

The Florida Senate
PROFESSIONAL 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 Operations Committee

BILL: CS/CS/SB 506

INTRODUCER: Governmental Operations Committee and Transportation Committee and Senator Fasano

SUBJECT: Tampa Bay Regional Transportation Authority

DATE: March 29, 2007

REVISED: _____

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

I. Summary:

The committee substitute (CS) creates a new Part V of ch. 343, F.S., to establish the Tampa Bay Regional Transportation Authority (TBRTA) as an agency of the state to improve mobility and expand multimodal transportation options for passengers and freight in the seven-county Tampa Bay region. The CS provides authority board membership requirements, powers and duties, including eminent domain and bonding authority. Bonds shall not pledge the full faith and credit of the state. The CS requires the TBRTA to adopt a regional transportation master plan by July 1, 2009.

This bill creates the following sections of the Florida Statutes: 343.90, 343.91, 343.92, 343.922, 343.94, 343.941, 343.943, 343.944, 343.945, 343.946, 343.947, 343.95, 343.96, 343.962, 343.97, 343.973, and 343.975.

II. Present Situation:

Four transportation authorities are created under ch. 343, F.S. Three of the authorities, the Tampa Bay Commuter Transit Authority (TBCTA), the South Florida Regional Transportation Authority (SFRTA), and the Central Florida Regional Transportation Authority (LYNX) are primarily focused on the development, operation, and maintenance of public transit systems. The Northwest Florida Transportation Corridor Authority (NFTCA) is primarily focused on highway and bridge development.

Tampa Bay Commuter Transit Authority (TBCTA)

The TBCTA was created by the Florida Legislature in 1990 for the purposes of developing and operating a commuter rail or ferry system in the Tampa Bay area. The TBCTA has numerous powers and responsibilities, including the power to:

- acquire, sell, and lease property;
- use eminent domain;
- enter into purchasing agreements and other contracts;
- enforce collection of system rates, fees, and other charges; and
- 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 TBCTA 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.

South Florida Regional Transportation Authority (SFRTA)

The SFRTA coordinates transit and commuter rail planning in the three participating counties of Miami-Dade, Broward, and Palm Beach. 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;
- use eminent domain;
- enter into purchasing agreements and other contracts;
- enforce collection of system rates, fees, and other charges; and
- approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The SFRTA 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 SFRTA's boundaries;
- Two citizens, who are registered voters, appointed by the Governor, and who live in different counties within the SFRTA's jurisdiction, but not the same county as the FDOT district secretary.

Central Florida Regional Transportation Authority (LYNX)

Popularly known as “LYNX,” the Central Florida Regional Transportation Authority provides fixed-route public bus service; a door-to-door van service 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. LYNX has numerous powers and responsibilities, including the power to:

- acquire, sell, and lease property;
- use eminent domain;
- enter into purchasing agreements and other contracts;
- enforce collection of system rates, fees, and other charges; and
- approve revenue bonds issued on its behalf by the State Division of Bond Finance.

LYNX has a 5-member board including the:

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

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 NFTCA is to identify and develop hurricane evacuation routes. The NFTCA 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;
- issue revenue bonds, either on its own or through the state Division of Bond Finance.
- set and collect tolls, fees, and other charges;
- acquire land by purchase, donation, or eminent domain;
- borrow money;

- sue and be sued;
- enter into contracts, agreements, and partnerships;
- enter into lease-purchase agreements with FDOT to manage the U.S. 98 Corridor System; and
- 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.

The *Pinellas Suncoast Transit Authority* (PSTA) is an independent authority governed by a Board of Directors composed of elected officials and private citizen appointees. PSTA serves Pinellas County with the exception of Kenneth City, Bellair Shores, Treasure Island, and St. Pete Beach. PSTA provides fixed-route motorbus service and demand-response service.

Hillsborough Area Regional Transit (HARTline) is an independent authority governed by an eleven-member Board of Directors. The authority serves the transit needs for Hillsborough County, excluding Plant City. HARTline provides fixed-route motorbus service, light rail (streetcar) service, and para-transit service, and contracts to provide vanpool service.

West Central Florida Metropolitan Planning Organization (MPO) Chair's Coordinating Committee

Section 339.175(5)(h), F.S., creates the chair's coordinating committee (CCC) for the West Central Florida region composed of the MPOs of Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. In addition, Citrus County, FDOT District Secretaries (District 1 and District 7) and the Regional Planning Councils are represented on the CCC in a non-voting capacity. The CCC is the state's only statutorily-defined regional partnership of MPOs and has been instrumental in the development of a regional long range transportation plan and the coordination of other transportation planning products; however, each member MPO continues to develop an individual long-range transportation plan and separate list of project priorities.

The CCC meets quarterly and has, as a minimum, the following four functions:

- Coordinate transportation projects deemed regionally significant by the committee;
- Review the impact of regionally significant land use decisions;
- Review all proposed regionally significant transportation improvement programs affecting more than one of the represented MPOs;
- Institute a conflict resolution process for the planning and programming of regionally significant projects.

