

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1409 W/CS

Regional Transportation Authorities

**SPONSOR(S):** Greenstein

**TIED BILLS:** HB 1411

**IDEN./SIM. BILLS:** SB 2524

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	13 Y, 1 N, w/CS	Pugh	Miller
2) Local Government Council	8 Y, 0 N, w/CS	Camechis	Hamby
3) Finance & Tax Committee			
4) State Infrastructure Council			
5)			

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### SUMMARY ANALYSIS

The South Florida Regional Transportation Authority was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach counties.

HB 1409 w/CS makes a number of changes to the South Florida Regional Transportation Authority (the Authority). The bill:

- Allows the Authority to sell revenue bonds outright, without the assistance of the state Division of Bond Finance. These revenue bonds would not be pledges or debts of the State of Florida.
- Clarifies the requirement that each of the three counties dedicate \$2.67 million annually to the Authority for capital funding, as well as the \$1.565 million annually from each county for operating costs, by specifying that the funds must be transferred by October 31 each year. These funds cease when a new funding source is implemented.
- Deletes the \$2 fee on initial and renewal vehicle registrations within the three-county area.
- Authorizes the three counties within the Authority to impose a \$100 fee on the transfer of title for a motor vehicle. The new fee takes effect in any county served by the Authority upon the approval of the additional title fee by a super majority vote of two-thirds of the members of the county commission. The Department of Highway Safety and Motor Vehicles (DHSMV) has 90 days after such vote to begin collecting the fee and later remitting the revenues to the Authority.
- Extends from December 31, 2009 to December 31, 2011 the date on which the local funding for the Authority ceases if no federal matching funds have been received.
- Amends s. 120.52, F.S., to add regional transportation authorities created pursuant to ch. 343, F.S., to the list of governmental entities not considered "agencies" for the purposes of ch. 120, F.S., the Administrative Procedure Act.
- Amends s. 163.3180, F.S., to exempt a "transit-oriented development master plan" from concurrency requirements.

HB 1409 w/CS raises no apparent constitutional or other legal issues. The bill does not have a fiscal impact on the state, but may have an indeterminate positive impact on the Authority.

The bill takes effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure Lower Taxes:** HB 1409 w/CS proposes eliminating the \$2 fee on initial and renewal registrations of vehicles taxed under s. 320.08, F.S., in Broward, Miami-Dade, and Palm Beach counties, which has not been implemented. The bill also proposes creating a \$100 additional title fee on the transfer of a motor vehicle title in Broward, Miami-Dade, or Palm Beach counties, if approved by a super majority vote of two-thirds of the members of the county commission.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

In an attempt to ease the disruptions created for commuters while it was six-laning I-95 in the mid-1980s, the Florida Department of Transportation (FDOT) purchased an 81-mile rail corridor from CSXT<sup>1</sup> for \$264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatch all trains using the tracks--its own, Tri-Rail, and Amtrak trains. In 1989, the Legislature made it official, passing the Tri-County Commuter Rail Authority Act as Part 1 of ch. 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward, and Palm Beach counties.

In 2003, the Legislature passed SB 686<sup>2</sup>, which reconfigured the Tri-Rail Commuter Rail Authority as the South Florida Regional Transportation Authority (the Authority). Supporters of the legislation said that a transportation authority, rather than a commuter rail system, would have a better opportunity to draw down federal matching dollars for public transit projects.

The new transportation authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous powers and responsibilities, including the power to acquire, sell, and lease property; to use eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The Authority has a nine-member board comprised of:

- A county commissioner from each of the three counties, selected by his or her peers;
- A citizen selected by each county commission who must live within the county he or she is representing, be a registered voter, and, insofar as practicable, represent civic and business interests of the community.
- One of the FDOT district secretaries who is responsible for one or more of the counties within the Authority's boundaries. That could be either the District 4 secretary (whose region includes Broward and Palm Beach counties) or the District 6 secretary (whose region includes Miami-Dade). At this time, the FDOT District 6 secretary serves on the Authority.
- Two citizens appointed by the Governor who live in different counties within the Authority's jurisdiction but not the same county as the FDOT district secretary. They also must be registered voters.

