

By the Committee on Transportation; and Senators Dockery, Argenziano, Jones, Alexander, Margolis, Bullard, Siplin, Miller, Dawson, Hill and Lee

306-2498-03

1 A bill to be entitled
2 An act relating to the Florida High-Speed Rail
3 Authority; amending s. 341.8203, F.S.; amending
4 the definition of "rail station," "station," or
5 "high-speed rail station"; adding definition
6 for "excess revenues"; providing that the
7 general public shall have full and unrestricted
8 access to high-speed rail stations; amending s.
9 341.840, F.S.; providing that the tax exemption
10 granted the authority shall not apply to any
11 associated development or to income, sales, or
12 other taxable transactions related to any
13 associated development; creating s. 341.843,
14 F.S.; requiring specified contractors to
15 provide surety bonds; providing requirements
16 with respect to such bonds; creating s.
17 341.844, F.S.; authorizing the Division of Bond
18 Finance to issue revenue bonds for and on
19 behalf of the authority for the purpose of
20 financing or refinancing the construction,
21 reconstruction, and improvement of the
22 high-speed rail system; amending s. 341.830,
23 F.S.; providing that procurement by the
24 authority of any person or entity to provide
25 professional services shall be in accordance
26 with the Consultants' Competitive Negotiation
27 Act; providing an appropriation; creating s.
28 341.825, F.S.; requiring the Department of
29 Transportation to include a request for
30 specified expenditures to be provided to the
31 Florida High-Speed Rail Authority in its annual

1 legislative budget requests for a specified
2 period; providing requirements with respect to
3 such budget requests and sources of
4 appropriations; creating s. 341.826, F.S.;
5 providing for the assignment, pledging, or
6 setting aside of such funds as a trust for the
7 payment of principal or interest on bonds
8 issued by the authority; amending s. 341.827,
9 F.S.; giving the authority the ability to
10 identify segment or project phases, and to
11 determine the order in which these phases are
12 completed, based on certain criteria;
13 specifying that subject to the National
14 Environmental Protection Act, the authority may
15 select a particular Orlando area route, based
16 on certain criteria; creating s. 341.845, F.S.;
17 specifying uses of excess revenues; providing
18 for two full-time equivalent positions;
19 providing an effective date.

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

22
23 Section 1. Present subsections (6) through (14) of
24 section 341.8203, Florida Statutes, are renumbered as
25 subsections (7) through (15), respectively, a new subsection
26 is added to that section, and present subsection (10) of that
27 section is amended to read:

28 341.8203 Definitions.--As used in this act, unless the
29 context clearly indicates otherwise, the term:

30 (6) "Excess revenues" means those revenues agreed upon
31 by contract between the authority and the DBOM or DBOM & F

1 contractor as being excess revenues from any source within the
2 operation of the high-speed rail system.

3 (11)(10) "Rail station," "station," or "high-speed
4 rail station" means any structure or transportation facility
5 that is part of a high-speed rail system designed to
6 accommodate the movement of passengers from one mode of
7 transportation to another at which passengers board or
8 disembark from transportation conveyances and transfer from
9 one mode of transportation to another. As part of the
10 high-speed rail system the general public shall have full and
11 unrestricted access to all high-speed rail stations for the
12 purpose of using the high-speed rail system. All high-speed
13 rail stations must be accessible by regional intermodal
14 passenger modes to connect the surrounding community to the
15 high-speed rail station.

