

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 Transportation

BILL: SB 1200

INTRODUCER: Senator Young and others

SUBJECT: Statewide Alternative Transportation Authority

DATE: February 5, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

The bill 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, but is not limited to, autonomous vehicles and transportation network companies. The term does not include other traditional uses of a roadway system for conveyance.

The bill sets out the Authority's powers, which are in addition and supplemental to the FDOT's existing powers. The Authority is expressly charged with 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 from counties for funding the design and construction of alternative transportation systems and contracting with entities to expend funds to accomplish this purpose.

Beginning in the 2021-2022 fiscal year, the bill reallocates \$60 million in documentary stamp tax proceeds currently allocated to the Florida Rail Enterprise (FRE). Of the \$60 million, \$25 million is allocated to the Tampa Bay Area Regional Transit Authority (TBARTA) and \$35 million is allocated to Miami-Dade County. The remaining \$10 million will be available to all other counties competing for funding for alternative transportation system projects. The bill requires a 50/50 match with local or private funds. Projects with existing funding commitments as of July 1, 2018, are not eligible.

To the extent that alternative transportation systems are funded, the traveling public may benefit from increased mobility. The bill will have a negative impact on FRE funding and may

negatively impact FRE projects planned in outer years of the FDOT's work program. The FDOT will also incur indeterminate expenses associated with creation and administration of the Authority. Counties may be impacted to the extent that required matching funds are provided for alternative transportation system projects. See the "Fiscal Impact Statement" heading below for details.

II. Present Situation:

FDOT Organization and the Florida Rail Enterprise

The FDOT, created in s. 20.23, F.S., as a decentralized agency and headed by the FDOT secretary, is organized into seven geographic districts headed by district secretaries, as well as a turnpike enterprise and a rail enterprise, each of which are headed by an executive director. The FRE executive director reports directly to the FDOT secretary.¹

As delegated by the FDOT's secretary, the FRE executive director 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. The FRE operates pursuant to the Florida Rail Enterprise Act.²

Except as provided in the Consultants' Competitive Negotiation Act,³ 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.⁴

The FRE, a single budget entity, submits its budget to the Legislature along with the FDOT's budget. All passenger rail funding is included in the FRE's budget.⁵ Notwithstanding certain provisions of law relating to undisbursed appropriations balances,⁶ and in accordance with s. 216.351, F.S.,⁷ the Executive Office of the Governor (EOG) on July 1 of each year is required to certify forward all unexpended funds appropriated or provided pursuant to s. 341.303, F.S. (discussed below under the heading "*Rail Funding*"). Of the unexpended funds certified forward, any unencumbered amounts are carried forward, but the carried-forward funds may not exceed

¹ Section 20.23(4)(a), F.S.

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

³ The act relates to agency acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services.

⁴ 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.

⁵ Section 341.303(6)(a), F.S.

⁶ 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 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. 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" by the head of the state agency or the judicial branch. Similarly, any balance not certified reverts to the fund from which it was appropriated and is available for re-appropriation.

⁷ That section provides that subsequent inconsistent laws supersede Ch. 216, F.S., only to the extent that they do so by express reference to that section.

five percent of the original approved FRE operating budget.⁸ 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.⁹

Documentary Stamp Tax

Chapter 201, F.S., provides for the levy of a documentary stamp tax on certain documents, such as deeds; bonds; notes and written obligations to pay money; and mortgages, liens, and other evidence of indebtedness. After required distributions to the Land Acquisition Trust Fund¹⁰ and deducting the General Revenue service charge,¹¹ the lesser of 24.18442 percent of the remainder of the tax proceeds or \$541.75 million in each fiscal year is deposited in the State Transportation Trust Fund (STTF). From that amount, \$75 million must be deposited into the General Revenue Fund. The remaining amount credited to the STTF must be used for:

- Capital funding for the New Starts Transit Program (New Starts)¹² in the amount of ten percent;
- The Small County Outreach Program (SCOP)¹³ in the amount of ten percent;
- The Strategic Intermodal System¹⁴ in the amount of 75 percent after deducting the payments for New Starts and SCOP; and
- The Transportation Regional Incentive Program (TRIP)¹⁵ in the amount of 25 percent after deducting the payments for New Starts and SCOP.

