

# 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 for SB 1992

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Florida High-Speed Rail Project

DATE: March 6, 2002

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

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

## I. Summary:

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

The CS provides the Authority may exercise all powers necessary to carry out the enumerated preliminary assessments and request 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; and
- Accept proposals which sell the naming rights for high-speed rail systems or related facilities.

The Authority is further required to conduct an investment grade ridership study, to plan and develop a high-speed rail system and associated development, and to establish and determine policies in the best interests of the operation and promotion of a high-speed rail system.

This CS substantially amends sections 341.822, 341.823, and 341.824 and creates sections 341.827, 341.831, 341.832, 341.833, 341.836, 341.837, 341.839 and 341.843 of the Florida Statutes.

## **II. Present Situation:**

For over 20 years, FDOT has been studying high-speed rail in Florida. In 1991, Governor Chiles rejected a plan offered by the Florida High Speed Rail Corporation following the assessment that the proposed financial plan utilizing extensive development rights, tax increment financing, impact fees and a new gas tax to help fund the system was not tenable.

In 1992, Florida's Legislature transferred high-speed rail responsibilities to FDOT. In 1997 FDOT executed a Franchise and Pre-Certification Agreement with Florida Overland Express (FOX). In 1999, state funding for the FOX project was terminated by Governor Bush following an assessment that the financial plan would be a burden on the state.

However, on November 7, 2000, the Florida voters approved a new amendment to the Florida Constitution directing the State Legislature, Governor and Cabinet to proceed with the development of a high-speed ground transportation system in Florida. This system is required to use effective and efficient technologies capable of operating at speeds in excess of 120 miles per hour and must consist of dedicated rails or guideways separated from motor vehicular traffic. The Constitutional Amendment also dictates the system must ultimately link the five largest urban areas of the State and construction must begin by November 1, 2003.

During the 2001 regular legislative session, the Florida Legislature enacted the Florida High Speed Rail Authority Act. This Act created a nine member High Speed Rail Authority and charged the Authority with planning, administering and managing the preliminary engineering and preliminary environmental assessment of the intrastate high-speed rail system. The Act requires the first segments of the system be developed and operated between St. Petersburg, Tampa and Orlando with future service to Miami. The act also provided an appropriation of \$4.5 million to the Authority for the purpose of performing its duties under the act. The Act required the Authority to submit a report of its actions findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 1, 2002.

On June 1, 2001, Governor Jeb Bush signed this act into law. The Governor, Speaker of the Florida House of Representatives and the President of the Florida Senate appointed authority members in July of 2001.

The Authority timely submitted its report to the Legislature. The report described the Authority's activities over the interim, which included retaining a general consultant and a preliminary design and environmental consultant. Also included in the report were a number of findings and recommendations, based on its review of past studies and any new information developed to date.

Among the 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.
- The Authority said 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.

Among the 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 TOP 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.

### **III. Effect of Proposed Changes:**

#### *Section 1:*

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

The section is further amended to provide the Authority may exercise all powers necessary to carry out the enumerated preliminary assessments and request 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; and
- Accept proposals which sell the naming rights for high-speed rail systems or related facilities.

The Authority is further required to conduct an investment grade ridership study, to plan and develop a high-speed rail system and associated development, and to establish and determine policies in the best interests of the operation and promotion of a high-speed rail system.

#### *Section 2:*

Section 341.823, F.S., is amended to broaden the initial segments of the system to provide the initial segments of the system will be developed and operated between the St. Petersburg area, the Tampa area, and the Orlando area, with future service to the Miami area. The section is further amended to provide the Authority must develop a program that uses, to the maximum extent feasible, nongovernmental sources of funding for the design, construction, maintenance, and operation and financing of the system.

The section is further amended to provide the authority must include the following in an operating plan:

- A detailed planning-level ridership study (already completed); and
- An estimate of the value of assets the state or its political subdivisions may provide as in-kind contributions for the system, including rights-of-way, engineering studies, land for rail stations and maintenance facilities, and any expenses that may be incurred by the state or its political subdivisions to accommodate the installation of the system.

The section was amended to strike numerous provisions which are currently required to be included in the Authority's operating plan. 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;
- An estimate of the annual operating and maintenance costs for the system.

Section 7 of the CS put the responsibility of these provisions on the responders to the request for proposal (see section 7 of this analysis).

### *Section 3:*

Section 341.824, F.S., is amended to require the Department of Community Affairs and the Department of Environmental Protection, if requested, to assist local governments in expediting relevant permits and analysis of the high-speed rail system.

### *Section 4:*

Section 341.827, F.S., is created to allow the Authority to determine in which order the legislatively designated high-speed rail service areas will be served, and in conjunction with affected local governments, to designate rail stations. The section specifies Phase I of the high-speed rail system must be developed and operated between the St. Petersburg area, the Tampa area, the Lakeland area, and the Orlando area, and Phase II of the high-speed rail system must be developed and operated between the Orlando area the Miami area. The section gives the Authority the responsibility for prioritizing 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.

*Section 5:*

Section 341.831, F.S., is created specifying the Authority may prequalify interested persons or entities prior to seeking proposals for the design, construction, operation, maintenance, and financing of the high-speed rail system. The section gives the Authority discretion to establish qualifying criteria that may include, but are not limited to, experience, financial resources, organization and personnel, equipment, past record or history of projects, ability to finance or issue bonds, and ability to post a construction or performance bond. The section further specifies the Authority may establish the qualifying criteria in a Request for Qualification, without adopting the qualifying criteria as rules.

*Section 6:*

Section 341.832, F.S., is created to direct the Authority to develop and execute a Request for Qualifications process to seek a person or entity to design, construct, operate, maintain, and finance the high-speed rail system. The section specifies the Authority may issue a Request for Qualification, without adopting a rule.

*Section 7:*

Section 341.833, F.S., is created to direct the Authority to develop and execute a Request for Proposals to seek a person or entity to design, construct, operate, maintain, and finance the high-speed rail system. The section specifies the Authority may issue multiple Requests for Proposals, and must develop criteria for selecting a person or entity and shall include this criteria in the Request for Proposals. The section provides the Request for Proposals must include the minimum period of time of the contract's duration. The authority may not enter into a contract without legislative approval.

The section further provides the responses for the request for proposal 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;
- An estimate of the contribution required per year from federal, state, and other political subdivisions for the next 30 years.

*Section 8:*

Section 341.836, F.S., is created to provide development associated with high-speed rail stations have pedestrian ingress to and egress from the rail station; 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.

*Section 9:*

Section 341.837, F.S., is amended to provide all expenses incurred by the Authority to carry out the provisions of this act shall be payable only from funds provided to the Authority by this act, or other legally available sources, and specifies that the Authority and its members shall not incur any liability or obligation to repay debt beyond the extent to which the funds have been provided.

*Section 10:*

Section 341.839, F.S., is created to provide, except where expressly provided in this act, none of the Authority's powers shall be subject to supervision or regulation by, or consent of, a municipality or county, or any local-government entity.

*Section 11:*

Section 341.843 F.S., is amended to provide if any sections of this act conflict with general statutes or special act, then the provisions of this act supersede.

**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.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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