

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 345 Northeast Florida Regional Transportation Commission

SPONSOR(S): Economic Affairs Committee; Transportation & Highway Safety Subcommittee; Cummings

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 606

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	11 Y, 0 N, As CS	Johnson	Miller
2) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N	Davis	Davis
3) Economic Affairs Committee	17 Y, 0 N, As CS	Johnson	Creamer

SUMMARY ANALYSIS

In 2010, the Legislature created the Northeast Florida Regional Transportation Study Commission. The study commission was required to prepare a report detailing its findings and make specific legislative recommendations relating to regional transportation in Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties. The study commission issued its final report in December 2012. The report recommended a two-phased approach to regional transportation governance. The bill implements the recommendations of Phase I.

Major provisions of the bill:

- Creates the Northeast Florida Regional Transportation Commission.
- Provides for commission membership, powers and duties, and funding.
- Provides criteria for transportation projects of regional significance.
- Exempts the commission from taxation.
- Provides for repeal of the commission unless certain conditions are met.
- Provides that the commission is exempt from the Administrative Procedures Act.

There is no impact on state funds, the commission will initially be locally funded from each constituent county of up to 30 cents per capita per year. The estimated total annual budget of the commission is estimated to be between \$214,000 and \$215,000. See fiscal analysis for a breakdown of the estimated cost for each constituent county.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

For at least 25 years, a regional approach to transportation in Northeast Florida has been discussed.

In 1987, the First Coast Regional Transportation Study Committee was created.¹ The committee recommended that a five-county regional transportation authority with a nine member governing board be created.² No action was ever taken on these recommendations.

In 2009, the Legislature enacted HB 1213,³ requiring the Jacksonville Transportation Authority (JTA), at the direction of the Department of Transportation (DOT), to perform a Regional Transportation Authority study. That study affirmed the need for a regional approach to transportation in Northeast Florida but also recommended further study. Additionally, the 2009 Regional Transportation Authority Study Final Report found that the development of a regional transportation elements plan is needed as the basis for further action on any regional transportation initiative.⁴

In 2010, the Legislature enacted SB 2470,⁵ creating the Northeast Florida Regional Transportation Study Commission consisting of representatives from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties and the JTA.⁶ The bill required the study commission, to prepare a report detailing its findings and making recommendations regarding regional transportation. The report was required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012. The report was required to include a regional transportation elements plan, the defining characteristics of transportation elements of regional significance, and an implementation plan for undertaking a regional transportation element plan. The report was allowed to include recommendations for the establishment of a regional transportation authority, draft legislation, and any other legislation the study commission deemed appropriate.

Recommendations from the Study

In December 2012, the Northeast Florida Regional Transportation Study Commission issued its final report.⁷ The report recommended a two-phased approach to regional transportation governance. Phase I would be a regional transportation commission and Phase II would be the establishment of a regional transportation entity and proposed funding to implement the multimodal regional transportation commission's regional transportation plan.

In the Phase I, the commission will:

- develop a multimodal regional transportation plan;
- identify and secure dedicated funding to implement the plan;
- advance strategic projects and services with an initial focus on coordinating regional transit; and
- propose an organizational framework for implementing the regional transportation plan.

¹ Executive order 86-148

² A copy of the Findings and Recommendations of the First Coast Regional Transportation Study Committee (January 1987) is available at <http://www.northfloridartsc.com/Pages/LegislationReports.aspx> (Last visited February 8, 2013).

³ Ch. 2009-111, L.O.F.

⁴ A copy of the 2009 Regional Transportation Study Final Report is available at <http://www.northfloridartsc.com/Pages/LegislationReports.aspx> (Last visited February 8, 2013).

⁵ Ch. 2010-202, L.O.F.

⁶ The Department of Transportation's District 2 Secretary, the chair of the Northeast Florida Regional Council, and the North Florida Transportation Planning Organization served as nonvoting members of the Northeast Florida Regional Transportation Study Commission.

⁷ A copy of the Northeast Florida Regional Transportation Study Commission's final report is available at <http://www.northfloridartsc.com/Pages/default.aspx> (Last visited February 8, 2013).

In Phase II, the multimodal regional transportation plan would be implemented with dedicated funding as authorized by future legislation.

The bill implements the recommended Phase I, creating the Northeast Florida Regional Transportation Commission (commission).

Proposed Changes

Chapter 343, F.S.

The bill redesignates parts I through IV of ch. 343, F.S. as parts II through V respectively and creates a new part I of ch. 343, F.S.

Short Title

The bill creates s. 343.0001, F.S., creating the Northeast Florida Regional Transportation Commission Act as part I of ch. 343, F.S.

