

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/CS/SB 1766

INTRODUCER: Governmental Oversight and Productivity Committee, Transportation Committee and Senator Sebesta

SUBJECT: Metropolitan Planning Organizations

DATE: April 26, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/4 amendments</u>
3.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	<u>WM</u>	_____
6.	_____	_____	_____	_____

I. Summary:

The bill addresses a number of transportation-related issues. Among its key provisions, the legislation:

- Clarifies Metropolitan Planning Organizations (MPOs) are separate and distinct legal entities;
- Provides autonomy to MPOs by requiring independent staff and granting specific powers and authority;
- Provides staff to the MPO eligibility to participate in the Florida Retirement System (FRS);
- Reclassifies the executive director of the Florida Transportation Commission (FTC) from the Select Exempt Service to Senior Management Service for purposes of salary and benefits;
- Allows an owner to withdraw property from a special road and bridge district;
- Provides for the creation of Regional Transportation Planning Organizations, specifies their membership, and provides an appropriation for one;
- Allows the Florida Department of Transportation (FDOT) to fund up to 80% of the non-federal share of certain airport and aviation development projects;
- Extends the authorization for FDOT to support public airports and provide grants for security-related projects;
- Implements numerous revisions to the Charter County Transit System Surtax.

This bill substantially amends sections 20.23, 112.061, 121.021, 121.051, 121.055, 121.061, 121.081, 212.055, 332.007, 339.155, 339.175, and 339.2819, of the Florida Statutes. The bill creates two unnumbered sections, and section 336.68 of the Florida Statutes.

II. Present Situation:

Metropolitan Planning Organizations

An MPO is a transportation policy-making organization made up of representatives from local government and transportation authorities. Federal law requires the formation of an MPO for any urbanized area with a population greater than 50,000 to ensure expenditures for transportation projects and programs are based on a continuing, cooperative and comprehensive planning process. The metropolitan planning area of the MPO encompasses the census-designated urbanized area and the adjacent area expected to become urbanized within 20 years. The purpose of the MPO is to provide a forum for coordinating transportation decision-making among the various state and local entities and to carry out various transportation planning elements including the development of the long-range transportation plan and the transportation improvement program (TIP). Larger MPOs (those in urbanized areas with over 200,000 in population) have additional planning responsibilities relating to congestion management and air quality.

Section 339.175, F.S., requires MPOs to develop plans and improvement programs consistent with the comprehensive plans of the local governments within the metropolitan planning area of the MPO. Both the long-range transportation plan and the TIP must consider the anticipated effects of transportation policy decisions on land use and land development. These plans must also weigh the degree of consistency with all available long and short-term land use plans. Local governments likewise must consider the MPO plans when developing their comprehensive plans. Similarly, FDOT uses the MPOs' TIPs to create the work program.

There are 26 MPOs in Florida (more than any other state except Texas) administering the transportation planning process for 28 urbanized areas (as defined by the U.S. Census Bureau). As recently as the 1990 Census, almost all of Florida's urbanized areas were contained within county boundaries. However, the 2000 Census showed urbanized areas growing, merging, crossing county boundaries, and in some cases encroaching into adjacent metropolitan planning area boundaries. The designation of urbanized areas by the U.S. Census Bureau is made without deference to jurisdictional boundaries. Instead, the designation relies upon the observed pattern of land use and intensity of development to identify concentrated generators and attractors of socio-economic activity. For the most part, an urbanized area's socio-economic activity is unaffected by political boundaries. This is borne out through travel patterns; drivers are unconcerned and often unaware when their daily travels result in crossing jurisdictional boundaries.

Accordingly, the Legislature has endeavored to enhance regional transportation planning in recent years. In 2003, the Legislature passed SB 676 which recognized the need to maximize the efficient use of increasingly scarce state resources and clarified the FDOT's responsibilities in serving all transportation modes. Specifically, SB 676:

- Created the Statewide Intermodal System (SIS) comprising transportation facilities of statewide and interregional significance, and directed the FDOT to develop an implementation plan;
- Directed the FTC to conduct an assessment of the need for an improved philosophical approach to regional and intermodal input in the planning for and governing of the Strategic Intermodal System and other transportation systems; and

- Directed MPOs to develop coordination mechanisms with one another to expand and improve transportation within the state.

