgrade of the authority’s bonds.

State lawmakers underscored the point a day later by passing a bill to dissolve the authority.

Florida Sen. Manny Diaz, R-Hialeah Gardens, said there are "guardrails" in the expressway authority legislation to prevent a rating downgrade.

S&P Global Ratings lowered its rating to A from A-plus on the authority’s toll revenue bonds Wednesday, and revised the outlook to negative.

The state Senate followed Thursday with a final vote to pass a bill to dissolve the authority and create a successor agency to work on toll rate reduction.

The Senate voted 23 to 16 for House Bill 385. The House has passed the bill but would have to concur to Senate changes.

The S&P action, affecting $1.53 billion of outstanding revenue bonds, came after lawmakers passed bills in 2017 and 2018 ordering changes and toll reductions at the agency, and as the Legislature passed another bill this year to create a new agency with the goal of implementing toll rebates up to 25%.

“The Florida legislature's persistent political interference has created an increasingly challenging operating environment for the authority, in our opinion, weakening our confidence in the authority to maintain margins consistent with its current rating, if the authority's capacity to increase toll rates or maintain its capital infrastructure is further diminished,” said analyst Kevin R. Archer.

The negative outlook indicates the potential that S&P could lower the rating further, he said.

S&P said the downgrade also reflects the application of its rating criteria for nonprofit transportation infrastructure enterprises and its assessment of a toll road agency’s risk profile, which includes a review of industry risk, economic fundamentals, market position, and management and governance.

Archer said the rating was downgraded because the legislative interventions constrain MDX's toll rate setting autonomy, constrain management flexibility, and “create a high degree of uncertainty regarding operations.”

House Bill 385, which passed the House by a vote of 80-33 on April 17, would dissolve the authority, create a new agency and require it to consider toll rebates as high as 25%. The measure would also put restrictions on future toll increases and bond issuance, as long as those complied with bond covenants.

HB 385 was later amended to require that the Florida auditor general conduct an audit of the authority and its cash flow to ensure that toll rebates would not prevent the authority from paying debt service, completing its five-year work program and building a proposed $1 billion project called the Kendall Parkway.

Sen. Manny Diaz, R-Hialeah Gardens, substituted HB 385 for his own bill on the Senate floor Wednesday and said that he worked with the Florida Department of Transportation and the state's Division of Bond Finance on language in the bill "to make sure that there are no holes" in the language that would result in a rating downgrade.

"We have placed all these guardrails in there to make sure that this is a successful transfer," Diaz said.

Diaz also said that bills passed in 2017 and 2018 requiring toll reductions were ignored by the expressway authority, even though the authority lowered rates in 2018. Diaz said those bills resulted in Fitch Ratings revising its outlook to negative and Moody's Investors Service saying that the current political dispute places negative pressure on the credit, but ratings weren't downgraded.

Sen. Annette Taddeo, D-Miami, offered an amendment that would have required transportation experts to study the proposed transfer and its effects before passing the bill, but it was voted down 20 to 19.

During her discussion on the bill, Taddeo said that creating a new agency and transferring the assets and bonds will cost millions. She also was "very concerned" that it could set a precedent for future action that would affect expressway authorities across the state.

"I believe if we do this we end up in court," she said. "There's going to be lawsuits. It's going to be costly."

The Miami-Dade County Expressway Authority, also known as MDX, has already filed a lawsuit against the state challenging the constitutionality of the bills passed in 2017 and 2018 because the authority believes it impairs a deal with the FDOT under which the authority was given total control of the expressways in currently operates.

Wednesday’s discussion on HB 385 took place before S&P downgraded MDX’s bonds.

“Unfortunately, I was not surprised by the S&P downgrade of MDX’s excellent credit rating, and all because of legislative meddling,” Miami-Dade County Mayor Carlos Gimenez, the authority's chairman, said in a statement to The Bond Buyer. “In fact, MDX’s financial consultants predicted this type of action as early as 2017 when the Legislature moved to usurp MDX’s toll-setting responsibility.”

Gimenez said former Rep. Jeanette Núñez, who is now lieutenant governor, said recently that the Division of Bond Finance told her that the prior bills wouldn’t result in a rating downgrade. Diaz made a similar statement about HB 385 on the Senate floor Wednesday.

“Yet we have had two rating companies — Fitch and Moody’s — reach the conclusion that a downgrade is likely because of the state’s interference, and a third company, S&P, has now downgraded MDX,” Gimenez said. “MDX regrets that the MDX toll payers, and possibly toll payers throughout the state of Florida, will be left paying for the reckless actions of a few.”

Ben Watkins, director of the Division of Bond Finance, was out of the country and couldn’t immediately be reached for a comment.