

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: Community Affairs Committee

BILL: SB 2080

INTRODUCER: Senator Geller

SUBJECT: Regional Transportation Authorities

DATE: April 20, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 2080 amends s. 120.52, F.S., to include regional transportation authorities created in ch. 343, F.S., in the list of governmental bodies not considered an agency of the state for the purposes of ch.120, F.S., the Administrative Procedure Act.

This bill substantially amends section 120.52 of the Florida Statutes.

II. Present Situation:

Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act (APA), provides the process by which agencies must adopt rules. These methods provide for public notice of agency intent to adopt a rule and for intervention by persons substantially affected by the decision to implement that rule. Chapter 120, F.S., also controls administrative dispute resolution procedures in cases when the effect on a person's substantial interests regarding the enforcement of an administrative decision or an application of a rule must be determined. For purposes of the APA, "Agency," as defined in s. 120.52, F.S., means:

- The Governor;
- State officers;
- Each department, authority, board, commission, regional planning agency, multicounty special district with a majority of its governing board composed of non-elected persons, educational unit, and entities described in chapters 163, 373, 380, and 582 and s. 186.504; and

- Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

The definition expressly excludes any legal entity or agency created in whole or in part pursuant to chapter 361, part II, F.S. (Joint Electric Power Supply Projects), an expressway authority pursuant to chapter 348, F.S., any legal or administrative entity created by an interlocal agreement, unless any party to such agreement is otherwise an agency as defined in the section, or any multi-county special district with a majority of its governing board comprised of elected persons. The definition expressly includes a regional water supply authority. Regardless of whether an agency is subject to the APA, that agency still must provide notice of its intent to act when its actions impact the substantial interest of a person and that agency must provide due process when its actions compel action on the part of a person or that person desires to challenge that decision.

Administrative hearings involving disputed issues of fact are generally referred to the Division of Administrative Hearings (DOAH), an independent group of administrative law judges (ALJs) who hear cases involving most state agencies. The DOAH's ALJs also determine whether proposed and existing agency rules are invalid exercises of delegated legislative authority based on certain statutory grounds, and based on constitutional grounds in the case of proposed rules. DOAH proceedings are conducted like nonjury trials and are governed by ch. 120, F.S., and the rules adopted to implement those statutory provisions.

Regional Transportation Authorities (Ch. 343, F.S.)

Two regional transportation authorities and two other authorities are created under ch. 343, F.S:

South Florida Regional Transportation Authority

The SFRTA coordinates transit and commuter rail planning in the three participating counties of Miami-Dade, Broward, and Palm Beach. The SFRTA was created in 2003, when the Legislature passed SB 686 which re-established the Tri-County Commuter Rail Authority as the SFRTA to provide a coordinated transportation system within the three counties in order to relieve traffic congestion and move residents and tourists more efficiently throughout the area. In addition, it was believed a single organization would improve the ability to draw down federal matching dollars for public transit, rather than competing for the funds separately.

Although the Tri-Rail commuter rail system remains the authority's primary focal point, the SFRTA is empowered to construct, finance, and manage a variety of public transportation options as an integrated system. The SFRTA 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 comprising:

- 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, i.e., 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.

Unlike many other parts of the country where the Metropolitan Planning Organization (MPO) is a regional transportation planning and funding organization, South Florida's MPOs are county-based. Comprised of city and county elected officials, the Broward, Miami-Dade, and Palm Beach County MPOs are responsible for prioritizing funding for transportation projects and ensuring conformance with federal and state laws and regulations. In 2003, the Legislature exempted MPOs from the definition of the term "agency" for the purposes of ch. 120, F.S.