Definitions

The bill creates s. 343.1002, F.S., defining various terms. Notably the bill contains very broad definitions of the following terms:

Transportation facilities-all mobile and fixed assets, including real or personal property or rights therein, used in the transportation of persons or property by any means of conveyance, and all related appurtenances. This includes but is not limited to:

- highways; bridges; limited or controlled access roadways, lanes and related facilities;
- docks, wharves, vessels, jetties, piers, and marine terminals;
- vehicles, fixed guideway facilities, including freight rail, intermodal facilities, and any means of conveyance of persons or property of all types;
- passenger and other terminals;
- park and ride facilities;
- bicycle ways and related facilities;
- pedestrian-ways and pedestrian-related facilities appurtenant to other transportation facilities;
- transit-related improvements or developments adjacent to transit facilities or stations;
- bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities; and
- administrative or other office space for the commission.

Transportation services-the conveyance of persons or property, including mass transit services such as fixed-route bus service, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service, and the planning and funding of transportation facilities.

Northeast Florida Regional Transportation Commission

The bill creates s. 343.1003, F.S., creating and establishing the Northeast Florida Regional Transportation Commission (commission). The commission covers a six-county area comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties.⁸ The commission's governing board consists of nine members who are selected as follows:

- The county commissions of Baker, Clay, Nassau, Putnam, and St. Johns Counties each appoint one person, who may be an elected official of the county.
- The City of Jacksonville will be represented by four members, who may be elected officials of the city. Of the four members the Mayor of the City of Jacksonville appoints two members, and the Jacksonville City Council appoints two members.

To ensure continuity on the initial governing board, the initial appointees will draw lots at the governing board's first meeting to provide for two-, three- and four-year terms. An appointed member may not select or have a designee selected to serve in the absence of the member, whether the member is an

⁸ Flagler County declined to join the commission.

elected official or otherwise. However, if an appointed member is designed by the appointing entity by title, such as a chair of a county commission or a chair of a transportation planning agency, the successor or vice-chair of the position may serve for the appointee in his or her absence. After the initial board's terms, members will be appointed for four-year terms. A member may not serve more than two consecutive terms.

The DOT secretary appoints a nonvoting advisor to the board. In addition, the board may create an advisory panel, whose membership will be determined by the board, and may establish committees by direction of the chair or upon vote of the board.

Members of the board and persons appointed to a committee or advisory panel serve without compensation but are entitled to receive reimbursement for travel expenses and per diem actually incurred in connection with commission business.⁹ Notwithstanding s. 348.0003(4)(c), F.S., members of the board are required to file with the Commission on Ethics as their mandatory financial disclosure the Form 1 statement of financial interest.¹⁰

At its inaugural meeting, and annually thereafter, the board is required to elect a chair, vice chair, secretary, and treasurer from among its members, to serve a one-year term. No person may hold the office of chair for more than two consecutive terms. The commission's first meeting must be held no later than 60 days after its creation.

The commission may employ an executive director and an administrative assistant to the board and executive director. The commission may employ permanent or temporary staff, including consultants, as it determines necessary or convenient. Alternatively, with the approval by their respective boards or administrative chiefs, the commission may use the staff of:

- The JTA, its legal counsel, technical experts, engineers, and other administrative employees.
- The North Florida Transportation Planning Organization, for planning matters.
- The Northeast Florida Regional Council, for planning and coordination matters.
- The DOT.
- The Jacksonville Port Authority.
- The counties represented on the commission board, on an as-needed basis.

Members of the board may be removed by their appointing entity, for cause, including, but not limited to failure to attend two or more commission meetings in a 9-month period.

There is no liability on the part of, and no cause of action of any nature shall arise against, any commission member for any action taken in the performance of their duties.

Commission Powers and Duties

The bill creates s. 343.1004, F.S., providing the commission's powers and duties. The commission's express purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the six-county Northeast Florida region. The commission shall, at a minimum:

- develop a multimodal, prioritized plan for transportation projects of regional significance; and
- research and develop an implementation plan that identifies available but not yet imposed, and potentially developable, sources of funding to execute the regional transportation plan.

In developing the regional transportation plan, the commission is to review and coordinate with the future land use, capital improvements, and traffic circulation elements of the constituent counties' local governments' comprehensive plans, the Northeast Florida Regional Council's Strategic Regional Policy

⁹ The provisions for per diem and travel expenses are in s. 112.061, F.S.

