

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1347 Rail programs

**SPONSOR(S):** Johnson

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

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation		PUGH	MILLER
2) Finance & Tax			
3) Appropriations			
4)			
5)			

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**SUMMARY ANALYSIS**

The Florida Department of Transportation (FDOT), pursuant to chapters 341 and 351, F.S., is responsible for railroad safety regulation and rail planning and assistance. The majority of the activities performed by FDOT's Rail Office involve privately owned freight railroads. The only passenger rail system in which the state has a significant financial interest is the Tri-Rail passenger train system in Palm Beach, Broward and Miami-Dade counties, and primarily because the state owns the corridor used by Tri-Rail.

HB 1347 directs FDOT to develop rail service between the Orlando International Airport and one "primary transportation hub" serving the needs of area residents and visitors. The bill defines "primary transportation hub" as any area to which at least 10 percent of annual air passengers at the airport travel to it after disembarking and which contains at least 25 percent of the total transient room rentals within a 5-mile radius of the hub. According to the bill's sponsor, the Disney attractions meet the definition for "primary transportation hub."

The bill also earmarks \$10 million a year, for the next 35 years, in vehicle registration fees to this rail project, and allows FDOT to use the funds for debt service on revenue bonds issued by the Division of Bond Finance. FDOT would have flexibility to use the non-bonded portion of the funds for operational and administrative costs.

However, the bill specifies that only 50 percent of the earmarked funds can be used on the airport-to-transportation hub train route, and the other 50 percent is to be used to build a train system linking the airport to the Orange County Convention Center. If FDOT can not develop an airport-to-transportation hub meeting the criteria in the bill, or doesn't need to spend the full 50 percent of the allocated funds, then the excess monies can be used to build the airport-to-convention center train project.

FDOT has expressed concerns about the funding proposed in HB 1347.

HB 1347 does not appear to raise any constitutional questions. It takes effect July 1, 2003.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Among FDOT's responsibility as the state's lead agency for transportation is implementing rail programs, as expressed in chapter 341, F.S., and regulating rail systems, pursuant to s. 351, F.S. Pertinent to HB 1347 is s. 341.302, F.S., which states in its opening:

*The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under Title 49 C.F.R. part 212, the department shall ...provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs...*

FDOT's Rail Office tends to focus more on rail safety inspections; rail-to-highway grade improvements; developing rail plans; acquisition of rail corridors; technical assistance in developing intercity systems; and rehabilitation of rail facilities. It also provides oversight and assistance to private railroad companies. The majority of its funding is spent on grants to railroads for grade-crossing or other infrastructure improvements.

The Rail Office is funded from the State Transportation Trust Fund. In FY 02-03, the Rail Program's budget was \$67.6 million, but the Governor has recommended in his FY 03-04 funding request to the Legislature that the program's budget be reduced to \$24.2 million.

Most railroad transportation in Florida is hauling of cargo and freight by privately owned railroads. At this time, the only developed state-owned passenger rail corridor is in southeast Florida. It is utilized by the South Florida Regional Transportation Authority, which operates the Tri-Rail system. CSX, a private railroad, maintains the rails and operates the system.

In November 2003, Florida voters amended the State Constitution to require construction of a high-speed ground transportation system, capable of achieving speeds in excess of 120 mph, and linking the state's five largest urban areas, as determined by the Legislature. The Legislature, the Governor and the Cabinet were directed to proceed with the development of the high-speed rail system by the state, or by a private entity authorized by the state. Construction of the high-speed rail system must begin on or before November 1, 2003. Subsequent legislation created the Florida High-Speed Rail Authority to begin planning the project, obtaining the necessary permits, and selecting a private entity

to design, build, operate, maintain, and finance the system. The Authority has been working the last two years to accomplish its legislative directive.

Although FDOT employees have been assigned to the Authority as staff, the Rail Office staff has had minimal involvement in the activities of the Authority.

