

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1992

SPONSOR: Commerce and Economic Opportunities Committee, Transportation Committee, and Senator Sebesta

SUBJECT: High-Speed Rail Transportation

DATE: March 14, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Favorable/CS
2.	Cibula	Maclure	CM	Favorable/CS
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute authorizes the Florida High Speed Rail Authority (Authority) to seek competitive proposals for the design, building, operations, maintenance, and financing of the high-speed rail system. However, the Authority may not enter into a contract for a high-speed rail system without legislative approval. The Authority is authorized to obtain federal matching funds, either directly or through the Florida Department of Transportation, to administer and manage the preliminary engineering and environmental assessments for the high-speed rail system and for other authorized expenditures.

The committee substitute authorizes the Authority to exercise all powers necessary to carry out preliminary environmental and engineering assessments and to issue requests for proposals, including, but not limited to, the rights and powers to:

- Advertise and promote high-speed rail systems and associated activities;
- Accept funds or other contributions from any source;
- Purchase liability insurance;
- Adopt rules; and
- Sell the naming rights for high-speed rail systems or related facilities.

The Authority is further required to conduct an investment-grade ridership study.

The committee substitute substantially amends the following sections of the Florida Statutes: 341.822, 341.823, and 341.824. The committee substitute creates the following sections of the Florida Statutes: 341.827, 341.831, 341.832, 341.833, 341.836, 341.837, 341.839, and 341.843.

II. Present Situation:

High Speed Ground Transportation Amendment

On November 7, 2000, the Florida voters approved the High Speed Ground Transportation System Amendment, codified in s. 19, Art. X, State Constitution, which states:

To reduce traffic congestion and provide alternatives to the traveling public, it is hereby declared to be in the public interest that a high speed ground transportation system consisting of a monorail, fixed guideway or magnetic levitation system, capable of speeds in excess of 120 miles per hour, be developed and operated in the State of Florida to provide high speed ground transportation by innovative, efficient and effective technologies consisting of dedicated rails or guideways separated from motor vehicular traffic that will link the five largest urban areas of the State as determined by the Legislature and provide for access to existing air and ground transportation facilities and services. The Legislature, the Cabinet and the Governor are hereby directed to proceed with the development of such a system by the State and/or by a private entity pursuant to state approval and authorization, including the acquisition of right-of-way, the financing of design and construction of the system, and the operation of the system, as provided by specific appropriation and by law, with construction to begin on or before November 1, 2003.

Florida High Speed Rail Authority

The Florida High Speed Rail Authority (Authority) was created by ch. 2001-153, L.O.F., to be administered by the Department of Transportation (DOT) to plan, administer, and manage preliminary engineering and environmental assessments of a high-speed rail system and to prepare to implement s. 19, Art. X, State Constitution. The governing board of the Authority consists of nine members, three of whom are appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House of Representatives (s. 341.821(2), F.S.). In conducting its planning activities, the Authority is instructed that the first segment of the high-speed rail will be operated between St. Petersburg, Tampa, and Orlando, followed by service to Miami (s. 341.823(1)(b), F.S.). As part of the Authority's planning activities, the authority is directed to make recommendations concerning business plans for a high speed rail system, routes between the designated cities, station locations, preferred technology, statutory changes. The Authority is also directed to develop an operating plan and estimate costs for construction and operation of the high-speed rail system.

Report to Legislature

The *Florida High Speed Rail Authority 2002 Report to the Legislature* was prepared in compliance with s. 4, ch. 2001-153, L.O.F., and made many findings and recommendations, some of which are discussed below:

Findings

- Based on preliminary research, the first high-speed rail segment linking St. Petersburg, Tampa, and Orlando can generate operating revenues that exceed operating costs.
- The segment linking Tampa to Orlando may be feasible to begin in November 2003, as mandated in the Florida Constitution. Construction on the St. Petersburg to Tampa segment may begin in 2005.
- Operation and maintenance of a high-speed rail system can be paid exclusively with private funds, but a mixture of private and public funding likely will be needed to finance the construction and on-going capital requirements.
- It is in the best interests of the state not to choose or recommend a specific rail technology, but to allow that issue to be settled through competition of contractors.
- When high-speed rail crosses motor vehicle traffic, then those crossings should be vertically, or grade separated.
- Intermodal connections at the high-speed rail stations are critical to the overall success of the system.

