

CHAMBER ACTION

1 The Committee on Finance & Tax recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled
7 An act relating to the Florida High-Speed Rail Authority;
8 amending s. 341.8203, F.S.; redefining the terms
9 "authority" and "high-speed rail system"; amending s.
10 341.840, F.S.; revising the tax exemption of the authority
11 and its agents and contractors; providing for annual
12 redetermination of eligibility for exemption; providing
13 for recapture of taxes when an exemption is used
14 inappropriately; providing for rules; providing an
15 effective date.

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

18
19 Section 1. Subsections (2) and (6) of section 341.8203,
20 Florida Statutes, are amended to read:

21 341.8203 Definitions.--As used in this act, unless the
22 context clearly indicates otherwise, the term:

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23 (2) "Authority" means the Florida High-Speed Rail
24 Authority and its agents. However, for purposes of s. 341.840,
25 the term does not include any agent of the authority except as
26 provided in that section.

27 (6) "High-speed rail system" means any high-speed fixed
28 guideway system for transporting people or goods, which system
29 is capable of operating at speeds in excess of 120 miles per
30 hour, including, but not limited to, a monorail system, dual
31 track rail system, suspended rail system, magnetic levitation
32 system, pneumatic repulsion system, or other system approved by
33 the authority. The term includes a corridor and structures
34 essential to the operation of the line, including the land,
35 structures, improvements, rights-of-way, easements, rail lines,
36 rail beds, guideway structures, ~~stations, platforms,~~ switches,
37 yards, parking facilities, power relays, switching houses, and
38 rail stations, ~~associated development,~~ and also includes any
39 ~~other~~ facilities or equipment used exclusively or useful for the
40 purposes of ~~high-speed rail system~~ design, construction,
41 operation, maintenance, or the financing of the high-speed rail
42 system.

43 Section 2. Section 341.840, Florida Statutes, is amended
44 to read:

45 341.840 Tax exemption.--

46 (1) The exercise of the powers granted by this act will be
47 in all respects for the benefit of the people of this state, for
48 the increase of their commerce, welfare, and prosperity, and for
49 the improvement of their health and living conditions. ~~and as~~
50 The design, construction ~~building,~~ operation, maintenance, and

51 financing of a high-speed rail system by the authority, ~~or~~ its
 52 agent, or the owner or lessee thereof, as herein authorized,
 53 constitutes the performance of an essential public function.

54 (2)(a) For the purposes of this section, the term
 55 "authority" does not include agents of the authority other than
 56 contractors who qualify as such pursuant to subsection (7).

57 (b) For the purposes of this section, any item or property
 58 that is within the definition of "associated development" in s.
 59 341.8203(1) shall not be considered to be part of the high-speed
 60 rail system as defined in s. 341.8203(6).

61 (3)(a) Purchases or leases of tangible personal property
 62 or real property by the authority, excluding agents of the
 63 authority, are exempt from taxes imposed by chapter 212 as
 64 provided in s. 212.08(6). Purchases or leases of tangible
 65 personal property that is incorporated into the high-speed rail
 66 system as a component part thereof, as determined by the
 67 authority, by agents of the authority or the owner of the high-
 68 speed rail system are exempt from sales or use taxes imposed by
 69 chapter 212. Leases, rentals, or licenses to use real property
 70 granted to agents of the authority or the owner of the high-
 71 speed rail system are exempt from taxes imposed by s. 212.031 if
 72 the real property becomes part of such system. The exemptions
 73 granted in this subsection do not apply to sales, leases, or
 74 licenses by the authority, agents of the authority, or the owner
 75 of the high-speed rail system.

76 (b) The exemption granted in paragraph (a) to purchases or
 77 leases of tangible personal property by agents of the authority
 78 or by the owner of the high-speed rail system applies only to

79 property that becomes a component part of such system. It does
 80 not apply to items, including, but not limited to, cranes,
 81 bulldozers, forklifts, other machinery and equipment, tools and
 82 supplies, or other items of tangible personal property used in
 83 the construction, operation, or maintenance of the high-speed
 84 rail system when such items are not incorporated into the high-
 85 speed rail system as a component part thereof.

86 (4) Any bonds or other, ~~neither the authority, its agent,~~
 87 ~~nor the owner of such system shall be required to pay any taxes~~
 88 ~~or assessments upon or in respect to the system or any property~~
 89 ~~acquired or used by the authority, its agent, or such owner~~
 90 ~~under the provisions of this act or upon the income therefrom,~~
 91 any security, and all notes, mortgages, security agreements,
 92 letters of credit, or other instruments that arise out of or are
 93 given to secure the repayment of bonds or other security, issued
 94 by the authority, or on behalf of the authority ~~therefor,~~ their
 95 transfer, and the income therefrom, including any profit made on
 96 the sale thereof, shall at all times be free from taxation of
 97 every kind by the state, the counties, and the municipalities
 98 and other political subdivisions in the state. This subsection,
 99 however, does not exempt from taxation or assessment the
 100 leasehold interest of a lessee in any project or any other
 101 property or interest owned by the lessee. The exemption granted
 102 by this subsection is not applicable to any tax imposed by
 103 chapter 220 on interest income or profits on the sale of debt
 104 obligations owned by corporations.

