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/SB 2140

SPONSOR: Transportation Committee, Senator Dockery and others

SUBJECT: The Florida High-Speed Rail Authority

DATE: April 22, 2003 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Fav/CS
2.			GO	
3.			FT	
4.			ATD	
5.			AP	
6.			RC	

I. Summary:

This CS gives the High-Speed Rail Authority (Authority) the ability to request the state Division of Bond Finance to issue revenue bonds to build the high-speed rail system and to replace, build, or repair bridges and roads impacted by the train's construction, and appropriates $75 million in transportation funds in fiscal year 2004-2005 and for the next 30 fiscal years. The first source of the funds is the Transportation Outreach Program (TOP), but if that source is less than $75 million or is repealed, then the second source of funds is the public transportation program of the Florida Department of Transportation (FDOT).

The CS defines "excess revenues," and provides all such revenues generated by the high-speed rail system must be returned by the contractor to the Authority. Of those funds, fifty percent will be retained by the Authority for administrative costs or for debt service to extend the system, and fifty percent will be retained by FDOT to construct regional intermodal transit connecting communities to the high-speed rail stations. The CS provides the Authority with flexibility in determining the amount and manner of the performance and payment surety bond to be provided by the high-speed rail system contractor. The CS prohibits the extension of sales-tax and other tax exemptions provided to the Authority or its agent to any associated development, such as hotels, gift shops, or restaurants. Finally, the CS creates two full-time staffing positions for the Authority.

This CS substantially amends ss. 341.8203, 341.840, 341.830, 341.827; creates ss. 341.843, 341.844, 341.825, 341.826 and 341.845 of the Florida Statutes.

II. Present Situation:

In November 2000, Florida voters approved a constitutional amendment requiring the state to begin construction of a high-speed rail system. The amendment 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.

In 2001, the Florida Legislature enacted the Florida High Speed Rail Authority Act (Ch. 2001-153, L.O.F.). 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. It also required the first segment of the system be developed and operated between St. Petersburg, Tampa and Orlando with future service to Miami. The Florida Legislature amended this Act in the 2002 session to give the Authority implementation powers and to allow the Authority to begin the procurement process for this project. The Authority is required by law to report recommendations on a series of issues to the Governor and Legislature on January 1 of each year.

Florida appropriated a total of $9.0 million in FY 2001/02 and FY 2002/03. Additionally, Congress earmarked $3 million in FY 2001/02 and just approved another $2.15 million this year for this project. Both State and federal funds are being used by the Florida High Speed Rail Authority primarily to conduct engineering and environmental activities in accordance with the National Environmental Policy Act (NEPA). This process will result in obtaining the federal Record of Decision (ROD) or federal permit to begin construction on the Orlando –Tampa segment of the statewide high speed rail system.

The Authority issued an RFP to design, build, operate, maintain, and finance a high speed ground transportation system in October 2002 and received four proposals submitted by private sector consortia. The initial phase of the system will include Tampa, Orlando, and St. Petersburg with a completion date for the Orlando to Tampa project planned in December 2008. Total project costs expressed in those proposals range from $1.1 Billion to $2.7 Billion. The public portion of that total was estimated to be as much as $2.7 Billion. Operating revenues over the life of the project are expected to exceed operating costs by $500 million to $2 billion.

The Authority's Findings and Recommendations presented to the Governor and Legislature on January 1, 2003, include:

- The Authority recommended the Legislature approve $9.5 million (originally $7.5 million) in funding to allow the Authority to continue environmental studies, engineering reports, public involvement and procurement activities and to obtain the ROD.
- The Authority recommended annual funding for Phase 1 – Part 1 (Tampa to Orlando) from non-programmed funds such as the Transportation Outreach Program (TOP).
- The Authority recommended federal matching funds be sought from the reauthorization of the federal transportation act.
- The Authority recommended the Legislature authorize flexibility to allow the Authority to effectuate the best level of commercially available security through surety bonds, and to clarify the tax exemption status of high-speed rail related development.
- The Authority recommended authorization to hire executive staff.

III. Effect of Proposed Changes:

Section 341.8203, F.S., is amended to define "excess revenues" as those revenues agreed upon by contract between the Authority and the design, build, operate, and maintain or the design, build, operate, maintain, and finance contractor as being excess revenues from any source within the operation of the high-speed rail system. The section is further amended to provide public access to the high-speed rail system.