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<sup>1</sup> CSXT is the core business unit of CSX Corporation. CSXT provides rail freight transportation over a network of more than 23,000 route miles in 23 states, the District of Columbia and two Canadian provinces. CSXT headquarters are in Jacksonville, Fla.

<sup>2</sup> Ch. Law 2003-159, L.O.F.

The 2003 law also required each of the three counties served by the Authority to dedicate funding of \$2.67 million annually, no later than August 1, 2003. The sources of this dedicated funding include:

- Local-option fuel taxes;
- Each county's share of the local ninth-cent fuel tax;
- Proceeds of a \$2 annual fee for registration or renewal of registration of each vehicle licensed in this state and registered in one of the three counties, if approved by a county referendum; or
- Other non-federal funds.

In addition, each county must provide annual funding for operations of at least \$1.565 million. These local funding requirements are repealed if the Authority does not obtain federal matching funds by December 31, 2009. A fiscal analysis of the House companion to the 2003 legislation indicated that the \$2 new and renewal registration fee would generate an estimated \$8 million annually for the Authority.<sup>3</sup> The fee has not been imposed.

Meanwhile, the Authority is continuing to improve the existing commuter rail system with its 18 stations. Since 1995, the major project has been the \$451-million "Double Track Corridor Improvement Program," which makes improvements to the existing 72-mile route and builds a second mainline track parallel to the existing track. It is expected to be completed and open for revenue service in March 2006. About \$334 million of the project cost has been funded by the Federal Highway Administration through direct grants; FDOT has paid the rest. The Authority, however, has been unable to take advantage of federal transportation matching grant programs.

The commuter train system averages about 7,900 riders a day. In 2004, total ridership was 2,861,217 persons.

### **Effect of Proposed Changes**

The bill makes a number of significant changes to Part I of chapter 343, F.S. Briefly, HB 1409:

- Allows the Authority to sell revenue bonds outright, without the assistance of the state Division of Bond Finance, as the Orlando-Orange County Expressway Authority can do. These revenue bonds would not be pledges or debts of the State of Florida.
- Clarifies that the annual \$4.235 million each of the three counties contributes to the Authority must be transferred to that entity by October 31 of each fiscal year.
- Deletes the \$2 fee on initial and renewal vehicle registrations within the three-county area. The fee, which had to be approved by voter referendum, has not been approved in any of the counties.
- Authorizes the three counties within the Authority to impose a \$100 fee on the transfer of title for a motor vehicle. The new fee takes effect in any county served by the Authority upon the passage of the fee by a super majority vote of two-thirds of the members of the county commission. The Department of Highway Safety and Motor Vehicles (DHSMV) has 90 days after such vote to begin collecting the fee and later remitting the revenues to the Authority.
- Extends two years, to December 31, 2011, the date on which the local funding for the Authority ceases if no federal matching funds have been received. Section 343.58, F.S., which specifies the local funding sources, would be repealed under that circumstance.
- Deletes obsolete phrases, makes clarifying changes, and adds "inland waterway" to the list of transportation infrastructure comprising a transit system.

In addition, the bill adds regional transportation authorities created pursuant to ch. 343, F.S., to the list of governmental entities not considered "agencies" for the purposes of ch. 120, F.S., and thus not subject to rulemaking and other aspects of the Administrative Procedure Act. This language exempts not only the South Florida Transportation Authority from ch. 120, F.S., but the Central Florida Transportation Authority (commonly called "LYNX" and serving Orange, Osceola, and Seminole counties) and the Tampa Bay Commuter Transit Authority (which is inactive, but includes seven

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<sup>3</sup> HB 1835 (PCB SA 03-23) w/ CS, State Administration Committee, April 22, 2003.

counties.) These transportation authorities would join expressway authorities, metropolitan planning organizations, and other local boards as exempt from ch. 120, F.S.

Finally, the bill exempts "transit-oriented development master plans" from concurrency requirements in local-government comprehensive plans under s.163.3180, F.S. The bill defines "transit-oriented development master plans" as:

plans adopted by a local governing body that graphically depict the locations of transit stations, roadways, buildings, public spaces, and civic spaces within a quarter-mile to half-mile radius of the transit station.

