



Transportation & Infrastructure Subcommittee

December 6, 2017
10:30 AM – 12:30 PM
Reed Hall (102 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Infrastructure Subcommittee

Start Date and Time: Wednesday, December 06, 2017 10:30 am
End Date and Time: Wednesday, December 06, 2017 12:30 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 141 Exemptions from Toll Payment by Harrison
HB 243 Charter County and Regional Transportation System Surtax by Avila, Perez
HB 535 Statewide Alternative Transportation Authority by Avila, Grant, J.
HB 567 Small Business Roadway Construction Mitigation Grant Program by Duran, Richardson
HB 575 Metropolitan Planning Organizations by Beshears



Workshop on the following:

Bicycle and Pedestrian Safety

NOTICE FINALIZED on 11/29/2017 4:20PM by Larson.Lisa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 141 Exemptions from Toll Payment
SPONSOR(S): Harrison
TIED BILLS: IDEN./SIM. BILLS: SB 336, SB 356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson 	Vickers 
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Current law requires the payment of tolls for the use of toll facilities and provides certain exceptions, including law enforcement officers in marked official vehicles on official law enforcement business. Under current law, unmarked law enforcement vehicles are required to pay tolls.

The bill provides that all official law enforcement vehicles, including unmarked vehicles, on official law enforcement business are exempt from paying tolls on toll facilities.

The bill also changes references to "handicapped persons" in the toll exemption statute to "disabled persons" and makes other technical changes to the statute.

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted a negative indeterminate impact on the State Transportation Trust Fund, Turnpike trust funds, and local trust funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Toll Exemptions

Section 338.155, F.S., requires the payment of tolls on toll facilities and provides the following exemptions:

- Employees of the agency operating the toll facility on official state business;
- State military personnel while on official military business;
- Handicapped persons as provided below;
- Persons exempt from toll payment by the authorizing resolution for bonds issued to finance the toll facility;
- Persons exempt on a temporary basis when a toll facility is part of a detour route;
- Any law enforcement officer operating a **marked** official vehicle when on official law enforcement business;
- Any person operating a fire vehicle or a rescue vehicle when on official business;
- Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty;
- Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property.

Additionally, the secretary of the Department of Transportation (DOT) or the secretary's designee may suspend tolls when necessary to assist in emergency evacuation.¹

According to DOT, law enforcement agencies with marked vehicles submit a "SunPass Non-Revenue Account Application." In that application, the agency lists each marked vehicle that will have a non-revenue SunPass transponder along with certain identifying information regarding each vehicle. The agency representative attests that the vehicles listed on the application qualify for the toll exemption for marked law enforcement vehicles.²

Turnpike Bonds

Section 338.227, F.S., authorizes DOT to borrow money as provided in the State Bond Act³ to pay all or any part of the cost of any one or more legislatively approved turnpike projects. The principal of, and the interest on, these bonds is paid solely from revenues pledged for their payment.⁴

In s. 338.229, F.S., in connection with the issuance of Turnpike bonds, the state covenants to not limit or restrict the rights vested in DOT to establish and collect tolls for the use of the Turnpike System and to fulfill the terms of any agreements made with bondholders. The state also covenants to take no action that will impair the rights or remedies of the bondholders until the bonds, together with interest on the bonds, are fully paid and discharged.⁵ Statutes creating the state's expressway and bridge authorities contain similar provisions.⁶

The Turnpike's master bond resolution, originally adopted in 1988, and amended and restated in 2005, under which the outstanding Turnpike bonds were issued, contains DOT's commitments regarding the funding and operation of the Turnpike System. Section 5.03 of the bond covenants provides that the

¹ Sections 338.155(1) and (2), F.S.

² Department of Transportation HB 141 Bill Analysis, p. 2. Copy on file with Transportation & Infrastructure Subcommittee.

³ Sections 215.57 through 215.83, F.S.

⁴ Section 338.227(1), F.S.

⁵ Department of Transportation HB141 Bill Analysis, p.2.

⁶ See ss. 348.0010, 348.64, 348.761, and 348.974, F.S.

resolution is a contract with the bondholders and is enforceable in court by the bondholders. The resolution may not be amended in any way that affects “the unconditional promises of the Department to fix, maintain and collect tolls for the use of the Turnpike System” without consent of all the holders of outstanding Turnpike bonds.⁷

In section 5.08 of the bond covenants, DOT covenants that it “shall not allow or permit any free use of the Toll roads of the Florida Turnpike, except to officials or employees of the Department whose official duties in connection with the Florida Turnpike require them to travel over the Florida Turnpike, or except as may be provided by laws in effect on the date of the adoption of this Resolution.”⁸

DOT has also issued bonds to fund capital improvements to Alligator Alley.⁹ The resolution under which the Alligator Alley bonds were sold contains a similar covenant regarding use of Alligator Alley.¹⁰

When the Turnpike bond resolution was adopted and restated, and the outstanding Alligator Alley bonds were sold, state law authorized DOT to suspend tolls in the event of emergencies. The law otherwise required the payment of tolls by all users DOT toll facilities, except the following specifically exempt persons:

- Employees of the agency operating the toll project when using the toll facility on official state business;
- State military personnel while on official military business;
- Certain handicapped persons;
- Persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility;
- Persons exempt on a temporary basis where use of such toll facility is required as a detour route;
- Law enforcement officers operating a marked official vehicle when on official law enforcement business;
- Any person operating a fire vehicle when on official business or a rescue vehicle when on official business; and
- Any person driving an automobile or other vehicle belonging to the Florida Department of Military Affairs used for transporting military personnel, stores, and property.¹¹

In 2005, the Legislature passed HB 1681, extending the list of persons exempt from the payment of tolls to include any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty.^{12,13}

In 2012, the Legislature amended the toll exemption statute, but only with respect to DOT managed toll facilities, whose revenues are not pledged to repayment of bonds.¹⁴ The statute authorizes DOT to, by rule; allow the use of such toll facilities by public transit vehicles or by vehicles participating in a funeral procession for an active-duty military service member without paying tolls.¹⁵ Because the revenues of the Turnpike System are pledged to repayment of bonds, this provision does not apply to the Turnpike System or Alligator Alley.¹⁶

⁷ Department of Transportation HB 141 Bill Analysis, p.2.

⁸ *Id.*

⁹ Alligator Alley Bonds were issued pursuant to s. 338.26, F.S.

¹⁰ Department of Transportation HB 141 Bill Analysis, p.2.

¹¹ *Id.*

¹² Chapter 2005-281, L.O.F.

¹³ Department of Transportation HB 141 Bill Analysis, pp. 2-3.

¹⁴ Chapters 2012-128 and 2012-174, L.O.F.

¹⁵ Rule 14-100.006, F.A.C., is DOT’s rule regarding express lane toll exemptions for various transit vehicles.

¹⁶ Department of Transportation HB 141 Bill Analysis, p.3.

Proposed Changes

The bill amends s. 338.155(1), F.S., exempting law enforcement officers operating an official vehicle while on law enforcement business from paying tolls. This would exempt both marked and unmarked law enforcement vehicles on official law enforcement business from paying tolls.

The bill also changes references to “handicapped persons” in s. 338.155, F.S., to “disabled persons” and makes other technical changes to the statute.

B. SECTION DIRECTORY:

Section 1 amends s. 338.155, F.S., relating to the payment of tolls on toll facilities.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted negative indeterminate impact to the State Transportation Trust Fund and Turnpike trust funds.

2. Expenditures:

To the extent that state law enforcement agencies utilize unmarked vehicles on toll facilities, the state will no longer incur toll expenditures associated with those vehicles.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On November 3, 2017, the Revenue Estimating Conference reviewed this bill and adopted a negative indeterminate impact on local trust funds.

2. Expenditures:

To the extent that local governments utilize unmarked law enforcement vehicles on toll facilities, the local governments will no longer incur these expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have

to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Impairment of Contracts

The bill expands the statutory toll exemption for marked official law enforcement vehicles used in official law enforcement business to include unmarked official law enforcement vehicles. Expanding the toll exemption beyond what was in effect when the outstanding bonds were sold may constitute an impairment of the rights of the bondholders.¹⁷

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Highway Safety and Motor Vehicles, law enforcement officers, while on official law enforcement business, routinely use rental vehicles. It is not clear if these vehicles would be "official vehicles" for purposes of the toll exemption.¹⁸

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁷ Department of Transportation HB 141 Bill Analysis, p.6.

¹⁸ Department of Highway Safety and Motor Vehicles HB 141 Bill Analysis. p. 4. Copy on file with Transportation & Infrastructure Subcommittee.

1 A bill to be entitled
 2 An act relating to exemptions from toll payment;
 3 amending s. 338.155, F.S.; exempting a law enforcement
 4 officer from paying a toll on a toll facility when
 5 operating an official vehicle while on official
 6 business; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsections (1) and (3) of section 338.155,
 11 Florida Statutes, are amended to read:

12 338.155 Payment of toll on toll facilities required;
 13 exemptions.—

14 (1) (a) A person may not use a ~~any~~ toll facility without
 15 payment of tolls, except:

16 1. An employee ~~Employees~~ of the agency operating the toll
 17 project when using the toll facility on official state
 18 business.7

19 2. State military personnel while on official military
 20 business.7

21 3. A person with a disability ~~Handicapped persons~~ as
 22 provided in subsection (3). ~~this section,~~

23 4. A person ~~Persons~~ exempt from toll payment by the
 24 authorizing resolution for bonds issued to finance the
 25 facility.7 ~~and~~

26 5. A person ~~Persons~~ exempt on a temporary basis where use
 27 of such toll facility is required as a detour route.

28 6. A ~~Any~~ law enforcement officer operating an ~~a marked~~
 29 official vehicle while ~~is exempt from toll payment when~~ on
 30 official law enforcement business.

31 7. A ~~Any~~ person operating a fire vehicle while ~~when~~ on
 32 official business or a rescue vehicle while ~~when~~ on official
 33 business ~~is exempt from toll payment.~~

34 8. A ~~Any~~ person participating in the funeral procession of
 35 a law enforcement officer or firefighter killed in the line of
 36 duty ~~is exempt from toll payment.~~

37 (b) The secretary or the secretary's designee may suspend
 38 the payment of tolls on a toll facility when necessary to assist
 39 in emergency evacuation.

40 (c) The failure to pay a prescribed toll constitutes a
 41 noncriminal traffic infraction, punishable as a moving violation
 42 as provided in s. 318.18. The department may adopt rules
 43 relating to the payment, collection, and enforcement of tolls,
 44 as authorized in this chapter and chapters 316, 318, 320, and
 45 322, including, but not limited to, rules for the implementation
 46 of video or other image billing and variable pricing.

47 (d) With respect to toll facilities managed by the
 48 department, the revenues of which are not pledged to repayment
 49 of bonds, the department may by rule allow the use of such
 50 facilities by public transit vehicles or by vehicles

51 participating in a funeral procession for an active-duty
 52 military service member without the payment of tolls.

53 (3) A ~~Any handicapped~~ person with a disability who has a
 54 valid driver license, who operates a vehicle specially equipped
 55 for use by persons with disabilities ~~the handicapped~~, and who is
 56 certified by a physician licensed under chapter 458 or chapter
 57 459 or by comparable licensing in another state or by the
 58 Adjudication Office of the United States Department of Veterans
 59 Affairs or its predecessor as being severely physically disabled
 60 and having permanent upper limb mobility or dexterity
 61 impairments which substantially impair the person's ability to
 62 deposit coins in toll baskets, shall be allowed to pass free
 63 through all tollgates and over all toll bridges and ferries in
 64 this state. Such ~~A person who meets the requirements of this~~
 65 ~~subsection~~ shall, upon application, be issued a vehicle window
 66 sticker by the Department of Transportation.

67 Section 2. This act shall take effect July 1, 2018.



Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
2 Infrastructure Subcommittee
3 Representative Cortes, B. offered the following:

Amendment (with title amendment)

Remove lines 28-30 and insert:

6. A Any law enforcement officer operating a marked or unmarked official vehicle while is exempt from toll payment when on official law enforcement business. For purposes of this subparagraph, the term "official law enforcement business, includes, but is not limited to, patrol operations, investigative activities, crime prevention operations, or traffic operations.

T I T L E A M E N D M E N T



Amendment No. 1.

17 Remove line 6 and insert:
18 business; defining the term "official law enforcement business";
19 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 243 Charter County and Regional Transportation System Surtax
SPONSOR(S): Avila and others
TIED BILLS: IDEN./SIM. BILLS: SB 688

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>ST</i>	Vickers <i>29</i>
2) Ways & Means Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Section 212.055(1), F.S., creates the Charter County and Regional Transportation System Surtax, authorizing certain counties to establish a sales surtax of up to one-percent for specified transportation purposes. While 31 counties are eligible to levy the surtax, it is only levied in Duval and Miami-Dade Counties, both at the rate of one-half percent. Since its inception in 2003, Miami-Dade County has collected approximately \$2.6 billion in surtax proceeds. The county transfers surtax proceeds to the county's transit department, the county's public works department, and certain municipalities.

The bill amends the Charter County and Regional Transportation System Surtax providing that in Miami-Dade County, to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, surtax proceeds may only be used for certain transit-related purposes. The bill also prohibits Miami-Dade County's transportation department from using surtax proceeds for salaries or other personnel expenses.

The bill also removes redundant provisions and makes technical changes to the Charter County and Regional Transportation System Surtax statute.

The bill limits the use of surtax revenues to transit-based capital costs in Miami-Dade County, to the extent Miami-Dade County uses these revenues for another purpose, those expenses will need to be reduced or Miami-Dade County will be required to obtain the revenue from other sources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

History of Charter County and Regional Transportation System Surtax

Created in 1976 as the Charter County Transit System Surtax, the surtax originally authorized counties with charters adopted before June 1, 1976, to levy a one-percent sales surtax subject to voter approval in a countywide referendum. Proceeds from the surtax were restricted to costs associated with developing and constructing fixed guideway and rapid transit systems.¹

In 1985, the Legislature authorized the use of surtax proceeds for countywide bus systems supporting fixed guideway transit systems.² In 1987, the Legislature authorized counties to remit surtax proceeds to an expressway or transportation authority to develop, construct, operate, and maintain roads or bridges, or to operate and maintain a bus system.³ In 1987, the Legislature also authorized any county consolidated with one or more municipalities to levy the surtax at a rate of one percent.⁴

In 1999, the Legislature authorized surtax proceeds to be applied to as many or as few of the statutorily authorized purposes in whatever combination the county's governing body deemed appropriate.⁵

In 2002, the Legislature authorized any county with a charter adopted prior to January 1, 1984, to levy the surtax.⁶ In 2003, the Legislature expanded the number of uses for surtax proceeds.⁷ In 2004, the Legislature authorized all charter counties eligible to levy the surtax to use up to 25 percent of the proceeds for non-transit purposes,⁸ which was previously limited to Miami-Dade County.

In 2009, the surtax was renamed the Charter County Transportation System Surtax and an additional 13 counties become eligible to assess the surtax. In 2009, surtax proceeds were also allowed to be remitted to transit authorities. Additionally, the Legislature required interlocal agreements specifying the distribution of surtax proceeds with one or more municipalities to be revised no less than every five years to reflect recent municipal incorporations.⁹

In 2010, the surtax was renamed the Charter County and Regional Transportation System Surtax and eligibility was extended to counties within or under an interlocal agreement with a regional transportation or transit authority. Additionally, surtax proceeds could be spent to plan, develop, construct, expand, operate, and maintain on-demand transportation services.¹⁰

¹ Chapter 76-284, L.O.F. 2017 Florida Tax Handbook, p. 226.

² Chapter 85-180, L.O.F. 2017 Florida Tax Handbook, p. 226.

³ Chapters 87-99 and 87-100, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁴ Chapter 87-548, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁵ Chapter 99-385, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁶ Chapter 2002-20, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁷ Chapter 2003-254, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁸ Chapter 2004-66, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁹ Chapter 2009-146, L.O.F. 2017 Florida Tax Handbook, pp. 226-227.

¹⁰ Chapter 2010-225, L.O.F. 2017 Florida Tax Handbook p. 227.

Based on current statutory criteria, 31 counties are eligible to levy the surtax.¹¹ However, only Duval and Miami-Dade Counties levy the surtax, both at a rate of one-half percent.¹² Duval County began levying the tax in 1989, and Miami-Dade County began levying the tax in 2003.¹³

Miami-Dade County

Section 125.011(1), F.S., defines a county as:

[A]ny county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county.

The local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968 are the City of Key West and Monroe County,¹⁴ Dade County,¹⁵ and Hillsborough County.¹⁶ Of these, only Miami-Dade County operates under a home-rule charter, adopted on May 21, 1957, under this constitutional provision.¹⁷ Therefore, Miami-Dade County is the only county that meets the definition in s. 125.011(1), F.S.

In 2002, Miami-Dade County adopted a resolution calling for a special election for a one-half cent Charter County and Transit System Surtax with the following ballot language:

Shall the county implement the People's Transportation Plan including: plans to build rapid transit lines to West Dade, Kendall, Florida City, Miami Beach and North Dade; expanding bus service; adding 635 buses; improving traffic signalization to reduce traffic backups; improving major neighborhood roads and highways, including drainage; and funding to municipalities for road and transportation projects by levying a ½ percent sales surtax whose proceeds will be overseen by the Citizen's Independent Transportation Trust?

Miami-Dade County's Department of Transportation and Public Works (DTPW) is the 15th largest public transit system in the United States and Florida's largest transit agency. DTPW annually provides approximately 27.2 million miles of Metrobus revenue service along 98 routes. DTPW has a fleet of 706 full-sized buses, 79 articulated buses, and 64 minibuses. Its system also includes a 25-mile dual elevated Metrorail track, a 20-mile Bus Rapid Transit line, and a 4.4-mile dual elevated Metromover track. Additionally, DTPW provides Special Transportation Services to eligible participants.¹⁸

DTPW also administers a system of roads, bridges, drainage, pathways, traffic signals, signs, and streetlights. Additionally, it administers roadway infrastructure maintenance, inspection, compliance, and improvement programs. DTPW also implements all highway, transit, and neighborhood improvement projects included in Miami-Dade County's Capital Improvement Plan and the Transportation Improvement Program. DTPW also implements various public works projects using

¹¹ The counties eligible to levy the surtax are: Alachua, Bay, Brevard, Broward, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton. 2017 Florida Tax Handbook, p. 227.

¹² 2017 Florida Tax Handbook, p. 227.

¹³ 2003 Florida Tax Handbook, p. 154.

¹⁴ FLA. CONST. art. VIII, s. 6, n. 2.

¹⁵ FLA. CONST. art. VIII, s. 6, n. 3.

¹⁶ FLA. CONST. art. VIII, s. 6, n. 4.

