

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: SB 1200

INTRODUCER: Senator Young and others

SUBJECT: Statewide Alternative Transportation Authority

DATE: February 13, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

**I. Summary:**

SB 1200 creates the Statewide Alternative Transportation Authority (authority). The bill makes the authority a part of the organization of the Florida Department of Transportation (FDOT) and grants it sole responsibility for the design and construction of alternative transportation systems. The authority is a single budget entity that submits its budget along with the FDOT's budget.

The bill defines "alternative transportation system" to mean a system of infrastructure, appurtenances, and technology designed to move the greatest number of people in the least amount of time. The term includes autonomous vehicles and transportation network companies, but does not include other traditional uses of a roadway system for conveyance.

The bill repeals the current distribution of \$60 million in documentary stamp tax revenues to the Florida Rail Enterprise (FRE). Beginning in the 2021-2022 fiscal year, the bill provides a distribution of \$35 million in documentary stamp tax revenues to the authority and \$25 million to the Tampa Bay Area Regional Transit Authority. Of the \$35 million distributed to the authority, \$25 million is allocated to Miami-Dade County and the remaining \$10 million will be available to all other counties competing for funding for alternative transportation system projects. The bill requires a 1:1 match with local or private funds. Projects with existing funding commitments as of July 1, 2018, are not eligible.

The bill will have a negative fiscal impact on FRE funding and may negatively impact FRE projects planned in the FDOT's work program. The FDOT will also incur indeterminate expenses associated with creation and administration of the Authority. Counties that elect to apply for funding for alternative transportation projects will be required to provide matching funds.

## II. Present Situation:

### FDOT Organization and the Florida Rail Enterprise

The FDOT is organized into seven geographic districts, each headed by a district secretary, and the Florida Turnpike Enterprise (FTE) and the FRE, each of which are headed by an executive director.<sup>1</sup> The district secretaries and executive directors must be registered professional engineers or hold an advanced degree in an appropriate related discipline.

The FRE operates pursuant to the Florida Rail Enterprise Act<sup>2</sup> and is responsible for:

- Developing and operating the high-speed and passenger rail systems established in ch. 341, F.S.;
- Directing funding for passenger rail systems under s. 341.303, F.S.; and
- Coordinating publicly funded passenger rail operations, including freight rail interoperability issues.

Generally<sup>3</sup> the FRE is exempt from the FDOT's policies, procedures, and standards, subject to the FDOT secretary's authority to apply any such policies, procedures, and standards to the FRE as the secretary deems appropriate.<sup>4</sup>

The FRE is a single budget entity that submits its budget to the Legislature along with the FDOT's budget. All passenger rail funding is included in the FRE's budget.<sup>5</sup> Notwithstanding certain provisions of law relating to undisbursed appropriations balances,<sup>6</sup> on July 1 each year the Governor is required to certify forward (into the next state fiscal year) all unexpended funds appropriated or provided pursuant to s. 341.303, F.S., to the FRE. This includes any expended funds that are unencumbered. The carried-forward funds cannot exceed 5 percent of the original approved FRE operating budget.<sup>7</sup> Funds carried forward may be used for any lawful purpose, including, but not limited to, promotional and market activities, technology, and training. Any certified forward funds that are undisbursed on September 30 of each year are carried forward.<sup>8</sup>

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<sup>1</sup> Section 20.23(4)(f), F.S.

<sup>2</sup> Section 20.23(4)(f)1., F.S. The Florida Rail Enterprise Act is located in ss. 341.8201-341.842, F.S.

<sup>3</sup> Except as provided in the Consultants' Competitive Negotiation Act, which relates to agency acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services. s. 287.055, F.S.

<sup>4</sup> Section 20.23(4)(f)2., F.S. Florida's Turnpike Enterprise (FTE) is likewise exempt, subject to the FDOT secretary's same authority, under s. 20.23(4)(e)2., F.S.

<sup>5</sup> Section 341.303(6)(a), F.S.

<sup>6</sup> See s. 216.301, F.S., which generally provides that the balance of any operations appropriation not identified in the state's financial system as an incurred obligation effective June 30th each year ("unencumbered") reverts to the fund from which it was appropriated and is available for re-appropriation by the Legislature. Funds for an identified incurred obligation are "carried forward" in the amount of the identified obligations (unexpended, but encumbered). Generally, fixed capital outlay appropriation balances which are not disbursed but are expended, contracted, or committed to be expended prior to February 1 of the second fiscal year of the appropriation are "certified forward." Similarly, any balance not certified reverts to the fund from which it was appropriated and is available for re-appropriation.

