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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Brandes) recommended the following:

1 **Senate Amendment to Amendment (955216) (with title**
2 **amendment)**

3
4 Delete lines 1776 - 2212

5 and insert:

6 345.001 Short title.—This act may be cited as the “Florida
7 Regional Transportation Finance Authority Act.”

8 345.0002 Definitions.—As used in this chapter, the term:

9 (1) “Agency of the state” means the state and any
10 department of, or any corporation, agency, or instrumentality
11 heretofore or hereafter created, designated, or established by,
12 the state.



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13 (2) "Area served" means the geographical area of the
14 counties for which an authority is established.

15 (3) "Authority" means a regional transportation finance
16 authority, a body politic and corporate, and an agency of the
17 state, established pursuant to the Florida Regional
18 Transportation Finance Authority Act.

19 (4) "Bonds" means the notes, bonds, refunding bonds, or
20 other evidences of indebtedness or obligations, in temporary or
21 definitive form, which an authority may issue pursuant to this
22 act.

23 (5) "Department" means the Department of Transportation of
24 Florida and any successor thereto.

25 (6) "Division" means the Division of Bond Finance of the
26 State Board of Administration.

27 (7) "Federal agency" means the United States, the President
28 of the United States, and any department of, or any bureau,
29 corporation, agency, or instrumentality heretofore or hereafter
30 created, designated, or established by, the United States.

31 (8) "Members" means the governing body of an authority, and
32 the term "member" means one of the individuals constituting such
33 governing body.

34 (9) "Regional system" or "system" means, generally, a
35 modern tolled highway system of roads, bridges, causeways, and
36 tunnels within any area of the authority, with access limited or
37 unlimited as an authority may determine, and the buildings and
38 structures and appurtenances and facilities related to the
39 system, including all approaches, streets, roads, bridges, and
40 avenues of access for the system.

41 (10) "Revenues" means the tolls, revenues, rates, fees,



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42 charges, receipts, rentals, contributions, and other income
43 derived from or in connection with the operation or ownership of
44 a regional system, including the proceeds of any use and
45 occupancy insurance on any portion of the system but excluding
46 state funds available to an authority and any other municipal or
47 county funds available to an authority under an agreement with a
48 municipality or county.

49 345.0003 Transportation finance authority; formation;
50 membership.-

51 (1) A county, or two or more contiguous counties, may,
52 after the approval of the Legislature, form a regional
53 transportation finance authority for the purposes of financing,
54 constructing, maintaining, and operating transportation projects
55 in a region of this state. An authority shall be governed in
56 accordance with the provisions of this chapter. An authority may
57 not be created without the approval of the Legislature and the
58 approval of the county commission of each county that will be a
59 part of the authority. An authority may not be created to serve
60 a particular area of this state as provided by this subsection
61 if a regional transportation finance authority has been created
62 and is operating within all or a portion of the same area served
63 pursuant to an act of the Legislature. Each authority shall be
64 the only authority created and operating pursuant to this
65 chapter within the area served by the authority.

66 (2) The governing body of an authority shall consist of a
67 board of voting members as follows:

68 (a) The county commission of each county in the area served
69 by the authority shall each appoint a member who must be a
70 resident of the county from which he or she is appointed. The



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71 county commission of each county with a total population of more
72 than 250,000 shall appoint a second member who must be a
73 resident of the county. If possible, the member must represent
74 the business and civic interests of the community.

75 (b) The Governor shall appoint an equal number of members
76 to the board as those appointed by the county commissions. The
77 members appointed by the Governor must be residents of the area
78 served by the authority.

79 (c) The secretary of the Department of Transportation shall
80 appoint one of the district secretaries, or his or her designee,
81 for the districts within which the area served by the authority
82 is located.

83 (3) The term of office of each member shall be for 4 years
84 or until his or her successor is appointed and qualified.

85 (4) A member may not hold an elected office.

86 (5) A vacancy occurring in the governing body before the
87 expiration of the member's term shall be filled by the
88 respective appointing authority in the same manner as the
89 original appointment and only for the balance of the unexpired
90 term.

91 (6) Each member, before entering upon his or her official
92 duties, must take and subscribe to an oath before an official
93 authorized by law to administer oaths that he or she will
94 honestly, faithfully, and impartially perform the duties
95 devolving upon him or her in office as a member of the governing
96 body of the authority and that he or she will not neglect any
97 duties imposed upon him or her by this chapter.