¹⁷ Florida Association of Counties, *Charter County Information*, <http://www.fl-counties.com/charter-county-information> (last visited November 17, 2017).

¹⁸ <http://www.miamidade.gov/budget/library/fy2017-18/proposed/transportation-and-public-works.pdf> (Last visited October 30, 2017).

Building Better Communities General Obligation Bonds, and all county transportation capital projects in the People's Transportation Plan.

2002 Charter County Transit Surtax Law

In 2002, Miami-Dade County passed a referendum authorizing the Charter County Transit Surtax¹⁹ and began levying the surtax in 2003. As written in 2002, s. 212.055(1)(d), F.S., provided Charter County Transit System Surtax proceeds could be applied to as many or as few of the purposes provided below, in whatever combination the county commission deemed appropriate:

- For the development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;
- Remitted to an expressway or transportation authority for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; and
- In Miami-Dade County, for the development, construction, operation, and maintenance of the county's roads and bridges; for the expansion, operation, and maintenance of bus and fixed guideway systems; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for nontransit uses.

Current Charter County and Regional Transportation Surtax Law

Subsequent to 2002, the Legislature amended the authorized uses of surtax proceeds, including allowing proceeds to be used for on-demand transportation services,²⁰ funds being remitted to transit authority for certain purposes related to bus systems, expanded the use of funds limited to Miami-Dade County to all counties. Additionally, the Legislature authorized surtax proceeds to be used by the county for various functions relating to roads and bridges, bus and fixed-guideway systems, on-demand transportation services, and certain bond issuances. Additionally, the statute now authorizes counties to enter into interlocal agreements to distribute tax proceeds to a municipality, or an expressway or transportation authority for authorized purposes. These interlocal agreements are revised no less than once every five years in order to incorporate new municipalities.²¹

Administration of the Surtax in Miami-Dade County

Miami-Dade County's Citizen's Independent Transportation Trust (CITT) is a 15-member body overseeing the surtax-funded People's Transportation Plan (PTP).²² The CITT's powers and duties include:

- To monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levy by the county under s. 212.055, F.S.
- To assure compliance with any limitations imposed in the levy on the expenditure of surtax proceeds, including but not limited to:
 - Any limitation that surtax proceeds only be expended for the transportation and transit purposes specified in state law;
 - Any limitation that no more than five percent of surtax proceeds spent on administrative costs, excluding project management and oversight for projects funded by the surtax; and

¹⁹ <https://www.miamidade.gov/elections/results/ele02309/RACE054.HTML> (Last visited July 27, 2017)

²⁰ Section 212.055(1)(e), F.S., defines "on-demand transportation services" as transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

²¹ Section 212.055(1)(d), F.S.

²² <http://www.miamidade.gov/citt/> (Last visited October 19, 2017).

- The limitation that the county commission may not delete or materially change any County project listed in an exhibit attached to the ordinance levying the surtax nor add any project except as specifically provided.
- Any requirement with regard to maintenance of effort of general fund support for Miami-Dade Transit.
- To assure compliance with any applicable federal and state requirements;
- To require monthly reports from the manager, county agencies and instrumentalities regarding the implementation of the projects funded by surtax proceeds;
- To file a quarterly report, regarding the implementation of the projects funded by surtax proceeds; and
- To monitor, oversee and periodically report to the county commission on the level of CSBEs and CBEs in contracts funded in whole or in part with surtax proceeds, and to recommend ways to increase such participation.²³

The ordinance creating Miami-Dade County's surtax requires the distribution of 20 percent of surtax proceeds to municipalities on a pro rata basis for local transportation and transit projects. Municipalities must apply at least 20 percent of their share of surtax proceeds to transit and are required to submit their transportation plans to the county.²⁴

Since its inception in 2003, through September 2016, Miami-Dade County received approximately \$2.6 billion in surtax revenues, with approximately \$1.8 billion transferred to Miami-Dade Transit, \$563 million to municipalities and \$186 million to public works.²⁵

Proposed Changes

The bill creates s. 212.055(1)(d)2., F.S., providing that to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, Miami-Dade County must use Charter County and Regional Transportation Surtax proceeds to plan, develop, and expand fixed guideway rapid transit systems or bus systems and to pay principal and interest on bonds previously issued to construct fixed guideway rapid transit systems or bus systems. Miami-Dade County may pledge surtax proceeds as security for bonds issued to refinance existing bonds or for new bonds issued to construct fixed guideway rapid transit system or bus system. The bill prohibits the county from using surtax proceeds for salaries or other personnel expenses of the county transportation department.

The bill also makes technical changes to and removes redundant provisions in s. 212.055(1)(d), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 212.055, F.S., relating to discretionary sales surtaxes.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²³ <http://www.miamidade.gov/citt/about-citt.asp> (Last visited October 24, 2017)

²⁴ <http://www.miamidade.gov/citt/about-municipal-program.asp> (Last visited October 30, 2017).

²⁵ <http://www.miamidade.gov/citt/library/finance/2017/ptp-cash-analysis.pdf> (Last visited October 30, 2017).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill changes the statutorily authorized use of Charter County and Regional Transportation Surtax revenues in Miami-Dade County and limits the use to capital costs associated with transit. To the extent surtax revenues are being used for another purpose, the bill may negatively impact expenditures for those purposes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For Miami-Dade County, the bill revises the allocation of funds for the Charter County and Regional Transportation System Surtax to focus on transit systems.

D. FISCAL COMMENTS:

While the bill does not change the tax rate, it revises the authorized uses for surtax proceeds. The bill limits the use of surtax revenues to capital costs related to public transit. To the extent surtax proceeds are allocated to other uses, Miami-Dade County may have to reduce those expenditures or find funds from other sources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the charter county and regional
 3 transportation system surtax; amending s. 212.055,
 4 F.S.; requiring certain counties to use surtax
 5 proceeds for specified purposes related to fixed
 6 guideway rapid transit systems and bus systems;
 7 authorizing the use of surtax proceeds for refinancing
 8 existing bonds; prohibiting the use of such proceeds
 9 for certain purposes; providing an effective date.

10

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

12

13 Section 1. Paragraph (d) of subsection (1) of section
 14 212.055, Florida Statutes, is amended to read:

15 212.055 Discretionary sales surtaxes; legislative intent;
 16 authorization and use of proceeds.—It is the legislative intent
 17 that any authorization for imposition of a discretionary sales
 18 surtax shall be published in the Florida Statutes as a
 19 subsection of this section, irrespective of the duration of the
 20 levy. Each enactment shall specify the types of counties
 21 authorized to levy; the rate or rates which may be imposed; the
 22 maximum length of time the surtax may be imposed, if any; the
 23 procedure which must be followed to secure voter approval, if
 24 required; the purpose for which the proceeds may be expended;
 25 and such other requirements as the Legislature may provide.

26 Taxable transactions and administrative procedures shall be as
 27 provided in s. 212.054.

28 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
 29 SURTAX.—

30 (d)1. Except as set forth in subparagraph 2., proceeds
 31 from the surtax shall be applied to as many or as few of the
 32 uses enumerated below in whatever combination the county
 33 commission deems appropriate:

34 a.1. Deposited by the county in the trust fund and shall
 35 be used for the purposes of development, construction,
 36 equipment, maintenance, operation, supportive services,
 37 including a countywide bus system, on-demand transportation
 38 services, and related costs of a fixed guideway rapid transit
 39 system;

40 b.2. Remitted by the governing body of the county to an
 41 expressway, transit, or transportation authority created by law
 42 to be used, at the discretion of such authority, for the
 43 development, construction, operation, or maintenance of roads or
 44 bridges in the county, for the operation and maintenance of a
 45 bus system, for the operation and maintenance of on-demand
 46 transportation services, for the payment of principal and
 47 interest on existing bonds issued for the construction of such
 48 roads or bridges, and, upon approval by the county commission,
 49 such proceeds may be pledged for bonds issued to refinance
 50 existing bonds or new bonds issued for the construction of such

51 roads or bridges; and

52 ~~3. Used by the county for the development, construction,~~
 53 ~~operation, and maintenance of roads and bridges in the county,~~
 54 ~~for the expansion, operation, and maintenance of bus and fixed~~
 55 ~~guideway systems; for the expansion, operation, and maintenance~~
 56 ~~of on-demand transportation services; and for the payment of~~
 57 ~~principal and interest on bonds issued for the construction of~~
 58 ~~fixed guideway rapid transit systems, bus systems, roads, or~~
 59 ~~bridges; and such proceeds may be pledged by the governing body~~
 60 ~~of the county for bonds issued to refinance existing bonds or~~
 61 ~~new bonds issued for the construction of such fixed guideway~~
 62 ~~rapid transit systems, bus systems, roads, or bridges and no~~
 63 ~~more than 25 percent used for nontransit uses; and~~

64 c.4. Used by the county for the planning, development,
 65 construction, operation, and maintenance of roads and bridges in
 66 the county; for the planning, development, expansion, operation,
 67 and maintenance of bus and fixed guideway systems; for the
 68 planning, development, construction, expansion, operation, and
 69 maintenance of on-demand transportation services; and for the
 70 payment of principal and interest on bonds issued for the
 71 construction of fixed guideway rapid transit systems, bus
 72 systems, roads, or bridges; and such proceeds may be pledged by
 73 the governing body of the county for bonds issued to refinance
 74 existing bonds or new bonds issued for the construction of such
 75 fixed guideway rapid transit systems, bus systems, roads, or

76 bridges and no more than 25 percent used for nontransit uses.
 77 Pursuant to an interlocal agreement entered into pursuant to
 78 chapter 163, the governing body of the county may distribute
 79 proceeds from the tax to a municipality, or an expressway or
 80 transportation authority created by law to be expended for the
 81 purpose authorized by this paragraph. Any county that has
 82 entered into interlocal agreements for distribution of proceeds
 83 to one or more municipalities in the county shall revise such
 84 interlocal agreements no less than every 5 years in order to
 85 include any municipalities that have been created since the
 86 prior interlocal agreements were executed.

87 2. To the extent not prohibited by contracts or bond
 88 covenants in effect on July 1, 2018, each county as defined in
 89 s. 125.011(1) shall use proceeds of the surtax for the planning,
 90 development, and expansion of fixed guideway rapid transit
 91 systems or bus systems and for the payment of principal and
 92 interest on bonds previously issued for the construction of
 93 fixed guideway rapid transit systems or bus systems. Such
 94 proceeds may be pledged as security by the county governing body
 95 for bonds issued to refinance existing bonds or for new bonds
 96 issued for the construction of such fixed guideway rapid transit
 97 systems or bus systems. Proceeds from the surtax may not be used
 98 for salaries or other personnel expenses of the county
 99 transportation department.

100 Section 2. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Cortes, B. offered the following:
 4

Amendment (with title amendment)

6 Remove lines 87-99 and insert:

7 2. To the extent not prohibited by contracts or bond
 8 covenants in effect on July 1, 2018, each county, as defined in
 9 s. 125.011(1), F.S., shall use surtax proceeds only for the
 10 following purposes:

11 a. The planning, design, engineering, or construction of
 12 fixed guideway rapid transit systems.

13 b. The acquisition of right-of-way for fixed guideway
 14 rapid transit systems or for the development of dedicated
 15 facilities for autonomous vehicles as defined in s. 316.003,



Amendment No.

16 provided that the current owner of the right-of-way is a willing
17 seller or lessor.

18 c. The payment of principal and interest on bonds
19 previously issued related to fixed guideway rapid transit
20 systems or bus systems.

21 d. As security by the governing body of the county to
22 refinance existing bonds or to issue new bonds for the planning,
23 design, engineering, or construction of fixed guideway rapid
24 transit systems or bus systems.

25
26 Proceeds from the surtax may not be used for salaries or other
27 personnel expenses of the county transportation department.

28
29 -----

30 **T I T L E A M E N D M E N T**

31 Between lines 6 and 7, insert:
32 authorizing the use of surtax proceeds for the purchase of
33 right-of-way under certain circumstances;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 Statewide Alternative Transportation Authority

SPONSOR(S): Avila and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>JAS</i>	Vickers <i>RV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Florida Rail Enterprise (FRE) is a single budget entity within the Department of Transportation (DOT), operating under the Florida Rail Enterprise Act. The FRE is responsible for developing and operating passenger rail systems, including high-speed rail. Additionally, the FRE is responsible for funding passenger rail systems, and coordinating publicly-funded passenger rail operations, including interoperability issues with freight rail. Included in the FRE's annual budget is \$60 million from documentary stamp taxes.

The bill changes the FRE to the Statewide Alternative Transportation Authority (Authority) and amends the Florida Rail Enterprise Act to transfer the powers and duties of the FRE to the Authority in order for the state to develop alternative transportation systems.

The bill defines "alternative transportation system" as a system of physical infrastructure, appurtenances, and technology designed to move the greatest number of people in the least amount of time. The term does not include the traditional use of a roadway system for conveyance, but the term may include, without limitation, a high-speed rail system.

The bill reallocates the \$60 million in documentary stamp taxes currently allocated to the FRE. Of the \$60 million, \$25 million is allocated to the Tampa Bay Area Regional Transit Authority and \$35 million is allocated to the Authority. Of the \$35 million allocated to the Authority, \$25 million is allocated to Miami-Dade County. The remaining \$10 million may be used in any county or counties. The use of these tax revenues is on a 50/50 matching basis with local funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

High-Speed Rail

In November 2000, Florida voters approved a constitutional amendment¹ mandating the construction of a high-speed transportation system. The amendment required the use of train technologies operating at speeds in excess of 120 miles per hour. The high-speed rail system was to link Florida's five largest urban areas, and construction was to begin by November 1, 2003. In 2001, to implement the constitutional amendment, the Legislature enacted the Florida High Speed Rail Authority Act² and created the Florida High Speed Rail Authority. In November 2004, voters repealed the 2000 constitutional amendment. Although voters repealed the constitutional amendment, the Florida High Speed Rail Authority Act remained in statutes.

In 2009, the Legislature created the Florida Rail Enterprise (FRE) to develop Florida's high-speed rail system. Portions of the then existing Florida High-Speed Rail Authority Act³ were reassigned to the FRE and unnecessary provisions of the Florida High-Speed Rail Authority Act were repealed.⁴

Department of Transportation/Florida Rail Enterprise

Section 20.23, F.S., creates the Department of Transportation (DOT) as a decentralized agency, headed by the DOT secretary. DOT has seven geographic districts, a turnpike enterprise and a rail enterprise.⁵

As delegated by the DOT Secretary, the FRE executive director is responsible for developing and operating the high-speed and passenger rail systems,⁶ directing funding for passenger rail systems,⁷ and coordinating publicly funded passenger rail operations, including freight rail interoperability issues. The FRE executive director directly reports to the DOT secretary, and the FRE operates pursuant to the Florida Rail Enterprise Act.⁸

The FRE, except as provided in the Consultants Competitive Negotiation Act⁹ is exempt from DOT's policies, procedures, and standards, subject to the DOT secretary's authority to apply any such policies, procedures, and standards to the FRE as he or she deems appropriate.¹⁰

The FRE is a single budget entity and submits its budget to the Legislature along with DOT's budget. All DOT passenger rail funding is included in the FRE's budget.¹¹

For the 2017-2018 Fiscal Year, the FRE was authorized one position, and a budget of approximately \$237.4 million, of which \$74.4 million was for public transit development grants, \$159.6 million for rail development grants, and \$2.8 million for intermodal development grants.¹²

¹ Section 19, Article X of the State Constitution

² Sections 341.8201 through 341.842, F.S.

³ Sections 341.8201 through 341.842, F.S.

⁴ Chapter 2009-271, L.O.F.

⁵ Section 20.23(4)(a), F.S.

⁶ High-speed passenger rail systems are established in Ch. 341, F.S.

⁷ Funding for passenger rail systems is provided in s. 341.303, F.S.

⁸ Section 20.23(4)(f)1., F.S.

⁹ Section 287.055, F.S.

¹⁰ Section 20.23(4)(f)2., F.S.

¹¹ Section 341.303(6)(a), F.S.

¹² 2017 General Appropriations Act-Specific Appropriations 1883 through 1891.

Documentary Stamp Tax

Chapter 201, F.S., authorizes the documentary stamp tax. After the required distributions to the Land Acquisition Trust Fund¹³ and deducting General Revenue service charge,¹⁴ the lesser of 24.18442 percent of the remainder of tax revenue or \$541.75 million in each fiscal year is paid into the State Transportation Trust Fund (STTF). Of funds annually paid into the STTF funds, \$75 million is transferred to the General Revenue Fund. The remaining amount credited to the STTF is allocated as follows:

- Capital funding for the New Starts Transit Program in the amount of 10 percent of the funds;
- The Small County Outreach Program in the amount of 10 percent of the funds;
- The Strategic Intermodal System receives 75 percent of the funds after deducting payments for the New Starts Transit Program and the Small County Outreach Program; and
- The Transportation Regional Incentive Program receives 25 percent of the funds after deducting payments for the New Starts Transit Program and the Small County Outreach Program. The first \$60 million annually allocated to the Transportation Regional Incentive Program is distributed to the FRE.¹⁵

Rail Funding

Section 341.303(5), F.S., provides that DOT, through the FRE, may use funds allocated to the FRE from documentary stamp taxes to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible passenger rail capital improvement project.
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system.
- The high-speed rail system.
- Projects necessary to identify or address anticipated impacts of increased freight rail traffic resulting from the implementation of passenger rail systems.

Florida Rail Enterprise Act

Sections 341.8201-341.842, F.S., contain the "Florida Rail Enterprise Act."¹⁶

FRE Powers and Duties

Section 341.822, F.S., provides the FRE's powers and duties. The FRE must locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the state's high-speed rail system.¹⁷

In addition to DOT's powers, the FRE may exercise all powers granted to it, including, but not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems.¹⁸ Specifically, the Florida Rail Enterprise Act authorizes the FRE to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the high-speed rail system; to expend funds to publicize, advertise, and promote the advantages of using the high-speed rail system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private, to accomplish these purposes.¹⁹

¹³ Distributions to the Land Acquisition Trust Fund are pursuant to s. 201.15(1) and (2), F.S.

¹⁴ The General Revenue Service Charge is pursuant to s. 215.20(1), F.S.

¹⁵ Section 201.15(4), F.S.

¹⁶ Section 341.8201, F.S.,

¹⁷ Section 341.822(1), F.S.

¹⁸ Section 341.822(2)(a), F.S.

¹⁹ Section 341.822(2)(b), F.S.