Section 341.840, F.S., is amended to prohibit various tax exemptions provided to the Authority or its agent, owner or lessee being extended to any associated development, such as hotels, gift shops, or restaurants.

Section 341.843, F.S., is created to require the high-speed rail contractor to obtain a performance and payment bond in an amount determined by the Authority. It specifies prior to commencing any construction on the high-speed rail project, the Authority must require the contractor to provide a payment and performance bond that covers 100 percent of the project's construction costs, or if such a level of surety is not commercially available, then in an amount as determined by the Authority, or that the surety bond be issued in phases. The surety bond must be from a company authorized to do business in the State of Florida.

Section 341.844, F.S., is created to authorize the Division of Bond Finance to issue revenue bonds on behalf of the Authority.

Section 341.830, F.S., is amended to specify notwithstanding the Authority's statutory permission to adopt its own rules for procurement, the Authority must procure engineering, architectural, surveying, and other statutorily defined professional services pursuant to s. 287.055, F.S.

The CS creates s. 341.825, F.S., to appropriate $75 million in transportation funds beginning in fiscal year 2004-2005 and for the following 30 years. The funds will come from the Transportation Outreach Program (s. 339.137, F.S.), however, the CS provides if the TOP revenue stream is less than $75 million, then the difference must be made up by a portion of FDOT's public transportation funds. If TOP is repealed, then the entire $75 million for the high-speed rail will be appropriated from FDOT's public transportation budget.

Section 341.826, F.S., is created to provide funds appropriated to the Authority or for the construction of the high-speed rail system may be assigned, pledged, or set aside as a trust for the payment of principal or interest on revenue bonds, notes, or other forms of indebtedness, and such debt does not constitute a general obligation of the state.

Section 341.827, F.S., is amended to provide, after completing the initial segments of the system from Orlando, to Tampa, and to St. Petersburg, the Authority may identify the next segments of the system from the other metropolitan areas in the state. The section is further amended to provide, subject to U.S. Department of Environmental Protection approval, the Orlando route from the airport must be aligned along the Greenway route with a station at Disney World.

Section 341.845, F.S., is created to provide excess revenues (as defined in s. 341.8203, F.S.) generated by the high-speed rail system must be returned by the contractor to the Authority. Of those funds, fifty percent will be retained by the Authority for administrative costs or for debt service to extend the system, and fifty percent will be retained by FDOT to construct regional intermodal transit connecting communities to the high-speed rail stations. Ten percent of the funds allocated to FDOT must be used in communities where a high-speed rail station is located. In Orlando, these funds must be used to connect the high-speed rail system to the Orange County Convention Center.

The CS also provides for two full-time staffing positions for the Authority.

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:

In the proposals received by the Authority, each proposal indicated some level of reliance upon the tax exemption under existing laws. The impact of this CS upon the proposals received by the Authority is indeterminate at this time.

C. Government Sector Impact:

This CS appropriates from TOP funds in the State Transportation Trust Fund (STTF) to the Florida High Speed Rail Authority $75 million for FY04-05 and 30 years after. In the event TOP funds are insufficient to meet the total appropriation or TOP is repealed, the balance is appropriated from STTF funds for public transportation projects.

The TOP commitments in the current work program are financed with the same cash flow rates as Intermodal Access projects. The following table shows the commitments and cash flow by year in the current finance plan. If the $75 million comes from TOP funds and the $75 million is assumed to be 100% pay-out each year, the negative impact to the current STTF work program would be $150 million through FY07-08 because of the cash flow differences as indicated below.

	Commitment	Cash Flow	Difference	Cumulative
2004	$75M	$3.8M	($71.2M)	($71.2M)
2005	$75M	$28M	($47.0M)	($118.2M)
2006	$75M	$53.2M	($21.8M)	($140.0M)
2007	$75M	$66.7M	($8.3M)	($148.3M)
2008	$75M	$73.3M	$$1.7M)	($150.0M)

This $150 million impact assumes there is sufficient funding remaining in the TOP category to deduct the $75 million annual appropriation and is based on the different cash-flow characteristics. There is currently not enough cash set aside annually in TOP to fund the $75 million annual appropriation to high-speed rail.

As written, however, any insufficiency comes from funding for public transportation projects. Assuming TOP is eliminated and the entire annual $75 million comes from STTF funds for public transportation projects, then there would be a cash impact of $375 million over the work program period beginning in FY 04-05.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Department of Revenue, section 2 of the CS is not clear which transactions are intended to be excluded from tax exemption.

VIII. Amendments:

None.