

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1411 CS Public Records
SPONSOR(S): Greenstein
TIED BILLS: HB 1409 **IDEN./SIM. BILLS:** SB 2526

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>13 Y, 0 N</u>	<u>Pugh</u>	<u>Miller</u>
2) <u>Governmental Operations Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Williamson</u>	<u>Everhart</u>
3) <u>State Infrastructure Council</u>	<u>10 Y, 0 N</u>	<u>Pugh</u>	<u>Havlicak</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The South Florida Regional Transportation Authority was created in 2003 to replace the Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning and infrastructure for Miami-Dade, Broward, and Palm Beach counties. It is a public agency supported by federal, state, and local tax dollars. Among its powers is the ability to acquire, purchase, and lease real property.

The bill creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the South Florida Regional Transportation Authority (the authority) until an option contract is executed or, barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill also allows the authority to disclose, at its discretion, appraisal reports to property owners or to third-parties that are assisting in the land acquisition.

The bill provides for review and repeal of the exemption in 2010, provides a statement of public necessity, and provides a contingent effective date.

The bill does not appear to have a fiscal impact on state government. It could save the authority money in future land acquisitions to expand or improve the commuter rail and other public-transit facilities within its service area.

The bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill delays public access to appraisal reports, offers, and counteroffers related to land purchases by the South Florida Regional Transportation Authority.

B. EFFECT OF PROPOSED CHANGES:

Background

In an attempt to ease the disruptions created for commuters while it was six-laning I-95 in the mid-1980s, FDOT purchased an 81-mile rail corridor from CSXT 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 dispatches all trains using the tracks--its own, Tri-Rail and Amtrak trains. In 1989, the Legislature made it permanent, passing the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward and Palm Beach counties.

In 2003, the Legislature passed SB 686, which replaced the "Tri-Rail" authority with the "South Florida Regional Transportation Authority" (authority). 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. It has a nine-member board comprised of county commissioners, citizens, and a Florida Department of Transportation district secretary. Currently, it is supported by contributions of local tax revenues from the three member counties, along with federal and state transportation funds to finance its capital projects.

Effect of Bill

The bill creates a public records exemption for appraisal reports, offers, and counteroffers related to the authority's land acquisitions until an option contract is executed or, barring that, until 30 days before a purchase or agreement comes before the authority for approval. In the event that the authority terminates negotiations, the appraisals, offers, and counteroffers become immediately available to the public, and at any time the authority may disclose the reports.

The bill also allows the authority to disclose, at its discretion, appraisal reports to private property owners or to third-parties that are assisting in the land acquisition. The third-parties must maintain the confidential and exempt status of the documents.¹

The bill provides for future review and repeal of the exemption on October 2, 2010. It provides a statement of public necessity, and provides a contingent effective date.

C. SECTION DIRECTORY:

Section 1: Creates s. 343.59, F.S., creating a public records exemption for the South Florida Regional Transportation Authority.

Section 2: Provides a statement of public necessity.

¹ These provisions are identical to the public-records exemption for water management districts, in s. 373.139, F.S., and are similar to that of other public land-buying agencies.

Section 3: Provides an effective date that is contingent upon the passage of HB 1409.

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:

The authority believes withholding immediate disclosure of appraisals, offers, and counteroffers from the public will result in lower acquisition costs for land on which future mass transit projects will be built.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenue.

2. Other:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995² provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 13, 2005, the Governmental Operations Committee adopted a strike-all amendment and reported the bill favorably with committee substitute. The strike-all amendment groups like topics together. It places all language pertaining to the public records exemption and expiration of the exemption in one subsection, and access to the confidential and exempt appraisal reports, offers, and counteroffers in a separate subsection. The strike-all amendment also removes a general provision that raised constitutional concerns.

² Section 119.15, F.S.