16 Section 2. Section 341.840, Florida Statutes, is
17 amended to read:

18 341.840 Tax exemption.--The exercise of the powers
19 granted by this act will be in all respects for the benefit of
20 the people of this state, for the increase of their commerce,
21 welfare, and prosperity, and for the improvement of their
22 health and living conditions, and as the design, building,
23 operation, maintenance, and financing of a system by the
24 authority or its agent or the owner or lessee thereof, as
25 herein authorized, constitutes the performance of an essential
26 public function, neither the authority, its agent, nor the
27 owner of such system shall be required to pay any taxes or
28 assessments upon or in respect to the system or any property
29 acquired or used by the authority, its agent, or such owner
30 under the provisions of this act or upon the income therefrom,
31 any security therefor, their transfer, and the income

1 therefrom, including any profit made on the sale thereof,
2 shall at all times be free from taxation of every kind by the
3 state, the counties, and the municipalities and other
4 political subdivisions in the state; however, that the tax
5 exemption pursuant to this section shall not apply to any
6 associated development or to income, sales, or other taxable
7 transactions related to any associated development.

8 Section 3. Section 341.843, Florida Statutes, is
9 created to read:

10 341.843 Surety bond; requirement with respect to
11 high-speed rail system.--

12 (1) The authority shall require, upon entering into a
13 DBOM or DBOM & F contract, that the contractor provide a
14 performance and payment bond in an amount determined by the
15 authority.

16 (2) Prior to commencing any construction work by the
17 DBOM or DBOM & F contractor, the authority shall require that
18 the contractor provide to the authority a payment and
19 performance bond that covers 100 percent of the costs of the
20 construction; however, that if such level of surety is not
21 commercially available, the authority, notwithstanding ss.
22 255.05 and 337.18, may require a monetary surety amount of
23 less than 100 percent of such costs or may authorize that
24 surety bonds be provided on a phased basis.

25 (3) The surety on such bonds shall be from a surety
26 company authorized to do business in the state. All bonds
27 shall be payable to the authority and conditioned on the
28 prompt, faithful, and efficient performance of the contract
29 according to plans and specifications and within the time
30 period specified and further conditioned on the prompt payment
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1 of all persons furnishing labor, materials, equipment, and
2 supplies therefor.

3 (4) The bond requirement of subsection (2) may be
4 substantially in the form provided in s. 255.05(3).

5 Section 4. Section 341.844, Florida Statutes, is
6 created to read:

7 341.844 Revenue bonds; project financing.--Upon the
8 request of the Florida High-Speed Rail Authority, the Division
9 of Bond Finance is authorized pursuant to s. 11, Art. VII of
10 the State Constitution and the State Bond Act to issue revenue
11 bonds for and on behalf of the Florida High-Speed Rail
12 Authority for the purpose of financing or refinancing the
13 construction, reconstruction, and improvement of a high-speed
14 rail system. Bonds issued pursuant to this section shall be
15 payable from the revenues of the high-speed rail system or
16 other revenues of the authority, including funds appropriated
17 for the authority.

18 Section 5. Section 341.830, Florida Statutes, is
19 amended to read:

20 341.830 Procurement.--

21 (1) The authority may employ procurement methods under
22 chapters 255, 287, and 337 and under any rule adopted under
23 such chapters. To enhance the effective and efficient
24 operation of the authority, and to enhance the ability of the
25 authority to use best business practices, the authority may,
26 pursuant to ss. 120.536(1) and 120.54, adopt rules for and
27 employ procurement methods available to the private sector.

28 (2) The authority is authorized to procure commodities
29 and the services of a qualified person or entity to design,
30 build, finance, operate, maintain, and implement a high-speed
31 rail system, including the use of a DBOM or DBOM & F method

1 using a request for proposal, a request for qualifications, or
2 an invitation to negotiate.

3 (3) Notwithstanding any provision of this act to the
4 contrary, procurement of any person or entity to provide any
5 professional services as defined in s. 287.055(2)(a) shall be
6 in accordance with the provisions of s. 287.055.