98 (7) A member of an authority may be removed from office by
99 the Governor for misconduct, malfeasance, misfeasance, or



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100 nonfeasance in office.

101 (8) The members of the authority shall designate one of its
102 members as chair.

103 (9) The members of the authority shall serve without
104 compensation, but shall be entitled to reimbursement for per
105 diem and other expenses in accordance with s. 112.061 while in
106 performance of their duties.

107 (10) A majority of the members of the authority constitutes
108 a quorum, and resolutions enacted or adopted by a vote of a
109 majority of the members present and voting at any meeting become
110 effective without publication, posting, or any further action of
111 the authority.

112 345.0004 Powers and duties.-

113 (1) (a) An authority created and established, or governed,
114 by the Florida Regional Transportation Finance Authority Act
115 shall plan, develop, finance, construct, reconstruct, improve,
116 own, operate, and maintain a regional system in the area served
117 by the authority.

118 (b) An authority may not exercise the powers in paragraph
119 (a) with respect to an existing system for transporting people
120 and goods by any means that is owned by another entity without
121 the consent of that entity. If an authority acquires, purchases,
122 or inherits an existing entity, the authority shall also inherit
123 and assume all rights, assets, appropriations, privileges, and
124 obligations of the existing entity.

125 (2) Each authority may exercise all powers necessary,
126 appurtenant, convenient, or incidental to the carrying out of
127 the purposes of this section, including, but not limited to, the
128 following rights and powers:



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129 (a) To sue and be sued, implead and be impleaded, and
130 complain and defend in all courts in its own name.

131 (b) To adopt and use a corporate seal.

132 (c) To have the power of eminent domain, including the
133 procedural powers granted under chapters 73 and 74.

134 (d) To acquire, purchase, hold, lease as a lessee, and use
135 any property, real, personal, or mixed, tangible or intangible,
136 or any interest therein, necessary or desirable for carrying out
137 the purposes of the authority.

138 (e) To sell, convey, exchange, lease, or otherwise dispose
139 of any real or personal property acquired by the authority,
140 which the authority and the department have determined is not
141 needed for the construction, operation, and maintenance of the
142 system, including air rights.

143 (f) To fix, alter, charge, establish, and collect rates,
144 fees, rentals, and other charges for the use of any system owned
145 or operated by the authority, which rates, fees, rentals, and
146 other charges must always be sufficient to comply with any
147 covenants made with the holders of any bonds issued pursuant to
148 this act; however, such right and power may be assigned or
149 delegated by the authority to the department.

150 (g) To borrow money, make and issue negotiable notes,
151 bonds, refunding bonds, and other evidences of indebtedness or
152 obligations, in temporary or definitive form, for the purpose of
153 financing all or part of the improvement of the authority's
154 system and appurtenant facilities, including the approaches,
155 streets, roads, bridges, and avenues of access for the system
156 and for any other purpose authorized by this chapter, the bonds
157 to mature in not exceeding 30 years after the date of the



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158 issuance thereof, and to secure the payment of such bonds or any
159 part thereof by a pledge of its revenues, rates, fees, rentals,
160 or other charges, including municipal or county funds received
161 by the authority pursuant to the terms of an agreement between
162 the authority and a municipality or county; and, in general, to
163 provide for the security of the bonds and the rights and
164 remedies of the holders of the bonds; however, municipal or
165 county funds may not be pledged for the construction of a
166 project for which a toll is to be charged unless the anticipated
167 tolls are reasonably estimated by the governing board of the
168 municipality or county, at the date of its resolution pledging
169 said funds, to be sufficient to cover the principal and interest
170 of such obligations during the period when the pledge of funds
171 is in effect. An authority shall reimburse a municipality or
172 county for sums expended from municipal or county funds used for
173 the payment of the bond obligations.

174 (h) To make contracts of every name and nature, including,
175 but not limited to, partnerships providing for participation in
176 ownership and revenues, and to execute each instrument necessary
177 or convenient for the conduct of its business.

178 (i) Without limitation of the foregoing, to cooperate with,
179 to borrow money and accept grants from, and to enter into
180 contracts or other transactions with any federal agency, the
181 state, or any agency or any other public body of the state.