The FRE may employ procurement methods available to DOT,²⁰ or otherwise in accordance with law. The FRE may also solicit proposals and, with legislative approval²¹ enter into agreements with private entities, for the building, operation, ownership, or financing of the high-speed rail system.²²

The FRE's powers under the Florida Rail Enterprise Act are in addition and supplemental to DOT's existing powers, and supersede other laws that are inconsistent with the exercise of the powers provided under the Florida Rail Enterprise Act and provide a complete method for the exercising the FRE's powers.²³

Any proposed FRE project or improvement must be developed in accordance with the Florida Transportation Plan²⁴ and DOT's work program.^{25,26}

DOT is the Sole Governmental Entity to Acquire, Construct, or Operate High-Speed Rail Projects Section 341.8225, F.S., provides that DOT is the sole governmental entity to acquire, construct, or operate high-speed rail projects. No other governmental entity may acquire, construct, maintain, or operate the high-speed rail system except upon specific legislative authorization.²⁷

Local governmental entities²⁸ may negotiate with DOT for the design, right-of-way acquisition, and construction of any component of the high-speed rail system within areas of their respective jurisdictions or within counties with which they have interlocal agreements.²⁹

Communication Facilities

Section 341.822(2)(c), F.S., requires the FRE to establish a process to issue permits to railroad companies to construct communication facilities³⁰ within a new or existing public or private high-speed rail system. The FRE may adopt rules to administer these permits. The FRE must provide a copy of a completed permit application to municipalities and counties where the high-speed rail system will be located. The FRE must allow each municipality and county 30 days to provide comments to regarding the application, including any recommendations regarding conditions that may be placed on the permit.

A railroad company³¹ may submit an application to obtain a permit to construct communication facilities within a new or existing high-speed rail system. The application must include an application fee limited to the amount needed to pay the anticipated cost of reviewing the application, not to exceed \$10,000, deposited into the STTF. The application must include the following information:

- The location of the proposed communication facilities.
- A description of the proposed communication facilities.
- Any other information reasonably required by the FRE.³²

²⁰ Procurement methods are available to DOT under Chs. 255, 287, 334, and 337, F.S.

²¹ Legislative approval is evidenced by approval of the project in DOT's work program.

²² Section 341.822(3), F.S.

²³ Section 341.822(5), F.S.

²⁴ The Florida Transportation Plan is developed in accordance with s. 339.155, F.S.

²⁵ DOT's work program is developed pursuant to s. 339.135, F.S.

²⁶ Section 341.822(6), F.S.

²⁷ Section 341.8225(1), F.S.

²⁸ Section 334.03(13), F.S., defines "local government entity" as a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

²⁹ Section 341.8225(2), F.S.

³⁰ Section 341.8203(2), F.S., defines "communications facilities" as the communication systems related to high-speed passenger rail operations, including those which are built, installed, used, or established for the planning, building, managing, and operating of a high-speed rail system.

³¹ Section 341.8203(7), F.S., defines "railroad company" as a person developing, or providing service on, a high-speed rail system.

³² Section 341.825(2), F.S.

The FRE has 30 days to review an application for completeness.³³ If the FRE determines that an application is not complete, the FRE notifies the applicant of any errors or omissions. An applicant has 30 days to correct the errors or omissions in the application.³⁴ If the FRE determines that an application is complete, the FRE has 60 days to act upon the application and stating the reason for issuance or denial.

Associated Development

Section 341.836, F.S., relates to associated development.³⁵ The FRE, alone or as part of a joint development,³⁶ may undertake associated developments as a source of revenue for the high-speed rail system. Such associated developments must be consistent, to the extent feasible, with applicable local government comprehensive plans and local land development regulations and otherwise comply with the Florida Rail Enterprise Act.³⁷

The Florida Rail Enterprise Act does not prohibit the FRE, the selected person or entity, or a party to a joint venture with the FRE or its selected person or entity from obtaining approval, pursuant to any other law, for any associated development reasonably related to the high-speed rail system.³⁸

Fares, Rates, Rents, Fees, and Charges

Section 341.838, F.S., authorizes the FRE to establish, revise, charge, and collect fares, rates, rents, fees, charges, and revenues for the use of and for the services furnished, or to be furnished, by the system and to contract with any person, partnership, association, corporation, or other body. The FRE annually reviews such fares, rates, rents, fees, and charges and may adjust such fares, rates, rents, fees, or charges. The funds collected must, with any other funds available, be used to pay the cost of designing, building, operating, financing, and maintaining the system and each and every portion of the system, to the extent that the payment of such cost has not otherwise been adequately provided for.³⁹

Fares, rates, rents, fees, and charges established, revised, charged, and collected by the FRE are not be subject to supervision or regulation by any other department, commission, board, body, bureau, or state agency.⁴⁰

Tax Exemption

Section 341.840, F.S., provides certain tax exemptions related to the Florida Rail Enterprise Act. The exercise of the powers granted under the Florida Rail Enterprise Act are in all respects for the benefit of the people, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions. The design, construction, operation, maintenance, and financing of a high-speed rail system by the FRE, its agent, or the owner or lessee of a high-speed rail system constitutes an essential public function.⁴¹

For the purposes of this tax exemption, the term “enterprise” does not include agents of the enterprise other than contractors who qualify as such pursuant to s. 341.840(7), F.S.⁴²

³³ Section 341.825(3), F.S.

³⁴ Section 341.825(3)(a), F.S.

³⁵ Section 341.8203(1), F.S., defines “associated development” as property, equipment, buildings, or other related facilities which are built, installed, used, or established to provide financing, funding, or revenues for the planning, building, managing, and operation of a high-speed rail system and which are associated with or part of the rail stations.

³⁶ Section 341.8203(5), F.S., defines “joint development” as the planning, managing, financing, or constructing of projects adjacent to, functionally related to, or otherwise related to a high-speed rail system pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public or private.

³⁷ Section 341.836(1), F.S.

³⁸ Section 341.836(2), F.S.

³⁹ Section 341.838(1), F.S.

⁴⁰ Section 341.838(2), F.S.

⁴¹ Section 341.840(1), F.S.

⁴² Section 341.840(2)(a), F.S.

For the purposes this tax exemption, any “associated development” is not part of the high-speed rail system.⁴³

Enterprise purchases or leases of tangible personal property or real property are exempt from sales or use taxes.⁴⁴ Purchases or leases of tangible personal property incorporated into the high-speed rail system as a component part of the high-speed rail system are exempt from sales or use taxes. Leases, rentals, or licenses to use real property granted to the enterprise’s agents or the high-speed rail system’s owner are exempt from taxes for the use of real property⁴⁵ if the real property becomes part of the high-speed rail. The tax exemptions do not apply to sales, leases, or licenses by the FRE, agents of the FRE, or the owner of the high-speed rail system.⁴⁶

The tax exemption for purchases or leases of tangible personal property applies only to property that becomes a component part of the high-speed rail system. The tax exemption does not apply to tangible personal property used in the construction, operation, or maintenance of the high-speed rail system when the items are not incorporated into the high-speed rail system.⁴⁷

Any bonds or other financial securities arising out of or given to secure the repayment of bonds or other securities, issued by the enterprise, or on behalf of the enterprise, their transfer, and their income, including any profit made on their sale are exempt from all state and local taxes. However, this does not exempt from taxation or assessment the leasehold interest of a lessee in any project or any other property or interest owned by the lessee. This exemption granted is not applicable to any state income tax⁴⁸ on interest income or profits on the sale of debt obligations owned by corporations.⁴⁹

Liberal Construction.

Section 341.842, F.S., provides for the liberal construction of the Florida Rail Enterprise Act, being necessary for the welfare of the state and its inhabitants, to effect the purposes of the Florida Rail Enterprise Act.

Tampa Bay Area Regional Transit Authority

Part V of Ch. 343, F.S., creates the Tampa Bay Area Regional Transit Authority (TBARTA). TBARTA includes Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties and any other contiguous county that is party to an agreement of participation.⁵⁰ TBARTA’s express purposes are to:

- Plan, implement, and operate mobility improvements and expansions of multimodal transportation options for passengers and freight throughout the designated region.
- Produce a regional transit development plan, integrating the transit development plans of participant counties, to include a prioritization of regionally significant transit projects and facilities.
- Serve, with the consent of the Governor, as the recipient of federal funds supporting an intercounty project or an intercounty capital project that represents a phase of an intracounty regional project within the designated region.⁵¹

⁴³ Section 384.840(2)(b), F.S.

⁴⁴ Sales and use taxes are imposed by Ch. 212, F.S. The general sales tax exemption for political subdivisions is provided in s. 212.08(6), F.S.

⁴⁵ Taxes for the use of real property are imposed in s. 212.031, F.S.

⁴⁶ Section 341.840(3)(a), F.S.

⁴⁷ Section 384.840(3)(b), F.S.

⁴⁸ State corporate income tax is imposed by Ch. 220, F.S.

⁴⁹ Section 384.840(4), F.S.

⁵⁰ Section 343.91(1)(a), F.S.

⁵¹ Section 343.922(1), F.S.

Proposed Changes

Department of Transportation

The bill amends s. 20.23, F.S., changing the name of the FRE to the Statewide Alternative Transportation Authority, and providing that the Statewide Alternative Transportation Authority (Authority) is responsible for developing and operating an alternative transportation system. The bill also removes the FRE's authority to provide direct funding for passenger rail systems.

Documentary Stamp Taxes

The bill revises the allocation of documentary stamp tax revenue to the Transportation Regional Incentive Program. The bill annually allocates, beginning in the 2019-2020 fiscal year, the first \$60 million of the funds for public-private partnerships for alternative transportation systems for passengers as follows:

- Twenty-five million dollars on a matching basis to TBARTA for the design and construction of an alternative transportation system for passengers. TBARTA must provide one dollar in local matching funds for each dollar distributed. TBARTA may not substitute federal funds for local matching funds.
- Thirty-five million dollars to the Authority for the purposes established in s. 341.303(5), F.S.

Rail Funding

The bill amends s. 341.303(5), F.S., relating to fund participation for the FRE. The bill provides that DOT, through the Authority, must use the funds provided to the Authority from documentary stamp tax revenue in a county to fund the design and construction of an alternative transportation system for passengers based on a proposal by the county, which is approved by the authority as consistent with the requirements of s. 341.303(5), F.S. Any contracts entered into by the FRE remain with the Authority.

Of the \$35 million in documentary stamp tax revenue allocated to the Authority, \$25 million must be used for projects in Miami-Dade County.⁵² The remaining \$10 million may be used for any county or counties.

A county proposing the use of funds for alternative transportation systems must submit a request to the Authority, including a detailed project and financial plan. One dollar in local matching funds must be provided for each dollar distributed. Federal funds may not be substituted for the local matching funds. The funding request must specify the duration of the project and the total amount sought by year. These funds may not subsidize existing projects.

The bill amends s. 341.303(6), F.S., relating to the FRE's budget, changing references to the FRE to the Authority and references to passenger rail to alternative transportation systems.

Statewide Alternative Transportation Authority

The bill creates the Statewide Alternative Transportation Authority Act by amending the existing Florida Rail Enterprise Act.

The bill defines "alternative transportation system" as a system of physical infrastructure, appurtenances, and technology designed to move the greatest number of people in the least amount of time. The term does not include the traditional use of a roadway system for conveyance, but the term may include, without limitation, a high-speed rail system.

⁵² The bill specifies a county as defined in s. 125.011(1), F.S. Section 125.011(1), F.S., defines "county" as any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county. This definition only applies to Miami-Dade County.

The bill defines the term “alternative transportation system station” as any structure or transportation facility that is part of an alternative transportation system designed to accommodate the movement of passengers from one mode of transportation to another, at which passengers board or disembark from transportation conveyances from one mode of transportation to another.

The bill defines “authority” as the Statewide Alternative Transportation Authority.

The bill deletes the definitions of “enterprise,” “rail station,” and “railroad company,” and amends other definitions conforming to other changes made in the bill.

The bill transfers the FRE’s powers and duties to the Statewide Alternative Transportation Authority and changes references to the high-speed rail system to the alternative transportation system.

The bill also provides that any proposed project or improvement, except projects funded with documentary stamp tax revenues must be developed in accordance with the Florida Transportation Plan and DOT’s work program.

A county proposing to use these documentary stamp tax revenues must submit a request to the authority including a detailed project and financial plan. The county must provide one dollar in local matching funds for each dollar distributed, and may not substitute federal funds for local matching funds. The funding request must specify the duration of the project and the total amount requested by year.

Conforming Changes

The bill also amends the following statutes to make conforming changes:

Statute	Relating To:
341.302	DOT’s duties and responsibility relating to its rail program.
341.825	Communications Facilities
341.836	Associated Development
341.838	Fares, Rates, Rents, Fees, and Charges
341.839	Alternative Means
341.840	Tax Exemption
341.58	County Funding for the South Florida Regional Transportation Authority. ⁵³

B. SECTION DIRECTORY:

Section 1 amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 amends s. 201.15, F.S., relating to the distribution of taxes collected.

Section 3 amends s. 341.302, F.S., to conform.

Section 4 amends s. 341.303, F.S., relating to funding authorization and appropriations; eligibility and participation.

Section 5 amends s. 341.8201, F.S., providing a short title.

Section 6 amends s. 341.8203, F.S., providing definitions.

Section 7 amends s. 341.822, F.S., providing powers and duties.

⁵³ The South Florida Regional Transportation Authority operates Tri-Rail in Palm Beach, Broward, and Miami-Dade Counties.

Sections 8 through 13 amend ss. 341.825, 341.836, 341.838, 341.839, 341.840, and 343.58, F.S., to conform.

Section 14 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Beginning in the 2019-2020 fiscal year, the bill redirects \$60 million in documentary stamp revenue currently allocated via the Transportation Regional Incentive Program to the FRE to eligible counties for alternative transportation systems for passengers.

2. Expenditures:

The FRE portion of DOT's work program will likely see a negative impact associated with \$60 million in documentary stamp taxes being redirected from FRE to alternative transportation systems.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill reallocates \$60 million in documentary stamp tax revenue currently allocated to the FRE to various local transportation entities for alternative transportation projects. Based on the specifics of the bill, TBARTA and Miami-Dade County will each receive \$25 million per year for alternative transportation systems projects. The remaining \$10 million is available to any county for alternative transportation systems projects.

2. Expenditures:

To the extent that local governments wish to engage in alternative transportation system projects, the bill requires matching funds be provided. To the extent that a local government will need to provide matching funds, they may incur a negative fiscal impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will likely have a negative impact to DOT's work program associated with the reallocation of \$60 million in documentary stamp tax revenue from the FRE to counties for alternative transportation projects. As a result, programmed rail projects using these funds may be either deferred or deleted from DOT's work program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On lines 681-682, the bill, in the definition of high-speed rail system” changes a reference to” rail stations” to “alternative transportation stations.” This phrase may be better suited to remain “rail stations.”

Section 341.8225, F.S., provides that DOT is the sole government entity to acquire, construct, or operate high-speed passenger rail. While other portions of the bill amend the Florida Rail Enterprise Act to change references to high-speed rail to alternative transportation systems, it is unclear if the intent is to also amend this provision, which does not appear in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Statewide Alternative
 3 Transportation Authority; amending s. 20.23, F.S.;
 4 renaming the Florida Rail Enterprise within the
 5 Department of Transportation as the Statewide
 6 Alternative Transportation Authority; conforming
 7 provisions to changes made by the act; amending s.
 8 201.15, F.S.; revising annual allocations in the State
 9 Transportation Trust Fund for the Transportation
 10 Regional Incentive Program; specifying annual
 11 allocations to the Tampa Bay Area Regional Transit
 12 Authority and the Statewide Alternative Transportation
 13 Authority for certain purposes; amending s. 341.303,
 14 F.S.; providing requirements for the department's use
 15 of funds provided to the Statewide Alternative
 16 Transportation Authority; requiring contracts entered
 17 into by the enterprise to remain with the authority;
 18 providing requirements for funding requests and county
 19 matching funds; amending s. 341.8201, F.S.; renaming
 20 the "Florida Rail Enterprise Act" as the "Statewide
 21 Alternative Transportation Authority Act"; amending s.
 22 341.8203, F.S.; revising and providing definitions;
 23 amending s. 341.822, F.S.; replacing powers and duties
 24 of the enterprise relating to the high-speed rail
 25 system with powers and duties of the authority

26 relating to the alternative transportation system;
 27 exempting proposed projects funded under the authority
 28 from a certain development requirement; amending ss.
 29 341.302, 341.825, 341.836, 341.838, 341.839, 341.840,
 30 and 343.58, F.S.; conforming provisions to changes
 31 made by the act; providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Paragraphs (a) and (f) of subsection (4) of
 36 section 20.23, Florida Statutes, are amended to read:

37 20.23 Department of Transportation.—There is created a
 38 Department of Transportation which shall be a decentralized
 39 agency.

40 (4) (a) The operations of the department shall be organized
 41 into seven districts, each headed by a district secretary, and a
 42 turnpike enterprise and the Statewide Alternative Transportation
 43 Authority ~~a rail enterprise~~, each ~~enterprise~~ headed by an
 44 executive director. The district secretaries and the executive
 45 directors shall be registered professional engineers in
 46 accordance with ~~the provisions of~~ chapter 471 or the laws of
 47 another state, or, in lieu of professional engineer
 48 registration, a district secretary or executive director may
 49 hold an advanced degree in an appropriate related discipline,
 50 such as a Master of Business Administration. The headquarters of

51 the districts shall be located in Polk, Columbia, Washington,
 52 Broward, Volusia, Miami-Dade, and Hillsborough Counties. The
 53 headquarters of the turnpike enterprise shall be located in
 54 Orange County. The headquarters of the Statewide Alternative
 55 Transportation Authority ~~rail enterprise~~ shall be located in
 56 Leon County. In order to provide for efficient operations and to
 57 expedite the decisionmaking process, the department shall
 58 provide for maximum decentralization to the districts.

59 (f)1. The responsibility for developing and operating the
 60 alternative transportation system ~~high-speed and passenger rail~~
 61 ~~systems~~ established in chapter 341, ~~directing funding for~~
 62 ~~passenger rail systems under s. 341.303,~~ and coordinating
 63 publicly funded alternative transportation systems for
 64 passengers ~~passenger rail operations~~ in the state, including
 65 freight rail interoperability issues, shall be delegated by the
 66 secretary to the executive director of the Statewide Alternative
 67 Transportation Authority ~~rail enterprise~~, who shall serve at the
 68 pleasure of the secretary. The executive director shall report
 69 directly to the secretary, and the Statewide Alternative
 70 Transportation Authority ~~rail enterprise~~ shall operate pursuant
 71 to ss. 341.8201-341.842.

72 2. To facilitate the most efficient and effective
 73 management of the Statewide Alternative Transportation Authority
 74 ~~rail enterprise~~, including the use of best business practices
 75 employed by the private sector, the Statewide Alternative

76 Transportation Authority ~~rail enterprise~~, except as provided in
 77 s. 287.055, is ~~shall be~~ exempt from departmental policies,
 78 procedures, and standards, subject to the secretary having the
 79 authority to apply any such policies, procedures, and standards
 80 to the Statewide Alternative Transportation Authority ~~rail~~
 81 ~~enterprise~~ from time to time as deemed appropriate.

