

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 535 Statewide Alternative Transportation Authority
SPONSOR(S): Transportation & Infrastructure Subcommittee; Avila and Grant, J.
TIED BILLS: IDEN./SIM. **BILLS:** SB 1200

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill creates a Statewide Alternative Transportation Authority (Authority) within the Department of Transportation (DOT), which is solely responsible for the design and construction of alternative transportation systems. The authority is a single budget entity that submits its budget with DOT's budget.

The bill defines "alternative transportation system" as 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 or transportation network companies. The term does not include other traditional uses of a roadway system for conveyance.

The bill provides the authority's powers and duties including:

- Evaluating, financing and overseeing proposals for alternative transportation systems.
- Spending funds to publicize and promote alternative transportation systems.
- Soliciting proposals for the design and construction of alternative transportation systems.

Effective in the 2021-2022 fiscal year, the bill reallocates \$60 million in documentary stamp taxes currently allocated to the Florida Rail Enterprise (FRE). Of the \$60 million, \$25 million is allocated to the Tampa Bay Area Regional Transit Authority and \$35 million is allocated to the Authority. Of the \$35 million allocated to the Authority, \$25 million is allocated to Miami-Dade County. The remaining \$10 million may be used in any county or counties. The use of these tax revenues is on a 50/50 matching basis with local or private funds. These funds may not be used to subsidize projects with existing funding commitments as of July 1, 2018.

The bill also repeals the authorized use of documentary stamp tax revenues by the FRE and prohibits the South Florida Regional Transportation Authority from obtaining Authority revenue from the documentary stamp tax.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Department of Transportation

Section 20.23, F.S., creates the Department of Transportation (DOT) as a decentralized agency, headed by the DOT Secretary. DOT has seven geographic districts, a turnpike enterprise and a rail enterprise.¹

As delegated by the DOT Secretary, the Florida Rail Enterprise (FRE) Executive Director is responsible for developing and operating the high-speed and passenger rail systems,² directing funding for passenger rail systems,³ and coordinating publicly funded passenger rail operations, including freight rail interoperability issues. The FRE Executive Director directly reports to the DOT Secretary, and the FRE operates pursuant to the Florida Rail Enterprise Act.⁴

The FRE, except as provided in the Consultants Competitive Negotiation Act⁵ is exempt from DOT's policies, procedures, and standards, subject to the DOT Secretary's authority to apply any such policies, procedures, and standards to the FRE as he or she deems appropriate.⁶

The FRE is a single budget entity and submits its budget to the Legislature along with DOT's budget. All DOT passenger rail funding is included in the FRE's budget.⁷

Rail Funding

For the 2017-2018 fiscal year, the FRE was authorized one position, and a budget of approximately \$237.4 million, of which \$74.4 million was for public transit development grants, \$159.6 million for rail development grants, and \$2.8 million for intermodal development grants.

Section 341.303(5), F.S., provides that DOT, through the FRE, may 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 eligible 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 impacts of increased freight rail traffic resulting from the implementation of passenger rail systems.

Documentary Stamp Tax

Chapter 201, F.S., authorizes the documentary stamp tax. After the required distributions to the Land Acquisition Trust Fund⁹ and deducting General Revenue service charge,¹⁰ the lesser of 24.18442 percent of the remainder of tax revenue or \$541.75 million in each fiscal year is paid into the State Transportation Trust Fund (STTF). Of funds annually paid into the STTF funds, \$75 million is

¹ Section 20.23(4)(a), F.S.

² High-speed passenger rail systems are established in Ch. 341, F.S.

³ Funding for passenger rail systems is provided in s. 341.303, F.S.

⁴ Section 20.23(4)(f)1., F.S.

⁵ Section 287.055, F.S.

⁶ Section 20.23(4)(f)2., F.S.

⁷ Section 341.303(6)(a), F.S.

⁹ Distributions to the Land Acquisition Trust Fund are pursuant to s. 201.15(1) and (2), F.S.