#### Effects of HB 1347

As filed, the bill specifically adds to FDOT's rail responsibilities the development of rail service between the Orlando International Airport and one "primary transportation hub" serving the needs of area residents and visitors. The bill defines "primary transportation hub" as any area to which at least 10 percent of annual air passengers at the airport travel to it after disembarking and which contains at least 25 percent of the total transient room rentals within a 5-mile radius of the hub.

According to the bill's sponsor, data supplied by the Greater Orlando Visitors Bureau indicates Walt Disney World and its related attractions meet the definition of "primary transportation hub."

HB 1347 also:

- Allows FDOT to own, lease, or otherwise obtain facilities, equipment, and appurtenances it needs to provide the rail service;
- Allows FDOT to contract with a private vendor for these facilities, equipment or appurtenances.
- Specifies the rail service may use public right-of-way, and FDOT shall not be charged for their use.
- Allows FDOT to establish and collect fees, rates, charges, and other revenues for the use of the rail system, and has the power to enforce such collections. The revenues generated shall be used to pay for the operation and maintenance costs of the rail system, with any excess used to pay contractual obligations and the cost of service improvements.
- Allows FDOT to determine the technology for the rail system, the route, and the hub location, and to select the most direct route the achieve financial viability of the system.
- Directs that 50 percent of the funds provided to FDOT shall be used specifically on the direct route with the lowest capitol costs, the highest potential revenues per mile of route, and the greatest ability to achieve the highest speeds and lowest travel times, plus the lowest operating and maintenance costs.
- Specifies that the remaining 50 percent of the funds shall be used to provide rail service between the Orlando International Airport and the Orange County Convention Center. In the event that there is no direct route linking the airport to the hub that meets the criteria listed in HB 1347, or that its cost is less than 50 percent allocated, then all the remaining funds shall be used on the airport-to-Convention Center rail system.
- Directs FDOT to consider the availability of other government and private funds.
- Specifies that beginning July 1, 2003, and continuing annually until July 1, 2038, \$10 million from vehicle registration fees shall be deposited into the State Transportation Trust Fund solely for the purpose of funding the rail system described in this section. The bill allows FDOT to use the funds as debt service for bonds or repayment for other types of indebtedness, but also to cover other costs as necessary. Any bond indebtedness incurred shall not constitute a general obligation of the State of Florida, and any bonds issued shall be sold by the state Division of Bond Finance pursuant to the State Bond Act.

The bill takes effect July 1, 2003.

The potential impact of HB 1347's provisions on the High-Speed Rail project is not addressed, nor is the fiscal impact of dedicating for the next 35 years \$10 million in FDOT funds, which the agency says it already has programmed long-term into transportation projects. Nor does it address the potential

shortfall in funding necessary to build the rail system, except in references to other governmental and private funds.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 341.302, F.S., to direct FDOT to provide rail service between the Orlando International Airport and one "primary transportation hub" serving the needs of area residents and visitors. Defines "primary transportation hub." Allows FDOT to own, lease, or otherwise encumber the facilities, equipment, and appurtenances it needs to provide the rail service, or FDOT may contract with a private vendor. Specifies the rail service may use public right-of-way, and FDOT shall not be charged for its use. Allows FDOT to establish and collect fees, rates, and revenues for the use of the rail service, and may enforce their collection. Specifies use of such revenues. Allows FDOT to determine the technology for the rail system, the route, and the hub location, and to select the most direct route to achieve financial viability of the system. Directs that 50 percent of the funds provided to FDOT shall be used specifically on the direct route that meet certain criteria. Specifies that the balance of the funds shall be used to provide rail service between the Orlando International Airport and the Orange County Convention Center. Directs FDOT to consider the availability of other government and private funds. Specifies conditions under which all the funds would be spent to provide rail service between the airport and the Convention Center. Specifies that beginning July 1, 2003, and annually until July 1, 2038, \$10 million from vehicle registration fees shall be deposited into the State Transportation Trust Fund solely for the purpose of funding the rail system described in this section. Allows FDOT to use the funds as debt service for bonds or repayment for other types of indebtedness. Specifies such debt shall not constitute a general obligation of the State of Florida. Specifies covenant with bondholders, if applicable. Allows FDOT to spend that portion of the annual funds not earmarked to repay debt for other costs relevant to the rail system. Directs Division of Bond Finance to issue any bonds pursuant to the State Bond Act. Specifies this rail project shall be eligible to receive any other funds eligible and available under law for rail transit service.