82 Section 2. Paragraph (a) of subsection (4) of section
 83 201.15, Florida Statutes, is amended, and paragraph (b) of that
 84 subsection is republished, to read:

85 201.15 Distribution of taxes collected.—All taxes
 86 collected under this chapter are hereby pledged and shall be
 87 first made available to make payments when due on bonds issued
 88 pursuant to s. 215.618 or s. 215.619, or any other bonds
 89 authorized to be issued on a parity basis with such bonds. Such
 90 pledge and availability for the payment of these bonds shall
 91 have priority over any requirement for the payment of service
 92 charges or costs of collection and enforcement under this
 93 section. All taxes collected under this chapter, except taxes
 94 distributed to the Land Acquisition Trust Fund pursuant to
 95 subsections (1) and (2), are subject to the service charge
 96 imposed in s. 215.20(1). Before distribution pursuant to this
 97 section, the Department of Revenue shall deduct amounts
 98 necessary to pay the costs of the collection and enforcement of
 99 the tax levied by this chapter. The costs and service charge may
 100 not be levied against any portion of taxes pledged to debt

101 service on bonds to the extent that the costs and service charge
 102 are required to pay any amounts relating to the bonds. All of
 103 the costs of the collection and enforcement of the tax levied by
 104 this chapter and the service charge shall be available and
 105 transferred to the extent necessary to pay debt service and any
 106 other amounts payable with respect to bonds authorized before
 107 January 1, 2017, secured by revenues distributed pursuant to
 108 this section. All taxes remaining after deduction of costs shall
 109 be distributed as follows:

110 (4) After the required distributions to the Land
 111 Acquisition Trust Fund pursuant to subsections (1) and (2) and
 112 deduction of the service charge imposed pursuant to s.
 113 215.20(1), the remainder shall be distributed as follows:

114 (a) The lesser of 24.18442 percent of the remainder or
 115 \$541.75 million in each fiscal year shall be paid into the State
 116 Treasury to the credit of the State Transportation Trust Fund.
 117 Of such funds, \$75 million for each fiscal year shall be
 118 transferred to the General Revenue Fund. Notwithstanding any
 119 other law, the remaining amount credited to the State
 120 Transportation Trust Fund shall be used for:

121 1. Capital funding for the New Starts Transit Program,
 122 authorized by Title 49, U.S.C. s. 5309 and specified in s.
 123 341.051, in the amount of 10 percent of the funds;

124 2. The Small County Outreach Program specified in s.
 125 339.2818, in the amount of 10 percent of the funds;

126 3. The Strategic Intermodal System specified in ss.
 127 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent
 128 of the funds after deduction of the payments required pursuant
 129 to subparagraphs 1. and 2.; and

130 4. The Transportation Regional Incentive Program specified
 131 in s. 339.2819, in the amount of 25 percent of the funds after
 132 deduction of the payments required pursuant to subparagraphs 1.
 133 and 2. Beginning in the 2019-2020 fiscal year, the first \$60
 134 million of the funds allocated pursuant to this subparagraph
 135 must ~~shall~~ be allocated annually for public-private partnerships
 136 for alternative transportation systems for passengers, as
 137 follows:

138 a. Twenty-five million dollars on a matching basis to the
 139 Tampa Bay Area Regional Transit Authority for the design and
 140 construction of an alternative transportation system, as defined
 141 in s. 341.8203, for passengers. One dollar in local matching
 142 funds must be provided for each dollar distributed under this
 143 sub-subparagraph. Federal funds may not be substituted for the
 144 local matching funds.

145 b. Thirty-five million dollars to the Statewide
 146 Alternative Transportation Authority ~~to the Florida Rail~~
 147 Enterprise for the purposes established in s. 341.303(5).

148 (b) The lesser of 0.1456 percent of the remainder or \$3.25
 149 million in each fiscal year shall be paid into the State
 150 Treasury to the credit of the Grants and Donations Trust Fund in

151 the Department of Economic Opportunity to fund technical
 152 assistance to local governments.

153
 154 Moneys distributed pursuant to paragraphs (a) and (b) may not be
 155 pledged for debt service unless such pledge is approved by
 156 referendum of the voters.

157 Section 3. Section 341.302, Florida Statutes, is amended
 158 to read:

159 341.302 Rail program; duties and responsibilities of the
 160 department.—The department, in conjunction with other
 161 governmental entities, including the Statewide Alternative
 162 Transportation Authority ~~rail enterprise~~ and the private sector,
 163 shall develop and implement a rail program of statewide
 164 application designed to ensure the proper maintenance, safety,
 165 revitalization, and expansion of the rail system to assure its
 166 continued and increased availability to respond to statewide
 167 mobility needs. Within the resources provided pursuant to
 168 chapter 216, and as authorized under federal law, the department
 169 shall:

170 (1) Provide the overall leadership, coordination, and
 171 financial and technical assistance necessary to assure the
 172 effective responses of the state's rail system to current and
 173 anticipated mobility needs.

174 (2) Promote and facilitate the implementation of advanced
 175 rail systems, including high-speed rail and magnetic levitation

176 systems.

177 (3) Develop and periodically update the rail system plan,
 178 on the basis of an analysis of statewide transportation needs.

179 (a) The plan may contain detailed regional components,
 180 consistent with regional transportation plans, as needed to
 181 ensure connectivity within the state's regions, and it shall be
 182 consistent with the Florida Transportation Plan developed
 183 pursuant to s. 339.155. The rail system plan shall include an
 184 identification of priorities, programs, and funding levels
 185 required to meet statewide and regional needs. The rail system
 186 plan shall be developed in a manner that will assure the maximum
 187 use of existing facilities and the optimum integration and
 188 coordination of the various modes of transportation, public and
 189 private, in the most cost-effective manner possible. The rail
 190 system plan shall be updated no later than January 1, 2011, and
 191 at least every 5 years thereafter, and include plans for both
 192 passenger rail service and freight rail service, accompanied by
 193 a report to the Legislature regarding the status of the plan.

194 (b) In recognition of the department's role in the
 195 enhancement of the state's rail system to improve freight and
 196 passenger mobility, the department shall:

197 1. Work closely with all affected communities along an
 198 impacted freight rail corridor to identify and address
 199 anticipated impacts associated with an increase in freight rail
 200 traffic due to implementation of passenger rail.

201 2. In coordination with the affected local governments and
 202 CSX Transportation, Inc., finalize all viable alternatives from
 203 the department's Rail Traffic Evaluation Study to identify and
 204 develop an alternative route for through freight rail traffic
 205 moving through Central Florida, including the counties of Polk
 206 and Hillsborough, which would address, to the extent
 207 practicable, the effects of commuter rail.

208 3. Provide technical assistance to a coalition of local
 209 governments in Central Florida, including the counties of
 210 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,
 211 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,
 212 Sumter, and Volusia, and the municipalities within those
 213 counties, to develop a regional rail system plan that addresses
 214 passenger and freight opportunities in the region, is consistent
 215 with the Florida Rail System Plan, and incorporates appropriate
 216 elements of the Tampa Bay Area Regional Authority Master Plan,
 217 the Metroplan Orlando Regional Transit System Concept Plan,
 218 including the SunRail project, and the Florida Department of
 219 Transportation Alternate Rail Traffic Evaluation.

220 (4) As part of the work program of the department,
 221 formulate a specific program of projects and financing to
 222 respond to identified railroad needs.

223 (5) Provide technical and financial assistance to units of
 224 local government to address identified rail transportation
 225 needs.

226 (6) Secure and administer federal grants, loans, and
 227 apportionments for rail projects within this state when
 228 necessary to further the statewide program.

229 (7) Develop and administer state standards concerning the
 230 safety and performance of rail systems, hazardous material
 231 handling, and operations. Such standards shall be developed
 232 jointly with representatives of affected rail systems, with full
 233 consideration given to nationwide industry norms, and shall
 234 define the minimum acceptable standards for safety and
 235 performance.

236 (8) Conduct, at a minimum, inspections of track and
 237 rolling stock; train signals and related equipment; hazardous
 238 materials transportation, including the loading, unloading, and
 239 labeling of hazardous materials at shippers', receivers', and
 240 transfer points; and train operating practices to determine
 241 adherence to state and federal standards. Department personnel
 242 may enforce any safety regulation issued under the Federal
 243 Government's preemptive authority over interstate commerce.

244 (9) Assess penalties, in accordance with the applicable
 245 federal regulations, for the failure to adhere to the state
 246 standards.

247 (10) Administer rail operating and construction programs,
 248 which programs shall include the regulation of maxi-mum train
 249 operating speeds, the opening and closing of public grade
 250 crossings, the construction and rehabilitation of public grade

251 crossings, and the installation of traffic control devices at
 252 public grade crossings, the administering of the programs by the
 253 department including participation in the cost of the programs.

254 (11) Coordinate and facilitate the relocation of railroads
 255 from congested urban areas to nonurban areas when relocation has
 256 been determined feasible and desirable from the standpoint of
 257 safety, operational efficiency, and economics.

258 (12) Implement a program of branch line continuance
 259 projects when an analysis of the industrial and economic
 260 potential of the line indicates that public involvement is
 261 required to preserve essential rail service and facilities.

262 (13) Provide new rail service and equipment when:

263 (a) Pursuant to the transportation planning process, a
 264 public need has been determined to exist;

265 (b) The cost of providing such service does not exceed the
 266 sum of revenues from fares charged to users, services purchased
 267 by other public agencies, local fund participation, and specific
 268 legislative appropriation for this purpose; and

269 (c) Service cannot be reasonably provided by other
 270 governmental or privately owned rail systems.

271

272 The department may own, lease, and otherwise encumber
 273 facilities, equipment, and appurtenances thereto, as necessary
 274 to provide new rail services; or the department may provide such
 275 service by contracts with privately owned service providers.

276 (14) Furnish required emergency rail transportation
 277 service if no other private or public rail transportation
 278 operation is available to supply the required service and such
 279 service is clearly in the best interest of the people in the
 280 communities being served. Such emergency service may be
 281 furnished through contractual arrangement, actual operation of
 282 state-owned equipment and facilities, or any other means
 283 determined appropriate by the secretary.

284 (15) Assist in the development and implementation of
 285 marketing programs for rail services and of information systems
 286 directed toward assisting rail systems users.

287 (16) Conduct research into innovative or potentially
 288 effective rail technologies and methods and maintain expertise
 289 in state-of-the-art rail developments.

290 (17) In conjunction with the acquisition, ownership,
 291 construction, operation, maintenance, and management of a rail
 292 corridor, have the authority to:

293 (a) Assume obligations pursuant to the following:

294 1.a. The department may assume the obligation by contract
 295 to forever protect, defend, indemnify, and hold harmless the
 296 freight rail operator, or its successors, from whom the
 297 department has acquired a real property interest in the rail
 298 corridor, and that freight rail operator's officers, agents, and
 299 employees, from and against any liability, cost, and expense,
 300 including, but not limited to, commuter rail passengers and rail

301 corridor invitees in the rail corridor, regardless of whether
 302 the loss, damage, destruction, injury, or death giving rise to
 303 any such liability, cost, or expense is caused in whole or in
 304 part, and to whatever nature or degree, by the fault, failure,
 305 negligence, misconduct, nonfeasance, or misfeasance of such
 306 freight rail operator, its successors, or its officers, agents,
 307 and employees, or any other person or persons whomsoever; or

308 b. The department may assume the obligation by contract to
 309 forever protect, defend, indemnify, and hold harmless National
 310 Railroad Passenger Corporation, or its successors, and officers,
 311 agents, and employees of National Railroad Passenger
 312 Corporation, from and against any liability, cost, and expense,
 313 including, but not limited to, commuter rail passengers and rail
 314 corridor invitees in the rail corridor, regardless of whether
 315 the loss, damage, destruction, injury, or death giving rise to
 316 any such liability, cost, or expense is caused in whole or in
 317 part, and to whatever nature or degree, by the fault, failure,
 318 negligence, misconduct, nonfeasance, or misfeasance of National
 319 Railroad Passenger Corporation, its successors, or its officers,
 320 agents, and employees, or any other person or persons
 321 whomsoever.

322 2. The assumption of liability of the department by
 323 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
 324 1.b. may not in any instance exceed the following parameters of
 325 allocation of risk:

326 a. The department may be solely responsible for any loss,
 327 injury, or damage to commuter rail passengers, or rail corridor
 328 invitees, or trespassers, regardless of circumstances or cause,
 329 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
 330 6.

331 b.(I) In the event of a limited covered accident, the
 332 authority of the department to protect, defend, and indemnify
 333 the freight operator for all liability, cost, and expense,
 334 including punitive or exemplary damages, in excess of the
 335 deductible or self-insurance retention fund established under
 336 paragraph (b) and actually in force at the time of the limited
 337 covered accident exists only if the freight operator agrees,
 338 with respect to the limited covered accident, to protect,
 339 defend, and indemnify the department for the amount of the
 340 deductible or self-insurance retention fund established under
 341 paragraph (b) and actually in force at the time of the limited
 342 covered accident.

343 (II) In the event of a limited covered accident, the
 344 authority of the department to protect, defend, and indemnify
 345 National Railroad Passenger Corporation for all liability, cost,
 346 and expense, including punitive or exemplary damages, in excess
 347 of the deductible or self-insurance retention fund established
 348 under paragraph (b) and actually in force at the time of the
 349 limited covered accident exists only if National Railroad
 350 Passenger Corporation agrees, with respect to the limited

351 covered accident, to protect, defend, and indemnify the
 352 department for the amount of the deductible or self-insurance
 353 retention fund established under paragraph (b) and actually in
 354 force at the time of the limited covered accident.

355 3. When only one train is involved in an incident, the
 356 department may be solely responsible for any loss, injury, or
 357 damage if the train is a department train or other train
 358 pursuant to subparagraph 4., but only if:

359 a. When an incident occurs with only a freight train
 360 involved, including incidents with trespassers or at grade
 361 crossings, the freight rail operator is solely responsible for
 362 any loss, injury, or damage, except for commuter rail passengers
 363 and rail corridor invitees; or

364 b. When an incident occurs with only a National Railroad
 365 Passenger Corporation train involved, including incidents with
 366 trespassers or at grade crossings, National Railroad Passenger
 367 Corporation is solely responsible for any loss, injury, or
 368 damage, except for commuter rail passengers and rail corridor
 369 invitees.

370 4. For the purposes of this subsection:

371 a. Any train involved in an incident that is neither the
 372 department's train nor the freight rail operator's train,
 373 hereinafter referred to in this subsection as an "other train,"
 374 may be treated as a department train, solely for purposes of any
 375 allocation of liability between the department and the freight

376 rail operator only, but only if the department and the freight
 377 rail operator share responsibility equally as to third parties
 378 outside the rail corridor who incur loss, injury, or damage as a
 379 result of any incident involving both a department train and a
 380 freight rail operator train, and the allocation as between the
 381 department and the freight rail operator, regardless of whether
 382 the other train is treated as a department train, shall remain
 383 one-half each as to third parties outside the rail corridor who
 384 incur loss, injury, or damage as a result of the incident. The
 385 involvement of any other train shall not alter the sharing of
 386 equal responsibility as to third parties outside the rail
 387 corridor who incur loss, injury, or damage as a result of the
 388 incident; or

389 b. Any train involved in an incident that is neither the
 390 department's train nor the National Railroad Passenger
 391 Corporation's train, hereinafter referred to in this subsection
 392 as an "other train," may be treated as a department train,
 393 solely for purposes of any allocation of liability between the
 394 department and National Railroad Passenger Corporation only, but
 395 only if the department and National Railroad Passenger
 396 Corporation share responsibility equally as to third parties
 397 outside the rail corridor who incur loss, injury, or damage as a
 398 result of any incident involving both a department train and a
 399 National Railroad Passenger Corporation train, and the
 400 allocation as between the department and National Railroad

401 Passenger Corporation, regardless of whether the other train is
 402 treated as a department train, shall remain one-half each as to
 403 third parties outside the rail corridor who incur loss, injury,
 404 or damage as a result of the incident. The involvement of any
 405 other train shall not alter the sharing of equal responsibility
 406 as to third parties outside the rail corridor who incur loss,
 407 injury, or damage as a result of the incident.

408 5. When more than one train is involved in an incident:

409 a.(I) If only a department train and freight rail
 410 operator's train, or only an other train as described in sub-
 411 subparagraph 4.a. and a freight rail operator's train, are
 412 involved in an incident, the department may be responsible for
 413 its property and all of its people, all commuter rail
 414 passengers, and rail corridor invitees, but only if the freight
 415 rail operator is responsible for its property and all of its
 416 people, and the department and the freight rail operator each
 417 share one-half responsibility as to trespassers or third parties
 418 outside the rail corridor who incur loss, injury, or damage as a
 419 result of the incident; or

420 (II) If only a department train and a National Railroad
 421 Passenger Corporation train, or only an other train as described
 422 in sub-subparagraph 4.b. and a National Railroad Passenger
 423 Corporation train, are involved in an incident, the department
 424 may be responsible for its property and all of its people, all
 425 commuter rail passengers, and rail corridor invitees, but only

426 | if National Railroad Passenger Corporation is responsible for
 427 | its property and all of its people, all National Railroad
 428 | Passenger Corporation's rail passengers, and the department and
 429 | National Railroad Passenger Corporation each share one-half
 430 | responsibility as to trespassers or third parties outside the
 431 | rail corridor who incur loss, injury, or damage as a result of
 432 | the incident.

433 | b.(I) If a department train, a freight rail operator
 434 | train, and any other train are involved in an incident, the
 435 | allocation of liability between the department and the freight
 436 | rail operator, regardless of whether the other train is treated
 437 | as a department train, shall remain one-half each as to third
 438 | parties outside the rail corridor who incur loss, injury, or
 439 | damage as a result of the incident; the involvement of any other
 440 | train shall not alter the sharing of equal responsibility as to
 441 | third parties outside the rail corridor who incur loss, injury,
 442 | or damage as a result of the incident; and, if the owner,
 443 | operator, or insurer of the other train makes any payment to
 444 | injured third parties outside the rail corridor who incur loss,
 445 | injury, or damage as a result of the incident, the allocation of
 446 | credit between the department and the freight rail operator as
 447 | to such payment shall not in any case reduce the freight rail
 448 | operator's third-party-sharing allocation of one-half under this
 449 | paragraph to less than one-third of the total third party
 450 | liability; or

451 (II) If a department train, a National Railroad Passenger
 452 Corporation train, and any other train are involved in an
 453 incident, the allocation of liability between the department and
 454 National Railroad Passenger Corporation, regardless of whether
 455 the other train is treated as a department train, shall remain
 456 one-half each as to third parties outside the rail corridor who
 457 incur loss, injury, or damage as a result of the incident; the
 458 involvement of any other train shall not alter the sharing of
 459 equal responsibility as to third parties outside the rail
 460 corridor who incur loss, injury, or damage as a result of the
 461 incident; and, if the owner, operator, or insurer of the other
 462 train makes any payment to injured third parties outside the
 463 rail corridor who incur loss, injury, or damage as a result of
 464 the incident, the allocation of credit between the department
 465 and National Railroad Passenger Corporation as to such payment
 466 shall not in any case reduce National Railroad Passenger
 467 Corporation's third-party-sharing allocation of one-half under
 468 this sub-subparagraph to less than one-third of the total third
 469 party liability.