The distributed funds may not be pledged for debt service unless such pledge is approved by referendum of the voters.¹⁶

Currently, the first \$60 million of the funds allocated to the TRIP are redirected annually to the FRE for the purposes established in s. 341.303(5), F.S., (which is discussed under the next heading).

⁸ 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.

⁹ Section 341.303(6)(b), F.S. Similar provisions apply to the FTE under s. 338.2216(3), F.S.

¹⁰ Section 201.15(1) and (2), F.S.

¹¹ Section 215.20, F.S.

¹² See 49 U.S.C. s. 5309 and s. 341.051, F.S. Generally, the federal law authorizes grants to states and local governmental authorities to assist in financing rail transit and bus rapid transit systems.

¹³ Section 339.2818, F.S.

¹⁴ Sections 339.61-339.64, F.S.

¹⁵ Section 339.2819, F.S.

¹⁶ Section 201.15(4), F.S. That subsection makes a number of other distributions after those described herein.

Rail Funding

Section 341.303(5), F.S., authorizes the FDOT, through the FRE, to use funds allocated to the FRE from documentary stamp taxes to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible¹⁷ 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.

In addition to documentary stamp tax revenues, the FRE is appropriated additional funds from the State Transportation Trust Fund (STTF). 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.¹⁸ Examples of major passenger rail projects that have received funding by the FRE include the Central Florida Commuter Rail System (SunRail)¹⁹ and the South Florida Regional Transportation Authority (TriRail)²⁰.

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.²¹ 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.²²

¹⁷ 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.

¹⁸ Specific Appropriations 1883-1891, 2017 General Appropriations Act, Ch. 2017-70, p. 274, available at: <http://laws.flrules.org/2017/70>. (Last visited January 23, 2018.)

¹⁹ For additional information, see the SunRail website available at: <http://sunrail.com/>. (Last visited February 1, 2018.)

²⁰ 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.sftra.fl.gov/>. (Last visited February 1, 2018.)

²¹ Section 343.91(1)(a), F.S.

²² 343.922(1), F.S. For information on TBARTA projects and other activities, see the TBARTA website available at: <http://www.tbarta.com/en/projects> and <http://www.tbarta.com/en/planning/projects-page/mpo-regional-coordination>. (Last visited January 30, 2018.)

III. Effect of Proposed Changes:

FDOT Organization and the Florida Rail Enterprise

Section 1 of the bill amends s. 20.23, F.S., relating to the FDOT, organizing the alternative transportation authority into the FDOT's operations. The bill provides that the FDOT is 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 also be a registered professional engineer or, alternatively, may 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 bill requires location of the headquarters of the alternative transportation authority 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 alternative transportation authority, as the secretary deems appropriate.

Documentary Stamp Tax

Section 2 amends s. 201.15(4), F.S., relating to distribution of collected documentary stamp taxes. Beginning in the 2021-2022 fiscal year, the bill revises the allocation of the first \$60 million of the funds currently allocated to the FRE through the TRIP. The bill re-allocates that first \$60 million annually for alternative transportation systems (as defined in a new s. 341.86, F.S., discussed below) 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 Authority for the purposes established in new s. 341.86, F.S. (which directs that \$25 million be used in Miami-Dade County with the remaining \$10 million available for any other counties; discussed further below under the heading "*Statewide Alternative Transportation Authority*").

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

Rail Funding

Section 3 of the bill repeals subsection (5) of s. 341.303, F.S., which sets out the approved participation levels of funding the FDOT is currently authorized to provide, through the FRE, for the identified rail projects. The repeal eliminates funding to the FRE from documentary stamp taxes.