Responding to the Legislature's direction in SB 676, the FTC prepared the report "An Assessment of Florida's Regional and Intermodal Transportation Planning Process" (December, 2003). Based on an analysis of the transportation planning process in Florida and the best practices of MPOs around the nation, the report identified three key elements of Florida MPOs requiring attention: MPO boundaries, MPO staffing arrangements, and MPO voting membership.

Seven Florida MPOs administer the transportation planning process for more than one county. Fifteen MPOs contain more than one census-defined urbanized area, in whole or in part. Several counties have portions of two or more urbanized areas within their county boundaries. Fourteen MPOs are staffed by employees of a local government (13 county, 1 city). Five MPOs are staffed by employees of Regional Planning Councils. Four MPOs are independent agencies, and two are staffed by independent local planning departments or agencies.

Transportation Regional Incentive Program

In 2005, SB 360 created s. 339.2819, F.S., to establish the Transportation Regional Incentive Program (TRIP) for the purpose of providing funds to improve regionally significant facilities in regional transportation areas. State funds are available throughout Florida to provide incentives for local governments and the private sector to help pay for critically needed projects that benefit regional travel and commerce. The FDOT will pay for 50 percent of project costs, or up to 50 percent of the nonfederal share of project costs for public transportation facility projects.

Discretionary Sales Surtaxes

Section 212.055, F.S., authorizes counties to impose seven local discretionary sales surtaxes (taxes) on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, and admissions. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. This \$5,000 cap does not apply to the sale of any other service. The Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections received by the department are returned monthly to the county imposing the tax.

The tax rates, duration levied, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. Table 1 identifies the seven taxes, the rate limits, and the number of counties authorized to impose and the number imposing the tax. The maximum combined rate for the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, is 1 percent. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax is 2.5 percent. The School Capital Outlay Surtax is capped at 0.5 percent, and is not included in these tax rate caps.

TABLE 1			
Local Discretionary Sales Surtaxes			
TAX	AUTHORIZED LEVY (%)	NUMBER OF COUNTIES AUTHORIZED TO LEVY TAX	NUMBER OF COUNTIES LEVYING TAX
Charter County Transit System Surtax	up to 1%	7	2
Local Government Infrastructure Surtax	0.5% or 1%	67	21
Small County Surtax	0.5% or 1%	31	25
Indigent Care & Trauma Center Surtax	up to 0.5%	5	1
County Public Hospital Surtax	0.5% (Miami-Dade County)	1	1
School Capital Outlay Surtax	up to 0.5%	67	16
Voter-Approved Indigent Care Surtax	0.5% or 1%	60	2

Source: 2006 Florida Tax Handbook, Including Fiscal Impact of Potential Changes

Charter County Transit System Surtax

The Charter County Transit System Surtax was created by the Legislature in 1976 to allow charter counties to levy a maximum 1 percent sales surtax to finance development, construction, and operation of fixed guideway, rapid transit systems. Subsequent amendments to the statute expanded the permitted use of the revenues to finance additional types of transportation infrastructure in addition to fixed guideway systems, including:

- operation and maintenance of bus systems
- development, construction, operation, or maintenance of roads or bridges
- expressway or transportation authorities, or
- pledged revenues for road or bridge construction bonded debt.

Under current law, the surtax may only be levied upon approval of a majority of the county electorate. In addition, only counties which have adopted a charter prior to January 1, 1984, may seek to levy the surtax. Seven counties are eligible to levy the surtax: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota and Volusia. Only two counties have levied the surtax: Duval (since 1989), and Miami-Dade (since 2003). Each county levies a half-cent sales surtax. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax is 2.5 percent.¹ According to the DOR, in FY 2005 the surtax in those two counties generated \$211,204,032.

¹ In addition to the Charter County Transit System Surtax, the seven charter counties are eligible to levy the Local Government Infrastructure Surtax at 0.5% or 1% and the Indigent Care & Trauma Center Surtax up to 0.5%. (Miami-Dade imposes the 0.5% Public Hospital Surtax in lieu of this surtax.) The maximum rate excludes the School Capital Outlay Surtax.

