

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1289 Interlocal Agreements
SPONSOR(S): Local & Federal Affairs Committee and Peters
TIED BILLS: **IDEN./SIM. BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N	Johnson	Miller
2) Local & Federal Affairs Committee	17 Y, 0 N, As CS	Nelson	Rojas
3) Economic Affairs Committee	15 Y, 0 N	Johnson	Creamer

SUMMARY ANALYSIS

In 2012, the Florida Legislature required the Pinellas Suncoast Transit Authority and Hillsborough Area Regional Transit Authority to conduct a review to consider and identify opportunities for greater efficiencies and service improvements, and to provide a report regarding results of the review. One finding included in the report materials was that transit authorities did not have specific statutory authority to enter into joint powers agreements.

CS/HB 1289 amends the definition of “public agency” as used in the Florida Interlocal Cooperation Act to specify that the term includes a public transit provider as defined by the Florida Public Transit Act. This revision will allow these public transit providers to enter into interlocal agreements.

Public transit agencies that enter into interlocal agreements may see a reduction in expenditures, but any reduction would be dependent upon the specific interlocal agreement.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pinellas Suncoast Transit Authority (PSTA)

The Pinellas Suncoast Transit Authority, an independent special district formerly known as the Central Pinellas Transit Authority, was created by special act of the Legislature in 1970,¹ and began service in 1973. In 1982, the Central Pinellas Transit Authority was renamed the Pinellas Suncoast Transit Authority (PSTA) to more clearly describe the area served. In 1984, PSTA expanded its service area by merging with the St. Petersburg Municipal Transit System. PSTA serves most of the unincorporated area and 21 of the county's 24 municipalities, covering 98 percent of the county's population and 97 percent of its land area. The service area for PSTA is specifically defined in law.

Hillsborough Area Regional Transit Authority (HART)

The Hillsborough Transit Authority, operating and also known as Hillsborough Area Regional Transit Authority, or HART, was created as a body politic and corporate under part V of ch. 163, F.S., the "Regional Transportation Authority Law," on October 3, 1979.^{2,3} HART is an independent special district that was chartered for the purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may include any contiguous county or municipality upon application and after approval by a majority vote of the entire board of directors. The City of Temple Terrace has subsequently been admitted as a member of the Authority.

In 2012, the Legislature passed HB 599⁴ providing legislative intent to encourage and facilitate a review by PSTA and HART in order to search for possible improvements in regional transit connectivity and implementation of operational efficiencies and service enhancements consistent with the regional approach to transit identified in the Tampa Bay Area Regional Transportation Authority's (TBARTA) Regional Transportation Master Plan.⁵ The Legislature found that improvements and efficiencies could best be achieved through a joint review, evaluation and recommendations by PSTA and HART.

HB 599 required the governing bodies or a designated subcommittee of both PSTA and HART to hold joint meetings in order to consider and identify opportunities for greater efficiency and improvements, including specific methods for increasing service connectivity between jurisdictions of each agency. The elements to be reviewed also included:

- governance structure, including governing board membership, terms, responsibilities, officers, powers, duties and responsibilities;
- funding options and implementation;

¹ *See*, chs.70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 2000-424, 2002-341 and 2006-327, L.O.F.

² Sections 163.565–163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities or other political subdivisions. This law was created in the early 1970s to create the HART (Hillsborough Area Regional Transit) transit authority in Hillsborough County and has not been used to create any other agency. The law provides for a charter committee to be formed consisting of representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed, the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board of directors is made up of representatives of the local governments. The authority is authorized to incur debt, levy taxes (up to three mills of ad valorem taxes, with approval by the county commission and a majority of voters in the affected area), and has limited eminent domain powers.

³ This should not be confused with the statutory language in ch. 343, F.S., which creates other regional transportation authorities including TBARTA.

⁴ Chapter 2012-174, L.O.F.

⁵ A copy of TBARTA's Master Plan is available at <http://www.tbarta.com/update> (last visited March 18, 2013).

- facilities ownership and management;
- current financial obligations and resources; and
- actions to be taken that are consistent with TBARTA's master plan.

The bill required that PSTA and HART submit a report to the Speaker of the House of Representatives and the President of the Senate by February 1, 2013, detailing the results of the review, and including proposed legislation to implement each recommendation and specific recommendations concerning the reorganization of each agency, the organizational merger of both agencies, or the consolidation of functions within and between each agency. The report was submitted on or about January 28, 2013.

One of the scenarios presented in the report was the establishment of a joint powers agency.⁶ Attached to the report was an opinion from the general counsels of PSTA and HART discussing legal issues arising out of the consolidation study. One conclusion of the memorandum was that transit authorities did not have the statutory authority to enter into joint power agreements.⁷

Florida Interlocal Cooperation Act

The Florida Interlocal Cooperation Act⁸ authorizes “public agencies” of this state to exercise jointly with any other public agency of the state, of any other state or the United States government, any power, privilege or authority which such agencies share in common and which each might exercise separately.”⁹ The joint exercise of power is to be made by contract in the form of an interlocal agreement. Pursuant to the statute, the agreements may address numerous terms and conditions including the agreement’s purpose and duration, personnel and financial issues, purchasing and contracting powers, accountability measures, and dispute resolution processes.¹⁰

“Public agency” means a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under s. 163.01(7), F.S.,¹¹ an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.

Effect of Proposed Changes

The bill amends s. 163.01(3)(b), F.S., modifying the definition of “public agency” as used in the Florida Interlocal Cooperation Act to include a public transit provider as defined in s. 341.031, F.S. That statute defines the term “public transit provider” as:

a public agency providing public transit service, including rail authorities created in chapter 343.

It appears that public transit providers, such as PSTA and HART, which are independent special districts, currently have the ability to enter into interlocal agreements pursuant to s. 163.01(3)(b), F.S., as that definition includes both single and multipurpose special districts.

⁶ PSTA/HART Consolidation Study, Copy on file with the Transportation & Highway Safety Subcommittee.

⁷ November 16, 2012, Report of General Counsels regarding Legal Issues Arising out of Consolidation Study. Copy on file with the Transportation & Highway Safety Subcommittee.

⁸ Section 163.01, F.S.

⁹ Section 163.01(4), F.S.

¹⁰ Section 163.01(5), F.S.

¹¹ Pursuant to this subsection, an interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement, which may be a commission, board, or council constituted pursuant to the agreement. A separate legal or administrative entity created by an interlocal agreement possesses the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may, in addition to its other powers, be authorized in its own name to make and enter into contracts; to employ agencies or employees; to acquire, construct, manage, maintain, or operate buildings, works, or improvements; to acquire, hold, or dispose of property; and to incur debts, liabilities, or obligations which do not constitute the debts, liabilities, or obligations of any of the parties to the agreement.

The bill has an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.01, F.S., relating to the Florida Interlocal Cooperation Act of 1969.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

After entering into interlocal agreements, public transit providers may see a reduction in expenditures due to efficiencies or service improvements. However, any reduction would depend upon the specific interlocal agreement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 9, 2013, the Local & Federal & Affairs Committee adopted an amendment, which extends the authority to enter into interlocal agreements to public transit providers as defined by s. 341.031, F.S. This analysis is drafted to the CS.