

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1315 CS

Department of Transportation

SPONSOR(S): Russell

TIED BILLS:

IDEN./SIM. BILLS: SB 1350 & HB 7077 CS

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N	Pugh	Miller
2) Fiscal Council	18 Y, 0 N	McAuliffe	Kelly
3) State Infrastructure Council	7 Y, 2 N, w/CS	Pugh	Havlicak
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The state of Florida has an estimated \$38 billion to \$48 billion backlog in state transportation infrastructure needs, and an unknown but likely significant backlog in county and municipal transportation projects.

HB 1315 w/CS potentially makes additionally funding available to pay for state and local transportation needs. The bill:

- Amends s. 338.227, F.S., the Florida Turnpike Enterprise’s revenue bond cap from \$4.5 billion in bonds issued to \$6 billion in bonds outstanding in order to pay for future planned toll projects. This change not only gives the Turnpike more immediate bond capacity, but creates a “line of credit” to issue more bonds as the Turnpike pays down its balance.
- Amends s. 212.0606, F.S., to allow counties to ask their voters to approve by referendum a \$2-a-day rental car surcharge on the first 30 days of a lease or certain rental agreements. This is in addition to the current statewide rental-car surcharge. Exempt from the local-option surcharge will be persons who rent vehicles because their personal vehicles are being repaired.
- Amends statutes governing the South Florida Regional Transportation Authority (SFRTA) to make a number of changes, including eliminating the contributions from the three counties that are within its jurisdiction – Broward, Miami-Dade, and Palm Beach – if a state-authorized, local-option funding source becomes available. This provision is intended to refer to the proposed local-option rental car surcharge, which if imposed in the three counties is projected to generate about \$45 million a year.

The bill has no immediate fiscal impact on state government. However, it appears to raise a mandates issue, and thus will need to include a statement of important state interest and pass the House and Senate by two-thirds vote. For a discussion, see “**III. A. 1. Applicability of Municipality/County Mandates Provisions**” below.

HB 1315 w/CS takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – HB 1315 w/CS places additional administrative responsibilities on the Department of Revenue (DOR) to collect and distribute the local-option rental-car surcharge, although the agency will receive a percentage of the surcharge revenues for those purposes.

Ensure lower taxes – HB 1315 w/CS potentially could implicate this principle because it provides counties with the authority to impose a local-option rental-car surcharge through a referendum. The bill also eliminates the statutorily authorized \$2 fee on initial and renewal registrations of vehicles, which has not been implemented, in Broward, Miami-Dade, and Palm Beach counties for the use of the SFRTA.

B. EFFECT OF PROPOSED CHANGES:

Turnpike Funding

Current Situation

A part of FDOT, the Florida Turnpike Enterprise (“Turnpike”) is a 450-mile system of limited-access toll highways. The Turnpike’s 2006-2010 Work Program is funded largely through revenue bonds, backed by toll revenues. According to FDOT, every \$1 in recurring toll revenues from the Turnpike can be leveraged to generate \$14 to pay for project costs.

Section 338.227, F.S., authorizes FDOT to issue bonds to pay all or a part of the legislatively approved turnpike projects, and s. 338.2275, F.S., limits the total amount of bonds that may be issued to \$4.5 billion. According to FDOT, nearly \$2.336 billion in Turnpike bonds have been issued over the years, leaving \$2.164 billion within the statutory cap to be authorized. However, the Turnpike’s long-range project plan through fiscal year 2010-2011 indicates that the estimated costs of the projects exceed the statutory bond cap by about \$950 million.

Section 339.135(3), F.S., requires FDOT to base its Five-Year Work Program on a “complete, balanced financial plan.” To comply with the law, the Turnpike will have to either eliminate or scale back proposed projects, adopt a “pay-as-you go” approach to financing future projects, or seek a change in law to raise the bond cap.

The Legislature last raised the Turnpike bond cap in 2003, from \$3 billion to \$4.5 billion.