Some county and city officials in recent years have expressed an interest in having the surtax eligibility broadened beyond charter counties. They have cited rising costs of transportation construction materials and labor, the state's new emphasis on regional transportation solutions, and required local matches for new state transportation funding programs such as the Transportation Regional Incentive Program as reasons they support broadening the surtax.

Florida Transportation Commission

Section 20.23, F.S., creates the FTC to provide oversight of FDOT and makes transportation policy recommendations to the Governor and Legislature. Currently, the four employees of the FTC are classified as Selected Exempt Service personnel for the purposes of salary and benefits.

General Aviation Airport Funding Match

Florida has at least 83 general aviation, or community airports that provide a number of aviation-related services to their communities, but do not offer scheduled commercial flights. State law allows FDOT to provide half of the local share of general aviation airport (GAA) project costs when federal funding is available as a 50-percent federal/50-percent local match. However, many small GAAs and their local governments can not afford to pay the required 25-percent local match, according to FDOT staff, so the federal grant is rejected. Those funds then are likely spent in another state. If the GAA project is a priority, FDOT then pays the majority of the cost from state aviation funds.

Airport Security Funding

Section 332.007, allows FDOT to provide operational and maintenance assistance to publicly owned public-use airports. Funding provided is used to comply with enhanced federal security requirements stemming from the September 11, 2001 terrorist attacks.

The Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income and disability benefits to the more than 600,000 employees and 225,000 beneficiaries of its more than 800 state, county, municipal, and independent district public employers. The default choice in the FRS is a defined benefit, or percent of final pay pension arrangement, in which a final benefit is calculated on the basis of service, retirement class factor, and the average of the best five years' salary. Since 2001, the FRS has permitted employees to select a defined contribution alternative in which employees own and actively manage the contributions to their individual account. Both choices are accompanied by equivalent disability benefits for service and non-service related illness or injury. Retirees from either plan are also permitted to receive a contribution from a separate account to subsidize payment of health insurance premiums.

Senior Management Service Class

The SMSC was established effective February 1, 1987, in order to attract highly qualified individuals to the top policy-making managerial positions in state government. Members of the SMSC have a normal retirement age of 62, but they earn a higher accrual value than do members of the FRS Regular Class. Senior managers whose positions have been added to the class in subsequent years can purchase (or their employers can purchase for them) additional retirement credit for service within the purview of the class retroactive to February 1, 1987. With certain

exceptions, state SMSC members can also choose to withdraw from the FRS and participate instead in the Senior Management Service Optional Annuity Program, which offers immediate vesting. Local agency SMSC members, including community college presidents, city and county managers, and appointed district school superintendents, may elect to withdraw from the FRS altogether.

III. Effect of Proposed Changes:

Section 1 amends s. 112.061, F.S., to allow MPOs to establish per diem and travel reimbursement rates in the manner afforded to counties, district school boards, and special districts.

Sections 2 through 6 revise sections of ch. 121, F.S., to enable MPO employees to participate in the Florida Retirement System. Section 121.055, F.S., is amended to require the executive director or staff director of each MPO to be a member of the Senior Management Service Class within the Florida Retirement System.

Section 7 creates s. 336.68, F.S., which provides that a landowner may withdraw property from a special road and bridge district, if:

- the property has not received improvements or benefits from the district;
- there is no bonded indebtedness of the district for which the property is subject to tax levies;
- withdrawal of the property does not create an enclave;
- the property owner files a detailed certificate of withdrawal in all relevant counties; and
- the property owner provides a copy of the recorded certificate to the special road and bridge district.

If the district does not object, the withdrawal is deemed final, and the property is withdrawn from the boundary of the district.

Section 8 amends s. 339.155, F.S., by providing for the creation of Regional Transportation Planning Organizations (RTPO). The bill will enhance the TRIP incentive by offering a 75/25 state/local match for projects which have been included in a regional transportation plan developed by a RTPO. An RTPO would consist of representatives of the various transportation and economic development interests in the region rather than just county and MPO officials, and would advise the department regarding the programming of regional transportation projects within the area. Members would not be compensated, but would be entitled to reimbursement for travel expenses.

The bill provides for the formation of RTPOs in any census-designated urbanized area with 1 million or more population. Currently, these areas are Jacksonville, Tampa-St. Petersburg, Orlando, and the Miami-Ft. Lauderdale-West Palm Beach area. Representatives of an RTPO must include at least each of the following:

- one representative from the MPOs serving the urbanized area.
- one representative from the public economic development agencies in the area.
- one representative from the private economic development agencies in the area.
- one representative from the affected public transit providers as defined in ch. 341.
- one representative from the affected SIS-designated airports within the region.

