

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 155 Central Florida Regional Transportation Authority

SPONSOR(S): Cortes

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	10 Y, 2 N	Willson	Vickers
2) Government Operations Subcommittee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

The Central Florida Regional Transportation Authority (LYNX) is an agency of the state created pursuant to the Central Florida Regional Transportation Authority Act. Its governing board is composed of the chair or designee of the Orange, Osceola, and Seminole county commissions, the mayor or designee of the Orlando City Council, and the district secretary or designee of the Department of Transportation (DOT).

The bill creates a nine member board, with three members from each Orange, Osceola, and Seminole Counties, as follows:

- the chair or designee of the county commission,
- the mayor or designee of the largest municipality in the county,
- a county citizen, who is not a resident of the largest municipality in their county, appointed by the Governor

LYNX currently owns and operates its bus transit system and manages all day-to-day activities. The bill requires LYNX to develop a request for proposals (RFP) and negotiate a service contract for the management and supervision of LYNX. The bill also specifies a number of contractual provisions that must be incorporated into the contract, such as the basis of award, performance measures, division of responsibilities, and the term of the contract. The bill requires LYNX to meet certain deadlines for the procurement and award of the contract.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study the organization structure and operational effectiveness of LYNX, and submit a detailed report of its findings by June 30, 2016.

The bill does not appear to have a fiscal impact on state or local government funds.

The bill is effective upon becoming law.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0155a.TPS

DATE: 11/3/2015

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Central Florida Regional Transportation Authority

In 1993, the Legislature created the Central Florida Regional Transportation Authority, replacing the Central Florida Commuter Rail Authority and giving it the right to own, operate, maintain, and manage a public transportation system in the area of Seminole, Orange, and Osceola Counties.¹ On October 1, 1994, the Orange-Seminole-Osceola Transportation Authority, providing transportation services under the name “LYNX”, merged with the Central Florida Regional Transportation Authority. The consolidated Central Florida Regional Transportation Authority continued the practice of providing transportation services under the name “LYNX”.²

The Central Florida Regional Transportation Authority is established in Part III of Ch. 343, F.S. It is created and established as a body politic and an agency of the state.³ Its governing board consists of five members:

- The chair or designee of the Seminole County commission,
- The chair or designee of the Orange County commission,
- The chair or designee of the Osceola County commission,
- The Mayor of the City of Orlando or a designated member of the Orlando City Council, and
- A Department of Transportation (DOT) district secretary or his or her designee.⁴

Section 343.64, F.S., delineates the powers and duties of LYNX. Included in the powers and duties is the authority to lease, rent, or contract for the operation or management of any part of a public transportation system⁵ or public transportation facility,⁶ including concessions. In awarding a contract, LYNX is required to consider, but is not limited to the following:

- The qualifications of each applicant,
- The level of service,
- The efficiency, cost, and anticipated revenues,
- The construction, operation, and management plan,
- The financial ability to provide reliable service,
- The impact on other transportation modes, including the ability to interface with other transportation modes and facilities.⁷

LYNX serves Orange, Seminole, and Osceola Counties, with an operating budget for Fiscal Year 2015 of approximately \$127.8 million, and a fleet of 300 air-conditioned coaches. In Fiscal Year 2014, LYNX provided 30.1 million passenger trips and traveled more than 16.5 million vehicle miles.⁸

¹ Ch. 93-103, Laws of Fla.

² CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY D/B/A/ LYNX, *Comprehensive Annual Financial Report for Years Ended Sept. 30, 2014 and 2013*, http://www.golynx.com/core/fileparse.php/143255/urlt/2014-cfrra-d_b_a-lynx.pdf (last visited October 25, 2015).

³ s. 343.63(1), F.S.

⁴ s. 343.63(2), F.S.

⁵ Section 343.62(7), F.S., defines “public transportation system” as “without limitation, a combination of real and personal property, structures, improvements, buildings, terminals, parking facilities, equipment, plans, and rights-of-way, public rail and fixed guideway transportation facilities, rail or fixed guideway access to, from, or between other transportation terminals, and commuter railroads and commuter rail facilities, or any combination thereof or addition thereto, used, directly or indirectly, useful or convenient for the purpose of public transportation by automobile, truck, bus, rapid transit vehicle, light rail, or heavy rail.”