<sup>7</sup> Per s. 216.181, F.S., the General Appropriations Act and any other acts containing appropriations are considered the original approved operating budgets for operational and fixed capital expenditures. The original approved operating budgets may be amended in accordance with provisions contained in that section of law.

<sup>8</sup> Section 341.303(6)(b), F.S. Similar provisions apply to the FTE under s. 338.2216(3), F.S.

## Funding for the FRE

The Transportation Regional Incentive Program receives a distribution from documentary stamp taxes, of which the first \$60 million of funds are redirected annually to the FRE.<sup>9</sup> Such distribution must be used to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible<sup>10</sup> passenger rail capital improvement project.
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system.
- The high-speed rail system.
- Projects necessary to identify or address anticipated impact of increased freight rail traffic resulting from the implementation of passenger rail systems.<sup>11</sup>

In addition to documentary stamp tax revenues, the FRE is appropriated additional funds from the State Transportation Trust Fund in the General Appropriations Act. For the 2017-2018 fiscal year, the FRE was authorized one position and a total budget of approximately \$237.4 million. Of that amount, \$74.4 million was for public transit development grants, \$159.6 million for rail development grants, and \$2.8 million for intermodal development grants.<sup>12</sup>

Examples of major passenger rail projects that have received funding by the FRE include the Central Florida Commuter Rail System (SunRail)<sup>13</sup> and the South Florida Regional Transportation Authority (TriRail)<sup>14</sup>.

## Transportation Regional Incentive Program

The Transportation Regional Incentive Program (TRIP) was created in 2005 as part of growth management legislation to “encourage regional planning by providing state matching funds for improvements to regionally significant transportation facilities identified and prioritized by regional partners.”<sup>15</sup> It is a “matching program designed to leverage investments in regionally-significant road and public transportation projects.”<sup>16</sup> The TRIP funds provide up to 50 percent of the project costs and must be matched by regional, local, or federal dollars or in-kind contributions. Funds are “distributed to the FDOT Districts based on a statutory formula of equal parts population and fuel tax collections.”<sup>17</sup> Certain projects receive priority, such as providing

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<sup>9</sup> Section 201.15(4)(a), F.S.

<sup>10</sup> Any project necessary to carry out the FDOT’s duties and responsibilities provided in s. 341.302, F.S., that is consistent with the approved local government comprehensive plan of the unit of government of the areas served by the rail service, and that is contained in the adopted work program, is eligible for funding in accordance with the identified participation rates, per s. 341.303(2), F.S.

<sup>11</sup> Section 341.303(5), F.S.

<sup>12</sup> Specific Appropriations 1883-1891, ch. 2017-70, L.O.F.

<sup>13</sup> For additional information, see the SunRail website available at: <http://sunrail.com/> (last visited February 11, 2018).

<sup>14</sup> For additional information, see the TriRail website available at: <http://www.tri-rail.com/>; and the South Florida Regional Transportation Authority website available at: <http://www.sfrta.fl.gov/> (both sites last visited February 11, 2018).

<sup>15</sup> Section 339.2819, F.S. FDOT, *Transportation Regional Incentive Program Fact Sheet*, available at <http://www.fdot.gov/programmanagement/LP/TRIP/TRIPFactsheet.pdf> (last visited February 12, 2018).

<sup>16</sup> Id.

<sup>17</sup> Id.

connectivity to the strategic intermodal system or supporting economic development and goods movement in rural areas of opportunity.

### **Tampa Bay Area Regional Transit Authority**

Part V of ch. 343, F.S., creates the Tampa Bay Area Regional Transit Authority (TBARTA). TBARTA covers Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties and any other contiguous county that is party to an agreement of participation.<sup>18</sup> TBARTA's express purposes are to:

- Plan, implement, and operate mobility improvements and expansions of multimodal transportation options for passengers and freight throughout the designated region;
- Produce a regional transit development plan, integrating the transit development plans of participant counties, to include a prioritization of regionally significant transit projects and facilities; and
- Serve, with the consent of the Governor or designee, as the recipient of federal funds supporting an intercountry project or an intracounty capital project that represents a phase of an intercountry project that exists in a single county within the designated region.<sup>19</sup>

The TBARTA was required to provide to the Legislature a plan to produce the regional development plan on or before the 2018 Regular Session. Currently, the TBARTA is developing the plan to identify projects “that have the greatest potential to be funded (compete for federal grants) and implemented[,]... are the most forward thinking and make the best use of today’s technology[, and]...best serve our region today while supporting tomorrow’s growth.”<sup>20</sup> An evaluation process will use “clearly defined criteria [to] identify the top transit corridors in the region, and ultimately one “catalyst project” that could be implemented first, followed by other projects to move forward around the region.”<sup>21</sup>