- one representative from the affected SIS-designated seaports within the region.
- one representative from the affected SIS-designated rail lines within the region.
- one representative from the affected expressway authorities created under ch. 348.
- the FDOT district secretary for each district within the region, and the executive director of the Turnpike Enterprise.
- the chair of the local legislative delegation.

Additional members and areas could be added with the concurrence of the RTPO and the additional entity.

Proposed Tampa Bay Area Regional Transportation Planning Organization

The bill creates a Tampa Bay area RTPO for Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties, identifying 13 members from specific Bay Area entities.

- A representative of the chair's coordinating committee (CCC)
- A representative of the Tampa Bay Partnership
- The district secretaries, or his or her designee, for FDOT Districts One and Seven.
- The executive director of the Turnpike Enterprise or his or her designee.
- A representative of the Tampa Bay Commuter Transit Authority.
- A representative of the Tampa-Hillsborough County Expressway Authority.
- A representative of the Tampa Bay Regional Planning Council.
- A representative collectively representing the interests of Tampa International Airport, St. Petersburg/Clearwater Airport, and Sarasota/Bradenton International Airport.
- A representative collectively representing the rail interests in the region.
- A representative collectively representing the governing boards of the Port of Tampa, Port Manatee, and Port of St. Petersburg.
- A representative collectively representing the public economic development agencies of the affected counties.
- The chair of the Bay Area Legislative delegation.

Like the general provisions, additional members and areas could be added with the concurrence of the RTPO and the additional entity.

Section 9 appropriates \$100,000 in nonrecurring general revenue for the purpose of funding the Bay Area Regional Transportation Planning Organization for fiscal year 2006-2007.

Section 10 amends s. 339.2819, F.S., to provide that the percentage of matching funds provided by the TRIP can be 75 percent of project costs, for those projects identified in a regional transportation plan developed by a RTPO.

Section 11 amends s. 339.175, F.S., to:

- Establish the independence of MPOs, separate and distinct from any county, municipality, or other entity.
- Require the governing board of the MPO to designate a chair and vice chair from the board. An agency clerk, responsible for recording minutes and agency actions, must also be designated. The agency clerk may be a member of the governing board, an employee of the MPO, or other person.

- Specify the elected officials eligible for voting membership on the MPO must be from local government, excluding sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of court, and other constitutional or charter officers.
- Provide for a process used to appoint alternate members to the MPO and non-voting representatives of major military installations.
- Require each MPO to have an executive director who reports directly to the MPO governing board.
- Provide for the training of local elected officials regarding the transportation planning process for urbanized areas.
- Require a super majority recorded roll call vote or show of hands to approve the TIP.

Section 12 directs the FTC to conduct a study of the MPOs' progress in improving coordination with other MPOs in the metropolitan transportation planning process. The report is to be submitted by January 15, 2007.

Section 13 amends s. 20.23, F.S., to specify the salary and benefits of the commission's executive director position shall be based on the Senior Management Service classification. Other FTC employees remain in the Selected Exempt Service classification.

Section 14 amends s. 332.007, F.S., to allow FDOT to apply federal GAA grant funds to an eligible project, and then split the remaining cost on an 80-percent state/20-percent local matching basis. This would enable the state to use federal aviation grant funding first before state funds are used. This allows the maximum amount of federal funds to be used and frees up state aviation funding for other projects.

Section 15 amends subsection (8) of s. 332.007, F.S., extending the June 30, 2007 expiration date for the subsection, which would allow FDOT to provide operational and maintenance assistance to publicly owned public-use airports until June 30, 2012.

Section 16 amends s. 212.055(1), F.S., to rename the Charter County Transit System Surtax as the "Charter County Transportation System Surtax." The bill provides that a proposal to levy such a surtax may be placed on the ballot pursuant to initiative petition, if provided for in the county's charter. The bill also expands the allowable uses of surtax revenues to include the following:

- A regional transportation project identified in regional transportation plans developed pursuant to s. 339.155(5), F.S.;
- As the local match for the new Transportation Regional Incentive Program, pursuant to s. 339.2819, F.S., or the New Starts transit program, pursuant to s. 341.051, F.S.; and
- Certain capital improvement projects and long-term concurrency management projects identified in local comprehensive plans.