182 (j) To employ an executive director, attorney, staff, and
183 consultants. Upon the request of an authority, the department
184 shall furnish the services of a department employee to act as
185 the executive director of the authority.

186 (k) To accept funds or other property from private



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187 donations.

188 (1) To do all acts and things necessary or convenient for
189 the conduct of its business and the general welfare of the
190 authority, in order to carry out the powers granted to it by
191 this act or any other law.

192 (3) An authority does not have the power at any time or in
193 any manner to pledge the credit or taxing power of the state or
194 any political subdivision or agency thereof. Obligations of the
195 authority may not be deemed to be obligations of the state or of
196 any other political subdivision or agency thereof. The state or
197 any political subdivision or agency thereof, except the
198 authority, is not liable for the payment of the principal of or
199 interest on such obligations.

200 (4) An authority has no power, other than by consent of the
201 affected county or an affected municipality, to enter into an
202 agreement that would legally prohibit the construction of a road
203 by the county or the municipality.

204 (5) An authority formed pursuant to this chapter shall
205 comply with the statutory requirements of general application
206 which relate to the filing of a report or documentation required
207 by law, including the requirements of ss. 189.4085, 189.415,
208 189.417, and 189.418.

209 345.0005 Bonds.—

210 (1) (a) Bonds may be issued on behalf of an authority
211 pursuant to the State Bond Act.

212 (b) An authority may also issue bonds in such principal
213 amount as is necessary, in the opinion of the authority, to
214 provide sufficient moneys for achieving its corporate purposes,
215 including construction, reconstruction, improvement, extension,



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216 and repair of the system, the cost of acquisition of all real
217 property, interest on bonds during construction and for a
218 reasonable period thereafter, and establishment of reserves to
219 secure bonds.

220 (2) (a) Bonds issued by an authority pursuant to paragraph
221 (1) (a) or paragraph (1) (b) must be authorized by resolution of
222 the members of the authority and must bear such date or dates;
223 mature at such time or times, not exceeding 30 years after their
224 respective dates; bear interest at such rate or rates, not
225 exceeding the maximum rate fixed by general law for authorities;
226 be in such denominations; be in such form, either coupon or
227 fully registered; carry such registration, exchangeability and
228 interchangeability privileges; be payable in such medium of
229 payment and at such place or places; be subject to such terms of
230 redemption; and be entitled to such priorities of lien on the
231 revenues and other available moneys as such resolution or any
232 resolution subsequent to the bonds' issuance may provide.

233 (b) Bonds issued pursuant to paragraph (1) (a) or paragraph
234 (1) (b) must be sold at public sale in the same manner provided
235 in the State Bond Act. Pending the preparation of definitive
236 bonds, temporary bonds or interim certificates may be issued to
237 the purchaser or purchasers of such bonds and may contain such
238 terms and conditions as the authority may determine.

239 (3) A resolution that authorizes any bonds may contain
240 provisions that must be part of the contract with the holders of
241 the bonds, as to:

242 (a) The pledging of all or any part of the revenues,
243 available municipal or county funds, or other charges or
244 receipts of the authority derived from the regional system.



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245 (b) The construction, reconstruction, improvement,
246 extension, repair, maintenance, and operation of the system, or
247 any part or parts of the system, and the duties and obligations
248 of the authority with reference thereto.

249 (c) Limitations on the purposes to which the proceeds of
250 the bonds, then or thereafter issued, or of any loan or grant by
251 any federal agency or the state or any political subdivision of
252 the state may be applied.

253 (d) The fixing, charging, establishing, revising,
254 increasing, reducing, and collecting of tolls, rates, fees,
255 rentals, or other charges for use of the services and facilities
256 of the system or any part of the system.

257 (e) The setting aside of reserves or of sinking funds and
258 the regulation and disposition of the reserves or sinking funds.

259 (f) Limitations on the issuance of additional bonds.

260 (g) The terms and provisions of any deed of trust or
261 indenture securing the bonds, or under which the bonds may be
262 issued.

263 (h) Any other or additional matters, of like or different
264 character, which in any way affect the security or protection of
265 the bonds.

266 (4) The authority may enter into any deeds of trust,
267 indentures, or other agreements with any bank or trust company
268 within or without the state, as security for such bonds, and
269 may, under such agreements, assign and pledge any of the
270 revenues and other available moneys, including any available
271 municipal or county funds, pursuant to the terms of this
272 chapter. The deed of trust, indenture, or other agreement may
273 contain provisions that are customary in such instruments or



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274 that the authority may authorize, including, but without
275 limitation, provisions that:

276 (a) Pledge any part of the revenues or other moneys
277 lawfully available therefor.

