

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 2246

INTRODUCER: Senator King

SUBJECT: Jacksonville Transportation Authority

DATE: March 20, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Favorable
2.			JU	
3.			GO	
4.			FT	
5.			TA	
6.				

I. Summary:

The bill removes obsolete language and revises existing sections of ch. 349, F.S., to provide consistency between the Jacksonville Transportation Authority's (JTA, Authority) current functions and operations and the enabling statutory powers, duties, and responsibilities assigned to the authority. The bill:

- Revises the authority's membership to require certain members be residents and qualified electors of Duval County, replacing language previously referring to the City of Jacksonville;
- Updates language specifying the authority's jurisdiction to include all of Duval County;
- Authorizes the JTA to revise its business operations format including
 - forming public benefit corporations;
 - establishing an employee benefit fund;
 - establishing and maintaining operating fund reserves;
- Modifies the authority's public hearing process to reflect the absence of a planning board;
- Clarifies the authority may not exercise its powers of condemnation with respect to the property of any municipality or county;
- Provides the authority is not subject to liability related to preexisting contamination of property it acquires;

The revisions also provide additional consistency with other regional transportation authorities created under ch. 343, F.S., and expressway authorities created in ch. 348, F.S., including:

- Clarifying the authority is an agency of the state;
- Clarifying the authority's intent to plan and develop multimodal transportation projects;

- Authorizing the JTA to construct and operate transportation facilities outside of Duval County, with the consent of the impacted county;
- Providing for monitoring and review of the JTA by the Florida Transportation Commission.
- Clarifying 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; and
- Allowing the authority to enter into public-private partnerships to construct, operate, own or finance transportation facilities.

This bill substantially amends sections 20.23, 349.02, 349.03, 349.04, 349.041, 349.05, 349.07, 349.10, 349.12, 349.13, 349.15, 349.17, 349.21, creates sections 349.043, 349.061, 349.22, and repeals sections 349.042 and 349.06 of the Florida Statutes.

II. Present Situation:

Originally founded as the Jacksonville Expressway Authority under ch. 349, F.S., in 1955 to build toll bridges and expressways in Duval County, the JTA began providing public transit services in 1971. Today, the Authority provides regional transit services and roadway infrastructure connecting Northeast Florida as an independent special district whose functions and operations more closely resemble those of the five regional transportation authorities created under ch. 343, F.S.¹

The JTA is funded through a half-cent sales tax approved by voters in 1988 in conjunction with the elimination of bridge tolls. More recently, in September 2000, Jacksonville voters approved an additional half-cent sales tax to fund The Better Jacksonville Plan—a \$2.2 billion infrastructure and quality-of-life improvement initiative. JTA's component of the plan comprises 32 roadway projects totaling more than \$800 million. The projects include 12 interchange improvements, roadway widening projects, construction of one major bridge and the design of another.

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 Florida Department of Transportation (FDOT) District Two.

Except for the district secretary, all members must be residents and qualified electors of the City of Jacksonville and are appointed to serve four-year terms.

¹ The South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Tampa Bay Commuter Transit Authority, and the Northwest Florida Regional Transportation Corridor Authority are created under ch. 343, F.S.

III. Effect of Proposed Changes:

Generally, the bill removes obsolete language and revises existing sections of ch. 349, F.S., to provide consistency between the JTA's current functions and operations and the enabling statutory powers, duties, and responsibilities assigned to the authority. The bill:

- Revises the authority's membership to require certain members be residents and qualified electors of Duval County, replacing language which previously referred to the City of Jacksonville; (The FDOT District Secretary is exempted from the residency and electorate requirement.)
- Updates language specifying the authority's jurisdiction to include all of Duval County;
- Authorizes the JTA to revise its business operations format including
 - forming public benefit corporations;
 - establishing an employee benefit fund;
 - establish and maintain operating fund reserves;
- Modifies the authority's public hearing process to reflect the absence of a planning board;
- Clarifies the authority may not exercise its powers of condemnation with respect to the property of any municipality or county;
- Provides the authority is not subject to liability related to preexisting contamination of property it acquires;

The revisions also provide additional consistency with other regional transportation authorities created under ch. 343, F.S., and expressway authorities created in ch. 348, F.S., including:

- clarifying the authority is an agency of the state;
- clarifying the authority's intent to plan and develop multimodal transportation projects;
- authorizing the JTA to construct and operate transportation facilities outside of Duval County, with the consent of the impacted county;
- providing for monitoring and review of the JTA by the Florida Transportation Commission.
- clarifying 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; and

- allowing the authority to enter into public-private partnerships to construct, operate, own or finance transportation facilities.