Statewide Alternative Transportation Authority

Section 4 creates s. 341.36, F.S. The new section of law creates the Statewide Alternative Transportation Authority within the FDOT and defines the term "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, but is not limited to, autonomous vehicles, as defined in s. 316.003, F.S.,²³ and transportation network companies, as defined in s. 627.748, F.S.²⁴ The term does not include other traditional uses of a roadway system for conveyance.

The Authority may exercise all powers granted to it under the bill, in addition to the powers granted to the FDOT. The Authority's powers are in addition and supplemental to the FDOT's existing powers, and the Authority's 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.,²⁵ 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 Authority shall be a single budget entity. All alternative transportation funding must be included in the Authority's budget, which is to be submitted with the FDOT's budget.

As with the FRE and the FTE, notwithstanding the carry-forward and certify-forward provisions of s. 216.301, F.S., and in accordance with s. 216.351, F.S., relating to subsequent inconsistent laws, the EOG is required on July 1 of each year to certify forward all unexpended funds appropriated or provided for the Authority. Of the unexpended funds certified forward, any unencumbered amounts must be carried forward, but the carried-forward amount may not exceed five percent of the original approved operating budget of the Authority. Funds carried forward may be used for the purposes specified in the new section of law. Any certified-forward funds remaining undisbursed on September 30 of each year must be carried forward.

The FDOT, through the Authority, is required to use funds provided 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 Authority approves as being consistent with the requirements of the new section of law.

²³ Currently, "autonomous vehicle" means "any vehicle equipped with autonomous technology. "Autonomous technology" is currently 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," with certain exclusions.

²⁴ "Transportation network company" or "TNC" means an entity operating in this state using a digital network to connect a rider to a TNC driver, who provides prearranged rides.

²⁵ Chapter 287, F.S., sets forth requirements and procedures to be used by state agencies in managing and procuring commodities and contractual services.

Of the \$35 million in documentary stamp tax revenue allocated to the Authority, the Authority must use \$25 million for an alternative transportation system in a county as defined in s. 125.011(1); that is, in Miami-Dade County.²⁶ The Authority must use the remainder, \$10 million, for an alternative transportation system in any other county or counties in the state.

A county proposing use of alternative transportation system funds must submit a request to the 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 under the new section of law may not be used to subsidize projects with existing funding commitments as of July 1, 2018.

Conforming Revision

Section 6 of the bill amends s. 343.58, relating to county funding for the South Florida Regional Transportation Authority (SFRTA). Currently, funding for the SFRTA may not be provided from documentary stamp tax proceeds allocated to the TRIP (which includes the first \$60 million now redirected to the FRE).

Section 343.58, F.S., is amended to conform to changes made in the act by prohibiting the SFRTA from receiving documentary stamp tax revenues re-allocated to the Authority by the bill.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁶ 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 copy of the charter, as amended, is available at: <http://www.miamidade.gov/charter/>. (Last visited January 30, 2018.)

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.

C. Government Sector Impact:

The bill redirects the first \$60 million in documentary stamp tax revenues, currently allocated to the FRE through the TRIP, to counties for alternative transportation systems for passengers, beginning in the 2021-2022 fiscal year.

Beginning in 2021, the FRE portion of the FDOT's work program will see a negative impact resulting from the \$60 million redirection to alternative transportation systems. As a result, FRE projects planned for the future may be either delayed or canceled. Additionally, the FDOT will incur indeterminate expenses associated with creation of the Authority; executive director compensation; staffing the Authority; preparing budgets; soliciting, evaluating, and selecting project proposals for funding; entering into authorized contracts, and other such related expenses.

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 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.

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.

This bill creates the following sections of the Florida Statutes: 341.86.

This bill repeals the following sections of the Florida Statutes: 341.303(5).

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.

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