278 (b) Apply funds and safeguard funds on hand or on deposit.

279 (c) Provide for the rights and remedies of the trustee and
280 the holders of the bonds.

281 (d) Provide for the terms and provisions of the bonds or
282 for resolutions authorizing the issuance of the bonds.

283 (e) Provide for any other or additional matters, of like or
284 different character, which affect the security or protection of
285 the bonds.

286 (5) Any bonds issued pursuant to this act are negotiable
287 instruments and have all the qualities and incidents of
288 negotiable instruments under the law merchant and the negotiable
289 instruments law of the state.

290 (6) A resolution that authorizes the issuance of authority
291 bonds and pledges the revenues of the system must require that
292 revenues of the system be periodically deposited into
293 appropriate accounts in such sums as are sufficient to pay the
294 costs of operation and maintenance of the system for the current
295 fiscal year as set forth in the annual budget of the authority
296 and to reimburse the department for any unreimbursed costs of
297 operation and maintenance of the system from prior fiscal years
298 before revenues of the system are deposited into accounts for
299 the payment of interest or principal owing or that may become
300 owing on such bonds.

301 (7) State funds may not be used or pledged to pay the
302 principal or interest of any authority bonds, and all such bonds



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303 must contain a statement on their face to this effect.

304 345.0006 Remedies of bondholders.—

305 (1) The rights and the remedies granted to authority
306 bondholders under this chapter are in addition to and not in
307 limitation of any rights and remedies lawfully granted to such
308 bondholders by the resolution or indenture providing for the
309 issuance of bonds, or by any deed of trust, indenture, or other
310 agreement under which the bonds may be issued or secured. If an
311 authority defaults in the payment of the principal of or
312 interest on any of the bonds issued pursuant to this chapter
313 after such principal of or interest on the bonds becomes due,
314 whether at maturity or upon call for redemption, as provided in
315 the resolution or indenture, and such default continues for 30
316 days, or in the event that the authority fails or refuses to
317 comply with the provisions of this chapter or any agreement made
318 with, or for the benefit of, the holders of the bonds, the
319 holders of 25 percent in aggregate principal amount of the bonds
320 then outstanding shall be entitled as of right to the
321 appointment of a trustee to represent such bondholders for the
322 purposes of the default provided that the holders of 25 percent
323 in aggregate principal amount of the bonds then outstanding
324 first gave written notice of their intention to appoint a
325 trustee, to the authority and to the department.

326 (2) The trustee, and any trustee under any deed of trust,
327 indenture, or other agreement, may, and upon written request of
328 the holders of 25 percent, or such other percentages specified
329 in any deed of trust, indenture, or other agreement, in
330 principal amount of the bonds then outstanding, shall, in any
331 court of competent jurisdiction, in his, her, or its own name:



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332 (a) By mandamus or other suit, action, or proceeding at
333 law, or in equity, enforce all rights of the bondholders,
334 including the right to require the authority to fix, establish,
335 maintain, collect, and charge rates, fees, rentals, and other
336 charges, adequate to carry out any agreement as to, or pledge
337 of, the revenues, and to require the authority to carry out any
338 other covenants and agreements with or for the benefit of the
339 bondholders, and to perform its and their duties under this
340 chapter.

341 (b) Bring suit upon the bonds.

342 (c) By action or suit in equity, require the authority to
343 account as if it were the trustee of an express trust for the
344 bondholders.

345 (d) By action or suit in equity, enjoin any acts or things
346 that may be unlawful or in violation of the rights of the
347 bondholders.