A specific section-by-section analysis follows:

Section 1 amends s. 349.02, F.S., making technical changes to current definitions, adding the Jacksonville Transportation Authority to the definition of “agency of the state.” A new definition for the term “transportation facilities” is added.

Section 2 amends s. 349.03, F.S., clarifying the requirement for JTA members to be residents and qualified electors of Duval County. This section previously referenced the City of Jacksonville. The residency requirement does not apply to the seat held by the FDOT District Two secretary.

Section 3 amends many paragraphs of s. 349.04, F.S., to clarify the Authority extends throughout Duval County and to revise the powers of the JTA, including new powers to:

- finance additions and other improvements to the Jacksonville Expressway System;
- 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, intended to address critical transportation needs in the Jacksonville - Duval County metropolitan area. If the project is to be part of the State Highway System, all necessary approaches, roads, bridges, and avenues of access may be included with the concurrence of FDOT;
- construct and lease property, including transit-oriented developments associated with the JTA transportation facilities;
- use local option taxes or county gasoline tax funds to secure the payment of bonds;
- establish and fund reserve accounts;
- retain legal counsel and other consultants;
- construct and own and maintain transportation facilities outside the jurisdictional boundaries of Duval County, with the consent of the impacted county;
- collect fees for any JTA transportation facility, not just the Jacksonville Expressway System;
- require or elect not to require bid bonds and protest bonds, prequalify bidders or proposers, and suspend or exclude consultants and contractors;
- expand its service area and enter into a partnership with a contiguous county;
- recover the costs of relocating utility facilities interfering with transportation projects;
- and

- to enter lands, waters and premises of another in the performance of its duties.

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;

Section 4 amends s. 349.041, F.S., to subject the use of any funds provided to the authority by the City of Jacksonville to an audit by the city's Council Auditor, and to allow rather than require the authority to use the central services of the city on a cost-accounted basis.

Section 5 repeals s. 349.042, F.S., which requires a review of the authority's transit functions and expressway construction and operations by the defunct Jacksonville Area Planning Board.

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 the authority must 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 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 in s. 349.15, F.S.

Section 9 creates s. 349.061, F.S., providing bond financing authority to the JTA.

Section 10 amends s. 349.07, F.S., clarifying provisions authorizing FDOT to contribute funds and use its resources for items related to the Jacksonville Expressway System may occur without regard to lease-purchase agreements; and removing a limitation that the maximum amount of FDOT contribution not exceed \$375,000.

Section 11 amends s. 349.10, F.S., revising provisions for the authority to acquire lands and land rights to provide for access management, drainage, utility relocation, and other transportation-related purposes. The revisions preclude the ability of the JTA to exercise eminent domain condemnation against property or interest of any county or city. A new paragraph (4) protects the authority from liability for preexisting soil or groundwater contamination on property which it acquires and authorizes the authority and the Florida 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., updating the covenant of the state to not alter or limit the rights and powers of the authority in a manner inconsistent with the continued maintenance and operation of the Jacksonville Expressway System or other transportation facilities of the JTA.

Section 13 amends s. 349.13 F.S., specifying property leased from the authority it is exempt from ad valorem taxes only when the use by the lessee qualifies the property for exemption under s. 196.199, F.S., which provides conditions under which leased government property is not subject to such taxes.

Section 14 amends s. 349.15 F.S., to provide remedies for bondholders.

Section 15 amends s. 349.17, F.S., clarifying 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., requiring any charter county transit system surtax funds collected in Duval County 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;
 provided the project is in the public’s best interest, limits use of state funds to only when additional capacity on the State Highway System is provided, and ensures costs and service disruptions would not borne by the public upon default of any agreement;
- requires reasonable costs to the state are paid by the private entity developing or operating transportation facilities not part of the State Highway System, and 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 FDOT 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 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 amends s. 20.23, F.S., to require the Florida Transportation Commission to monitor the efficiency, productivity and management of the JTA.

Section 19 provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Any impact to FDOT is unknown as there are currently no projects or lease-purchase agreements pending which would be altered by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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