Recommendations

- Legislation should be filed to provide the Authority with the ability to procure, seek funding, engage in rulemaking, and use state-owned right-of-way.
- State funding for the high-speed rail system should not negatively affect other projects in DOT's Five-year Work Program.
- Funding currently earmarked for the Transportation Outreach Program is a "viable source" of money for the high-speed rail system, because those funds historically were earmarked for a previous high-speed rail project.

Metropolitan Planning Organizations

Metropolitan planning organizations (M.P.O.s) are organizations designated as such by the Governor and units of general-purpose local government to make transportation plans for urban areas of the state (s. 339.175, F.S.). The Legislature intends that "each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law" (s. 339.175(5), F.S.).

III. Effect of Proposed Changes:

The committee substitute authorizes the Florida High Speed Rail Authority (Authority) to seek competitive proposals for the design, building, operations, maintenance, and financing of a high-speed rail system. However, the Authority is not authorized to enter into a contract for a high-speed rail system without legislative approval. The committee substitute authorizes vendors to propose operating procedures for the high-speed rail system, rather than restricting proposals to operating procedures mandated by the Authority. The committee substitute also directs the Authority to develop an investment-grade ridership study.

Section 1 amends s. 341.822, F.S., to authorize the Authority to seek competitive proposals for the design, building, operations, and maintenance of a high-speed rail system. The Authority may not, however, enter into a contract for a high-speed rail system without legislative approval. The Authority is authorized to obtain federal matching funds or any other funds, either directly or through Florida Department of Transportation, to administer and manage the preliminary engineering and environmental assessments for a high-speed rail system and for other authorized expenditures.

The section is further amended to authorize the Authority to exercise all powers necessary to carry out the enumerated preliminary assessments and to issue requests for proposals, including, but not limited to, the rights and powers to:

- Advertise and promote high-speed rail systems and associated activities;
- Accept funds and donations of land or other real or personal property;
- Purchase liability insurance;
- Adopt rules;
- Sell the naming rights for high-speed rail systems or related facilities; and
- Enter into interlocal agreements.

The Authority is further required to conduct an investment-grade ridership study.

Section 2 amends s. 341.823, F.S., to provide that the initial segments of the system shall operate between the St. Petersburg area, Tampa area, and the Orlando area, with future service to the Miami area, rather than between St. Petersburg, Tampa, Orlando, with future service to Miami. The term “area” is not defined in the bill. As a result, the intent of the change in existing law is unclear. However, the intent of the change may be to increase the number of possible routes linking the designated cities or urban areas surrounding the designated cities. Section 341.823, F.S., is further amended to require the Authority to develop a program that uses, to the maximum extent feasible, nongovernmental sources of funding for the design, construction, maintenance, operation, and financing of the system.

The committee substitute amends s. 341.823(2)(d), F.S., to require the Authority to establish requirements concerning the preferred type of locomotion technology to be employed in the high-speed rail system. This paragraph may be inconsistent with the apparent intent of the bill which is to authorize vendors to propose the use of monorail, fixed guideway, or magnetic levitation technology.

Additionally, s. 341.823, F.S., is amended to delete numerous provisions which are currently required to be included in the Authority’s operating plan for the high-speed rail system. Such provisions include:

- The frequency of service between the initial cities;
- The proposed fare structure;
- Proposed trip times;
- Methods to ensure compliance with applicable environmental regulations;
- A marketing plan;
- Consideration of nonfare revenues;

- An estimate of the total cost to the state; and
- An estimate of the annual operating and maintenance costs for the system.

To allow for innovative proposals, vendors are required to develop their own operating plans in their proposals, as discussed in more detail in section 7 of this analysis.

Section 3 amends s. 341.824, F.S., to require the Department of Community Affairs to assist local governments with land use and comprehensive plan issues relating to the high-speed rail system. The Department of Environmental Protection (DEP) is directed to assist local governments and other agencies to analyze the environmental aspects of the high-speed rail system. DEP is also required to expedite the processing of permits necessary for the high-speed rail system.