¹⁰ The Form 1 statement of financial interest is provided for in s. 112.3145, F.S. Section 348.0003(4)(c), F.S. requires members of transportation authorities created pursuant to ch. 343, F.S., to file Form 6 with the Commission on Ethics, which is a more detailed financial disclosure.

Plan,¹¹ and the schedules of other units of government having a transit or transportation authority within whose jurisdiction the projects or improvements will be located. This process is intended to define and resolve potential inconsistencies between these plans and the commission's regional transportation plan.

The commission is to present the regional transportation plan and updates to the governing bodies of the constituent counties within 90 days after adoption. The commission is to update the regional transportation plan and the implementation plan not less frequently than every other year. The commission may plan, develop, construct, coordinate, and promote transportation projects of regional significance that are identified in the commission's regional transportation plan.

Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may provide transportation services of regional significance which are identified in the regional transportation plan.

The commission may facilitate efforts to secure funding commitments from federal and state sources, or from the applicable counties, for the planning, development, construction, purchase, operation and maintenance of transportation projects which are of regional significance or support intercounty mobility for persons or freight.

The commission may request funding and technical assistance from DOT and from federal and local agencies. In order to operate for its first five years, the commission shall also request annual funding from each constituent county of up to 30 cents per capita per year based on the latest census. However, the contribution of Duval County may not exceed 45 percent of the commission's budget for any fiscal year.

The commission may exercise all powers necessary, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers to:

- Sue and be sued in all courts.
- Apply for and to accept grants from federal, state, local, or private sources.
- Partner with private sector business community and engage the public in support of regional multimodal transportation improvements.
- Adopt rules for the regulation of the affairs and the conducting of business including termination of membership in the commission for the nonpayment of county contributions.
- Advertise, market, and promote regional transit services and facilities, freight mobility plans and projects, and the activities of the commission.
- Cooperate with other governmental entities and contract with other governmental agencies.
- Purchase directly from local, national, or international insurance companies liability insurance that the commission is contractually and legally obligated to provide, notwithstanding the requirements of s. 287.022(1), F.S.¹²
- Make contracts and execute necessary instruments.
- Form public benefit corporations with other agencies of the state or local governments.
- Do all acts and things necessary or convenient for the conduct of its business and the general welfare of the commission in order to carry out its powers.

The commission does not have the power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency of the state. The commission's obligations shall not be deemed to be obligations of the state or of any political subdivision. The state and any political subdivision or agency, except the commission, shall not be liable for the payment of the principal or interest on such obligations.

Transportation Projects of Regional Significance

¹¹ A copy of the Northeast Florida Regional Council's Strategic Regional Policy Plan is available at <http://www.nefrc.org/SRPP.htm> (Last visited February 11, 2013).

¹² Section 287.022(1), F.S. pertains to the purchase of insurance for all agencies by the Department of Management Services.

The bill creates s. 343.1005, F.S., providing that transportation projects of regional significance are those transportation facilities and transportation services within a regional transportation corridor identified in the Northeast Florida Regional Transportation Study Commission's December 2012 report, or subsequently identified by the commission, which:

- exhibit a significant level of travel between counties or regions;
- provide a primary connection between activity centers or municipalities;
- exhibit a significant percentage of freight conveyance;
- provide a primary connection to marine, aviation or intermodal facilities;
- provide a regional emergency evacuation route;
- support or enhance the functionality of another identified transportation project of regional significance in the corridor by providing for regional movements or removing non-regional trips from some other transportation project of regional significance; or
- have such other characteristics as the commission determines to be of regional significance.

Coordination with Other Agencies

The bill creates s. 343.1006, F.S., requiring the regional transportation plan and implementation plan to be forwarded to the North Florida Transportation Planning Organization for inclusion in its long-range transportation plans and other planning documents. To the extent feasible, the commission's planning activities, including the development and adoption of the regional transportation plan and the implementation plan shall be coordinated with the work of the North Florida Transportation Planning Organization, the Northeast Florida Regional Council, and DOT.

Authority to Contract

The bill creates s. 343.1007, F.S., providing that the commission may make and enter into contracts, leases, conveyances, partnerships, interlocal and other agreements with a county, municipality, district, political subdivision, agency, or instrumentality of the state and any federal agency, corporation, or individual for the purpose of carrying out its statutory authority and serving the purposes of the commission.

Exemption from taxation and assessment

The bill creates s. 343.1008, F.S., providing that effectuation of the commission's authorized purposes is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and because the commission performs essential governmental functions, the commission is not required to pay taxes or assessments of any kind upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it.