¹⁰ The General Revenue Service Charge is pursuant to s. 215.20(1), F.S.

transferred to the General Revenue Fund. The remaining amount credited to the STTF is allocated as follows:

- Capital funding for the New Starts Transit Program in the amount of 10 percent of the funds;
- The Small County Outreach Program in the amount of 10 percent of the funds;
- The Strategic Intermodal System receives 75 percent of the funds after deducting payments for the New Starts Transit Program and the Small County Outreach Program; and
- The Transportation Regional Incentive Program receives 25 percent of the funds after deducting payments for the New Starts Transit Program and the Small County Outreach Program. The first \$60 million annually allocated to the Transportation Regional Incentive Program is distributed to the FRE.¹¹

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Tampa Bay Area Regional Transit Authority

Part V of Ch. 343, F.S., creates the Tampa Bay Area Regional Transit Authority (TBARTA). TBARTA includes Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties and any other contiguous county that is party to an agreement of participation.¹² 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.
- Serve, with the consent of the Governor, as the recipient of federal funds supporting an intercounty project or an intercounty capital project that represents a phase of an intracounty regional project within the designated region.¹³

Proposed Changes

Department of Transportation

The bill amends s. 20.23, F.S., relating to the Department of Transportation. The bill creates the Statewide Alternative Transportation Authority (Authority) within DOT with its headquarters in Leon County. The Authority is headed by an executive director, who must be a registered professional engineer¹⁴ or may hold an advanced degree in an appropriate related discipline.

The bill requires the responsibility for expending funds for the design and construction of alternative transportation systems be delegated by the DOT Secretary to the executive director of the Authority, who serves at the pleasure of the DOT Secretary. The executive director of the Authority reports directly to the DOT Secretary and the Authority operates pursuant to s. 341.86, F.S.

The Authority, except as provided in the Consultants Competitive Negotiation Act¹⁵ is exempt from DOT's policies, procedures, and standards, subject to the DOT Secretary's authority to apply any such policies, procedures, and standards to the authority as he or she deems appropriate.¹⁶

¹¹ Section 201.15(4), F.S.

¹² Section 343.91(1)(a), F.S.

¹³ Section 343.922(1), F.S.

¹⁴ Professional engineers are registered in accordance with Ch. 471, F.S.

¹⁵ Section 287.055, F.S.

¹⁶ Section 20.23(4)(f)2., F.S.

The above provisions are similar to those for the existing FRE.

Documentary Stamp Taxes

The bill revises the allocation of documentary stamp tax revenue to the Transportation Regional Incentive Program. The bill annually allocates, beginning in the 2021-2022 fiscal year, the first \$60 million of the funds for public-private partnerships for alternative transportation systems for passengers as follows:

- Twenty-five million dollars on a matching basis to TBARTA for the design and construction of an alternative transportation system for passengers. TBARTA must provide one dollar in local matching funds for each dollar distributed. TBARTA may not substitute federal funds for local matching funds.
- Thirty-five million dollars to the Authority for the purposes established in s. 341.86, F.S.

Rail Funding

The bill repeals s. 341.303(5), F.S., relating to fund participation for the FRE. This eliminates funding to the FRE from the documentary stamp taxes.

Statewide Alternative Transportation Authority

The bill creates s. 341.86, F.S., establishing the Statewide Alternative Transportation Authority within DOT.

The bill defines “alternative transportation system” as 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 vehicles¹⁷ or transportation network companies.¹⁸ The term does not include other traditional uses of a roadway system for conveyance.

In addition to the powers granted to DOT, the Authority may exercise all powers granted to it, which are in addition to and supplemental to DOT’s powers. 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.
- Soliciting proposals in accordance with Ch. 287, F.S.¹⁹ for the design and construction of alternative transportation systems and contracting with entities to accomplish this purpose.

The Authority is a single budget entity and develops a budget pursuant to Ch. 216, F.S.²⁰ The Authority’s budget is submitted to the Legislature with DOT’s budget. All DOT alternative transportation funding is included in the Authority’s budget entity.

Notwithstanding s. 216.301, F.S.,²¹ to the contrary and in accordance with s. 216.351, F.S.,²² the Executive Office of the Governor must, on July 1 of each year, certify forward all unexpended funds appropriated or provided for the Authority. Of the unexpended funds certified forward, any unencumbered amounts are carried forward. Such funds carried forward may not exceed 5 percent of

¹⁷ Section 316.003(2), F.S., defines “autonomous vehicle” as any vehicle equipped with autonomous technology.