Current Turnpike projects include completion of the Western Beltway, Part C; adding 150 lane miles through widening of the Turnpike System at a cost of nearly \$1 billion; adding four new interchanges and improving three other interchanges at a cost of \$200 million to improve access to the Turnpike System; and converting the Sawgrass Expressway to a fully electronic, open-road tolling facility and adding SunPass Express lanes at other locations.

Projects proposed for the Turnpike’s 2007-2011 Work Program, if the bond cap is increased, include nearly \$370 million for additional lanes on various sections of the Homestead Extension-Florida Turnpike (HEFT) and \$467 million for additional lanes along the Turnpike Mainline and the Veterans Expressway.

Potential future projects under review by Turnpike staff include another phase of the Suncoast Parkway; extensions of the Polk Parkway, State Road 417 in Volusia County, and the Sawgrass Expressway in Broward County to link with I-95; express lanes on the HEFT and the interstates; and the Port of Miami tunnel.

Effect of Proposed Changes

HB 1315 w/CS raises the cap on Turnpike bonds from \$4.5 billion to \$6 billion, and change the limitation to a maximum amount outstanding, in effect providing for a “line of credit” that the Turnpike can utilize for long-term planning.

FDOT staff has said this cap increase will allow the Turnpike to complete currently planned projects and to continue to build tolled facilities to handle future transportation needs.

Rental-car Surcharge

Current Situation

In 1989, the Legislature created s. 212.0606, F.S., to impose a statewide rental-car surcharge. The surcharge was initially levied at 50 cents per day upon the lease or rental of for-hire motor vehicles designed to carry fewer than nine passengers. The surcharge was increased to \$2 per day in 1990.

The surcharge was used initially to fund children and adolescent substance abuse programs and law enforcement needs, but has been amended in subsequent years to remove the initial funding uses and replace them with funding the state’s transportation needs, the state’s tourism promotion and marketing efforts, and the state’s international trade and promotion efforts. The actual distribution of the \$2 per day surcharge is: \$1.49 to the State Transportation Trust Fund; 29 cents to the Tourism Promotion Trust Fund; 8 cents to the Florida International Trade & Promotion Trust Fund; about 14 cents to the General Revenue Fund (7.3-percent service charge); and less than 1 cent to the Department of Revenue as an administrative charge.

The statewide rental-car surcharge is levied per day or any part thereof on the lease or rental of a motor vehicle licensed for hire and designed to carry fewer than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies only to the first 30 days of the term of any lease or rental. The surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

The Department of Revenue (DOR) is responsible for collecting and distributing monies collected under the rental car surcharge as well as enforcing its collection. According to DOR, the rental car surcharge is collected from 1,800 rental car dealers, of which 130 operate in more than one county.¹

Transportation Funding from the Rental-Car Surcharge

The distribution of monies placed in the State Transportation Trust Fund was amended in 2002 to require that beginning in FY 2007-08, the proceeds deposited from the rental-car surcharge would be allocated on an annual basis in FDOT’s work program to each of the seven transportation districts, except the Turnpike Enterprise. The amount allocated to each district must be based on the amount of proceeds collected in the counties within each respective district.²

The manner in which rental-car dealers reported surcharges was amended by the 2003 Legislature to authorize DOR to require dealers to report rental-car surcharge collections according to the county in which the surcharge was collected, in order to facilitate the allocation of surcharge revenues to each FDOT district. This requirement was authorized to begin January 1, 2004. The change in law was intended to help FDOT meet its statutory requirement that proceeds of the rental-car surcharge be allocated to each FDOT district for projects, based on the amount of proceeds collected in the counties within each respective district.³

¹ Conversation with JoAnn Sapolsky, General Tax Administration- Tax Compliance Coordinator, Department of Revenue

² See ch. 2002-20, L.O.F.

³ See ch. 2003-254, L.O.F.

Finally, prior to January 1, 2004, the majority of the rental-car surcharge collected was reported on consolidated returns by rental car companies with multiple locations and was not broken down by the amount of the surcharge collected on a county-by-county basis. In order to accommodate FDOT's five-year planning cycle, DOR provided an estimate of the rental-car surcharge based on sales tax returns. After January 1, 2004, the law required DOR to collect information on a county-by-county basis. Since that time, information has been collected on a form to accommodate the statutory requirement.