The bill also creates a new paragraph (8), authorizing *all counties* to levy, pursuant to an ordinance enacted by a majority of the members of the county governing authority and subject to approval by a majority vote of the electorate of the county, a County Transportation System Surtax. The bill provides for the distribution of proceeds from the maximum 1 percent sales

surtax to counties and eligible municipalities by interlocal agreement, or in the absence of an interlocal agreement, through a prescribed distribution formula. The formula apportions the revenues using equally weighted proportions of population in the counties and cities and centerline miles of roads owned and maintained by the counties and cities. The bill also specifies the allowable uses for surtax proceeds. The allowable uses are identical to those established in the Charter County Transportation System Surtax.

The bill will affect the maximum combined rates for discretionary sales surtaxes. The maximum combined rate for the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, would be 2 percent. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate would be 2.5 percent. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax would remain 2.5 percent.

Section 17 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The CS authorizes all counties to levy the County Transportation System Surtax up to the rate of 1 percent. Counties that are not at their maximum surtax rates could levy this surtax by referendum.

B. Private Sector Impact:

Should a county enact the County Transportation System Surtax, consumers in that county would be subject to an additional tax of up to one percent on the first \$5,000 of a large number of goods and services.

C. Government Sector Impact:

The provisions relating to the Florida Retirement System and Senior Management Service will result in indeterminate fiscal impacts to the State.

There is an appropriation of \$100,000 in nonrecurring general revenue for the purpose of funding the Bay Area Regional Transportation Planning Organization for fiscal year 2006-2007.

If every county could levy the County Transportation System Surtax at the maximum rate of 1 percent, revenues raised statewide would equal an estimated \$2,912,858,632. Individual estimates for counties levying the surtax are shown in the following table:

Estimated Revenues (\$) from 1% Local Sales Tax			
Based on Local Fiscal Year Ending Sept. 30, 2006			
ALACHUA	35,902,742	LEE	106,773,637
BAKER	1,454,975	LEON	38,851,560
BAY	29,510,485	LEVY	3,149,204
BRADFORD	1,850,849	LIBERTY	245,507
BREVARD	69,633,423	MADISON	890,459
BROWARD	279,390,253	MANATEE	47,345,172
CALHOUN	654,449	MARION	44,066,838
CHARLOTTE	25,322,645	MARTIN	28,329,748
CITRUS	12,276,285	MIAMI-DADE	356,314,045
CLAY	18,482,779	MONROE	26,155,200
COLLIER	64,714,314	NASSAU	7,359,886
COLUMBIA	7,542,107	OKALOOSA	35,065,692
DE SOTO	2,553,814	OKEECHOBEE	5,055,158
DIXIE	817,426	ORANGE	326,260,793
DUVAL	142,337,281	OSCEOLA	38,873,008
ESCAMBIA	46,839,882	PALM BEACH	239,446,012
FLAGLER	8,016,804	PASCO	41,561,064
FRANKLIN	1,571,466	PINELLAS	133,759,578
GADSDEN	2,791,983	POLK	71,379,643
GILCHRIST	551,651	PUTNAM	5,838,763
GLADES	350,983	SAINT JOHNS	22,779,219
GULF	1,040,088	SAINT LUCIE	29,518,916
HAMILTON	546,403	SANTA ROSA	12,556,528
HARDEE	1,766,491	SARASOTA	68,710,911
HENDRY	3,160,307	SEMINOLE	68,078,347
HERNANDO	14,355,450	SUMTER	6,093,389
HIGHLANDS	11,134,257	SUWANNEE	3,036,663
HILLSBOROUGH	206,627,031	TAYLOR	1,921,778
HOLMES	737,827	UNION	502,033
INDIAN RIVER	23,607,270	VOLUSIA	75,309,416
JACKSON	4,358,839	WAKULLA	1,502,051
JEFFERSON	421,802	WALTON	10,926,497
LAFAYETTE	290,917	WASHINGTON	1,593,215
LAKE	32,995,421	STATEWIDE	2,912,858,632

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