Powers of Commission are Supplemental

The bill creates s. 343.1009, F.S., providing that the powers conferred by this part are supplemental to the existing authority of the North Florida Transportation Planning Organization, the JTA, the Northeast Florida Regional Council, the counties and the municipalities located therein, and the DOT. This does not repeal any other law, general, special, or local, but supplements other laws in the exercise of the powers provided and provides a complete method for the exercise of powers granted to the commission. The projects planned and constructed by the commission must comply with all applicable federal, state, and local laws. The transportation facilities and services of the commission may be accomplished in compliance with the provisions of the bill without regard to or necessity for compliance with the provisions, limitation, or restrictions contained in any other general, special, or local law except as specifically set forth in the bill. The bill does not repeal, rescind, or modify any other law relating to the North Florida Transportation Planning Organization, the JTA, or DOT.

Public Meetings and Hearings

The bill creates s. 343.1010, F.S., requiring the commission to meet at the times and locations as the chair determines, provided that to the extent feasible there be regular quarterly meetings.

The bill also provides that before the adoption of the regional transportation plan or the implementation plan, the commission must conduct a properly noticed public hearing in each of the affected counties

and at least one of which must be before the commission's board. At the hearings, any interested party has the opportunity to be heard and to introduce testimony. Additionally, the commission shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Discretionary Sales Surtax

The bill creates s. 343.1011, F.S., providing that the commission is not an "authority" for the purposes of the Charter County and Regional Transportation System Surtax.¹³

Repeal

The bill creates s. 343.1012, F.S., repealing this act on November 30, 2018, unless:

- the commission has adopted a regional transportation plan and the implementation plan, and at least Clay, Duval, Nassau, and St. Johns counties have adopted resolutions endorsing the plans; and
- adequate funding sources to carry out the initial phases of such plans have been secured.

Florida Administrative Code

Currently, s. 20.52(1), F.S., defines "agency" for the purpose of the Administrative Procedures Act.¹⁴ The statute exempts expressway authorities created pursuant to ch. 348, F.S., or transportation authorities created under chs. 343 or 349, F.S., from the definition of "agency" for the purpose of the Administrative Procedures Act. The bill amends the exemption of s. 120.52(1), F.S., to include a transportation commission under chs. 343 or 349, F.S. which would provide that the Northeast Florida Regional Transportation Commission is not subject to the Administrative Procedures Act.

Effective Date

The bill has an effective date of July 1, 2013.

B. SECTION DIRECTORY:

- Section 1: Creates part I of ch. 343, F.S., creating the Northeast Florida Regional Transportation Commission.
- Section 2: Amends s. 120.52, F.S., relating to definitions as used in the Administrative Procedures Act.
- Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
Indeterminate. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

¹³ S. 212.055(1), F.S.

¹⁴ Ch. 120, F.S.

2. Expenditures:

Indeterminate. While the bill requires the commission to request funding from its constituent counties for its operations for the first five years, there is no requirement these counties make such expenditures. To the extent they do, however, the commission would be funded from funds appropriated from each of the constituent counties up to 30 cents per capita per year, with Duval County's contribution not exceeding 45 percent of the commission's budget. The Northeast Florida Regional Transportation Study Commission estimated that the Northeast Florida Regional Transportation Commission's annual budget would be between \$214,000 and \$215,000. This would result in an estimated cost of 21.1 cents per capita. The estimated county contributions are as follows:

County	Estimated Contribution
Baker	\$5,682
Clay	\$40,331
Duval	\$96,445 ¹⁵
Nassau	\$15,547
Putnam	\$15,625
St. Johns	<u>\$40,692</u>
Total	\$214,322

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

While not required, the bill authorizes the commission to request funding and technical assistance from the Department of Transportation and other federal, state, and local sources. To the extent any such entity is asked and agrees to provide funding or assistance, this would impact either expenditures or workload on personnel.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. While the bill provides that the commission may request funding by its member counties, funding would have to be approved by each county on an annual basis.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 2 of the bill provides that the commission is exempt from the Administrative Procedures Act in ch. 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

¹⁵ Duval County's contribution is based on a maximum of 45 percent of the costs.
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IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2013, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided that the financial disclosure provisions in the bill notwithstanding a conflicting provision of law.

On April 3, 2013, the Economic Affairs Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Revised the definition on “transportation services.”
- Removed references that the commission may own, purchase, operate, maintain, relocate, equip, or repair transportation facilities.
- Removed the authorization for the commission to require or elect not to require bid bonds and protest bonds, prequalify bidders or proposers in various categories of work or services, and suspend or debar consultants or contractors.
- Removed the authority for the commission to acquire land or property.

This analysis is written to the committee substitute.