The seven FDOT districts range in size from two counties up to 18 counties. All counties with the exception of Glades and Lafayette collect rental-car surcharges, which are deposited into the State Transportation Trust Fund. In FY 2005, the counties responsible for the most surcharge revenue being deposited into the Trust Fund were Orange (\$30.9 million) in District 5, Broward (\$19.7 million) in District 4, Dade (\$18.2 million) in District 6, and Hillsborough (\$12.3 million) in District 7.⁴

Rental Car Surcharge Projections

The March 2006 Transportation Revenue Estimating Conference noted that the rental-car surcharge is showing some rebounding following the terrorist attacks on September 11, 2001. The rental-car surcharge forecast was increased by \$23.1 million, or 3.4 percent higher than in the November 2005 forecast. The complete rental-car surcharge collection forecast is as follows:

FY	State Transportation TF
2004-05	\$106.7 million
2005-06	\$111.2 million
2006-07	\$113.2 million
2007-08	\$115.1 million
2008-09	\$116.8 million
2009-2010	\$118.4 million
2010-2011	\$120.1 million
2011-2012	\$121.7 million
2012-2013	\$123.4 million
2013-2014	\$125.2 million
2014-2015	\$127.0 million
2015-2016	\$128.8 million

Source: Transportation Estimating Conference, March 2006

Effect of HB 1315 w/CS:

The bill amends s. 212.0606, F.S., to provide for the imposition of a local-option rental-car surcharge of \$2 per day or any part thereof. The local-option surcharge applies to motor vehicles licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state. The surcharge applies only to the first 30 days of each lease or rental.

Unlike the statewide law, the local-option surcharge will not apply to the lease or rental of a motor vehicle by a person for the period of time required to have a motor vehicle owned by the person undergo maintenance or repair. To be eligible for this exemption the individual must provide a receipt for the cost of the maintenance or repair services and documentation that he or she owns the motor vehicle undergoing maintenance or repair.

The local-option surcharge must be approved by the voters in a countywide referendum and can only take effect on January 1 following the year in which the ordinance was approved. A local-option surcharge may only be terminated on December 31 in a given year.

The proceeds of the local-option surcharge must be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of right-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in

⁴ Information provided by the Department of Revenue.

counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects.⁵ The proceeds are to be distributed on a monthly basis and shared by the county with municipalities pursuant to an interlocal agreement or if there is no interlocal agreement, the proceeds are to be distributed based upon a statutorily established formula.⁶

If a dealer who collects the local-option surcharge fails to report the surcharge collections by county, the surcharge proceeds will be deposited into the Solid Waste Management Trust Fund and then transferred to the Local Option Fuel Tax Trust Fund. Under these circumstances, the distribution formula is based on the most current population of each county levying the surcharge multiplied by the amount of funds in the account available for distribution.

HB 1315 w/CS requires DOR to collect, administer, enforce and distribute the local-option surcharge, as it similarly does for the statewide surcharge.

South Florida Regional Transportation Authority

Current Situation

In an attempt to ease the disruptions created for commuters while six-laning I-95 in the mid-1980s, the Florida Department of Transportation (FDOT) purchased an 81-mile rail corridor from CSX Transportation, Inc., (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. In 1989, the Legislature passed 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 enacted SB 686⁷, which amended ch. 343, F.S., to reconfigure the Tri-Rail Commuter Rail Authority as the "South Florida Regional Transportation Authority" (SFRTA). 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 SFRTA is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous statutory powers and responsibilities, including the power to acquire, sell, and lease property; to exercise the power of 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 SFRTA is governed by 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.

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

⁵ See s. 206.60, F.S.

⁶ See s. 336.025(3)(a)1. or (4)(a), F.S.

⁷ ch. 2003-159, L.O.F.