### **South Florida Regional Transportation Authority**

Part I of ch. 343, F.S., creates the South Florida Regional Transportation Authority (SFRTA). SFRTA covers Broward, Miami-Dade, and Palm Beach Counties, and may expand its service area into Monroe County by resolution of the SFRTA's governing board and consent of the board of county commissioners and any other county with FDOT's approval.<sup>22</sup>

SFRTA receives funding from the State Transportation Trust Fund for the operation, maintenance, and dispatch of the South Florida Rail Corridor.<sup>23</sup> The law specifically prohibits the provision of these funds from the funds dedicated to the FRE from documentary stamp tax distributions.

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<sup>18</sup> Section 343.91(1)(a), F.S.

<sup>19</sup> 343.922(1), F.S.

<sup>20</sup> TBARTA, Regional Transit Feasibility Plan, *About*, available at <http://tbrregionaltransit.com/about/> (last visited February 11, 2018).

<sup>21</sup> *Id.*

<sup>22</sup> Section 343.54, F.S.

<sup>23</sup> Section 343.58(4), F.S.

### III. Effect of Proposed Changes:

#### FDOT Organization

**Section 1** amends s. 20.23, F.S., to add the Alternative Transportation Authority to the FDOT. Under the bill, the FDOT will be organized into seven districts, a turnpike enterprise, a rail enterprise, *and* an alternative transportation authority. Like the FRE and the FTE, the bill requires the Alternative Transportation Authority to be headed by an executive director, who must be a registered professional engineer or hold an advanced degree in an appropriate related discipline.

The bill requires the FDOT secretary to delegate to the executive director of the Alternative Transportation Authority the responsibility for expending funds for the design and construction of alternative transportation systems. The headquarters of the alternative transportation authority must be in Leon County.

As is the case for the FRE and the FTE, the bill exempts the Alternative Transportation Authority from the FDOT's policies, procedures, and standards, subject to the FDOT secretary's authority to apply any such policies, procedures, and standards to the FRE as the secretary deems appropriate.

#### Funding

**Section 2** amends s. 201.15(4)(a)4., F.S., relating to the distribution of documentary stamp taxes to the TRIP. The bill repeals the allocation to the FRE of the first \$60 million of the funds allocated to the TRIP. For the 2018-2019, 2019-2020, and 2021-2021 fiscal years, the TRIP will receive all funds distributed from the documentary stamp taxes pursuant to this subparagraph.

Beginning in the 2021-2022 fiscal year, the first \$60 million allocated to the TRIP shall be allocated for alternative transportation systems as follows:

- \$25 million on a matching basis to TBARTA for the design and construction of an alternative transportation system. One dollar in local or private matching funds is required for each dollar distributed, and federal funds may not be substituted for the local or private matching funds.
- \$35 million to the Alternative Transportation Authority for the purposes established in s. 341.86, F.S. (which directs that \$25 million of those funds be distributed to Miami-Dade County, with the remaining \$10 million available for any other counties).

The existing prohibition against pledging the distributed funds for debt service unless such pledge is approved by referendum of the voters is unchanged.

**Section 3** repeals subsection (5) of s. 341.303, F.S., which sets forth how the FRE is required to use the distribution from the documentary stamp taxes.

## Statewide Alternative Transportation Authority

**Section 4** creates s. 341.36, F.S., creating the Statewide Alternative Transportation Authority within the FDOT. “Alternative transportation system” is defined as a “system of infrastructure, appurtenances, and technology designed to move the greatest number of people in the least amount of time.” An alternative transportation system includes autonomous vehicles<sup>24</sup> and transportation network companies,<sup>25</sup> but not other traditional uses of a roadway system for conveyance.

The Alternative Transportation Authority may exercise all powers granted to it, in addition to the powers granted to the FDOT. The granted powers include, but are not limited to:

- Evaluating, financing, and overseeing proposals for alternative transportation systems in this state;
- Expending funds to publicize and promote alternative transportation systems and to contract with entities to accomplish these purposes; and
- Soliciting proposals in accordance with ch. 287, F.S.,<sup>26</sup> for the design and construction of alternative transportation systems and contracting with entities to expend funds to accomplish this purpose.

The bill provides that the Alternative Transportation Authority is a single budget entity. All alternative transportation funding must be included in the authority’s budget, which is submitted with the FDOT’s budget. As with the FRE and the FTE, the bill includes the same provisions for certifying or carrying forward unexpended appropriations balances at the end of the fiscal year.

The FDOT, through the Alternative Transportation Authority, is required to use the \$35 million distributed from documentary stamp tax revenues in a county to fund the design and construction of an alternative transportation system for passengers, based on a county proposal that the Alternative Transportation Authority approves as being consistent with the requirements of the new law. More specifically, the bill requires the Alternative Transportation Authority to use:

- \$25 million for an alternative transportation system in a county as defined in s. 125.011(1), F.S. (Miami-Dade County).<sup>27</sup>
- \$10 million for an alternative transportation system in any other county or counties in the state.

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<sup>24</sup> Section 316.003, F.S., currently defines “autonomous vehicle” as any vehicle equipped with autonomous technology, with certain exclusions. “Autonomous technology” is defined to mean technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control of monitoring by a human operator.

<sup>25</sup> Section 627.748, F.S., defines “transportation network company” or “TNC” as an entity operating in this state using a digital network to connect a rider to a TNC driver, who provides prearranged rides.

<sup>26</sup> Chapter 287, F.S., sets forth requirements and procedures to be used by state agencies in managing and procuring commodities and contractual services.

<sup>27</sup> Section 125.011(1), F.S., defines a county as: “[A]ny county operating under a home rule charter adopted pursuant to Art. VIII, ss. 10, 11, and 24 of the State Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the State Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred.” Of the local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957, under the constitutional provision.

A county proposing use of alternative transportation system funds must submit a request to the Alternative Transportation Authority. The request must include a detailed project and financial plan, and must specify the project's duration and the total amount of funding sought by state fiscal year.

One dollar in local or private matching funds is required for each dollar distributed, and federal funds may not be substituted for the local or private matching funds. Additionally, funds distributed may not be used to subsidize projects with existing funding commitments as of July 1, 2018.

#### **Conforming Revision**

**Section 5** amends s. 343.58(4), F.S., to conform to changes made in the bill by prohibiting the SFRTA from receiving documentary stamp tax revenues distributed to the Alternative Transportation Authority, instead of the FRE.

**Section 6** provides the bill takes effect July 1, 2018.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not implicate the mandates provisions of the State Constitution. Counties are not required to apply to the Alternative Transportation Authority, but those that do apply for funding for alternative transportation projects will be required to provide matching funds.

##### **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:**

The traveling public in Miami-Dade County and in the counties covered by TBARTA, as well as in any other county in which an alternative transportation system project is constructed, may benefit from increased mobility options.

**C. Government Sector Impact:**

The bill repeals the current distribution of the first \$60 million in documentary stamp tax revenues for TRIP to the FRE. Beginning in Fiscal Year 2021-2022, a distribution of the first \$60 million in documentary stamp tax revenues for TRIP will be distributed to the:

- TBARTA in the amount of \$25 million.
- Alternative Transportation Authority in the amount of \$35 million.

The FRE portion of the FDOT's work program will have a \$60 million reduction in funding starting in Fiscal Year 2018-2019. As a result, FRE projects planned for the future may be either delayed or canceled. The FDOT states that it has \$342.6 million of plan commitments related to the FRE in the Adopted 5-Year Work Program (FYs 2017-2018 to 2021-2022). The FDOT estimates that "redirecting revenue resources would significantly disrupt the FRE-related projects as well as other projects in the work program."<sup>28</sup>

The FDOT will incur indeterminate expenses associated with creation of the Alternative Transportation Authority, including paying for the executive director and staff, operations, costs associated with procurement and audits, legal costs, and other such related expenses.<sup>29</sup>

Under the bill, Miami-Dade County and TBARTA will each receive \$25 million per year for alternative transportation systems projects. The remaining \$10 million will be available to all other counties competing for funding for alternative transportation system projects.

To the extent that counties, including Miami-Dada County, wish to engage in alternative transportation system projects, the bill requires local or private matching funds to be provided. To the extent that a county provides matching funds, the local resources used as a match would not be available for other purposes in that county. Further projects with existing funding commitments as of July 1, 2018, will not be eligible for funding.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.23, 201.15, 341.303, and 343.58.

<sup>28</sup> FDOT, *2018 Agency Legislative Bill Analysis: SB 1200*, February 7, 2018.

<sup>29</sup> *Id.*



This bill creates section 341.86 of the Florida Statutes.

This bill repeals section 341.303(5) of the Florida Statutes.

**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.

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

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