470 6. Any such contractual duty to protect, defend,
 471 indemnify, and hold harmless such a freight rail operator or
 472 National Railroad Passenger Corporation shall expressly include
 473 a specific cap on the amount of the contractual duty, which
 474 amount shall not exceed \$200 million without prior legislative
 475 approval, and the department to purchase liability insurance and

476 establish a self-insurance retention fund in the amount of the
 477 specific cap established under this subparagraph, provided that:

478 a. No such contractual duty shall in any case be effective
 479 nor otherwise extend the department's liability in scope and
 480 effect beyond the contractual liability insurance and self-
 481 insurance retention fund required pursuant to this paragraph;
 482 and

483 b.(I) The freight rail operator's compensation to the
 484 department for future use of the department's rail corridor
 485 shall include a monetary contribution to the cost of such
 486 liability coverage for the sole benefit of the freight rail
 487 operator.

488 (II) National Railroad Passenger Corporation's
 489 compensation to the department for future use of the
 490 department's rail corridor shall include a monetary contribution
 491 to the cost of such liability coverage for the sole benefit of
 492 National Railroad Passenger Corporation.

493 (b) Purchase liability insurance, which amount shall not
 494 exceed \$200 million, and establish a self-insurance retention
 495 fund for the purpose of paying the deductible limit established
 496 in the insurance policies it may obtain, including coverage for
 497 the department, any freight rail operator as described in
 498 paragraph (a), National Railroad Passenger Corporation, commuter
 499 rail service providers, governmental entities, or any ancillary
 500 development, which self-insurance retention fund or deductible

501 shall not exceed \$10 million. The insureds shall pay a
 502 reasonable monetary contribution to the cost of such liability
 503 coverage for the sole benefit of the insured. Such insurance and
 504 self-insurance retention fund may provide coverage for all
 505 damages, including, but not limited to, compensatory, special,
 506 and exemplary, and be maintained to provide an adequate fund to
 507 cover claims and liabilities for loss, injury, or damage arising
 508 out of or connected with the ownership, operation, maintenance,
 509 and management of a rail corridor.

510 (c) Incur expenses for the purchase of advertisements,
 511 marketing, and promotional items.

512 (d) Without altering any of the rights granted to the
 513 department under this section, agree to assume the obligations
 514 to indemnify and insure, pursuant to s. 343.545, freight rail
 515 service, intercity passenger rail service, and commuter rail
 516 service on a department-owned rail corridor, whether ownership
 517 is in fee or by easement, or on a rail corridor where the
 518 department has the right to operate.

519
 520 Neither the assumption by contract to protect, defend,
 521 indemnify, and hold harmless; the purchase of insurance; nor the
 522 establishment of a self-insurance retention fund shall be deemed
 523 to be a waiver of any defense of sovereign immunity for torts
 524 nor deemed to increase the limits of the department's or the
 525 governmental entity's liability for torts as provided in s.

526 768.28. The requirements of s. 287.022(1) shall not apply to the
 527 purchase of any insurance under this subsection. The provisions
 528 of this subsection shall apply and inure fully as to any other
 529 governmental entity providing commuter rail service and
 530 constructing, operating, maintaining, or managing a rail
 531 corridor on publicly owned right-of-way under contract by the
 532 governmental entity with the department or a governmental entity
 533 designated by the department. Notwithstanding any law to the
 534 contrary, procurement for the construction, operation,
 535 maintenance, and management of any rail corridor described in
 536 this subsection, whether by the department, a governmental
 537 entity under contract with the department, or a governmental
 538 entity designated by the department, shall be pursuant to s.
 539 287.057 and shall include, but not be limited to, criteria for
 540 the consideration of qualifications, technical aspects of the
 541 proposal, and price. Further, any such contract for design-build
 542 shall be procured pursuant to the criteria in s. 337.11(7).

543 (18) Exercise such other functions, powers, and duties in
 544 connection with the rail system plan as are necessary to develop
 545 a safe, efficient, and effective statewide transportation
 546 system.

547 Section 4. Subsections (5) and (6) of section 341.303,
 548 Florida Statutes, are amended to read:

549 341.303 Funding authorization and appropriations;
 550 eligibility and participation.—

551 (5) FUND PARTICIPATION; STATEWIDE ALTERNATIVE
 552 TRANSPORTATION AUTHORITY FLORIDA RAIL ENTERPRISE.—The
 553 department, through the Statewide Alternative Transportation
 554 Authority, shall Florida Rail Enterprise, is authorized to use
 555 funds provided pursuant to s. 201.15(4)(a)4.b. in a county s.
 556 201.15(4)(a)4. to fund the design and construction of an
 557 alternative transportation system, as defined in s. 341.8203,
 558 for passengers, based on a proposal by the county which is
 559 approved by the authority as consistent with the requirements of
 560 this subsection. Any contracts entered into by the Florida Rail
 561 Enterprise must remain with the authority.+

562 (a) Of the \$35 million allocated under s.
 563 201.15(4)(a)4.b., \$25 million must be used for a project
 564 described in this subsection in a county as defined in s.
 565 125.011(1) and the remainder must be used by the authority for
 566 any county or counties in the state Up to 50 percent of the
 567 nonfederal share of the costs of any eligible passenger rail
 568 capital improvement project.

569 (b) A county proposing the use of funds for the purposes
 570 of this subsection must submit a request to the authority which
 571 includes a detailed project and financial plan Up to 100 percent
 572 of planning and development costs related to the provision of a
 573 passenger rail system, including, but not limited to,
 574 preliminary engineering, revenue studies, environmental impact
 575 studies, financial advisory services, engineering design, and

576 ~~other appropriate professional services.~~

577 (c) One dollar in local matching funds must be provided
 578 for each dollar distributed under this subsection. Federal funds
 579 may not be substituted for the local matching funds ~~The high-~~
 580 ~~speed rail system.~~

581 (d) The funding request must specify the duration of the
 582 project and the total amount sought by year ~~Projects necessary~~
 583 ~~to identify or address anticipated impacts of increased freight~~
 584 ~~rail traffic resulting from the implementation of passenger rail~~
 585 ~~systems as provided in s. 341.302(3)(b).~~

586 (e) Funds distributed under this subsection may not be
 587 used to subsidize existing projects.

588 (6) STATEWIDE ALTERNATIVE TRANSPORTATION AUTHORITY FLORIDA
 589 RAIL ENTERPRISE; BUDGET.-

590 (a) The Statewide Alternative Transportation Authority
 591 ~~Florida Rail Enterprise~~ shall be a single budget entity and
 592 shall develop a budget pursuant to chapter 216. The authority's
 593 ~~enterprise's~~ budget must ~~shall~~ be submitted to the Legislature
 594 ~~along~~ with the department's budget. All alternative
 595 transportation system ~~passenger rail~~ funding by the department
 596 must ~~shall~~ be included in this budget entity.

597 (b) Notwithstanding the provisions of s. 216.301 to the
 598 contrary and in accordance with s. 216.351, the Executive Office
 599 of the Governor shall, on July 1 of each year, certify forward
 600 all unexpended funds appropriated or provided pursuant to this

601 section for the authority ~~enterprise~~. Of the unexpended funds
 602 certified forward, any unencumbered amounts shall be carried
 603 forward. Such funds carried forward shall not exceed 5 percent
 604 of the original approved operating budget of the authority
 605 ~~enterprise~~ pursuant to s. 216.181(1). Funds carried forward
 606 pursuant to this section may be used for any lawful purpose,
 607 including, but not limited to, promotional and market
 608 activities, technology, and training. Any certified-forward
 609 funds remaining undisbursed on September 30 of each year shall
 610 be carried forward.

611 Section 5. Section 341.8201, Florida Statutes, is amended
 612 to read:

613 341.8201 Short title.—Sections 341.8201-341.842 may be
 614 cited as the "Statewide Alternative Transportation Authority
 615 Florida Rail Enterprise Act."

616 Section 6. Section 341.8203, Florida Statutes, is amended
 617 to read:

618 341.8203 Definitions.—As used in ss. 341.8201-341.842,
 619 unless the context clearly indicates otherwise, the term:

620 (1) "Alternative transportation system" means a system of
 621 physical infrastructure, appurtenances, and technology designed
 622 to move the greatest number of people in the least amount of
 623 time. The term does not include the traditional use of a roadway
 624 system for conveyance, but the term may include, without
 625 limitation, a high-speed rail system.

626 (2) "Alternative transportation system station" means any
 627 structure or transportation facility that is part of an
 628 alternative transportation system designed to accommodate the
 629 movement of passengers from one mode of transportation to
 630 another, at which passengers board or disembark from
 631 transportation conveyances and transfer from one mode of
 632 transportation to another.

633 (3)~~(1)~~ "Associated development" means property, equipment,
 634 buildings, or other related facilities that ~~which~~ are built,
 635 installed, used, or established to provide financing, funding,
 636 or revenues for the planning, building, managing, and operation
 637 of an alternative transportation ~~a high-speed rail~~ system and
 638 that ~~which~~ are associated with or part of alternative
 639 transportation system ~~the rail~~ stations. The term includes air
 640 and subsurface rights, services that provide local area network
 641 devices for transmitting data over wireless networks, parking
 642 facilities, retail establishments, restaurants, hotels, offices,
 643 advertising, or other commercial, civic, residential, or support
 644 facilities.

645 (4) "Authority" means the Statewide Alternative
 646 Transportation Authority.

647 (5)~~(2)~~ "Communication facilities" means the communication
 648 systems related to the operation of an alternative
 649 transportation system for passengers ~~high-speed passenger rail~~
 650 ~~operations~~, including those that ~~which~~ are built, installed,

651 used, or established for the planning, building, managing, and
 652 operating of an alternative transportation ~~a high-speed rail~~
 653 system. The term includes the land; structures; improvements;
 654 rights-of-way; easements; positive train control systems;
 655 wireless communication towers and facilities that are designed
 656 to provide voice and data services for the safe and efficient
 657 operation of an alternative transportation ~~the high-speed rail~~
 658 system; voice, data, and wireless communication amenities made
 659 available to crew and passengers as part of an alternative
 660 transportation ~~a high-speed rail~~ service; and any other
 661 facilities or equipment used for operation of, or the
 662 facilitation of communications for, an alternative
 663 transportation ~~a high-speed rail~~ system. Owners of communication
 664 facilities may not offer voice or data service to any entity
 665 other than passengers, crew, or other persons involved in the
 666 operation of an alternative transportation ~~a high-speed rail~~
 667 system.

668 ~~(3) "Enterprise" means the Florida Rail Enterprise.~~

669 (6)~~(4)~~ "High-speed rail system" means any high-speed fixed
 670 guideway system for transporting people or goods, which system
 671 is, by definition of the United States Department of
 672 Transportation, reasonably expected to reach speeds of at least
 673 110 miles per hour, including, but not limited to, a monorail
 674 system, dual track rail system, suspended rail system, magnetic
 675 levitation system, pneumatic repulsion system, or other system

676 approved by the authority ~~enterprise~~. The term includes a
 677 corridor, associated intermodal connectors, and structures
 678 essential to the operation of the line, including the land,
 679 structures, improvements, rights-of-way, easements, rail lines,
 680 rail beds, guideway structures, switches, yards, parking
 681 facilities, power relays, switching houses, and alternative
 682 transportation system ~~rail~~ stations and also includes facilities
 683 or equipment used exclusively for the purposes of design,
 684 construction, operation, maintenance, or the financing of the
 685 high-speed rail system.

686 (7) ~~(5)~~ "Joint development" means the planning, managing,
 687 financing, or constructing of projects adjacent to, functionally
 688 related to, or otherwise related to an alternative
 689 transportation ~~a high-speed rail~~ system pursuant to agreements
 690 between any person, firm, corporation, association,
 691 organization, agency, or other entity, public or private.

692 ~~(6) "Rail station," "station," or "high-speed rail~~
 693 ~~station" means any structure or transportation facility that is~~
 694 ~~part of a high-speed rail system designed to accommodate the~~
 695 ~~movement of passengers from one mode of transportation to~~
 696 ~~another at which passengers board or disembark from~~
 697 ~~transportation conveyances and transfer from one mode of~~
 698 ~~transportation to another.~~

699 ~~(7) "Railroad company" means a person developing, or~~
 700 ~~providing service on, a high-speed rail system.~~

701 (8) "Selected person or entity" means the person or entity
 702 to whom the authority ~~enterprise~~ awards a contract to establish
 703 an alternative transportation ~~a high-speed rail~~ system pursuant
 704 to ss. 341.8201-341.842.

705 Section 7. Section 341.822, Florida Statutes, is amended
 706 to read:

707 341.822 Powers and duties.—

708 (1) The authority ~~enterprise~~ shall locate, plan, design,
 709 finance, construct, maintain, own, operate, administer, and
 710 manage the alternative transportation ~~high-speed rail~~ system in
 711 the state.

712 (2)(a) In addition to the powers granted to the
 713 department, the authority may fully ~~enterprise has full~~
 714 ~~authority to~~ exercise all powers granted to it under this
 715 chapter. Powers ~~shall~~ include, but are not limited to, the
 716 ability to plan, construct, maintain, repair, and operate an
 717 alternative transportation ~~a high-speed rail~~ system, to acquire
 718 corridors, and to coordinate the development and operation of
 719 publicly funded alternative transportation ~~passenger rail~~
 720 systems for passengers in the state.

721 (b) It is the express intention of ss. 341.8201-341.842
 722 that the authority ~~enterprise~~ be authorized to plan, develop,
 723 own, purchase, lease, or otherwise acquire, demolish, construct,
 724 improve, relocate, equip, repair, maintain, operate, and manage
 725 the alternative transportation ~~high-speed rail~~ system; to expend

726 funds to publicize, advertise, and promote the advantages of
 727 using the alternative transportation ~~high-speed rail~~ system and
 728 its facilities; and to cooperate, coordinate, partner, and
 729 contract with other entities, public and private, to accomplish
 730 these purposes.

731 (c) The authority ~~enterprise~~ shall establish a process to
 732 issue permits to ~~railroad~~ companies for the construction of
 733 communication facilities within a new or existing public or
 734 private alternative transportation ~~high-speed rail~~ system. The
 735 authority ~~enterprise~~ may adopt rules to administer such permits,
 736 including rules regarding the form, content, and necessary
 737 supporting documentation for permit applications; the process
 738 for submitting applications; and the application fee for a
 739 permit under s. 341.825. The authority ~~enterprise~~ shall provide
 740 a copy of a completed permit application to municipalities and
 741 counties where the alternative transportation ~~high-speed rail~~
 742 system will be located. The authority ~~enterprise~~ shall allow
 743 each such municipality and county 30 days to provide comments to
 744 the authority ~~enterprise~~ regarding the application, including
 745 any recommendations regarding conditions that may be placed on
 746 the permit.

747 (3) The authority ~~may enterprise~~ ~~shall have the authority~~
 748 ~~to~~ employ procurement methods available to the department under
 749 chapters 255, 287, 334, and 337, or otherwise in accordance with
 750 law. The authority ~~enterprise~~ may also solicit proposals and,

751 with legislative approval as evidenced by approval of the
 752 project in the department's work program, enter into agreements
 753 with private entities, or consortia thereof, for the building,
 754 operation, ownership, or financing of the alternative
 755 transportation ~~high-speed rail~~ system.

756 (4) The executive director of the authority ~~enterprise~~
 757 shall appoint staff, who are ~~shall be~~ exempt from part II of
 758 chapter 110.

759 (5) The powers conferred upon the authority ~~enterprise~~
 760 under ss. 341.8201-341.842 are ~~shall be~~ in addition and
 761 supplemental to the existing powers of the department, and these
 762 powers may ~~shall~~ not be construed as repealing any provision of
 763 any other law, general or local, but ~~shall~~ supersede such other
 764 laws that are inconsistent with the exercise of the powers
 765 provided under ss. 341.8201-341.842 and provide a complete
 766 method for the exercise of such powers granted.

767 (6) Any proposed ~~rail enterprise~~ project or improvement,
 768 except projects funded under s. 201.15(4)(a)4.b., must ~~shall~~ be
 769 developed in accordance with the Florida Transportation Plan and
 770 the work program under s. 339.135.

771 Section 8. Section 341.825, Florida Statutes, is amended
 772 to read:

773 341.825 Communication facilities.—

774 (1) LEGISLATIVE INTENT.—The Legislature intends to:

775 (a) Establish a streamlined process to authorize the

776 location, construction, operation, and maintenance of
 777 communication facilities within new and existing alternative
 778 transportation ~~high-speed rail~~ systems.

779 (b) Expedite the expansion of the alternative
 780 transportation ~~high-speed rail~~ system's wireless voice and data
 781 coverage and capacity for the safe and efficient operation of
 782 the alternative transportation ~~high-speed rail~~ system and the
 783 safety, use, and efficiency of its crew and passengers as a
 784 critical communication facilities component.

785 (2) APPLICATION SUBMISSION.—A ~~railroad~~ company may submit
 786 to the authority ~~enterprise~~ an application to obtain a permit to
 787 construct communication facilities within a new or existing
 788 alternative transportation ~~high-speed rail~~ system. The
 789 application must ~~shall~~ include an application fee limited to the
 790 amount needed to pay the anticipated cost of reviewing the
 791 application, not to exceed \$10,000, which must ~~shall~~ be
 792 deposited into the State Transportation Trust Fund. The
 793 application must include the following information:

794 (a) The location of the proposed communication facilities.

795 (b) A description of the proposed communication
 796 facilities.

797 (c) Any other information reasonably required by the
 798 authority ~~enterprise~~.

799 (3) APPLICATION REVIEW.—The authority ~~enterprise~~ shall
 800 review each application for completeness within 30 days after

801 receipt of the application.

802 (a) If the authority ~~enterprise~~ determines that an
 803 application is not complete, the authority must ~~enterprise~~
 804 ~~shall~~, within 30 days after the receipt of the initial
 805 application, notify the applicant in writing of any errors or
 806 omissions. An applicant has ~~shall have~~ 30 days within which to
 807 correct the errors or omissions in the initial application.

