

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 Committee on Community Affairs

BILL: SB 1052
 INTRODUCER: Senator Evers
 SUBJECT: Department of Transportation
 DATE: March 31, 2014 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Price | Eichin | TR | Favorable |
| 2. | Stearns | Yeatman | CA | Favorable |
| 3. | | | AFT | |
| 4. | | | AP | |

I. Summary:

SB 1052 creates ch. 345, F.S., to establish the Northwest Florida Regional Transportation Finance Authority Act, consisting of ss. 345.0001-345.0014, F.S. The Act authorizes the formation of the Northwest Florida Regional Transportation Finance Authority (Authority), an agency of the state, to finance, develop, operate, and maintain a regional system of roads, bridges, causeways, tunnels, and mass transit services in the area served. Financing would be provided by bond issuances and contributions from the Florida Department of Transportation (FDOT) and local governments. The FDOT would be the Authority’s agent for performing all phases of a project, with some exceptions, as well as the Authority’s agent for operating and maintaining the Authority’s system.

II. Present Situation:

Escambia County and the only other contiguous Florida County, Santa Rosa, are currently served by the Northwest Florida Transportation Corridor Authority and the Santa Rosa Bay Bridge Authority.

Northwest Florida Transportation Corridor Authority

The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. The NFTCA is also authorized to issue bonds.¹ Eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties,

¹ Section 343.82, F.S.

are appointed by the Governor to serve four-year terms on the governing body. The FDOT's District Three Secretary serves as an *ex-officio*, non-voting member.²

The NFTCA is not currently operating any facility. According to a report by the Florida Transportation Commission (FTC), NFTCA's general consultant is assisting in evaluating, selecting, and planning transportation projects by assessing their respective economic benefits as part of the Master Plan update. The assessment includes extensive public outreach and involves regional planning councils in the area served by the NFTCA, as well as a series of stakeholder workshops in the region.³

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, regional transportation planning, and a work plan.⁴

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT District Three Secretary is an *ex-officio* member of the Board. Except for the Secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.⁵

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.⁶ Florida's Turnpike Enterprise provides toll operations for the SRBBA, and the FDOT's District Three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and operations and maintenance (O&M) expenses, the costs of the O&M are recorded as debt owed to the FDOT. The FTC report indicates that the long-term debt for O&M expenses as of June 30, 2012, was \$18.1 million. The report indicates the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund,⁷ and the balance on June 30, 2012, was \$7.9 million.⁸

III. Effect of Proposed Changes:

Generally, the bill:

- Provides definitions.
- Provides for governing board membership, membership requirements, and terms of office.

² Section 343.81, F.S.

³ Florida Transportation Commission, *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 165, available at, [http://www.ftc.state.fl.us/documents/reports/TAMO/Final%20FY%202012%20Oversight%20Report%20\(5-28-13\).pdf](http://www.ftc.state.fl.us/documents/reports/TAMO/Final%20FY%202012%20Oversight%20Report%20(5-28-13).pdf) (last visited March 27, 2014).

⁴ *Id.* at 163.

⁵ Section 348.967, F.S.

⁶ FTC Report, *supra*, n. 3 at 60.

⁷ The Toll Facilities Revolving Trust Fund was dissolved in 2012. See ch. 2012-128, L.O.F. All outstanding repayments are to be deposited into the State Transportation Trust Fund.

⁸ *Id.*

- Sets out the Authority’s powers and duties, including the issuance of bonds to finance all or part of the Authority’s system, and provides for the rights and remedies of the bondholders.
- Deems the FDOT the agent of the Authority for the purpose of performing all phases of a project, with certain exceptions.
- Deems the FDOT the agent of the Authority for the purposes of operating and maintaining the Authority’s system, with the exception of transit facilities, and provides for reimbursement to the FDOT from revenues of the Authority’s system.
- Authorizes the FDOT, at the request of the Authority, to provide or contribute to certain costs under specified conditions, and provides for reimbursement to the FDOT from system revenues.
- Authorizes the Authority to acquire public or private property, including through exercise of eminent domain; limits the Authority’s liability for certain environmental contamination.
- Provides for the Authority’s exemption from certain taxation.
- Supersedes any other law inconsistent with the bill’s provisions.