- 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 of at least \$1.565 million for operations. These local funding requirements are repealed if the SFRTA does not obtain federal matching funds by December 31, 2009. A fiscal analysis of the 2003 legislation indicated the \$2 fee for new and renewal registration would generate an estimated \$8 million annually; however, the fees have not been imposed.

Meanwhile, the SFRTA 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. About \$334 million of the project cost has been funded by the Federal Highway Administration through direct grants; FDOT paid the rest. All but two miles of the double-tracking has been completed, and the Authority recently added additional trains and introduced new schedules that have trains leaving the stations every 20 minutes during morning and evening rush hours.

Last year, the commuter train system was averaging about 8,000 riders a day, but the near-completion of the double-tracking, plus better on-time reliability and more scheduled runs, has boosted daily ridership averages in 2006 to nearly 10,000, according to this bill's supporters.

The SFRTA continues to seek a significant dedicated funding source to complete the commuter train system and to implement its long-range transit plans. Dedicated funding is necessary for the SFRTA to issue revenue bonds in order to obtain federal transit grants that typically require a 50-50 match. Under the state's participation in the federal "New Starts" transit program, a local match of 25 percent is required, while the state provides the 25 percent and the federal government 50 percent.

Effect of Proposed Changes

HB 1315 w/CS makes a number of significant changes to the South Florida Regional Transportation Authority Act in ch. 343, F.S. These changes are briefly described as follows:

- Clarifies that the three counties must dedicate and transfer not less than \$2.67 million annually to the SFRTA for capital expenditures prior to October 31 of each fiscal year.
- Raises from \$1.565 million annually to \$4.2 million annually the amount of money each of the three counties must contribute to the SFRTA to pay its operating expenses. This would generate an additional \$7.9 million annually for the SFRTA in operating funds.
- Deletes the \$2 fee on initial and renewal vehicle registrations within the three-county area. The fee, which must be approved by voter referendum, has not been approved in any of the counties.
- Specifies that at least \$45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade, and Palm Beach counties must be directed to the SFRTA to fund capital, operating, and maintenance expenses. This funding may be dedicated to the SFRTA only if all three counties impose it. A potential source of funding is the proposed local-option rental-car surcharge.
- Eliminates the operating and capital funding contributions from the three counties when the proposed \$45 million becomes available, but those local contributions would resume if the new funding ceases.
- Specifies that the state will not limit or alter the rights vested in the SFRTA to sell revenue bonds until all such bonds are paid off and discharged

- Extends by six years, to December 31, 2015, the date on which the local capital funding for the SFRTA ceases if no federal matching funds have been received. Section 343.58(1), F.S., which specifies the local capital funding sources, is repealed under that circumstance.
- Deletes obsolete phrases and makes clarifying changes. Key among them is deleting references to “commuter rail,” so that the SFRTA’s broader area of responsibility is to plan, develop, operate, and fund a transit system. This reflects the SFRTA’s plans to operate an integrated system of public transportation options.

C. SECTION DIRECTORY:

Section 1: Amends s. 338.2275, F.S., to change the Turnpike’s bond cap to \$6 billion of bonds outstanding. Deletes obsolete language.

Section 2: Amends s. 212.0606, F.S., relating to rental-car surcharges, authorizing counties to impose by ordinance a local-option surcharge on the lease or rental of motor vehicles. Provides for an exception. Establishes timeframes for ordinance enactment and duration; providing for use of proceeds. Provides for collection, distribution, administration, and enforcement of the local-option surcharge.

Section 3: Amends s. 343.54, F.S., to revise obsolete language.

Section 4: Amends s. 343.55, F.S., to provide that that state will not limit or alter this section related to SFRTA’s revenue bonds until all the bonds issued under this section are paid off and discharged.