808 (b) If the authority ~~enterprise~~ determines that an
 809 application is complete, the authority must ~~enterprise shall~~ act
 810 upon the permit application within 60 days after ~~of~~ the receipt
 811 of the completed application by approving in whole, approving
 812 with conditions as the authority ~~enterprise~~ deems appropriate,
 813 or denying the application, and stating the reason for issuance
 814 or denial. In determining whether an application should be
 815 approved, approved with modifications or conditions, or denied,
 816 the authority ~~enterprise~~ shall consider any comments or
 817 recommendations received from a municipality or county and the
 818 extent to which the proposed communication facilities:

819 1. Are located in a manner that is appropriate for the
 820 communication technology specified by the applicant.

821 2. Serve an existing or projected future need for
 822 communication facilities.

823 3. Provide sufficient wireless voice and data coverage and
 824 capacity for the safe and efficient operation of the alternative
 825 transportation ~~high-speed rail~~ system and the safety, use, and

826 efficiency of its crew and passengers.

827 (c) The failure to adopt any recommendation or comment may
828 not be a basis for challenging the issuance of a permit.

829 (4) EFFECT OF PERMIT.—

830 (a) A permit authorizes the permittee to locate,
831 construct, operate, and maintain the communication facilities
832 within a new or existing alternative transportation ~~high-speed~~
833 ~~rail~~ system, subject to the conditions set forth in the permit.
834 Such activities are not subject to local government land use or
835 zoning regulations.

836 (b) A permit may include conditions that constitute
837 variances and exemptions from rules of the authority ~~enterprise~~
838 or any other agency, which would otherwise be applicable to the
839 communication facilities within the new or existing alternative
840 transportation ~~high-speed rail~~ system.

841 (c) Notwithstanding any other provisions of law, the
842 permit ~~is shall be~~ in lieu of any license, permit, certificate,
843 or similar document required by any local agency.

844 (d) Nothing in this section is intended to impose
845 procedures or restrictions on ~~railroad~~ companies that are
846 subject to the exclusive jurisdiction of the federal Surface
847 Transportation Board pursuant to the Interstate Commerce
848 Commission Termination Act of 1995, 49 U.S.C. ss. 10101, et seq.

849 (5) MODIFICATION OF PERMIT.—A permit may be modified by
850 the applicant after issuance upon the filing of a petition with

851 the authority ~~enterprise~~.

852 (a) A petition for modification must set forth the
 853 proposed modification and the factual reasons asserted for the
 854 modification.

855 (b) The authority ~~enterprise~~ shall act upon the petition
 856 within 30 days by approving or denying the application, and
 857 stating the reason for issuance or denial.

858 Section 9. Section 341.836, Florida Statutes, is amended
 859 to read:

860 341.836 Associated development.—

861 (1) The authority ~~enterprise~~, alone or as part of a joint
 862 development, may undertake associated developments to be a
 863 source of revenue for the establishment, construction,
 864 operation, or maintenance of the alternative transportation
 865 ~~high-speed rail~~ system. Such associated developments must be
 866 consistent, to the extent feasible, with applicable local
 867 government comprehensive plans and local land development
 868 regulations and otherwise be in compliance with ss. 341.8201-
 869 341.842.

870 (2) Sections 341.8201-341.842 do not prohibit the
 871 authority ~~enterprise~~, the selected person or entity, or a party
 872 to a joint venture with the authority ~~enterprise~~ or its selected
 873 person or entity from obtaining approval, pursuant to any other
 874 law, for any associated development that is reasonably related
 875 to the alternative transportation ~~high-speed rail~~ system.

876 Section 10. Section 341.838, Florida Statutes, is amended
 877 to read:

878 341.838 Fares, rates, rents, fees, and charges.—

879 (1) The authority ~~enterprise~~ may establish, revise,
 880 charge, and collect fares, rates, rents, fees, charges, and
 881 revenues for the use of and for the services furnished, or to be
 882 furnished, by the alternative transportation system and to
 883 contract with any person, partnership, association, corporation,
 884 or other body, public or private, in respect thereof. Such
 885 fares, rates, rents, fees, and charges must ~~shall~~ be reviewed
 886 annually by the authority ~~enterprise~~ and may be adjusted as set
 887 forth in the contract setting such fares, rates, rents, fees, or
 888 charges. The funds collected pursuant to this section must
 889 ~~shall~~, with any other funds available, be used to pay the cost
 890 of designing, building, operating, financing, and maintaining
 891 the alternative transportation system and each and every portion
 892 thereof, to the extent that the payment of such cost has not
 893 otherwise been adequately provided for.

894 (2) Fares, rates, rents, fees, and charges established,
 895 revised, charged, and collected by the authority ~~enterprise~~
 896 pursuant to this section are ~~shall~~ not ~~be~~ subject to supervision
 897 or regulation by any other department, commission, board, body,
 898 bureau, or agency of this state other than the authority
 899 ~~enterprise~~.

900 Section 11. Section 341.839, Florida Statutes, is amended

901 to read:

902 341.839 Alternate means.—Sections 341.8201-341.842 provide
 903 an additional and alternative method for accomplishing the
 904 purposes authorized therein and are supplemental and additional
 905 to powers conferred by other laws. Except as otherwise expressly
 906 provided in ss. 341.8201-341.842, none of the powers granted to
 907 the authority ~~enterprise~~ under ss. 341.8201-341.842 are subject
 908 to the supervision or require the approval or consent of any
 909 municipality or political subdivision or any commission, board,
 910 body, bureau, or official.

911 Section 12. Section 341.840, Florida Statutes, is amended
 912 to read:

913 341.840 Tax exemption.—

914 (1) The exercise of the powers granted under ss. 341.8201-
 915 341.842 will be in all respects for the benefit of the people of
 916 this state, for the increase of their commerce, welfare, and
 917 prosperity, and for the improvement of their health and living
 918 conditions. The design, construction, operation, maintenance,
 919 and financing of an alternative transportation ~~a high-speed rail~~
 920 system by the authority ~~enterprise~~, its agent, or the owner or
 921 lessee thereof, as herein authorized, constitutes the
 922 performance of an essential public function.

923 (2)(a) For the purposes of this section, the term
 924 "authority ~~enterprise~~" does not include agents of the authority
 925 ~~enterprise~~ other than contractors who qualify as such pursuant

926 to subsection (7).

927 (b) For the purposes of this section, any item or property
 928 that is within the definition of the term "associated
 929 development" in s. 341.8203 ~~s. 341.8203(1)~~ may not be considered
 930 part of the alternative transportation ~~high-speed rail~~ system as
 931 defined in s. 341.8203 ~~s. 341.8203(4)~~.

932 (3) (a) Purchases or leases of tangible personal property
 933 or real property by the authority ~~enterprise~~, excluding agents
 934 of the authority ~~enterprise~~, are exempt from taxes imposed by
 935 chapter 212 as provided in s. 212.08(6). Purchases or leases of
 936 tangible personal property that is incorporated into the
 937 alternative transportation ~~high-speed rail~~ system as a component
 938 part thereof, as determined by the authority ~~enterprise~~, by
 939 agents of the authority, ~~enterprise~~ or by the owner of the
 940 alternative transportation ~~high-speed rail~~ system are exempt
 941 from sales or use taxes imposed by chapter 212. Leases, rentals,
 942 or licenses to use real property granted to agents of the
 943 authority ~~enterprise~~ or the owner of the alternative
 944 transportation ~~high-speed rail~~ system are exempt from taxes
 945 imposed by s. 212.031 if the real property becomes part of such
 946 system. The exemptions granted in this subsection do not apply
 947 to sales, leases, or licenses by the authority ~~enterprise~~,
 948 agents of the authority ~~enterprise~~, or the owner of the
 949 alternative transportation ~~high-speed rail~~ system.

950 (b) The exemption granted in paragraph (a) to purchases or

951 leases of tangible personal property by agents of the authority
 952 ~~enterprise~~ or by the owner of the alternative transportation
 953 ~~high-speed rail~~ system applies only to property that becomes a
 954 component part of such system. It does not apply to items,
 955 including, but not limited to, cranes, bulldozers, forklifts,
 956 other machinery and equipment, tools and supplies, or other
 957 items of tangible personal property used in the construction,
 958 operation, or maintenance of the alternative transportation
 959 ~~high-speed rail~~ system when such items are not incorporated into
 960 the alternative transportation ~~high-speed rail~~ system as a
 961 component part thereof.

962 (4) Any bonds or other security, and all notes, mortgages,
 963 security agreements, letters of credit, or other instruments
 964 that arise out of or are given to secure the repayment of bonds
 965 or other security, issued by the authority ~~enterprise~~, or on
 966 behalf of the authority ~~enterprise~~, their transfer, and the
 967 income therefrom, including any profit made on the sale thereof,
 968 shall at all times be free from taxation of every kind by the
 969 state, the counties, and the municipalities and other political
 970 subdivisions in the state. This subsection, however, does not
 971 exempt from taxation or assessment the leasehold interest of a
 972 lessee in any project or any other property or interest owned by
 973 the lessee. The exemption granted by this subsection is not
 974 applicable to any tax imposed by chapter 220 on interest income
 975 or profits on the sale of debt obligations owned by

976 corporations.

977 (5) When property of the authority ~~enterprise~~ is leased to
 978 another person or entity, the property is ~~shall be~~ exempt from
 979 ad valorem taxation only if the use by the lessee qualifies the
 980 property for exemption under s. 196.199.

981 (6) A leasehold interest held by the authority ~~enterprise~~
 982 is not subject to intangible tax. However, if a leasehold
 983 interest held by the authority ~~enterprise~~ is subleased to a
 984 nongovernmental lessee, such subleasehold interest is ~~shall be~~
 985 deemed to be an interest described in s. 199.023(1)(d), Florida
 986 Statutes 2005, and is subject to the intangible tax.

987 (7)(a) In order to be considered an agent of the authority
 988 ~~enterprise~~ for purposes of the exemption from sales and use tax
 989 granted by subsection (3) for tangible personal property
 990 incorporated into the alternative transportation ~~high-speed rail~~
 991 system, a contractor of the authority ~~enterprise~~ that purchases
 992 or fabricates such tangible personal property must be certified
 993 by the authority ~~enterprise~~ as provided in this subsection.

994 (b)1. A contractor must apply for a renewal of the
 995 exemption not later than December 1 of each calendar year.

996 2. A contractor must apply to the authority ~~enterprise~~ on
 997 the application form adopted by the authority ~~enterprise~~, which
 998 shall develop the form in consultation with the Department of
 999 Revenue.

1000 3. The authority ~~enterprise~~ shall review each submitted

1001 application and determine whether it is complete. The authority
 1002 ~~enterprise~~ shall notify the applicant of any deficiencies in the
 1003 application within 30 days. Upon receipt of a completed
 1004 application, the authority ~~enterprise~~ shall evaluate the
 1005 application for exemption under this subsection and issue a
 1006 certification that the contractor is qualified to act as an
 1007 agent of the authority ~~enterprise~~ for purposes of this section
 1008 or a denial of such certification within 30 days. The authority
 1009 ~~enterprise~~ shall provide the Department of Revenue with a copy
 1010 of each certification issued upon approval of an application.
 1011 Upon receipt of a certification from the authority ~~enterprise~~,
 1012 the Department of Revenue shall issue an exemption permit to the
 1013 contractor.

1014 (c)1. The contractor may extend a copy of its exemption
 1015 permit to its vendors in lieu of paying sales tax on purchases
 1016 of tangible personal property qualifying for exemption under
 1017 this section. Possession of a copy of the exemption permit
 1018 relieves the seller of the responsibility of collecting tax on
 1019 the sale, and the Department of Revenue shall look solely to the
 1020 contractor for recovery of tax upon a determination that the
 1021 contractor was not entitled to the exemption.

1022 2. The contractor may extend a copy of its exemption
 1023 permit to real property subcontractors supplying and installing
 1024 tangible personal property that is exempt under subsection (3).
 1025 Any such subcontractor may extend a copy of the permit to the

1026 subcontractor's vendors in order to purchase qualifying tangible
 1027 personal property tax-exempt. If the subcontractor uses the
 1028 exemption permit to purchase tangible personal property that is
 1029 determined not to qualify for exemption under subsection (3),
 1030 the Department of Revenue may assess and collect any tax,
 1031 penalties, and interest that are due from either the contractor
 1032 holding the exemption permit or the subcontractor that extended
 1033 the exemption permit to the seller.

1034 (d) Any contractor authorized to act as an agent of the
 1035 authority ~~enterprise~~ under this section shall maintain the
 1036 necessary books and records to document the exempt status of
 1037 purchases and fabrication costs made or incurred under the
 1038 permit. In addition, an authorized contractor extending its
 1039 exemption permit to its subcontractors shall maintain a copy of
 1040 the subcontractor's books, records, and invoices indicating all
 1041 purchases made by the subcontractor under the authorized
 1042 contractor's permit. If, in an audit conducted by the Department
 1043 of Revenue, it is determined that tangible personal property
 1044 purchased or fabricated claiming exemption under this section
 1045 does not meet the criteria for exemption, the amount of taxes
 1046 not paid at the time of purchase or fabrication shall be
 1047 immediately due and payable to the Department of Revenue,
 1048 together with the appropriate interest and penalty, computed
 1049 from the date of purchase, in the manner prescribed by chapter
 1050 212.

1051 (e) If a contractor fails to apply for an alternative
 1052 transportation ~~a high-speed rail~~ system exemption permit, or if
 1053 a contractor initially determined by the authority ~~enterprise~~ to
 1054 not qualify for exemption is subsequently determined to be
 1055 eligible, the contractor shall receive the benefit of the
 1056 exemption in this subsection through a refund of previously paid
 1057 taxes for transactions that otherwise would have been exempt. A
 1058 refund may not be made for such taxes without the issuance of a
 1059 certification by the authority ~~enterprise~~ that the contractor
 1060 was authorized to make purchases tax-exempt and a determination
 1061 by the Department of Revenue that the purchases qualified for
 1062 the exemption.

1063 (f) The authority ~~enterprise~~ may adopt rules governing the
 1064 application process for exemption of a contractor as an
 1065 authorized agent of the authority ~~enterprise~~.

1066 (g) The Department of Revenue may adopt rules governing
 1067 the issuance and form of alternative transportation ~~high-speed~~
 1068 ~~rail~~ system exemption permits, the audit of contractors and
 1069 subcontractors using such permits, the recapture of taxes on
 1070 nonqualified purchases, and the manner and form of refund
 1071 applications.

1072 Section 13. Paragraph (b) of subsection (4) of section
 1073 343.58, Florida Statutes, is amended to read:

1074 343.58 County funding for the South Florida Regional
 1075 Transportation Authority.—

1076 (4) Notwithstanding any other provision of law to the
 1077 contrary and effective July 1, 2010, until as provided in
 1078 paragraph (d), the department shall transfer annually from the
 1079 State Transportation Trust Fund to the South Florida Regional
 1080 Transportation Authority the amounts specified in subparagraph
 1081 (a)1. or subparagraph (a)2.

1082 (b) Funding required by this subsection may not be
 1083 provided from the funds dedicated to the Statewide Alternative
 1084 Transportation Authority ~~Florida Rail Enterprise~~ pursuant to s.
 1085 201.15(4)(a)4.b. ~~s. 201.15(4)(a)4.~~

1086 Section 14. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Grant, J. offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Paragraph (a) of subsection (4) of section 20.23,
 8 Florida Statutes, is amended and paragraph (g) is added to that
 9 subsection, to read:

10 20.23 Department of Transportation.—There is created a
 11 Department of Transportation which shall be a decentralized
 12 agency.

13 (4) (a) The operations of the department shall be organized
 14 into seven districts, each headed by a district secretary, and a
 15 turnpike enterprise, ~~and~~ a rail enterprise, and an alternative
 16 transportation authority, each enterprise and the authority



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17 headed by an executive director. The district secretaries and
18 the executive directors shall be registered professional
19 engineers in accordance with ~~the provisions of~~ chapter 471 or
20 the laws of another state, or, in lieu of professional engineer
21 registration, a district secretary or executive director may
22 hold an advanced degree in an appropriate related discipline,
23 such as a Master of Business Administration. The headquarters of
24 the districts shall be located in Polk, Columbia, Washington,
25 Broward, Volusia, Miami-Dade, and Hillsborough Counties. The
26 headquarters of the turnpike enterprise shall be located in
27 Orange County. The headquarters of the rail enterprise and the
28 alternative transportation authority shall be located in Leon
29 County. In order to provide for efficient operations and to
30 expedite the decisionmaking process, the department shall
31 provide for maximum decentralization to the districts.

32 (g)1. The responsibility for expending funds for the
33 design and construction of alternative transportation systems
34 shall be delegated by the secretary to the executive director of
35 the alternative transportation authority, who shall serve at the
36 pleasure of the secretary. The executive director shall report
37 directly to the secretary, and the authority shall operate
38 pursuant to s. 341.86.

39 2. To facilitate the most efficient administration of
40 funds for alternative transportation systems, the authority,
41 except as provided in s. 287.055, shall be exempt from



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42 departmental policies, procedures, and standards, subject to the
43 secretary having the authority to apply any such policies,
44 procedures, and standards to the authority from time to time as
45 deemed appropriate.

46 Section 2. Paragraphs (a) of subsection (4) of section
47 201.15, Florida Statutes, is amended, and paragraph (b) of that
48 subsection is republished, to read:

49 201.15 Distribution of taxes collected.—All taxes
50 collected under this chapter are hereby pledged and shall be
51 first made available to make payments when due on bonds issued
52 pursuant to s. 215.618 or s. 215.619, or any other bonds
53 authorized to be issued on a parity basis with such bonds. Such
54 pledge and availability for the payment of these bonds shall
55 have priority over any requirement for the payment of service
56 charges or costs of collection and enforcement under this
57 section. All taxes collected under this chapter, except taxes
58 distributed to the Land Acquisition Trust Fund pursuant to
59 subsections (1) and (2), are subject to the service charge
60 imposed in s. 215.20(1). Before distribution pursuant to this
61 section, the Department of Revenue shall deduct amounts
62 necessary to pay the costs of the collection and enforcement of
63 the tax levied by this chapter. The costs and service charge may
64 not be levied against any portion of taxes pledged to debt
65 service on bonds to the extent that the costs and service charge
66 are required to pay any amounts relating to the bonds. All of

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67 the costs of the collection and enforcement of the tax levied by
68 this chapter and the service charge shall be available and
69 transferred to the extent necessary to pay debt service and any
70 other amounts payable with respect to bonds authorized before
71 January 1, 2017, secured by revenues distributed pursuant to
72 this section. All taxes remaining after deduction of costs shall
73 be distributed as follows:

74 (4) After the required distributions to the Land
75 Acquisition Trust Fund pursuant to subsections (1) and (2) and
76 deduction of the service charge imposed pursuant to s.
77 215.20(1), the remainder shall be distributed as follows:

78 (a) The lesser of 24.18442 percent of the remainder or
79 \$541.75 million in each fiscal year shall be paid into the State
80 Treasury to the credit of the State Transportation Trust Fund.
81 Of such funds, \$75 million for each fiscal year shall be
82 transferred to the General Revenue Fund. Notwithstanding any
83 other law, the remaining amount credited to the State
84 Transportation Trust Fund shall be used for:

85 1. Capital funding for the New Starts Transit Program,
86 authorized by Title 49, U.S.C. s. 5309 and specified in s.
87 341.051, in the amount of 10 percent of the funds;

88 2. The Small County Outreach Program specified in s.
89 339.2818, in the amount of 10 percent of the funds;

90 3. The Strategic Intermodal System specified in ss.
91 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent



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92 of the funds after deduction of the payments required pursuant
93 to subparagraphs 1. and 2.; and

94 4. The Transportation Regional Incentive Program specified
95 in s. 339.2819, in the amount of 25 percent of the funds after
96 deduction of the payments required pursuant to subparagraphs 1.
97 and 2. Beginning in the 2021-2022 fiscal year, the first \$60
98 million of the funds allocated pursuant to this subparagraph
99 must ~~shall~~ be allocated annually for alternative transportation
100 systems, as defined in s. 341.86, as follows:

101 a. Twenty-five million dollars on a matching basis to the
102 Tampa Bay Area Regional Transit Authority for the design and
103 construction of an alternative transportation system, as defined
104 in s. 341.86. One dollar in local or private matching funds must
105 be provided for each dollar distributed under this sub-
106 subparagraph. Federal funds may not be substituted for the local
107 or private matching funds.