105 (5) When property of the authority is leased to another
 106 person or entity, the property shall be exempt from ad valorem

107 taxation only if the use by the lessee qualifies the property
 108 for exemption under s. 196.199.

109 (6) A leasehold interest held by the authority is not
 110 subject to intangible tax. However, if a leasehold interest held
 111 by the authority is subleased to a nongovernmental lessee, such
 112 subleasehold interest shall be deemed to be an interest
 113 described in s. 199.023(1)(d), and is subject to the intangible
 114 tax.

115 (7)(a) In order to be considered an agent of the authority
 116 for purposes of the exemption from sales and use tax granted by
 117 subsection (3) for tangible personal property incorporated into
 118 the high-speed rail system, a contractor of the authority that
 119 purchases or fabricates such tangible personal property must be
 120 certified by the authority as provided in this subsection.

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

123 2. A contractor must apply to the authority on the
 124 application form adopted by the authority, which shall develop
 125 the form in consultation with the Department of Revenue.

126 3. The authority shall review each submitted application
 127 and determine whether it is complete. The authority shall notify
 128 the applicant of any deficiencies in the application within 30
 129 days. Upon receipt of a completed application, the authority
 130 shall evaluate the application for exemption under this
 131 subsection and issue a certification that the contractor is
 132 qualified to act as an agent of the authority for purposes of
 133 this section or a denial of such certification within 30 days.
 134 The authority shall provide the Department of Revenue with a

135 copy of each certification issued upon approval of an
136 application. Upon receipt of a certification from the authority,
137 the Department of Revenue shall issue an exemption permit to the
138 contractor.

139 (c)1. The contractor may extend a copy of its exemption
140 permit to its vendors in lieu of paying sales tax on purchases
141 of tangible personal property qualifying for exemption under
142 this section. Possession of a copy of the exemption permit
143 relieves the seller of the responsibility of collecting tax on
144 the sale, and the Department of Revenue shall look solely to the
145 contractor for recovery of tax upon a determination that the
146 contractor was not entitled to the exemption.

147 2. The contractor may extend a copy of its exemption
148 permit to real property subcontractors supplying and installing
149 tangible personal property that is exempt under subsection (3).
150 Any such subcontractor is authorized to extend a copy of the
151 permit to the subcontractor's vendors in order to purchase
152 qualifying tangible personal property tax-exempt. If the
153 subcontractor uses the exemption permit to purchase tangible
154 personal property that is determined not to qualify for
155 exemption under subsection (3), the Department of Revenue may
156 assess and collect any tax, penalties, and interest that are due
157 from either the contractor holding the exemption permit or the
158 subcontractor that extended the exemption permit to the seller.

159 (d) Any contractor authorized to act as an agent of the
160 authority under this section shall maintain the necessary books
161 and records to document the exempt status of purchases and
162 fabrication costs made or incurred under the permit. In

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163 addition, an authorized contractor extending its exemption
164 permit to its subcontractors shall maintain a copy of the
165 subcontractor's books, records, and invoices indicating all
166 purchases made by the subcontractor under the authorized
167 contractor's permit. If, in an audit conducted by the Department
168 of Revenue, it is determined that tangible personal property
169 purchased or fabricated claiming exemption under this section
170 does not meet the criteria for exemption, the amount of taxes
171 not paid at the time of purchase or fabrication shall be
172 immediately due and payable to the Department of Revenue,
173 together with the appropriate interest and penalty, computed
174 from the date of purchase, in the manner prescribed by chapter
175 212.

176 (e) If a contractor fails to apply for a high-speed rail
177 system exemption permit, or if a contractor initially determined
178 by the authority to not qualify for exemption is subsequently
179 determined to be eligible, the contractor shall receive the
180 benefit of the exemption in this subsection through a refund of
181 previously paid taxes for transactions that otherwise would have
182 been exempt. A refund may not be made for such taxes without the
183 issuance of a certification by the authority that the contractor
184 was authorized to make purchases tax-exempt and a determination
185 by the Department of Revenue that the purchases qualified for
186 the exemption.

187 (f) The authority may adopt rules governing the
188 application process for exemption of a contractor as an
189 authorized agent of the authority.

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190 (g) The Department of Revenue may adopt rules governing
191 the issuance and form of high-speed rail system exemption
192 permits, the audit of contractors and subcontractors using such
193 permits, the recapture of taxes on nonqualified purchases, and
194 the manner and form of refund applications.

195 Section 3. This act shall take effect January 1, 2005.