7 Section 6. Section 341.825, Florida Statutes, is
8 created to read:

9 341.825 Annual legislative budget
10 requests.--Commencing with fiscal year 2004-2005 and for the
11 following 30 fiscal years, the Department of Transportation
12 shall include in its annual legislative budget request an
13 expenditure of not less than \$75 million to be provided by the
14 Department of Transportation to the Florida High-Speed Rail
15 Authority created by s. 341.821. Such budget shall include
16 funding for projects approved by the authority that are
17 determined by the authority to be in furtherance of the
18 construction of the high-speed rail system as defined in s.
19 341.8203(6). The funds described in this section shall be
20 appropriated from funds within the State Transportation Trust
21 Fund designated for the Transportation Outreach Program by s.
22 339.137 to the Florida High-Speed Rail Authority. In the event
23 funds designated for the Transportation Outreach Program are
24 insufficient to meet the total appropriation, the maximum
25 available funds shall be appropriated from the Transportation
26 Outreach Program and additional funds equal to the amount of
27 the insufficiency shall be appropriated from funds within the
28 State Transportation Trust Fund for public transportation
29 projects in accordance with chapter 341, as provided in s.
30 206.46(3), to the Florida High-Speed Rail Authority for the
31 purposes set forth in this section. In the event that s.

1 339.137 is repealed, the funds described in this section shall
2 be appropriated from funds within the State Transportation
3 Trust Fund committed by the Department of Transportation for
4 public transportation projects in accordance with chapter 341,
5 as provided in s. 206.46(3), to the Florida High-Speed Rail
6 Authority for the purposes set forth in this section.

7 Section 7. Section 341.826, Florida Statutes, is
8 created to read:

9 341.826 Pledging of funds.--Funds allocated pursuant
10 to this act may be assigned, pledged, or set aside as a trust
11 for the payment of principal or interest on revenue bonds,
12 notes, or other forms of indebtedness issued by the Florida
13 High-Speed Rail Authority or on its behalf by the Division of
14 Bond Finance; however, such debt shall not constitute a
15 general obligation of the State of Florida. The state does
16 hereby covenant with holders of such revenue bonds or such
17 other instruments of indebtedness issued hereunder that it
18 will not repeal, impair, or amend in any manner the
19 appropriation of such funds that would materially or adversely
20 affect the rights of such holders, so long as bonds authorized
21 hereby are outstanding.

22 Section 8. Subsections (1) and (2) of section 341.827,
23 Florida Statutes, are amended to read:

24 341.827 Service areas; segment designation.--

25 (1)(a) The authority shall determine in which order
26 the service areas, as designated by the Legislature, will be
27 served by the high-speed rail system.

28 (b) After completing the initial segments as described
29 in paragraph (2)(a), the authority also may identify segment
30 or project phases, and determine the order in which these
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1 phases are completed, based on the criteria of paragraph
2 (2)(c).

3 (2) The authority shall plan and develop the
4 high-speed rail system so that construction proceeds as
5 follows:

6 (a) The initial segments of the system shall be
7 developed and operated between the St. Petersburg area, the
8 Tampa area, the Lakeland/Winter Haven area, and the Orlando
9 area, with future service to the Miami area.

10 (b) Subject to the provisions of the National
11 Environmental Protection Act, the authority shall select in
12 the Orlando area the most direct route between the Orlando
13 International Airport, as the primary multi-modal hub in the
14 corridor, and the first destination station on the
15 Orlando-to-Tampa route which is identified as the Orlando area
16 station. This Orlando area station shall be located on the
17 corridor that provides the most direct route and the minimum
18 non-stop travel time, from Orlando International Airport to
19 Tampa. The minimum non-stop travel time from Orlando
20 International Airport to Tampa, used to make this
21 identification, shall be the times identified by DBOM or DBOM
22 & F proposers in their proposals submitted to the authority on
23 February 10, 2003, and who are deemed responsive by the
24 authority at the time this act becomes law. The Orlando area
25 station also must be one of the possible station sites
26 included in the Authority's DBOM & F "Request for Proposals
27 for Phase I, Part 1, Tampa to Orlando," issued October 7,
28 2002.