108 b. Thirty-five million to the Statewide Alternative
109 Transportation Authority ~~to the Florida Rail Enterprise~~ for the
110 purposes established in s. 341.86 ~~s. 341.303(5).~~

111 (b) The lesser of 0.1456 percent of the remainder or \$3.25
112 million in each fiscal year shall be paid into the State
113 Treasury to the credit of the Grants and Donations Trust Fund in
114 the Department of Economic Opportunity to fund technical
115 assistance to local governments.



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116 Moneys distributed pursuant to paragraphs (a) and (b) may not be
117 pledged for debt service unless such pledge is approved by
118 referendum of the voters.

119 Section 3. Subsection (5) of section 341.303, Florida
120 Statutes, is repealed.

121 Section 4. Section 341.86, Florida Statutes, is created to
122 read:

123 341.86 STATEWIDE ALTERNATIVE TRANSPORTATION AUTHORITY.—

124 (1) There is created within the department the Statewide
125 Alternative Transportation Authority.

126 (2) For purposes of this section, the term "alternative
127 transportation system" means a system of infrastructure,
128 appurtenances, and technology designed to move the greatest
129 number of people in the least amount of time. The term includes,
130 but is not limited to, autonomous vehicles as defined in s.
131 316.003, or transportation network companies as defined in s.
132 627.748. The term does not include other traditional uses of a
133 roadway system for conveyance.

134 (3) In addition to the powers granted to the department,
135 the authority may exercise all powers granted to it under this
136 section. These powers are in addition and supplemental to the
137 existing powers of the department. Powers of the authority
138 include, but are not limited to:

139 (a) Evaluating, financing, and overseeing proposals for
140 alternative transportation systems in this state.



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141 (b) Expending funds to publicize and promote alternative
142 transportation systems and to contract with entities to
143 accomplish these purposes.

144 (c) Soliciting proposals in accordance with chapter 287
145 for the design and construction of alternative transportation
146 systems and contracting with entities to expend funds to
147 accomplish this purpose.

148 (4) (a) The authority shall be a single budget entity and
149 shall develop a budget pursuant to chapter 216. The authority's
150 budget shall be submitted to the Legislature with the
151 department's budget. All alternative transportation funding by
152 the department must be included in this budget entity.

153 (b) Notwithstanding the provisions of s. 216.301 to the
154 contrary and in accordance with s. 216.351, the Executive Office
155 of the Governor shall, on July 1 of each year, certify forward
156 all unexpended funds appropriated or provided for the authority.
157 Of the unexpended funds certified forward, any unencumbered
158 amounts shall be carried forward. Such funds carried forward may
159 not exceed 5 percent of the original approved operating budget
160 of the authority pursuant to s. 216.181(1). Funds carried
161 forward pursuant to this subsection may be used for the purposes
162 specified in this section. Any certified-forward funds remaining
163 undisbursed on September 30 of each year shall be carried
164 forward.

165 (5) The department, through the authority, shall use funds



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166 provided pursuant to s. 201.15(4)(a)4.b. in a county to fund the
167 design and construction of an alternative transportation system
168 for passengers based on a county proposal that the authority
169 approves as being consistent with the requirements of this
170 section.

171 (6) Of the \$35 million allocated under s.
172 201.15(4)(a)4.b., the authority must use \$25 million for an
173 alternative transportation system in a county as defined in s.
174 125.011(1). The authority must use the remainder for such a
175 system in any other county or counties in the state.

176 (7) A county proposing the use of funds for an alternative
177 transportation system must submit a request to the authority
178 which must include a detailed project and financial plan. The
179 funding request must specify the duration of the project and the
180 total amount sought by state fiscal year.

181 (8) One dollar in local or private matching funds must be
182 provided for each dollar distributed under this section. Federal
183 funds may not be substituted for the local or private matching
184 funds.

185 (9) Funds distributed under this section may not be used
186 to subsidize projects with existing funding commitments as of
187 July 1, 2018.

188 Section 5. Paragraph (b) of subsection (4) of section
189 343.58, Florida Statutes, is amended to read:

190 343.58 County funding for the South Florida Regional



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191 Transportation Authority.-

192 (4) Notwithstanding any other provision of law to the
193 contrary and effective July 1, 2010, until as provided in
194 paragraph (d), the department shall transfer annually from the
195 State Transportation Trust Fund to the South Florida Regional
196 Transportation Authority the amounts specified in subparagraph
197 (a)1. or subparagraph (a)2.

198 (b) Funding required by this subsection may not be
199 provided from the funds dedicated to the Statewide Alternative
200 Transportation Authority Florida Rail Enterprise pursuant to s.
201 201.15(4)(a)4.b. ~~s. 201.15(4)(a)4.~~

202 Section 6. This act shall take effect July 1, 2018.

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to the Statewide Alternative
Transportation Authority; amending s. 20.23, F.S.;
adding the Statewide Alternative Transportation
Authority as part of the operations of the Department
of Transportation; requiring the authority to be
headed by an executive director; requiring the
headquarters of the authority to be located in Leon
County; requiring the responsibility for expending



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216 certain funds to be delegated by the department
217 secretary to the executive director of the authority,
218 subject to certain requirements; requiring the
219 authority to operate pursuant to specified provisions;
220 exempting the authority from certain departmental
221 policies, procedures, and standards, subject to the
222 secretary having the authority to apply any such
223 policies, procedures, and standards to the authority;
224 amending s. 201.15, F.S.; beginning in a specified
225 timeframe, revising annual allocations in the State
226 Transportation Trust Fund for the Transportation
227 Regional Incentive Program; specifying annual
228 allocations to the Tampa Bay Area Regional Transit
229 Authority and the Statewide Alternative Transportation
230 Authority for certain purposes; specifying
231 requirements for matching funds for the Tampa Bay Area
232 Regional Transit Authority; repealing s. 341.303(5),
233 F.S., relating to Funding authorization and
234 appropriations; eligibility and participation;
235 deleting a provision authorizing the department,
236 through the Florida Rail Enterprise, to use specified
237 funds for certain purposes; creating s. 341.86, F.S.;
238 creating within the department the Statewide
239 Alternative Transportation Authority; defining the
240 term "alternative transportation system"; specifying



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241 powers of the authority; providing that the authority
242 is a single budget entity within the Department of
243 Transportation, providing for the carry-forward of
244 unexpended funds; requiring the department, through
245 the authority, to use specified funds in a county to
246 fund the design and construction of an alternative
247 transportation system for passengers based on a
248 certain proposal by the county; specifying
249 requirements for the use of the funds; requiring a
250 county proposing the use of funds for an alternative
251 transportation system to submit a request to the
252 authority, subject to certain requirements; requiring
253 local matching funds for certain distributions,
254 subject to certain requirements; prohibiting certain
255 funds distributed from being used to subsidize
256 existing projects; amending s. 343.58, F.S.;
257 conforming provisions to changes made by the act;
258 providing an effective date.
259

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 567 Small Business Roadway Construction Mitigation Grant Program
SPONSOR(S): Duran and others
TIED BILLS: IDEN./SIM. BILLS: SB 182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson <i>JTS</i>	Vickers <i>PV</i>
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Currently, the only mechanism to compensate a small business for the financial impact of a road construction project is through a civil action in state court. However, businesses cannot claim damages against DOT due to construction activities unless there is negligence or misconduct.

The bill creates a Small Business Roadway Construction Mitigation Grant Program (Program), providing compensation of up to \$15,000 for qualified businesses for lost revenue or profits associated with a Department of Transportation (DOT) road construction project lasting 90 days or longer. For-profit businesses with 40 or fewer employees located in a construction mitigation zone are eligible to participate in the program. The bill also provides DOT with criteria to evaluate applications under the Program, including the decline in revenue or profits, proximity and duration of construction, and severity of traffic disruption.

The bill requires DOT to prepare a report detailing best practices and methods to reduce the negative impact of construction projects on small businesses, and requires DOT to initiate rulemaking to implement the program.

The bill has an indeterminate negative fiscal impact on DOT. If funds are not appropriated for the Program, DOT indicates that the bill would negatively impact funding resources for its work program. There is also an indeterminate negative fiscal impact to the Department of Economic Opportunity associated with assisting applicants in preparing the required documentation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The only mechanism to compensate a small business for the financial impact of a Department of Transportation (DOT) construction project is by the business bringing a civil action against DOT in state court.¹ DOT currently has a business damages process, however, the process only applies to a taking of property in a construction zone in an eminent domain proceeding. Businesses cannot claim damages against DOT for damages due to construction activities when the construction is performed without negligence or misconduct.²

According to DOT, the public involvement process is extensive and integral to project evaluation and development, and is usually scaled to the project's magnitude. The public involvement process helps shape DOT's projects and the determination of any necessary mitigation actions.³

Additionally, during a construction project, DOT works with business and property owners to minimize disruption. This includes project updates, addressing specific concerns, notifying business and property owners of certain activities, and working during nighttime hours. DOT also works to provide business access at all times by using pedestrian barricades and installing signage at business entrances.⁴

Proposed Changes

The bill provides legislative findings that it is in the state's best interest to support small businesses that are negatively impacted by state construction projects and to mitigate the negative impacts on such businesses. While the benefit of construction and development ultimately helps small business growth, in the short term, small businesses may experience decreased revenue that may decrease economic activity, state revenue, and employment.

The bill requires DOT to create the Small Business Roadway Construction Mitigation Program (Program) to provide support for small businesses impacted by state transportation construction projects.

The bill defines "construction mitigation zone" as a geographic area with a high concentration of qualified businesses which is designated by DOT as being impacted by a DOT construction project.

The bill defines "qualified business" as an entity that:

- Is engaged in a for-profit business enterprise;
- Employs up to 40 full-time or part-time employees; and
- Is located in a construction mitigation zone.

The bill provides that using funds allocated by the Legislature to DOT, the Program is to disburse grants to qualified businesses during construction.

The grant to each qualified business may not exceed the lesser of the decline in revenue or profits demonstrated by the business or \$15,000 per calendar year.

¹ Department of Transportation SB 182 (2018) Bill Analysis. p.2. Copy of file with Transportation & Infrastructure Subcommittee.

² E-mail from Department of Transportation, November 29, 2017. Copy on file with Transportation & Infrastructure Subcommittee.

³ Department of Transportation SB 182 (2018) Bill Analysis. p.2.

⁴ E-mail from the Department of Transportation, November 29, 2017. Copy on file with Transportation & Infrastructure Subcommittee.

A qualified business may apply for a grant only for a construction project lasting 90 days or more. To be eligible for a grant, the qualified business must demonstrate in its application a significant decline in revenue or profits, including timelines connecting the project to the loss of revenue or profits, in a format and manner prescribed by DOT. The Department of Economic Opportunity (DEO) must, upon request and at no cost to the applicant, assist an applicant in preparing documentation to demonstrate such decline.

DOT must prioritize the award of each construction mitigation grant on a case-by-case basis using all of the following criteria:

- Rate of decline in revenue or profits.
- Construction duration.
- Proximity to construction.
- Severity of traffic disruption.
- Lack of access to parking.
- Lack of access to pedestrian traffic.
- Any other criteria DOT determines to be relevant.

The bill requires DOT to submit a report detailing best practices and methods to reduce the negative impacts of construction projects on qualified businesses. By January 1, 2019, DOT must submit the report, including a list of recommendations to the President of the Senate and the Speaker of the House of Representatives.

By August 31, 2018, DOT must initiate rulemaking to implement the Program.

B. SECTION DIRECTORY:

Section 1 creates s. 339.28154, F.S., creating the Small Business Roadway Construction Mitigation Grant Program.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is an indeterminate negative fiscal impact to DOT. The extent of the impact is dependent on the number of qualified businesses applying for a grant. If DOT is not appropriated funds for the Program, DOT will incur an indeterminate negative impact on funding resources, which may result in the deferral or deletion of planned projects in its work program.⁵ DOT may also incur some expenditures associated with administering the program.

DEO may incur an indeterminate negative fiscal impact associated with assisting qualified businesses in preparing documents demonstrating a decline in revenue or profits. The exact impact will be a function of how many businesses request assistance and the amount of assistance that is needed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁵ *Id.* pp. 3-4.

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Qualified businesses may see a positive fiscal impact of up to \$15,000 each associated with participation in the program. The number of qualified businesses is unknown.

D. FISCAL COMMENTS:

According to DOT, it is not clear whether or not grants issued under the Program would be federally reimbursable by the Federal Highway Administration.⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DOT to initiate rulemaking to implement the Program by August 31, 2018.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The bill references the mitigation of either lost revenues or lost profits. It may be advisable to specify either lost revenue or lost profits.

The bill provides for the allocation of the revenue by the Legislature instead of requiring a specific appropriation.

It appears that the word "project" needs to be added to the end of line 51.

The bill may need to specify an application process for qualified business.

Comments

According to DOT, it is not clear what impact the Program may have on the ability of a qualified business receiving grant funds to also pursue a civil action against DOT. In order to prevent double recovery, DOT suggests that the bill be amended to provide that any payment received from the Program must be offset against any damages awarded in a civil action.⁷

⁶ *Id.* p.5.

⁷ *Id.* p.5.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Small Business Roadway
 3 Construction Mitigation Grant Program; creating s.
 4 339.28154, F.S.; providing legislative findings;
 5 requiring the Department of Transportation to create a
 6 Small Business Roadway Construction Mitigation Grant
 7 Program; defining the terms "construction mitigation
 8 zone" and "qualified business"; requiring the program
 9 to disburse grants to qualified businesses for the
 10 purpose of maintaining the businesses during a
 11 construction project of the department; limiting the
 12 amount of each grant; providing application and
 13 eligibility requirements; requiring the Department of
 14 Economic Opportunity to provide assistance under
 15 certain circumstances; providing for prioritization of
 16 awards; requiring the Department of Transportation to
 17 report to the Legislature and initiate rulemaking by
 18 specified dates; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 339.28154, Florida Statutes, is created
 23 to read:

24 339.28154 Small Business Roadway Construction Mitigation
 25 Grant Program.—

26 (1) The Legislature finds that it is in the best interest
 27 of the state to support small businesses that are negatively
 28 impacted by state construction projects and to mitigate the
 29 negative impacts on such businesses. While the benefit of
 30 construction and development by the state ultimately helps small
 31 business growth, small businesses may experience, in the short
 32 term, decreased revenue that may decrease economic activity,
 33 state revenue, and employment.

34 (2) The department shall create a Small Business Roadway
 35 Construction Mitigation Grant Program to provide support for
 36 small businesses that are impacted by state construction
 37 projects.

38 (3) As used in this section, the term:

39 (a) "Construction mitigation zone" means a geographic area
 40 with a high concentration of qualified businesses which is
 41 designated by the department as being impacted by a construction
 42 project of the department.

43 (b) "Qualified business" means an entity that:

- 44 1. Is engaged in a for-profit business enterprise;
- 45 2. Employs up to 40 full-time or part-time employees; and
- 46 3. Is located in a construction mitigation zone.

47 (4)(a) Using funds allocated to the department by the
 48 Legislature, the Small Business Roadway Construction Mitigation
 49 Grant Program shall disburse grants to qualified businesses for
 50 the purpose of maintaining the businesses during the

51 construction.

52 (b) The grant to each qualified business may not exceed
 53 the decline in revenue or profits demonstrated by the business
 54 or \$15,000 per calendar year, whichever is less.

55 (c) A qualified business may apply for a construction
 56 mitigation grant only for a construction project lasting 90 days
 57 or more. To be eligible for a grant, the qualified business must
 58 demonstrate in its application a significant decline in revenue
 59 or profits, including timelines connecting the project to such
 60 loss of revenue or profits, in a format and manner prescribed by
 61 the department. The Department of Economic Opportunity shall,
 62 upon request and at no cost to the applicant, assist an
 63 applicant in preparing documentation to demonstrate such
 64 decline.

65 (5) The department shall prioritize the award of each
 66 construction mitigation grant on a case-by-case basis using all
 67 of the following criteria:

- 68 (a) Rate of decline in revenue or profits.
- 69 (b) Construction duration.
- 70 (c) Proximity to construction.
- 71 (d) Severity of traffic disruption.
- 72 (e) Lack of access to parking.
- 73 (f) Lack of access for pedestrian traffic.
- 74 (g) Any other criteria the department determines to be
 75 relevant.

76 (6) The department shall make a report detailing best
 77 practices and methods to reduce the negative impacts of
 78 construction projects on qualified businesses. By January 31,
 79 2019, the department shall submit the report, including a list
 80 of recommendations, to the President of the Senate and the
 81 Speaker of the House of Representatives.

82 (7) By August 31, 2018, the department shall initiate
 83 rulemaking to implement this section.

84 Section 2. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Duran offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 339.28154, Florida Statutes, is created
8 to read:

9 339.28154 Small Business Road Construction Mitigation

10 Grant Program.-

11 (1) The Legislature finds that it is in the best interest
 12 of the state to support small businesses that are negatively
 13 impacted by state road construction projects and to mitigate the
 14 negative impacts on such businesses. While the benefit of road
 15 construction and development by the state ultimately helps small
 16 business growth, small businesses may experience, in the short



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17 term, decreased revenue that may decrease economic activity,
18 state revenue, and employment.

19 (2) The department shall, subject to Legislative
20 appropriation, create a Small Business Road Construction
21 Mitigation Grant Program to provide support for qualified
22 businesses that are impacted by state construction projects.