Central Florida Regional Transportation Authority (LYNX)

The Central Florida Regional Transportation Authority was created in 1972 and has undergone a number of transformations in the last 40 years. Popularly known as "LYNX," the Authority provides fixed-route public bus service; a door-to-door van service called A+ Link for medically qualified and other eligible passengers; shuttle service to special community events; commuter assistance with matching riders to car pools; and "Road Rangers" who provide roadside assistance to disabled vehicles on I-4. Based on information in the National Transit database, LYNX revenues include at least \$17 million in fares; local, state and federal transit grants are other revenue sources. LYNX 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 5-member board including:

- the chairs of the Seminole, Orange and Osceola county commissions, or another member of the commission designated by the county chair;
- the mayor of the city of Orlando, or a member of the Orlando City Council designated by the mayor;
- and the FDOT district secretary, or his or her designee, for the district within which the area served by the authority is located.

METROPLAN Orlando is the MPO for Orange, Osceola and Seminole Counties – the Orlando Urban Area. As the regional MPO, METROPLAN Orlando provides the forum for local elected officials and transportation experts to work together to improve mobility for Central Florida residents, businesses and visitors. Like all MPOs in Florida, METROPLAN Orlando is exempted from the definition of the term “agency” for the purposes of ch. 120, F.S.

Other Authorities in Ch. 343

Tampa Bay Commuter Transit Authority (TBCRA)

The Tampa Bay Commuter Transit Authority was created by the Florida Legislature in 1990 for the purposes of developing and operating a commuter rail or ferry system. The TBCRA 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’s board comprises elected and citizen representatives from Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties, as well as the affected Florida Department of Transportation (FDOT) District Secretaries or their designees, and an appointee of the Governor. Representatives from each of the seven counties’ local transit authorities serve as ex officio members.

The authority has directed some organizational work and feasibility studies; however, the authority has been dormant for several years due to a lack of consensus among local authorities regarding the funding of a system, routes and design features.

Northwest Florida Transportation Corridor Authority (NFTCA)

The NFTCA was created by the Legislature in 2005 to improve mobility, traffic safety, and economic development along the U.S. 98 corridor stretching through Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla counties. Another goal of the Authority is to identify and develop hurricane evacuation routes. The NFTCS is to adopt a master plan by July 1, 2007, which:

- identifies areas of the corridor where mobility, traffic safety, and efficient hurricane evacuation need to be improved;
- evaluates the economic development potential of the corridor and considers strategies to develop that potential;
- identifies methods of building partnerships with local governments, other state and federal entities, the private-sector business community, and the public in support of corridor improvements; and
- identifies projects that will accomplish these goals and objectives.

The NFTCA has numerous powers and responsibilities including the power:

- to build and maintain highways and other transportation facilities within the U.S. 98 corridor that will help meet its statutory goals;
- to issue revenue bonds, either on its own or through the state Division of Bond Finance.
- to set and collect tolls, fees, and other charges;
- acquire land by purchase, donation, or eminent domain;
- borrow money;
- to sue and be sued;
- enter into contracts, agreements, and partnerships;
- to enter into lease-purchase agreements with FDOT to manage the U.S. 98 Corridor System,
- to enter into public-private partnerships to construct, operate, own, or finance transportation facilities that are part of the system.

The governing board is composed of a resident from each of the eight counties, to be appointed by the governor to 4-year terms. The FDOT District 3 secretary serves as an ex-officio, non-voting member.

III. Effect of Proposed Changes:

Section 1 amends s. 120.52, F.S., to include regional transportation authorities created in ch. 343, F.S. in the list of governmental bodies not considered an agency of the state for the purposes of ch.120, F.S., the Administrative Procedures Act.

Section 2 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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill seeks to exempt “a regional transportation authority pursuant to ch. 343,” from the definition of “agency” as it applies to the Administrative Procedure Act, ch. 120, F.S. Two regional transportation authorities are created in ch. 343, F.S., and would clearly be exempted from the definition of “agency” in ch. 120, F.S. However, two other authorities with regional transportation powers and responsibilities (the Tampa Bay Commuter Transit Authority and the Northwest Florida Transportation Corridor Authority) are also created under ch. 343. It is unclear whether these other authorities would also be exempted from the definition of “agency” in ch. 120, F.S.

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.