29 ~~(c)~~ Construction of subsequent segments of the
30 high-speed rail system shall connect the metropolitan areas of
31 Port Canaveral/Cocoa Beach, Ft. Pierce, West Palm Beach, Ft.

1 Lauderdale, Daytona Beach, St. Augustine, Jacksonville, Ft.
2 Myers/Naples, Sarasota/Bradenton, Gainesville/Ocala,
3 Tallahassee, and Pensacola.

4 (d)~~(c)~~ Selection of segments of the high-speed rail
5 system to be constructed subsequent to the initial segments of
6 the system shall be prioritized by the authority, giving
7 consideration to the demand for service, financial
8 participation by local governments, financial participation by
9 the private sector, and the available financial resources of
10 the authority.

11 Section 9. Section 341.845, Florida Statutes, is
12 created to read:

13 341.845 Use of high-speed rail system excess
14 revenues.--

15 (1) All excess revenues generated through the
16 operation of the high-speed rail system shall be returned by
17 the DBOM or DBOM & F contractor to the authority.

18 (2) Excess revenues generated by the initial segment
19 of the high-speed rail system will be distributed by the
20 authority on an annual basis as follows:

21 (a) Fifty percent of excess revenues shall be retained
22 by the authority to be utilized for administrative costs or
23 debt service or to build infrastructure to extend the system
24 in accordance with ss. 341.823 and 341.827;

25 (b) Fifty percent of excess revenues shall be
26 distributed to the Department of Transportation by the
27 authority for the exclusive purpose of financing and
28 constructing regional intermodal passenger modes to connect
29 the community to rail stations. The department shall allocate
30 a minimum of 10 percent of the available excess revenues
31 distributed under this paragraph to projects in each community

1 containing a high speed rail station. The formula for
2 allocating the balance of available funds to projects in such
3 communities shall be based on average daily station boardings
4 in proportion to total average daily boardings. The Orlando
5 area regional intermodal passenger modes must connect with the
6 high-speed rail system at Orlando International Airport and at
7 the Orlando area station and must have a regional intermodal
8 passenger station on or near the Orange County Convention
9 Center.

10 (c) The funds provided in paragraph (b) for the
11 Orlando area regional intermodal passenger modes shall be used
12 to connect the Orlando International Airport to the Orange
13 County Convention Center and the Orange County Convention
14 Center to the Orlando area station.

15 Section 10. Two full-time equivalent positions for an
16 executive director and an assistant to the executive director
17 are hereby created and authorized for the Florida High-Speed
18 Rail Authority.

19 Section 11. This act shall take effect July 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2140

4 This CS gives the High-Speed Rail Authority the ability to
5 request the state Division of Bond Finance to issue revenue
6 bonds to build the high-speed rail system and to replace,
7 build, or repair bridges and roads impacted by the train's
8 construction, and appropriates \$75 million in transportation
9 funds in fiscal year 2004-2005 and for the next 30 fiscal
10 years. The first source of the funds is the Transportation
11 Outreach Program, but if that source is less than \$75 million
12 or is repealed, then the second source of funds is the public
13 transportation program of the Florida Department of
14 Transportation (FDOT)

15 The CS defines "excess revenues," and provides all such
16 revenues generated by the high-speed rail system must be
17 returned by the contractor to the Authority. Of those funds,
18 fifty percent will be retained by the Authority for
19 administrative costs or for debt service to extend the system,
20 and fifty percent will be retained by FDOT to construct
21 regional intermodal transit connecting communities to the
22 high-speed rail stations. The CS provides the Authority with
23 flexibility in determining the amount and manner of the
24 performance and payment surety bond to be provided by the
25 high-speed rail system contractor. The CS prohibits the
26 extension of sales-tax and other tax exemptions provided to
27 the Authority or its agent to any associated development, such
28 as hotels, gift shops, or restaurants. Finally, the CS creates
29 two full-time staffing positions for the Authority.
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