23 (3) As used in this section, the term:

24 (a) "Construction mitigation zone" means a geographic area
25 with a high concentration of qualified businesses which is
26 designated by the department as being impacted by a road
27 construction project of the department.

28 (b) "Qualified business" means an entity that:

- 29 1. Is engaged in a for-profit business enterprise;
30 2. Employs up to 40 full-time or part-time employees; and
31 3. Is located in a construction mitigation zone.

32 (4)(a) The department shall disburse grants to qualified
33 businesses for the purpose of maintaining the businesses during
34 the road construction project.

35 (b) The grant to each qualified business may not exceed
36 the decline in revenue demonstrated by the business or \$15,000
37 per calendar year, whichever is less.

38 (c) A qualified business may apply to the department for a
39 grant only for a construction project lasting 90 days or more.
40 To be eligible for a grant, the qualified business must
41 demonstrate in its application a significant decline in revenue,



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42 including timelines connecting the project to such decline in
43 revenue, in a format and manner prescribed by the department.
44 The Department of Economic Opportunity shall, upon request and
45 at no cost to the applicant, assist an applicant in preparing
46 documentation to demonstrate such decline.

47 (5) The department shall prioritize the award of each
48 grant on a case-by-case basis using all of the following
49 criteria:

50 (a) Rate of decline in revenue.

51 (b) Duration of construction.

52 (c) Proximity to construction.

53 (d) Severity of traffic disruption.

54 (e) Lack of access to parking.

55 (f) Lack of access for pedestrian traffic.

56 (g) Any other criteria the department determines to be
57 relevant.

58 (6) Any grant received shall offset any damages awarded in
59 a civil action against the department relating to the road
60 construction project.

61 (7) On or before January 31, 2019, the department shall
62 submit a report to the President of the Senate and the Speaker
63 of the House of Representatives detailing best practices and
64 methods to reduce the negative impacts of road construction
65 projects on qualified businesses, including a list of
66 recommendations.



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67 (8) By August 31, 2018, the department shall initiate
68 rulemaking to implement this section.

69 Section 2. This act shall take effect July 1, 2018.

70
71 -----

72 **T I T L E A M E N D M E N T**



73 Remove everything before the enacting clause and insert:
74 An act relating to the Small Business Road Construction
75 Mitigation Grant Program; creating s. 339.28154, F.S.; providing
76 legislative findings; requiring the Department of Transportation
77 to create a Small Business Road Construction Mitigation Grant
78 Program; defining the terms "construction mitigation zone" and
79 "qualified business"; requiring the department to disburse
80 grants to qualified businesses for the purpose of maintaining
81 the businesses during a construction project of the department;
82 limiting the amount of each grant; providing application and
83 eligibility requirements; requiring the Department of Economic
84 Opportunity to provide assistance under certain circumstances;
85 providing for prioritization of awards; providing that any grant
86 awarded offsets any civil damages against the department;
87 requiring the Department of Transportation to report to the
88 Legislature and initiate rulemaking by specified dates;
89 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 575 Metropolitan Planning Organizations

SPONSOR(S): Beshears

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson 	Vickers 
2) Local, Federal & Veterans Affairs Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations designated to develop and maintain transportation plans and to ensure that federal funds support local transportation priorities. Federal law requires MPOs be designated in urbanized areas with populations of greater than 50,000. Section 316.175, F.S., provides state requirements regarding MPOs, including requirements for membership of an MPO governing board.

The bill reduces the maximum number of members on an MPO governing board and limits the number of members based on the metropolitan area's population. The bill also prohibits an entire county commission from serving as members of an MPO governing board, requires by-laws for MPOs and prohibits MPOs from adopting a weighted voting structure.

The bill also limits membership on an MPO's governing board to two 4-year terms.

The bill requires MPOs, by July 1, 2019, to update their membership, interlocal agreements, governing documents, and other relevant information to reflect changes made by the bill.

This bill is not expected to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Federal Law

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations comprised of representatives from local governments and transportation authorities. The MPO's role is to develop and maintain the required transportation plans for a metropolitan area and to ensure that federal funds support local priorities. Federal law requires MPOs in urbanized areas with a population of more than 50,000 individuals.¹

State Law

Section 339.175, F.S., provides state law regarding MPOs and generally mirrors applicable federal law.

Role and Responsibilities

MPOs carry out four primary activities:

- Developing and maintaining a Long-Range Transportation Plan, addressing no less than a 20-year planning horizon.
- Updating and approving a Transportation Improvement Program, a four-year program for highway and transit improvements.
- Developing and adopting a Unified Planning Work Program, identifying the MPO's budget and planning activities to be undertaken in the metropolitan planning area.
- Preparing a Public Participation Plan, describing how the MPO involves the public and stakeholder communities in transportation planning.

Florida MPO Board Composition

Florida has 27 MPOs² ranging in size from six to 29 members, including both voting and nonvoting members. In Florida, the average size of an MPO's governing board is approximately 16 members, with 14 voting members and two nonvoting members. MPOs serving areas with a population greater than one million people generally have larger boards with an average of 18 voting members and four nonvoting advisors. MPOs serving populations below 200,000 people generally have the smallest boards with an average of 11 voting members and two nonvoting members.³

Federal law allows the state and units of local government to largely determine the MPO's composition.⁴ Florida law refers to this process as "apportionment."⁵ The Governor apportions the membership of the MPO with the agreement of the affected local governments.⁶ Each MPO reviews the composition of its membership in conjunction with each decennial census. Each existing and emerging MPO must submit a Membership Apportionment Plan meeting federal and state requirements.⁷

The MPO voting membership, as reflected in the Membership Apportionment Plan, must consist of at least five, but no more than 25 apportioned members. The exact number of members is determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the

¹ 23 U.S.C. s. 134

² A list of Florida's MPOs and links to each specific MPOs website is available at <https://www.mpoac.org/> (Last visited November 9, 2017).

³ Florida Department of Transportation *MPO Program Management Handbook*. Chapter 1.3.2. Available at: <http://www.fdot.gov/planning/policy/metrosupport/FDOT%202017%20MPO%20Handbook.pdf> (Last visited November 16, 2017).

⁴ 23 U.S.C. 134(d), 23 C.F.R. 450.310

⁵ Section 339.175(4), F.S.

⁶ Section 339.175(4)(a), F.S.

⁷ These requirements are contained in s. 339.175(3), F.S., s.339.175(4), F.S., and 23 C.F.R. 450.310.

affected units of general-purpose local government, as required by federal rules and regulations.⁸ In determining the composition of the MPO board:

- With the exception of instances in which all of the county commissioners in a single-county MPO are members of the MPO governing board, county commissioners must compose at least one-third of the MPO governing board membership. A multicounty MPO may satisfy this requirement by any combination of county commissioners from each of the counties constituting the MPO. In cases where the MPO has more than 15 voting members with a 5-member county commission, or the MPO comprises 19 members with a 6-member county commission, the county commissioners can comprise less than one-third of the voting members.
- All voting members must be elected officials⁹ of general purpose local governments, except that an MPO may include as part of its apportioned voting members a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, and/or an official of Space Florida.
- County commissioners must compose not less than 20 percent of the voting membership of the MPO governing board if an official of an agency that operates or administers a major mode of transportation has been appointed to the MPO.¹⁰
- Any authority or agency created by law to perform transportation functions that is not under the jurisdiction of a local government represented on the MPO may be provided voting membership on the MPO.¹¹
- Any county chartered under Subsection 6(e), Article VIII of the State Constitution¹² may elect to have its county commission serve as the MPO board if the MPO jurisdiction is wholly contained within the county. In addition, the voting membership of any MPO, whose geographical boundaries include any “county,” as defined in s.125.011(1), F.S.,¹³ must include an additional voting member appointed by that city’s governing body for each city with a population of 50,000 or more residents.¹⁴
- Florida law requires Department of Transportation (DOT) representatives to serve as nonvoting advisors to MPO governing boards. DOT is represented by the District Secretary or his or designee. The MPO may appoint additional nonvoting advisors as deemed necessary.

Membership Apportionment Plan Review and Governor Action

The MPO submits its Membership Apportionment Plan to DOT’s MPO Statewide Coordinator. The MPO at the same time provides copies of the plan to the appropriate DOT District Planning Manager or designee. Within 14 calendar days after the end of the 30-day review period, DOT provides a recommendation to the Executive Office of the Governor. The recommendation will be for the Governor to either approve or disapprove the proposed Membership Apportionment Plan.¹⁵ The Governor’s approval of the Membership Apportionment Plan constitutes official designation of the MPO as required by federal and state laws. The MPO must appoint representatives to serve on the board within 60 days after the Governor has approved the proposed Membership Apportionment Plan. If a governmental entity fails to fill an assigned appointment to an MPO within 60 days after notification by the Governor of its duty to appoint, that appointment must be made by the Governor from the eligible representatives of that governmental entity.¹⁶

⁸ Section 339.175(3)(a), F.S.

⁹ As used in s.339.175(3)(a), F.S., the term “elected official” excludes constitutional officers.

¹⁰ Section 339.175(3)(a), F.S.

¹¹ Section 339.175(3)(b), F.S.

¹² This provision generally applies to Miami-Dade County.

¹³ Section 125.011(1), F.S., defines “county” as any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county. This definition of county only applies to Miami-Dade County.

¹⁴ Section 339.175, F.S.

¹⁵ *MPO Program Management Handbook*. Chapter 2.

¹⁶ Section 339.175(4)(c), F.S.

Redesignation and Reapportionment

An existing MPO may be redesignated only by agreement between the Governor and units of local government that together represent at least 75 percent of the existing MPO population, including the largest incorporated city.¹⁷ Redesignation of an existing MPO is required whenever the MPO proposes to make a substantial change in the proportion of its voting members, or a substantial change in the decision-making authority or responsibility of the MPO or in decision-making procedures established in the MPO's bylaws.¹⁸

Interlocal Agreements

The interlocal agreement is a standard document drafted specifically to address the metropolitan transportation planning requirements identified in federal and state law and regulations. The parties to this interlocal agreement are DOT and the governmental entities designated by the Governor for MPO membership, including nonvoting members.¹⁹ After a new MPO has been designated by the Governor, or modifications to an existing MPO have been approved by the Governor, the DOT District meets with the responsible MPO staff to discuss the execution of a new or updated interlocal agreement.²⁰

Proposed Changes

The bill amends s. 339.175(3) and (4), F.S., relating to MPO membership.

The bill provides that MPOs serving designated urbanized areas with populations of 500,000 or fewer will consist of at least 5 but not more than 11 apportioned members. For MPOs in urbanized areas with populations of more than 500,000, its membership will be at least five but no more than 15 apportioned members. The remainder of the statute regarding the number of members on an MPO board remains the same.

The bill prohibits the entire county commission from being members of an MPO's governing board.

The bill also requires MPOs to adopt bylaws governing its operation, including voting privileges. However, an MPO may not adopt a weighted voting structure. The bill retains the requirement that MPO membership is appointed on an equitable geographic-population basis.

The bill also establishes term limits for MPO members, providing that members serve 4-year terms and may be reappointed for one additional 4-year term. Currently, there are not term limits for MPO members.

The bill provides that notwithstanding any other provision of law to the contrary, by July 1, 2019, each MPO must update its membership, interlocal agreements, governing documents, and other relevant information to comply with changes made by the bill.

B. SECTION DIRECTORY:

Section 1 amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 2 requires MPOs to comply with changes made by the act by a date certain.

Section 3 provides an effective date of July 1, 2018.

¹⁷ 23 C.F.R. 450.310(h)

¹⁸ 23 C.F.R. 450.310(j)

¹⁹ Section 339.175(2)(b), F.S.

²⁰ *MPO Program Management Handbook*. Chapter 2.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There may be costs associated with MPOs revising their governing documents to reflect changes made by the bill. However, the costs are expected to be minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to metropolitan planning
 3 organizations; amending s. 339.175, F.S.; revising
 4 voting membership requirements for metropolitan
 5 planning organizations according to population;
 6 prohibiting an entire county commission from being
 7 members of a governing board; revising the percentage
 8 of membership which may be composed of county
 9 commissioners; requiring metropolitan planning
 10 organizations to adopt certain bylaws; revising
 11 provisions relating to reappointment of members;
 12 requiring metropolitan planning organizations to
 13 comply with certain provisions by a specified date;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (3) and paragraph (b) of subsection
 19 (4) of section 339.175, Florida Statutes, are amended to read:
 20 339.175 Metropolitan planning organization.—

21 (3) VOTING MEMBERSHIP.—

22 (a)1. The voting membership of an M.P.O. designated in an
 23 urbanized area with a population of 500,000 or fewer shall
 24 consist of at least 5 but not more than 11 ~~25~~ apportioned
 25 members, with the exact number determined on an equitable

26 geographic-population ratio basis, based on an agreement among
 27 the affected units of general-purpose local government and the
 28 Governor, as required by federal regulations.

29 2. The voting membership of an M.P.O. designated in an
 30 urbanized area with a population of more than 500,000 shall
 31 consist of at least 5 but not more than 15 apportioned members,
 32 with the exact number determined on an equitable geographic-
 33 population ratio basis, based on an agreement among the affected
 34 units of general-purpose local government and the Governor, as
 35 required by federal regulations.

36 3. In accordance with 23 U.S.C. s. 134, the Governor may
 37 also allow M.P.O. members who represent municipalities to
 38 alternate with representatives from other municipalities within
 39 the metropolitan planning area which do not have members on the
 40 M.P.O. ~~With the exception of instances in which all of the~~
 41 ~~county commissioners in a single county M.P.O. are members of~~
 42 ~~the M.P.O. governing board,~~ County commissioners shall compose
 43 at least one-third of the M.P.O. governing board membership;
 44 however, the entire county commission may not be members of the
 45 M.P.O. governing board. A multicounty M.P.O. may satisfy this
 46 requirement by any combination of county commissioners from each
 47 of the counties constituting the M.P.O. Voting members shall be
 48 elected officials of general-purpose local governments, one of
 49 whom may represent a group of general-purpose local governments
 50 through an entity created by an M.P.O. for that purpose. An

51 M.P.O. may include, as part of its apportioned voting members, a
 52 member of a statutorily authorized planning board, an official
 53 of an agency that operates or administers a major mode of
 54 transportation, or an official of Space Florida. ~~As used in this~~
 55 ~~section, the term "elected officials of a general-purpose local~~
 56 ~~government" excludes constitutional officers, including~~
 57 ~~sheriffs, tax collectors, supervisors of elections, property~~
 58 ~~appraisers, clerks of the court, and similar types of officials.~~
 59 County commissioners shall compose not less than 30 ~~20~~ percent
 60 of the M.P.O. membership if an official of an agency that
 61 operates or administers a major mode of transportation has been
 62 appointed to an M.P.O. Each M.P.O. shall adopt bylaws governing
 63 the operation of the M.P.O., including voting privileges. An
 64 M.P.O. may not adopt a weighted voting structure.

65
 66 For purposes of this section, the term "elected officials of a
 67 general-purpose local government" excludes constitutional
 68 officers, including sheriffs, tax collectors, supervisors of
 69 elections, property appraisers, clerks of the court, and similar
 70 types of officials.

71 (b) In metropolitan areas in which authorities or other
 72 agencies have been or may be created by law to perform
 73 transportation functions and are or will be performing
 74 transportation functions that are not under the jurisdiction of
 75 a general-purpose local government represented on the M.P.O.,

76 such authorities or other agencies may be provided voting
 77 membership on the M.P.O. In all other M.P.O.'s in which
 78 transportation authorities or agencies are to be represented by
 79 elected officials of ~~from~~ general-purpose local governments, the
 80 M.P.O. shall establish a process by which the collective
 81 interests of such authorities or other agencies are expressed
 82 and conveyed.

83 (c) Any other provision of this section to the contrary
 84 notwithstanding, a charter ~~chartered~~ county with a population of
 85 over 1 million ~~population~~ may elect to reapportion the
 86 membership of an M.P.O. if the M.P.O. ~~whose~~ jurisdiction is
 87 wholly contained within the county. The charter county may
 88 exercise the provisions of this paragraph if:

- 89 1. The M.P.O. approves the reapportionment plan by a
 90 three-fourths vote of its membership;
- 91 2. The M.P.O. and the charter county determine that the
 92 reapportionment plan is needed to fulfill specific goals and
 93 policies applicable to that metropolitan planning area; and
- 94 3. The charter county determines the reapportionment plan
 95 otherwise complies with all federal requirements pertaining to
 96 M.P.O. membership.

97
 98 A ~~Any~~ charter county that elects to exercise the provisions of
 99 this paragraph shall notify the Governor in writing.

100 (d) Any other provision of this section to the contrary

101 notwithstanding, a any county as defined in s. 125.011(1)
 102 ~~chartered under s. 6(c), Art. VIII of the State Constitution~~ may
 103 elect to have its county commission serve as the M.P.O.⁷ if the
 104 M.P.O. jurisdiction is wholly contained within the county. A ~~Any~~
 105 ~~charter~~ county that elects to exercise the provisions of this
 106 paragraph shall ~~se~~ notify the Governor in writing. Upon receipt
 107 of such notification, the Governor must designate the county
 108 commission as the M.P.O. The Governor must appoint four
 109 additional voting members to the M.P.O., one of whom must be an
 110 elected official representing a municipality within the county,
 111 one of whom must be an expressway authority member, one of whom
 112 must be a person who does not hold elected public office and who
 113 resides in the unincorporated portion of the county, and one of
 114 whom must be a school board member.

115 (4) APPORTIONMENT.—

116 (b) Except for members who represent municipalities on the
 117 basis of alternating with representatives from other
 118 municipalities that do not have members on the M.P.O. as
 119 provided in paragraph (3)(a), the members of an M.P.O. shall
 120 serve 4-year terms. Members who represent municipalities on the
 121 basis of alternating with representatives from other
 122 municipalities that do not have members on the M.P.O. as
 123 provided in paragraph (3)(a) may serve terms of up to 4 years as
 124 further provided in the interlocal agreement described in
 125 paragraph (2)(b). The membership of a member who is a public

126 official automatically terminates upon the member's leaving his
 127 or her elective or appointive office for any reason, or may be
 128 terminated by a majority vote of the total membership of the
 129 entity's governing board represented by the member. A vacancy
 130 shall be filled by the original appointing entity. A member may
 131 be reappointed for one ~~or more~~ additional 4-year term terms.

132 Section 2. Notwithstanding any other provision of law to
 133 the contrary, by July 1, 2019, each metropolitan planning
 134 organization shall update its membership, interlocal agreement,
 135 governing documents, and any other relevant information to
 136 comply with changes made by this act to s. 339.175, Florida
 137 Statutes.

138 Section 3. This act shall take effect July 1, 2018.