III. Effect of Proposed Changes:

The CS creates Part V of Chapter 343 to establish the Tampa Bay Regional Transportation Authority (TBRTA) as "the body politic and corporate and agency of the state" to improve

mobility and expand multimodal transportation options for passengers and freight in the seven-county Tampa Bay region.

The TBRTA Board comprises the following 15 voting members:

- Seven elected officers appointed by each of the Boards of County Commissioners of
 - Citrus;
 - Hernando;
 - Hillsborough;
 - Manatee;
 - Pasco;
 - Pinellas; and
 - Sarasota Counties
- A member of the West Central Florida CCC;
- The mayor or mayor's elected designee of the largest city served by the PSTA;
- The mayor or mayor's elected designee of the largest city served by HARTline;
- The mayor or mayor's elected designee of the largest city in Manatee County. (After two years the mayor or designee of the largest city in Sarasota County shall be the board member. The seat rotates between these counties every two years.); and,
- Four non-elected persons appointed by the Governor representing business, two of which must represent counties within the Tampa Bay Transportation Management Area.

The District Secretaries of FDOT Districts One and Seven serve as ex officio, non-voting members.

Board members who are elected officials are appointed to two year terms and may be subsequently reappointed to serve no more than three consecutive terms. Gubernatorial appointees may not serve more than two consecutive 3-year terms. Any appointment may be staggered to preclude mass turnover of the board.

Members of the TBRTA board will serve without compensation, but may be reimbursed for travel and per diem expenses incurred in connection with official duties. Members must comply with financial disclosure requirements. The board may employ staff and agents. The powers of the board, except for those specified in the Administrative Procedure Act, may be delegated to an employee or agent subject to supervision of the board.

The TBRTA has the right to plan, develop, finance, construct, own, purchase, operate, maintain, relocate, equip, repair, and manage transportation projects intended to address critical transportation needs or concerns as identified in an adopted regional transportation master plan, such as:

- express bus services;
- bus rapid transit services;
- light rail, commuter rail, heavy rail, or other transit services;
- ferry services;

- transit stations;
- park and ride lots;
- transit-oriented development nodes;
- feeder, reliever, or connector roads;
- bypasses; or
- appurtenant facilities.

The adoption of the master plan, which is required by July 1, 2009, is not subject to rulemaking under ch. 120, F.S. The master plan is to be updated every 2 years and presented to the governing bodies of the seven-county region and to the legislative delegation members representing those counties, as well as the CCC.

Any project may be tolled if the tolling technology is consistent with that employed by the Florida Turnpike Enterprise. Projects that will be part of the State Highway System require the concurrence of the FDOT. All project planning, development, and implementation must be coordinated with the applicable adopted local government comprehensive plans and may be financed from state infrastructure bank loans and advances from the Toll Facilities Revolving Trust Fund and other sources. Projects are not eligible for financing through the Transportation Regional Incentive Program except through interlocal agreement with an eligible recipient.

The TBRTA is granted numerous powers and duties necessary to improve mobility and expand transportation options in the seven-county Tampa Bay region including, but not limited to the power to:

- exercise eminent domain;
- establish and collect tolls, fares, and fees on TBRTA roads and other facilities within the region;
- enter lease-purchase agreements with FDOT; and
- borrow money and issue revenue bonds.

The TBRTA may not pledge the credit or taxing power of the state and no obligations of the authority may be deemed to be an obligation of the state. Bonds may be issued on behalf of the TBRTA by the Division of Bond Finance under the State Bond Act, or may be issued by the TBRTA directly. No bonds may pledge the full faith and credit of the state, nor may any bond exceed a 40-year maturation.

The TBRTA may also participate in public-private partnerships with private entities for the building, operation, ownership, or financing of transportation facilities within the region, if the project:

- is in the public's best interest;
- would not require state funds unless the project is on or provides increased mobility on the State Highway System; and
- includes safeguards against the public realizing additional costs or unreasonable service disruptions in the event of default or cancellation by the authority.

A private entity engaged in a public-private partnership may be authorized to impose tolls or fares subject to regulation by the TBRTA. Any facility constructed via a public-private partnership must comply with all requirements of state, federal, and local laws, state, regional, and local comprehensive plans, and the TBRTA's rules, policies, and standards. The TBRTA may exercise any of its powers, including eminent domain, in developing and constructing projects via public-private partnerships.

The act takes effect July 1, 2007.

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:

The draft Senate Appropriations Bill for the 2007-08 fiscal year includes \$1 million in non-recurring funds for this newly created authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The power to make law is vested in the Legislature, and that power may not be delegated. In determining whether a statute amounts to an unlawful delegation of legislative power, the test is whether the statute provides sufficient standards and guidelines to ensure the agency is carrying

out the legislature's intent.¹ The bill provides in s. 343.962(4), F.S., that toll or fare revenues must avoid "unreasonable" costs to users. The standard appears to offer adequate guidance, though it is difficult to determine in advance whether a court would find the standard sufficiently specific.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹ *Department of Insurance v. Southeast Volusia Hospital District*, 438 So.2d 815, 819 (1983).

VIII. Summary of Amendments:

None.

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