¹⁸ Section 627.748(1)(e), F.S., defines “transportation network companies” as an entity operating in this state pursuant to this section using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner.

¹⁹ Chapter 287, F.S., relates to the procurement of personal property and services.

²⁰ Chapter 216, F.S., relates to planning and budgeting.

²¹ Section 216.301, F.S., relates to undisbursed appropriations balances.

²² Section 216.351, F.S., relates to subsequent inconsistent laws as it relates to planning and budgeting.

the original approved operating budget of the Authority.²³ Funds carried forward may be used for any lawful purpose, including, but not limited to, promotional and marketing activities, technology, and training. Any certified-forward funds remaining undisbursed on September 30 of each year must be carried forward.

DOT, through the Authority, must use funds provided from documentary stamp tax revenue 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 statutory requirements.

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 Miami-Dade County.²⁴ The Authority must use the remainder for such a system in any other county or counties in the state.

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

One dollar in local or private matching funds must be provided for each dollar distributed. Federal funds may not be substituted for the local or private matching funds.

Funds distributed may not be used to subsidize projects with existing funding commitments as of July 1, 2018.

Conforming Changes

The bill also amends s. 343.58, F.S., relating to county funding for the South Florida Regional Transportation Authority to conform by prohibiting it from receiving documentary stamp tax revenues from the authority instead of the FRE.

B. SECTION DIRECTORY:

Section 1 amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 amends s. 201.15, F.S., relating to the distribution of taxes collected.

Section 3 repeals s. 341.303(5), F.S., relating to fund participation of the Florida Rail Enterprise.

Section 4 creates s. 341.86, F.S., creating the Statewide Alternative Transportation Authority.

Section 5 amends s. 343.58, F.S., to conform.

Section 6 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

²³ The authority's operating budget is approved pursuant to s. 216.181(1), F.S.

²⁴ The bill provides that it is a county as defined in s. 125.011(1), F.S. Section 125.011(1), F.S., defines "county" as any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county. This definition only applies to Miami-Dade County.

Beginning in the 2021-2022 fiscal year, the bill redirects \$60 million in documentary stamp revenue currently allocated via the Transportation Regional Incentive Program to the FRE to eligible counties for alternative transportation systems for passengers.

2. Expenditures:

The FRE portion of DOT's work program will see a negative impact associated with \$60 million in documentary stamp taxes being redirected from FRE to alternative transportation systems; however this change does not take place until 2021. Additionally, DOT will incur some expenditures associated with the creation of the authority; however, the expenditures are indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill reallocates \$60 million in documentary stamp tax revenue currently allocated to the FRE to various local transportation entities for alternative transportation projects. Based on the specifics of the bill, TBARTA and Miami-Dade County will each receive \$25 million per year for alternative transportation systems projects. The remaining \$10 million is available to any county for alternative transportation systems projects.

2. Expenditures:

To the extent that local governments wish to engage in alternative transportation system projects, the bill requires local or private matching funds be provided. To the extent that a local government provides matching funds, they may incur a negative fiscal impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will likely have a negative impact to DOT's work program associated with the reallocation of \$60 million in documentary stamp tax revenue from the FRE to counties for alternative transportation projects beginning in 2021-2022. As a result, planned rail enterprise projects may be either delayed or cancelled.

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:

The bill provides that the Authority begins receiving \$35 million in documentary stamp tax revenues in the 2021-2022 state fiscal year. However, the bill prohibits the use of funds on projects with funding commitments as of July 1, 2018. The bill sponsors may wish to change the funding commitment date.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment making significant changes to the bill and reported the bill favorably as a committee substitute. The committee substitute made the following changes to the filed version of the bill:

- Retained the existing Florida Rail Enterprise and created a new Statewide Alternative Transportation Authority to administer the provisions of the committee substitute.
- Revised the powers and duties of the Statewide Alternative Transportation Authority.
- Changed the definition of “alternative transportation system” to specify that this term includes, but is not limited to, autonomous vehicles and transportation network companies.
- Changed the date for the reallocation of \$60 million in documentary stamp revenue for alternative transportation systems to the 2021-2022 fiscal year.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.