

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 Governmental Oversight and Accountability

BILL: SB 642

INTRODUCER: Senator Brandes

SUBJECT: Florida Transportation Corporation Act

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Eichin</u>	<u>TR</u>	Favorable
2.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	Favorable

I. Summary:

SB 642 repeals ss. 339.401 through 339.421, F.S., which create the “Florida Transportation Corporation Act.” This act was created in 1988 to allow certain corporations authorized by the Florida Department of Transportation (FDOT) to secure and obtain right-of-way for transportation systems and to assist in the planning and design of such systems. The FDOT advises that the provisions of this act have never been used.

II. Present Situation:

Sections 339.401 through 339.421, F.S., create the “Florida Transportation Corporation Act.” This act was created in 1988¹ to allow certain nonprofit corporations authorized by the FDOT to act in the FDOT’s behalf in assisting with project planning and design, assembling right-of-way and financial support, and generally promoting projects included in the FDOT’s adopted five-year work program. The act contains various statutory provisions related to the formation, operation, and dissolution of these corporations.

Among the specific activities of transportation corporations authorized under the act are:

- acquiring, holding, investing, and administering property and transferring title to the FDOT for project development;
- performing preliminary and final alignment studies;
- receiving contributions of land for right-of-way and case donations to be applied to the purchase of right-of-way or design and construction projects; and,
- making official presentations to groups concerning the project and issuing press releases and promotional materials.

Florida transportation corporations cannot issue bonds and are not empowered to enter into construction contracts or to undertake construction. They are enabled to otherwise borrow money

¹ Section 3, ch. 88-271, Laws of Florida.

or accept donations to help defray expenses or needs associated with the corporation or a particular transportation project.

The FDOT reports, after a limited number of inquiries immediately following passage of the act, receipt of no further requests for information or other indications of interest in the act, and the provisions of the act have never been used. As a result, the Auditor General's authority to audit corporations acting on behalf of the FDOT in s. 11.45(3)(m), F.S., has never been exercised, and the provisions of Fla. Admin. Code R. 14-35, which implement the act, have never been applied.

III. Effect of Proposed Changes:

SB 642 repeals the Florida Transportation Corporation Act and the associated authority of the Auditor General to audit such corporations, as follows:

Section 1 repeals s. 11.45(3)(m), F.S., which contains the Auditor General's authority to audit transportation corporations authorized under the Florida Transportation Corporation Act.

Section 2 repeals the following statutory provisions:

- s. 339.401, F.S., which sets forth the short title, "Florida Transportation Corporation Act."
- s. 339.402, F.S., which defines the terms, "board of directors," "construction," "corporation," "department," and "project" for purposes of the act.
- s. 339.403, F.S., which sets forth Legislative findings and purposes with respect to the authorized transportation corporations.
- s. 339.404, F.S., which authorizes a written application to FDOT requesting that FDOT authorize a corporation.
- s. 339.405, F.S., which addresses the type, structure, and income of an authorized transportation corporation.
- s. 339.406, F.S., which contains provisions that must be included in the contract between FDOT and any authorized transportation corporation.
- s. 339.407, F.S., which contains provisions that must be included in the articles of incorporation of any authorized transportation corporation.
- s. 339.408, F.S., which provides for a board of directors of each authorized transportation corporation; provides for the appointment, terms, removal, and compensation of the directors; and provides for appointment of advisory directors and their service.
- s. 339.409, F.S., which requires the board of directors to adopt, and FDOT to approve, the initial bylaws of an authorized transportation corporation and which prohibits changing the bylaws without FDOT approval.
- s. 339.410, F.S., which provides for a specified notice of each meeting of the board of directors and subjects the board of directors to the provisions of s. 286.011, F.S., relating to public meetings and records.
- s. 339.411, F.S., which provides processes for amending the articles of incorporation and requirements for amended articles.
- s. 339.412, F.S., which sets forth the specific powers of any authorized corporation.
- s. 339.414, F.S., which authorizes FDOT to allow an authorized transportation corporation to use FDOT property, facilities, and personnel as specified and which prohibits any authorized

transportation corporation from receiving funds from FDOT by grant, gift, or contract unless specifically authorized by the Legislature.

- s. 339.415, F.S., which exempts authorized transportation corporations from taxation pursuant to s. 3, Art VII of the State Constitution.
- s. 339.416, F.S., which authorizes FDOT, in its sole discretion and pursuant to rule, to require the alteration of the structure, organization, programs, or activities of a transportation corporation or require the termination and dissolution of the corporation as specified.
- s. 339.417, F.S., which directs the board of directors, upon a determination by resolution that the purposes for which a corporation was formed have been substantially complied with and that all obligations have been fully paid, to dissolve the corporation, with FDOT approval.
- s. 339.418, which requires that whenever dissolution occurs, the dissolution proceedings must transfer the title to all funds and properties then owned by a corporation to FDOT.
- s. 339.419, F.S., which directs FDOT to adopt rules to implement the act. Repeal of FDOT's existing, unused Fla. Admin. Code R. 14-35 is thereby made possible.
- s. 339.420, F.S., which provides for liberal construction of the act.
- s. 339.421, F.S., which prohibits transportation corporations created pursuant to the act from entering into any agreement or arrangement for the purpose of facilitating the issuance of debt in any form, except when the debt is authorized for issuance by the Division of Bond Finance in accordance with the State Bond Act.

Section 3 provides the act 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 11.45, 339.401, 339.402, 339.403, 339.404, 339.405, 339.406, 339.407, 339.408, 339.409, 339.410, 339.411, 339.412, 339.414, 339.415, 339.416, 339.417, 339.418, 339.419, 339.420, and 339.421.

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.