**Section 2:** Provides an effective date of July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None, until the rail system has been built and is operating. Passenger fares will be the likely source of potential revenues. HB 1347 does not specify construction start and finish dates.

2. Expenditures:

Beginning in FY 03-04, \$10 million a year for the next 35 years in vehicle registration fees, assessed pursuant to s.320.08, F.S., will be earmarked to help plan, build, operate, and maintain the train system explained in HB 1347.

FDOT has expressed concerns that that the \$10 million will be insufficient to design and build the airport-to-Disney train. If it does not receive federal, local, or private funding to augment the expected costs, FDOT likely would be required to dedicate more of its Work Program funds to the project.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate, but voluntary. According to provisions in the new subsection (18) of s. 341.302, F.S., FDOT must consider the availability of funds from the federal and local governments, as well as from the private sector, in selecting the project route. The new provisions also make the project available for any currently legal sources of funds, which would include local-government contributions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Building rail service between the Orlando International Airport and a major tourist attraction such as Disney will create jobs for contractors and construction-related industries. But it also may reduce, during the time of construction, commerce along the route because of customers' inability to easily access retail establishments. The rail project, once completed, also may negatively impact privately-owned transportation companies, who could lose customers to the train.

D. FISCAL COMMENTS:

HB 1347 includes a \$10 million annual appropriation through 2038 in vehicle license fees, assessed pursuant to s. 320.08, F.S. According to the 2003 Florida Tax Handbook, the various auto, truck, and mobile home registration fees will generate \$551.6 million this fiscal year and an estimated \$564.3 million in FY 03-04. FDOT's State Transportation Trust Fund receives the bulk of those revenues -- \$439 million this fiscal year and a projected \$450.8 million in FY 03-04. FDOT uses most of these funds to help finance its Five-Year Work Program, so the agency contends that HB 1347's appropriation of \$10 million a year, for at least the next five years, in vehicle registration fees is unavailable because it is programmed into road, bridge and other transportation projects. If HB 1347 passes as is, FDOT says it might have to delete or delay other projects in the Work Program.

Of equal concern to FDOT is that the \$10 million annually for 35 years may not be sufficient to fund the design and construction of the rail system. FDOT fiscal experts project that amount of funding, if bonded, will produce \$120 million, which they say is not enough money, based on the High-Speed Rail Authority's initial estimates that it could cost as much as \$600 million in capital costs to run its train from the airport to Disney.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 1347 does not affect local governments.

2. Other:

HB 1347 does not raise any apparent constitutional issues.

B. RULE-MAKING AUTHORITY:

FDOT has sufficient existing rule-making authority to implement the provisions of HB 1347.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Comments on the bill's drafting

Some clarification may be needed on the "primary transportation hub's" definition, particularly the verbiage on the location of the transient rentals. The language in the bill appears to be contradictory as to whether the transient rentals can be in or outside of the same county as the hub is located.

Other comments

HB 1347 does not address the potential for conflicts with existing law implementing the s. 19, Art. X constitutional requirement that the state build a high-speed rail system linking the five largest urban areas of Florida. Sections 341.8201-341.842, F.S., specifies that the first segment of the high-speed rail link Tampa and Orlando. The High-Speed Rail Authority in February received proposals from four entities interested in designing, building and operating the first segment. All of the proposals include, at the Authority's direction, plans for routes linking the Orlando International Airport with Disney and with the Convention Center.

The bill's sponsor has said he drafted HB 1347 to give FDOT as much flexibility as possible to decide the type of rail service to build between the airport, the transportation hub, and the convention center.

In any event, s. 19, Art. X of the Florida Constitution does not specify which state entity shall build and operate the high-speed rail, nor does it specify exact routes.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**