Section 1 creates the following:

- Section 345.0001, F.S., designating the Act as the “Northwest Florida Regional Transportation Finance Authority Act.”
- Section 345.0002, F.S., to define terms for purposes of the new chapter, including, but not limited to, the following:
 - “Area served” means Escambia County, as well as the geographical area of a contiguous county, upon the county’s and the Authority’s mutual consent.
 - “Regional system” or “system” means, generally, a modern system of roads, bridges, causeways, tunnels, and mass transit services with the area of the Authority, with limited or unlimited access, and related buildings, structures, and facilities.
 - “Revenues” means the tolls, revenues, rates, fees, charges, receipts, rentals, contributions, and other income derived from operation and ownership of a regional system, including proceeds of any use and occupancy insurance, but excluding state funds, and any other municipal or county funds available under an agreement between a municipality or county and the Authority.
- Section 345.0003, F.S., to authorize the formation and membership of the Authority as follows:
 - Escambia County, and any other contiguous county, may form a regional finance authority to construct, maintain, and operate transportation projects in the northwest region of the state.
 - The county commission of each county that will be a part of the authority must approve creation of the Authority.
 - The county commission of each county in the area served appoints two members to the Authority’s governing body, who must be residents of the county from which each member is appointed and, if possible, represent the community’s business and civic interests.
 - The Governor appoints an equal number of members as appointed by each county commission, who must be residents of the area served by the Authority.
 - The FDOT Secretary appoints a District Secretary, or designee, for the FDOT district within which the area served by the Authority is located.

- Each member serves a term of four years, or until a successor is appointed and qualified; must take and subscribe to a specified oath before entering the member's duties; may not hold elected office while serving as an Authority member; and may be removed from office by the Governor for specified violations.
- Members serve without compensation but are reimbursed for per diem and certain other expenses.
- Section 345.0004, F.S., to set out the Authority's powers and duties, including, but not limited to, the following:
 - Planning, constructing, improving, operating and maintaining a regional system in the area served, except for an existing system for transporting people and goods owned by another non-consenting entity.
 - Charging and collecting rates, fees, rentals, and other charges for use of any system owned or operated by the Authority, which must be sufficient to comply with any covenants with the bondholders. This power may be assigned or delegated to the FDOT.
 - Borrowing money, and issuing bonds that mature in no more than 30 years, to finance all or part of the improvement of the Authority's system; and to secure the payment of such bonds by a pledge of the Authority's revenues, rates, etc., including municipal or county funds received by the Authority under an agreement between the Authority and the municipality or county.
 - Providing, in general, for the rights and remedies of the bondholders.
 - To make contracts, enter into joint development agreements, and to act and do things necessary or convenient for the conduct of its business and the general welfare of the authority.
 - The Authority is prohibited from the following:
 - Pledging municipal or county funds for the construction of a project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the governing board of the municipality or county to be sufficient to cover the principal and interest of such obligations. The Authority must reimburse sums spent from municipal or county funds for the payment of bond obligations, with additional requirements if the Authority elects to fund or refund bonds before maturity.
 - Pledging the credit or taxing power of the state or a political subdivision or agency of the state.
 - Entering into an agreement that would legally prohibit the construction of a road by the county or municipality, other than by consent.
- Section 345.0005, F.S., provisions related to Authority bonds, in part to:
 - Authorize issuance of bonds on behalf of the Authority or, alternatively, authorize the Authority to issue bonds on its own.
 - Provide requirements for the authorization and sale of bonds.
 - Prohibit the use or pledging of state funds to pay the principal and interest of any Authority bonds.
- Section 345.0006, F.S., to provide for the remedies of bondholders, including, but not limited to providing for the appointment of a trustee and the trustee's duties and rights, appointment of a receiver and the receiver's duties and powers, and enforcement of the bondholders' rights in the event of a specified default by the Authority in the payment of the principal and interest on the bonds.
- Section 345.0007, F.S., relating to the FDOT as the Authority's agent, to provide in part:

- The FDOT is the Authority's agent for performing all phases of a project, including construction, extension, and improvements to the system.
- Alternatively, and with the FDOT's consent and approval, the Authority may appoint a local, FDOT-certified agency to administer federal-aid projects.
- The FDOT is the Authority's agent for operating and maintaining the system, except for transit facilities; and the costs incurred by the FDOT must be reimbursed from system revenues. However, the Authority remains obligated as principal to operate and maintain the system.
- The FDOT and the Authority may agree that the Authority will operate and maintain portions of the system.
- Section 345.0008, F.S., relating to FDOT contributions to Authority projects, to provide in part:
 - Subject to appropriation by the Legislature and at the request of the Authority, the FDOT may provide for or contribute to the costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of the Authority project or system.
 - The FDOT may participate in Authority-funded projects that, at a minimum, serve national, statewide, or regional functions; are part of an integrated regional transportation system; are identified in the capital improvements element of a comprehensive plan and local government policies in such plans relative to corridor management; are consistent with the Strategic Intermodal System; and have a local, regional, or private financial match.
 - Before approving a proposed project, the FDOT must determine that the project:
 - Is in the public's best interest;
 - Does not require the use of state funds, unless it is on or would directly benefit the State Highway System;
 - Has adequate safeguards in place to ensure no additional imposed costs or service disruptions if the FDOT cancels or defaults on the agreement; and to ensure that the FDOT and the Authority have opportunity to add capacity to the project and other transportation facilities serving similar origins and destinations.
 - The FDOT may require that money contributed by the department be repaid from tolls of the project, other Authority revenue, or other sources of funds.
 - The FDOT must receive a share of the Authority's net revenues equal to the ratio of the FDOT's total contributions to the Authority to the sum of:
 - The FDOT's total contributions;
 - Any local government contributions to the cost of revenue-producing Authority projects; and
 - The sale proceeds of Authority bonds after payment of costs of issuance.
 - Net revenues of the Authority are determined by deducting from gross revenues the payment of debt service, administrative expenses, operations and maintenance, and all required reserves.
- Section 345.0009, F.S., to provide for the Authority's powers relating to acquisition of private or public property rights by various means and for various purposes, limit the Authority's liability for certain environmental contamination, and authorize the Authority to enter into interagency agreements with the Department of Environmental Protection for performance, funding, and reimbursement of certain investigative and remedial acts.

- Section 345.0010, F.S., to authorize contracts, leases, conveyances, partnerships, or other agreements between the Authority and specified entities to carry out the purposes of the Act.
- Section 345.0011, F.S., to provide that the state will not limit or alter the vested rights in the Authority or the FDOT until the bonds are fully paid; and will not limit or alter the rights and powers of the Authority and the FDOT in a manner inconsistent with the continued operation and maintenance of the system or with performance of any agreement between the Authority and a federal agency that constructs or contributes any funds for the completion, extension, or improvement of any part of the system.
- Section 345.0012, F.S., to exempt the Authority from paying any taxes or assessments of any kind upon any Authority property, rates, fees, or income, etc.; or upon bonds issued by the Authority.
- Section 345.0013, F.S., to provide that Authority bonds or other obligations issued under the Act are eligible for investments and security.
- Section 345.0014, F.S., to provide:
 - The Act's conferred powers are in addition to others conferred by law and do not repeal any other general or special law or local ordinance.
 - The issuance of bonds to finance all or part of the cost of extension or improvement of a system is authorized without compliance with any other law.
 - The Act does not affect any law relating to the FDOT, or the State Board of Administration or its Division of Bond Finance, and supersedes any other inconsistent law, including, but not limited to, s. 215.821, F.S., including s. 215.821, F.S., which provides that provisions of the State Bond Act, ss. 215.57-215.83, F.S., apply to bonds issued by or on behalf of state agencies.

Section 2 provides the bill takes effect on July 1, 2014.

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, and 345.0014.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.