348 (3) A trustee, if appointed pursuant to this section or
349 acting under a deed of trust, indenture, or other agreement, and
350 whether or not all bonds have been declared due and payable,
351 shall be entitled as of right to the appointment of a receiver.
352 The receiver may enter upon and take possession of the system or
353 the facilities or any part or parts of the system, the revenues
354 and other pledged moneys, for and on behalf of and in the name
355 of, the authority and the bondholders. The receiver may collect
356 and receive all revenues and other pledged moneys in the same
357 manner as the authority might do. The receiver shall deposit all
358 such revenues and moneys in a separate account and apply all
359 such revenues and moneys remaining after allowance for payment
360 of all costs of operation and maintenance of the system in such



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361 manner as the court directs. In a suit, action, or proceeding by
362 the trustee, the fees, counsel fees, and expenses of the
363 trustee, and said receiver, if any, and all costs and
364 disbursements allowed by the court must be a first charge on any
365 revenues after payment of the costs of operation and maintenance
366 of the system. The trustee also has all other powers necessary
367 or appropriate for the exercise of any functions specifically
368 set forth in this section or incident to the representation of
369 the bondholders in the enforcement and protection of their
370 rights.

371 (4) This section or any other section of this chapter does
372 not authorize a receiver appointed pursuant to this section for
373 the purpose of operating and maintaining the system or any
374 facilities or parts thereof to sell, assign, mortgage, or
375 otherwise dispose of any of the assets belonging to the
376 authority. The powers of such receiver are limited to the
377 operation and maintenance of the system, or any facility or
378 parts thereof and to the collection and application of revenues
379 and other moneys due the authority, in the name and for and on
380 behalf of the authority and the bondholders. A holder of bonds
381 or any trustee does not have the right in any suit, action, or
382 proceeding, at law or in equity, to compel a receiver, or a
383 receiver may not be authorized or a court may not direct a
384 receiver to, sell, assign, mortgage, or otherwise dispose of any
385 assets of whatever kind or character belonging to the authority.

386 345.0007 Department to construct, operate, and maintain
387 facilities.-

388 (1) The department is the agent of each authority for the
389 purpose of performing all phases of a project, including, but



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390 not limited to, constructing improvements and extensions to the
391 system. The authority shall provide to the department complete
392 copies of the documents, agreements, resolutions, contracts, and
393 instruments that relate to the project and shall request that
394 the department perform the construction work, including the
395 planning, surveying, design, and actual construction of the
396 completion, extensions, and improvements to the system. After
397 the issuance of bonds to finance construction of an improvement
398 or addition to the system, the authority shall transfer to the
399 credit of an account of the department in the State Treasury the
400 necessary funds for construction. The department shall proceed
401 with construction and use the funds for the purpose authorized
402 and as otherwise provided by law for construction of roads and
403 bridges. An authority may alternatively, with the consent and
404 approval of the department, elect to appoint a local agency
405 certified by the department to administer federal aid projects
406 in accordance with federal law as the authority's agent for the
407 purpose of performing each phase of a project.

408 (2) Notwithstanding the provisions of subsection (1), the
409 department is the agent of each authority for the purpose of
410 operating and maintaining the system. The department shall
411 operate and maintain the system, and the costs incurred by the
412 department for operation and maintenance shall be reimbursed
413 from revenues of the system. The appointment of the department
414 as agent for each authority does not create an independent
415 obligation of the department to operate and maintain a system.
416 Each authority shall remain obligated as principal to operate
417 and maintain its system, and an authority's bondholders do not
418 have an independent right to compel the department to operate or



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419 maintain the authority's system.

420 (3) Each authority shall fix, alter, charge, establish, and
421 collect tolls, rates, fees, rentals, and other charges for the
422 authority's facilities, as otherwise provided in this chapter.

423 345.0008 Department contributions to authority projects.-

424 (1) The department may, at the request of an authority,
425 provide for or contribute to the payment of costs of financial
426 or engineering and traffic feasibility studies and the design,
427 financing, acquisition, or construction of an authority project
428 included in the 10-year Strategic Intermodal Plan, subject to
429 appropriation by the Legislature. The department shall
430 separately include each such authority project in its work
431 program, through amendment if necessary. The department may not
432 request legislative approval of acquisition or construction of a
433 proposed authority project unless the estimated net revenues of
434 the proposed project will be sufficient to pay at least 50
435 percent of the annual debt service on the bonds associated with
436 the project by the end of the 12th year of operation and to pay
437 at least 100 percent of the debt service on the bonds by the end
438 of the 30th year of operation.

439 ===== T I T L E A M E N D M E N T =====

440 And the title is amended as follows:

441 Delete line 3249

442 and insert:

443 or system, included in the 10-year Strategic
444 Intermodal Plan, if approved by the Legislature;
445 prohibiting the department from requesting legislative
446 approval of a project unless certain conditions are
447 met; providing