Section 5: Amends s. 343.58, F.S., to modify timing of county contributions to the SFRTA. Deletes \$2 initial and renewal registration fee for vehicles registered in the three counties. Lays groundwork for SFRTA to receive certain, new local-option funding from the three counties. Raises the counties’ contributions to the SFRTA for operating expenses. Provides for cessation and resumption of county contributions. Extends repeal date to December 31, 2015 for county capital contributions

Section 6: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

As a state entity, the SFRTA could receive an additional \$7.9 million in operating funds each year because of the proposed increase in the current operating contributions made by the three counties, from \$1.565 million annually to \$4.2 million. If the proposed local-option rental-car surcharge becomes law, and Broward, Miami-Dade, and Palm Beach counties impose it, the SFRTA could receive at least \$45 million a year for all of its expenses, and under those circumstances, the existing dedicated sources of funding the three counties contribute would be repealed.

Also see “D. FISCAL COMMENTS” below for a discussion of the .

2. Expenditures:

See “D. FISCAL COMMENTS” below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact of the local-option rental-car surcharge provision of HB 1315 w/CS cannot be determined because it depends on local referenda before implementation. If all counties that generate statewide rental-car surcharge revenue were to approve the local-option surcharge, approximately \$113 million would be collected for use by the local governments.

2. Expenditures:

This bill's SFRTA provisions increase from \$1.565 million annually to \$4.2 million annually the amount of money Broward, Miami-Dade, and Palm Beach Counties each must contribute to the SFRTA to pay its operating expenses. If a state-authorized local-option recurring funding source – such as a local-option rental-car surcharge, becomes law and is implemented by the three counties, the existing dedicated sources of funding the three counties contribute to the SFRTA is repealed.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Under the local-option surcharge provisions of HB 1315 w/CS, individuals may be required to pay an additional \$2 per day for renting or leasing certain vehicles in counties where the local-option surcharge is imposed. DOR has commented that the inconsistency between the existing state rental car surcharge and the local-option surcharge relating to exemptions would cause bookkeeping problems for leasing companies.

More generally, if the SFRTA and local governments are able to obtain additional funding sources for transportation purposes, then motorists and commercial carriers may benefit due to access to more dependable transit alternatives, and to regional connector roads and less-congested arterial highways.

D. FISCAL COMMENTS:

HB 1315 w/CS raises the Turnpike's bond cap from an absolute \$4.5 billion in bonds to a limit of \$6 billion in bonds outstanding. That means as the Turnpike retires bond issues, it can issue more, as long as it doesn't exceed \$6 billion owed at any time. To the extent that additional Turnpike bonds are issued, they will have to be repaid. The Turnpike pledges toll revenues as debt service for the bonds it issues.

Any increase in the Turnpike bond cap will not impact the state of Florida's debt affordability index because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 1315 w/CS does not reduce the percentage of a state tax shared with counties or municipalities or reduce the authority that municipalities have to raise revenues. However, it does require three counties to expend additional funds than previously authorized to finance the SFRTA.

Article VII, s. 18(a) of the State Constitution provides that counties and municipalities may not be bound by any general law them to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and, among other options, the law is approved by two-thirds of the membership in each chamber. When the Legislature created the SFRTA in 2003 as ch. 2003-159, Laws of Florida, the legislation included the following statement:

"Section 11. The Legislature finds that a proper and legitimate state purpose is served in the effective and efficient planning and operation of a regional transportation

system. Therefore, the Legislature determines and declares that this act fulfills an important state interest.”

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The various agencies impacted by provisions in this bill appear to have sufficient existing rulemaking authority to implement the requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

HB 1315 w/CS may need an amendment expressing a legislative finding that the SFRTA still fulfills an important state interest.

Additionally, the Legislature may wish to clearly state within the amended s. 212.0606, F.S. that individuals seeking an exemption from the local-option rental-car surcharge must present to a rental-car agent at the time they are leasing vehicle any receipts or work-orders proving their personal vehicles are being repaired or undergoing other maintenance.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

State Infrastructure Council

At its April 21, 2006, meeting, the Council adopted one strike-all amendment to HB 1315 that:

- Incorporated the original Turnpike bond cap provision;
- Provided for the imposition of the \$2-a-day local-option rental-car surcharge; and
- Included the funding and technical changes to the SFRTA.

The council then voted 7-2 in favor of the bill as amended and reported it as a council substitute.