Concurrency, as defined in chapter 9J-5.003(19) of the Florida Administrative Code, is the requirement that the necessary public facilities and services to maintain the adopted Level-of-Service standards are available when the impacts of development occur. There are seven public facilities addressed in a concurrency review: traffic, mass transit, water, sewer, solid waste, parks and recreation, and drainage. Public transit facilities already are exempt from concurrency requirements.

C. SECTION DIRECTORY:

Section 1: Amends s. 343.52, F.S., to add "an inland waterway" to the definition of transit system.

Section 2: Amends s. 343.54, F.S., to delete a reference to admitting additional counties to the current service area of the South Florida Regional Transportation Authority only in the year that federal reauthorization for transportation funds is enacted; and, make technical changes.

Section 3: Amends s. 343.55, F.S., to authorize the Authority to issue revenue bonds; specify process; and, delete the requirement that the Authority's revenue bonds be issued by the state Division of Bond Finance.

Section 4: Amends s. 343.58, F.S., to modify timing of county contributions to the authority; delete the \$2 initial and renewal registration fee for vehicles registered in the three counties; create the \$100 additional title fee; extend repeal date to December 31, 2011; and, make technical changes.

Section 5: Amends s. 120.52, F.S., to add regional transportation authorities created pursuant to ch. 343, F.S., to the list of governmental entities exempt from ch. 120, F.S.

Section 6: Amends s. 163.3180, F.S., to exempt transit-oriented development master plans from concurrency requirements.

## 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:

Indeterminate. It is unknown at this time whether any of the three county commissions would approve the \$100 additional title fee, and how many new titles and existing titles are transferred each year in those counties.

2. Expenditures: None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Vehicle owners in Broward, Miami-Dade, and Palm Beach counties may have to pay the \$100 additional title fee upon the transfer of any title if the county commission votes to impose the fee.

If the Authority is successful in improving and promoting public transit in the three-county region, motorists and commercial carriers may benefit due to trips being diverted from the highways, and residents who don't drive may have access to more-affordable and dependable transportation.

**D. FISCAL COMMENTS:** None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other: None.

**B. RULE-MAKING AUTHORITY:** Section 5 of the bill seeks to exempt the Authority from the rule-making requirements in ch. 120, F.S., the Administrative Procedure Act.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

At line 147, the committee substitute requires a county commission to adopt the additional title fee by a "super majority vote of two-thirds of the members of the county commission". In order to clarify that an affirmative vote of two-thirds of the county commission is required in order to impose the fee in any county, it may be advisable to delete the phrase "super majority".

At line 174, the committee substitute references the "annual license tax" and the additional title fee. The annual license tax was replaced with the additional title fee by amendment adopted by the Local Government Council; therefore, the reference to "annual license tax" may be deleted.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

At its April 5, 2005, meeting, the Transportation Committee adopted on a voice vote a strike-everything-after-the-enacting clause amendment. The strike-all amendment:

- Authorized each county within the Authority's service area to levy a new vehicle license tax of \$100 on each new vehicle registered in the counties served by the Authority. The license tax is implemented upon passage by a super majority vote of two-thirds of the county commission present and voting on the issue.

- Restored the \$4.235 million annually each county will contribute to the Authority, at least until collections for the proposed \$100 license fee on new vehicle registrations begin. This annual contribution had been stricken in the original bill.
- Specified that if the license fee collections are insufficient to meet any county's funding obligation of \$4.235 million annually, then that county must contribute funds to make up the difference.
- Deleted all references to the \$2 initial and renewal vehicle registration fee.
- Specified that 90 days after passage of the license tax, the state Department of Highway Safety and Motor Vehicles can begin collecting and remitting the proceeds to the Authority.

On April 20, 2005, the Local Government Council adopted two amendments as follows:

1. The first amendment deleted the \$100 new vehicle license tax and replaced it with a \$100 additional title fee. The additional title fee must be approved by a super majority vote of two-thirds of the county commission, whereas the original new vehicle license tax required approval by a super majority vote of two-thirds of those county commissioners present and voting.
2. The second amendment deleted a provision allowing the Authority to expand into additional counties subject to an interlocal agreement with the county.