Section 4 creates s. 341.827, F.S., to authorize the Authority to “determine in which order the service areas, as designated by the Legislature, will be served by the high-speed rail system.” This authorization is somewhat unclear, in part because the term “service area” is not defined by the committee substitute. Additionally, the Authority shall prioritize future segments of the high-speed rail system, based on criteria including ridership demand, financial participation by local governments and by the private sector, and on the Authority’s available financial resources. The Authority shall designate the location of rail stations in conjunction with local governments.

Section 4 of this committee substitute also provides that phase I of the high-speed rail system shall be developed and operated between the St. Petersburg area, the Tampa area, the Lakeland area, and the Orlando area. Phase II of the high-speed rail system will be developed and operated between the Orlando area and the Miami area. Although Lakeland is located between Tampa and Orlando, Lakeland is not included among the cities specifically listed for the initial segments of the system in s. 341.823(1)(b), F.S.

Additionally, section 4 of the committee substitute requires the Authority to cooperate with metropolitan planning organizations. Metropolitan planning organizations are required to include the high-speed rail system alignment within their long-range transportation plans.

Section 5 creates s. 341.831, F.S., to authorize the Authority to prequalify interested persons to be eligible to submit a proposal for the design, construction, operation, maintenance, and financing of the high-speed rail system.

Section 6 creates s. 341.832, F.S., to provide that the Authority may “develop and execute a request for qualifications process to seek a person or entity to design, build, operate, maintain, and finance a high-speed rail system.” This provision is somewhat unclear as it does not explain how it interacts with the Authority’s power to issue a request for proposals. (See section 7, below.) It is possible that this section is intended to relate to the prequalification process described in section 5 of the committee substitute. The committee substitute specifies that a request for qualifications may be issued without adopting a rule.

Section 7 creates s. 341.833, F.S., to specify procedures for the issuance of a request for proposals for a person or entity to “design, build, operate, maintain, and finance a high-speed rail system.” This authorization is slightly inconsistent with the authorization in section 1 of the

committee substitute to issue a request for proposals, which does not include *financing* of the high-speed rail system. Section 7 specifies that the Authority may issue multiple requests for proposals.

The section also provides that the authority shall “develop criteria for selection of a person or entity that shall be included in any request for proposals.” Like section 1 of the committee substitute, section 7 prohibits the Authority from entering into a contract without legislative approval. Section 7 of the committee substitute also requires the Authority to authorize an extension of the contract period for all vendors who submit a proposal if it authorizes an extension of the contract period for any vendor.

Section 7 further specifies that vendor’s proposals must include:

- The frequency of service between the initial cities;
- The proposed fare structure;
- Proposed trip times;
- Methods to ensure compliance with applicable environmental regulations;
- A marketing plan;
- Consideration of nonfare revenues;
- An estimate of the total cost of the system;
- An estimate of the annual operating and maintenance costs for the system; and
- An estimate of the contribution required per year from federal, state, and other political subdivisions for the next 30 years.

Section 8 creates s. 341.836, F.S., to authorize the Authority to study the potential for developments that may be associated with the high-speed rail system to be an additional revenue source. Associated developments must provide egress to and from the rail stations; be consistent, to the maximum extent feasible, with local government comprehensive plans and local land development regulations; and otherwise be in compliance with the “provisions of this act.”¹

Section 9 creates s. 341.837, F.S., to expressly limit the spending authority and liability of the Authority to legislatively appropriated funds or funds from other legally available sources.

Section 10 creates s. 341.389, F.S., to provide that the powers conferred on the Authority by the “act”² are in addition to any other power authorized by law.

Section 11 creates s. 341.843, F.S., to provide that the provisions of the “act”³ supercede inconsistent general statutes and special acts.

¹ This committee substitute does not create an “act” with a popular name, nor are the provisions of this bill included in an existing popularly named act. Often, statutes are made part of a popularly named act with a statute stating: “This chapter shall be known as the ___ Act” or “Sections ___ shall be known as the ___ Act.” The Legislature may wish to add a section to the committee substitute specifying that the provisions of ch. 341, F.S., relating to the Authority shall be known as the Florida High Speed Rail Authority Act and define the Florida High Speed Rail Authority Act as the “act.”

² Supra, note 1

³ Supra, note 1

Section 12 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the High Speed Rail Authority, an appropriation of \$5.7 million this fiscal year is required in order to match federal funds and continue to administer and manage the preliminary engineering and environmental assessments, and to seek competitive proposals for the design, building, operations, and maintenance of the high-speed rail system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.