⁶ Section 343.62(6), F.S., defines “public transportation facilities” as “property, equipment, or buildings that are acquired, built, installed, or established for public transportation systems.”

⁷ s. 343.64(1)(i), F.S.

⁸ *LYNX Facts and a Glance*, <http://www.golynx.com/corporate-info/facts-glance.stml> (last visited July 22, 2015).

LYNX provides public transportation services to the greater Orlando metropolitan area, which covers Orange, Seminole, and Osceola Counties. LYNX also offers some out-of-county express service to Lake and Volusia Counties, and flexible and fixed-route service to Polk County. LYNX provides alternative transportation services in the form of fixed-route bus services, bus rapid transit, neighborhood circulators, paratransit services, and vanpool services.

Section 343.64, F.S. authorizes LYNX to employ an executive director, professional staff and other employees as it may require⁹ and to delegate its powers to these employees, subject to the supervisions and control of the governing board.¹⁰

In 2014, LYNX employed 744 transportation staff, 200 maintenance staff, and 161 administrative and general staff, for a total of 1,105 employees.¹¹ The LYNX chief executive officer is responsible for administration and operations, and is supported by a general manager, government affairs officer, and a compliance manager, as well as nine directors who oversee the departments of Engineering and Construction, Human Resources, Information Technology, Communications, Planning, Procurement and Contracts, Risk Management and Safety, Transportation and Vehicle Maintenance including the Paratransit division, and Finance including the Accounting and Finance, Budgets, and Material Control divisions.¹²

LYNX Operations

According to LYNX, it currently contracts out paratransit, van pool, and an express route that serves SunRail.¹³

According to information provided by the Florida Public Transportation Association, fourteen of the state's transit systems contract for all or part of their fixed-route service.¹⁴ These contracts may be management contracts, contracts for operations and maintenance or possibly contracts for paratransit service.¹⁵

In 2009, twenty-nine Florida transit agencies provided fixed bus-route service.¹⁶ Twenty-three of these agencies (79.3%) contracted for some type of transit service, such as fixed route bus service, demand response service, vanpool service, or commuter rail transit service.¹⁷ Seven of these transit agencies (24.1%) contracted for all fixed route bus services.

Proposed Changes

The bill amends s. 343.63(2), F.S., revising the membership of the Central Florida Regional Transportation Authority. The number of voting members is increased from five to nine. Three members must be from the respective boards of county commissioners as appointed by their chair, one each from Osceola, Orange, and Seminole Counties. Three members must be drawn from the governing bodies of the largest municipalities of their respective counties as appointed by their mayor, one each

⁹ s. 343.64(4), F.S.

¹⁰ s. 343.64(5), F.S.

¹¹ CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY D/B/A/ LYNX, *Comprehensive Annual Financial Report for Years Ended Sept. 30, 2014 and 2013*, http://www.golynx.com/core/fileparse.php/143255/urlt/2014-cfrta-d_b_a-lynx.pdf (last visited October 25, 2015).

¹² *Id.*

¹³ Email from Tiffany Homler, Director of Government Affairs, LYNX, July 28, 2015. Copy on file with Transportation and Ports Subcommittee.

¹⁴ Email from Lisa Bacot, Executive Director, Florida Public Transportation Association, July 24, 2015. Copy on file with Transportation and Ports Subcommittee.

¹⁵ Telephone Conversation with Ken Fischer, Senior Vice President for Business Development, McDonald Transit, Inc. July 27, 2015.

¹⁶ USF CENTER FOR URBAN TRANSIT RESEARCH, *Analysis of Contracting for Fixed Route Bus Service, Final Report*, at vi, (June 2011).

¹⁷ *Id.*, at vii.

from Osceola, Orange, and Seminole Counties.¹⁸ Three citizen members, who may not be a resident of the largest municipality of their respective county, are appointed by the Governor, one each from Osceola, Orange, and Seminole Counties. The district secretary of the DOT district served by the authority serves as a nonvoting advisor to the governing body of the authority.¹⁹ Members appointed by the governor will serve three year terms and all other members will serve two year terms.

The bill amends s. 343.63(3), F.S., requiring the governing board of the authority to elect a chair, vice chair, and treasurer from among its membership. The bill provides that five members constitutes a quorum, and that the vote of five members is required for any action taken by the board. A vacancy on the board will not impair the ability of the board to obtain a quorum.

