

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1213

Jacksonville Transportation Authority

SPONSOR(S): Gibson

TIED BILLS:

IDEN./SIM. BILLS: SB 2246

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Military & Local Affairs Policy Committee</u>	<u>14 Y, 0 N</u>	<u>Nelson</u>	<u>Hoagland</u>
2)	<u>Roads, Bridges & Ports Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Finance & Tax Council</u>	<u></u>	<u></u>	<u></u>
4)	<u>Full Appropriations Council on Education & Economic Development</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Jacksonville Transportation Authority (JTA) is an independent special district serving Duval County. The JTA designs and constructs bridges and highways, and provides mass transit services. This bill provides for numerous changes to the authority's powers, duties and responsibilities to make JTA's enabling language consistent with its current activities and mission. The bill:

- clarifies that the authority is an agency of the state;
- updates language specifying the authority's jurisdiction to include all of Duval County;
- includes language that clarifies the authority's intent to plan and develop multimodal transportation projects;
- reinforces the authority's intent to establish and maintain operating fund reserves;
- authorizes the JTA to construct and operate transportation facilities outside of Duval County, with the consent of the impacted county;
- authorizes the JTA to form public benefit corporations;
- authorizes the JTA to establish an employee benefit fund;
- modifies the authority's public hearing process to reflect the absence of a planning board;
- clarifies the JTA's power to issue revenue bonds, either on its own or through the state Division of Bond Finance, that conform to State Bond Act requirements, and provides remedies for bondholders;
- clarifies that the authority may not exercise its powers of condemnation with respect to the property of any municipality or county;
- provides that the authority is not subject to liability related to preexisting contamination of property it acquires;
- allows the authority to enter into public-private partnerships to construct, operate, own or finance transportation facilities; and
- provides for monitoring and review of the JTA by the Florida Transportation Commission.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, there are five Florida regional transportation authorities created pursuant to ch. 343, F.S.: the South Florida Regional Transportation Authority; the Central Florida Regional Transportation Authority; the Tampa Bay Commuter Transit Authority; the Northwest Florida Regional Transportation Corridor Authority; and the Bay Area Regional Transportation Authority. One local transportation authority, the Jacksonville Transportation Authority, was created by ch. 349, F.S. These six authorities have various membership structures, powers and duties. All have some form of bond financing authority to allow for the implementation of their individual transportation missions.

The Jacksonville Transportation Authority (JTA) is an independent special district that provides regional transit services and roadway infrastructure connecting Northeast Florida. The governing body of the JTA consists of seven members. Three members are appointed by the Governor and confirmed by the Senate. Three members are appointed by the mayor of the City of Jacksonville and are subject to confirmation by the City of Jacksonville City Council. The seventh non-voting member is the district secretary of the Department of Transportation who serves in the district that contains the City of Jacksonville. Except for the district secretary, all members must be residents and qualified electors of the City of Jacksonville and serve four-year terms.

Effect of Proposed Changes

House Bill 311 removes obsolete language and updates existing sections of ch. 349, F.S., in an effort to provide consistency within the Jacksonville Transportation Authority statutes as compared to other Florida transportation authorities. The bill:

- clarifies that the authority is an agency of the state;
- revises the authority's membership, except for the Department of Transportation district secretary, to require that they be residents and qualified electors of Duval County, replacing language which previously referred to the City of Jacksonville;
- updates language specifying the authority's jurisdiction to include all of Duval County;
- includes language that clarifies the authority's intent to plan and develop multimodal transportation projects;

- reinforces the authority's intent to establish and maintain operating fund reserves;
- authorizes the JTA to construct and operate transportation facilities outside of Duval County, with the consent of the impacted county;
- authorizes the JTA to form public benefit corporations;
- authorizes the JTA to establish an employee benefit fund;
- modifies the authority's public hearing process to reflect the absence of a planning board;
- clarifies the JTA's power to issue revenue bonds, either on its own or through the state Division of Bond Finance, that conform to State Bond Act requirements, and provides remedies for bondholders;
- clarifies that the authority may not exercise its powers of condemnation with respect to the property of any municipality or county;
- provides that the authority is not subject to liability related to preexisting contamination of property it acquires;
- allows the authority to enter into public-private partnerships to construct, operate, own or finance transportation facilities; and
- provides for monitoring and review of the JTA by the Florida Transportation Commission.

Specifically, HB 1213, provides for the following:

Section 1

Amends s. 349.02, F.S., making technical changes to current definitions; adds the Jacksonville Transportation Authority to the definition of "agency of the state," and adds a new definition for the term "transportation facilities."

Section 2

Amends s. 349.03, F.S., to clarify that—except for the seventh member—JTA members must be residents and qualified electors of Duval County. This section previously referenced the City of Jacksonville.

Section 3

Amends s. 349.04, F.S., regarding the purposes and powers of the JTA to:

- clarify that its authority extends throughout Duval County;
- clarify that the authority may finance additions and improvements to the Jacksonville Expressway System;
- revise the purposes and powers of the authority to provide for the right to plan, finance, construct, own, lease, purchase, operate, maintain, relocate, equip and repair public transportation projects, 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; or feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities, that are intended to address critical transportation needs in the Jacksonville, Duval County, metropolitan area, which may also include all necessary approaches, roads, bridges, and avenues of access that are desirable and proper with the concurrence of the Department of Transportation, if the project is to be part of the State Highway System;

- clarify the authority's power to acquire, construct and lease property;
- clarify that the authority has power to collect fees for the services of all of its transportation facilities;
- clarify eminent domain provisions;
- specifically authorize the use of local option taxes or county gasoline tax funds to secure the payment of bonds;
- authorize the establishment and funding of reserve accounts;
- authorize the authority to adopt an annual budget, use purchasing schedules and master purchasing contracts;
- authorize the authority to retain legal counsel and other consultants;
- authorize the authority to construct and own and maintain transportation facilities outside the jurisdictional boundaries of Duval County, with the consent of the impacted county;
- authorize the authority to form public benefit corporations;
- authorize the authority require or elect not to require bid bonds and protest bonds, prequalify bidders or proposers, and suspend or exclude consultants and contractors;
- empower the authority to create and operate an employees' benefit fund;
- expand its service area and enter into a partnership with a contiguous county;
- provide that the powers and obligations of the authority are not subject to supervision, approval, or consent of any municipality or county except as agreed upon in an interlocal agreement, except as otherwise provided by the act;
- specify that there may be no oral modification of contracts, and that only specified individuals may bind the authority; provide for the recovery of damages;
- provide for relocation of utility facilities interfering with transportation projects; and authorize the authority to enter lands, waters and premises of another in the performance of its duties.

Section 4

Amends s. 349.041, F.S., to provide for the audit of funds provided to the authority by the City of Jacksonville's Council Auditor, and to provide that the authority may use the central services of the city on a cost-accounted basis, rather than require the city to use these services. It also deletes language which provides that the authority may employ legal counsel, as that ability now is included in the purposes and powers of the authority (Section 3 of the bill).

Section 5

Repeals s. 349.042, F.S., requiring the review of construction and operation of expressway and transit functions of the authority by the Jacksonville Area Planning Board, which no longer exists.

Section 6

Creates s. 349.043, F.S., requiring a noticed public hearing prior to the designation or relocation of transportation facilities or substantive changes to these facilities; and specifying that the authority comply with federal and state requirements related to new or altered transportation facilities or services.

Section 7

Amends s. 349.05, F.S., authorizing bonds to be issued on behalf of the authority; revising provisions for the issuance and sale of bonds by the authority; authorizing certain refunding bonds; revising provisions for resolutions authorizing bonds; revising provisions for fiscal agents; and providing that bonds issued pursuant to ch. 349, F.S., are not obligations of the state.

Section 8

Repeals s. 349.06, F.S., relating to remedies of bondholders. Section 14 of the bill now provides for bondholder remedies.

Section 9

Creates s.349.061, F.S., providing bond financing authority of the JTA.

Section 10

Amends s. 349.07, F.S., revising provisions authorizing the Department of Transportation to expend certain funds and use its resources for items related to the Jacksonville Expressway System; and removing a limitation that the aggregate amount of moneys expended for such purposes not exceed \$375,000.

Section 11

Amends s. 349.10, F.S., revising provisions for the authority to acquire lands and land rights; limiting the ability of the JTA with respect to condemnation; protecting the authority from liability for preexisting soil or groundwater contamination on property which it acquires; and authorizing the authority and the Department of Environmental Protection to enter into agreements for the performance and funding of investigative and remedial acts for property acquired by the JTA.

Section 12

Amends s. 349.12, F.S., expanding the covenant of the state to not alter or limit the rights and powers of the authority and the Department of Transportation in a manner that would be inconsistent with the continued maintenance and operation of the Jacksonville Expressway System in the event any federal agency constructs or contributes funds for the completion, extension or improvement of that system, to all other transportation facilities of the authority.

Section 13

Amends s. 349.13 F.S., specifying that when property is leased from the authority that it will be exempt from ad valorem taxes only if the use by the lessee qualifies the property for exemption under s. 196.199, F.S. That section provides conditions under which leased government property is not subject to such taxes.

Section 14

Amends s. 349.15 F.S., providing remedies for bondholders.

Section 15

Amends s. 349.17, F.S., specifying that the refunding of any bonds of the Florida State Improvement Commission issued to finance the Jacksonville Expressway System need not comply with s. 215.821, F.S. This provision relates to the issuance of bonds by state agencies, requiring compliance with ss. 215.57-215.83, F.S., the "State Bond Act" in the case of bonds issued after July 1, 1969, or in the absence of authorization by the State Constitution.

Section 16

Amends s. 349.21, F.S., revising provisions for use of charter county transit system surtax funds to specify that local transportation surtax moneys collected in Duval County may not be expended on transportation facilities outside the boundaries of the county.

Section 17

Creates s. 349.22, F.S., relating to public-private transportation facilities. This section:

- authorizes the authority to receive or solicit proposals and enter into agreements with private entities for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities;
- requires that reasonable costs to the state are paid by the private entity that develops or operates transportation facilities that are not part of the State Highway System, and that reasonable costs to the state and substantially affected local governments and utilities related to a private transportation facility are borne by the entity that owns the facility;
- authorizes the Department of Transportation to use state funds for projects on, or that increase mobility on, the State Highway System;
- requires notice of proposals and provides procedures for proposals;
- provides for agreements to authorize the JTA to impose tolls for the use of transportation facilities;
- requires public-private transportation facilities to comply with laws, comprehensive plans, and the authority's rules, policies, procedures, standards and conditions;
- authorizes the authority to exercise its powers to facilitate public-private projects; and
- provides that the section is not intended to amend existing law by granting additional powers to or imposing further restrictions on governmental entities with regard to regulating and entering into cooperative arrangements with the private sector.

Section 18

This section provides for the Florida Transportation Commission to monitor the efficiency, productivity and management of the JTA.

Section 19

This section of the bill provides an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends s. 349.02, F.S., relating to definitions of the "Jacksonville Transportation Authority Law."

Section 2: Amends s. 349.03, F.S., relating to the creation of the Jacksonville Transportation Authority.

Section 3: Amends s. 349.04, F.S., relating to the purposes and powers of the Jacksonville Transportation Authority.

Section 4: Amends s. 349.041, F.S., relating to the provision of funds and services by the City of Jacksonville to the authority.

Section 5: Repeals s. 349.042, F.S., relating to planning board review.

Section 6: Creates s. 349.043, F.S., relating to public hearings for transportation facilities.

- Section 7: Amends s. 349.05, F.S., relating to bonds of the authority.
- Section 8: Repeals s. 349.06, F.S., relating to remedies of bondholders.
- Section 9: Creates s. 349.061, F.S., relating to bond financing authority.
- Section 10: Amends s. 349.07, F.S., relating to a lease-purchase agreement.
- Section 11: Amends s. 349.10, F.S., relating to acquisition of lands and property.
- Section 12: Amends s. 349.12, F.S., relating to the covenant of the state.
- Section 13: Amends s. 349.13, F.S., relating to exemption from taxation.
- Section 14: Amends s. 349.15, F.S., relating to remedies and pledges enforceable by bondholders.
- Section 15: Amends s. 349.17, F.S., relating to additional authority.
- Section 16: Amends s. 349.21, F.S., relating to use of charter county transit system surtax funds.
- Section 17: Creates s. 349.22, F.S., relating to public-private transportation facilities.
- Section 18: Amends s. 20.23, F.S., relating to the Department of Transportation.
- Section 19: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See, "D. Fiscal Comments," below.

2. Expenditures:

See, "D. Fiscal Comments," below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See, "D. Fiscal Comments," below.

2. Expenditures:

See, "D. Fiscal Comments," below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Economic impact to the private sector is unknown at this time, as no projects have been identified. Tolls, fees or other charges to be collected by the authority cannot be determined until projects are identified.

D. FISCAL COMMENTS:

The fiscal impacts to local governments and the Department of Transportation, including tolls, fees and other charges, are unknown as no projects or contractual agreements have been identified at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill creates s. 349.22, F.S., which may require the authority to implement rules relating to public-private partnerships.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

A representative of the Department of Transportation indicated that the agency had “no concerns” regarding the bill.¹

The Jacksonville Transportation Authority did not respond to a request to discuss the provisions of the bill.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹ March 13, 2009, conversation with Cindy Price, Legislative Programs, Florida Department of Transportation.