The bill amends s. 343.63(4), F.S., clarifying the existing language to no substantive effect.

The bill creates s. 343.635, F.S., requiring the Central Florida Regional Transportation Authority to develop a request for proposal for the procurement of a contracted service provider. Contractor responsibilities will include the management of the day-to-day operations of LYNX and providing consultation to the governing board on other public transportation matters. The request for proposals must be consistent with Part I of Ch. 287, F.S.²⁰

The bill provides that the purpose of the contract is to secure and provide all management and supervisory services necessary for the efficient operation of LYNX, in accordance with the policies set forth by LYNX. Contractor services include:

- Transportation operations
- Vehicle maintenance
- Marketing
- Schedule operations
- Labor relations and labor contract negotiations
- Purchasing of equipment
- Accounting
- Income and expense projections
- Safety
- Employee selection and training
- Other managerial functions normally required in the daily operation of a transit system
- All other specifications listed in the request for proposals

The bill provides a number of provisions that LYNX must incorporate into the procurement, specifically:

- That the contract must be bid on a fixed-price basis
- That compensation under the contract must be determined by the amount of service provided, such as price per vehicle revenue hour
- The responsibilities of the contractor and general manager
- The responsibilities of LYNX
- A specified set of performance measures, and a predetermined schedule for the evaluation of the contractor under these performance measures
- A specified set of penalties for failure to perform in accordance with the performance measures, which must include the ability of the governing board to terminate the contract and rebid
- General terms and conditions

¹⁸ The largest municipality in Orange County is Orlando, the largest municipality in Osceola County is Kissimmee, and the largest municipality in Seminole County is Sanford. OFFICE OF ECONOMIC AND DEMOGRAPHIC RESEARCH, *Florida Population Estimates for Counties and Municipalities* (April 1, 2014).

¹⁹ District 5 includes Orange, Osceola, and Seminole Counties. FLORIDA DEPARTMENT OF TRANSPORTATION, *About District Five*, <http://www.dot.state.fl.us/publicinformationoffice/moreDOT/districts/dist5.shtm> (last visited October 23, 2015).

²⁰ Ch. 287, F.S., governs the procurement of contractual services by entities within the executive branch of state government.

- Payment terms
- Disclosure of conflicts of interest
- Insurance requirements
- Terms of award
- A contract term of no less than 5 years, with an option for renewal

The bill provides that the request for proposals must be developed within 60 days of the bill becoming law. LYNX will then forward the request for proposals to the Florida Transportation Commission, (FTC) and the FTC will have 60 days to review the RFP for consistency with the requirements in the bill and Part I of Ch. 287, F.S. and issue a report. LYNX will then have 30 days to make any necessary corrections and issue the RFP. Proposed contractors will have 90 days to submit their proposals. LYNX is required to begin contract negotiations with the most responsible bidder no more than 30 days after the date the RFPs are opened.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the operational effectiveness of LYNX by reviewing the annual fiscal reports that LYNX submits to the FTC. The bill directs OPPAGA to evaluate the efficiency and efficacy of LYNX organizational management and to analyze the structure of the LYNX governing board. The bill requires OPPAGA to submit a detailed report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2016.

B. SECTION DIRECTORY:

- Section 1 Amends s. 343.63, F.S., relating to the governing body of the Central Florida Regional Transportation Authority.
- Section 2 Creates s. 343.635 F.S., directing the authority to contract for the management of its systems.
- Section 3 Directs the Office of Program Policy Analysis and Government Accountability to review and evaluate the organizational management and operational effectiveness of the authority.
- Section 4 Provides a directive to the Division of Law Revision and information.
- Section 5 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal fiscal impact on state funds, resulting from the addition of five members to the governing board.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities of counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 20.23(2)(c), F.S., provides that the Florida Transportation Commission or a member thereof may not enter into the day-to-day operation of a monitored authority (i.e. LYNX) and is specifically prohibited from taking part in the awarding of contracts, or the selection of a consultant or contractor or the prequalification of any individual consultant or contractor. The bill provides that the involvement of the FTC would be limited to the review (for consistency with the bill requirements and Ch. 287, F.S. procurement laws) of the draft RFP prior to the RFP being advertised, and would not be involved in the evaluation or award of the contract. The bill does not provide for the pre-qualification of consultants or contractors as part of the procurement process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES