

Committee Substitute for
Committee Substitute for Senate Bill No. 686

An act relating to public transit; amending s. 343.51, F.S.; providing a short title; amending s. 343.52, F.S.; revising definitions; amending s. 343.53, F.S.; redesignating the Tri-County Rail Authority as the South Florida Regional Transportation Authority; revising provisions relating to appointment of the governing board of the authority; amending s. 343.54, F.S.; revising powers and duties of the authority; authorizing the authority to expand its service area into counties contiguous to the service area of the authority upon consent of the board of county commissioners; requiring that the authority obtain consent prior to operating an existing system owned by another entity; providing conditions for acquisition of an existing entity by the authority; authorizing the authority to expand its service area into counties contiguous to the service area of the authority under certain circumstances; providing funding requirements; amending ss. 343.55, 343.56, 343.57, F.S.; providing for the authority to issue and pay revenue bonds; providing that the bonds are not debts or pledges of credit of the state; amending ss. 112.3148 and 768.28, F.S.; conforming provisions to changes made by the act; creating s. 343.58, F.S.; providing for county funding for the authority; requiring counties served by the authority to dedicate a specified amount of funding; authorizing a tax on motor vehicle registration; requiring approval by referendum for such tax; providing for distribution to the authority of moneys received for the tax; providing a statement of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 343.51, Florida Statutes, is amended to read:

343.51 Short title.—This part may be cited as the “South Florida Regional Transportation Tri-County Commuter Rail Authority Act.”

Section 2. Section 343.52, Florida Statutes, is amended to read:

343.52 Definitions.—As used in this part, ~~unless the context clearly indicates otherwise,~~ the term:

(1) “Authority” means the South Florida Regional Transportation Tri-County Commuter Rail Authority.

(2) “Board” means the governing body of the authority.

(3) “Area served” means Miami-Dade, Broward, and Palm Beach Counties. However, this area may be expanded by mutual consent of the authority and the board of county commissioners representing the proposed expansion area.

(4)(3) “Transit system” “Commuter railroad” means a system used for the transportation of people and goods by means of, without limitation, a street railway, an elevated railway having a fixed guideway, a commuter railroad, a subway, motor vehicles, or motor buses, and includes a complete system of tracks, guideways, stations, and rolling stock necessary to effectuate medium-distance to long-distance passenger rail service to or from the surrounding regional municipalities.

(5)(4) “Transit Commuter rail facilities” means property, and avenues of access, equipment, or buildings built and installed in Miami-Dade Dade, Broward, and Palm Beach Counties, which are required to support a transit system for commuter rail or fixed guideway systems.

(6)(5) “Member” means the individuals constituting the board.

(7)(6) “Feeder transit services” means a transit system that transports fixed guideway or bus service to transport passengers to or from rail stations within or across counties.

Section 3. Section 343.53, Florida Statutes, is amended to read:

343.53 South Florida Regional Transportation Tri-County Commuter Rail Authority.—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the “South Florida Regional Transportation Tri-County Commuter Rail Authority,” hereinafter referred to as the “authority.”

(2) The governing board of the authority shall consist of nine voting members, as follows:

(a) The county commissions of Miami-Dade Dade, Broward, and Palm Beach Counties shall each elect a commissioner as that commission’s representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his or her term.

(b) The county commissions of Miami-Dade Dade, Broward, and Palm Beach Counties shall each appoint a citizen member to the board who is not a member of the county commission but who is a resident of the county from which he or she is appointed and a qualified elector of that county. Insofar as practicable, the citizen member shall represent the business and civic interests of the community.

(c) The secretary of the Department of Transportation shall appoint one of the district secretaries, or his or her designee, for the districts within which the area served by the South Florida Regional Transportation Authority tri-county rail is located.

(d) If the authority’s service area is expanded pursuant to s. 343.54(5), the county containing the new service area shall have three members appointed to the board as follows:

1. The county commission of the county shall elect a commissioner as that commission's representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his or her term.

2. The county commission of the county shall appoint a citizen member to the board who is not a member of the county commission but who is a resident and a qualified elector of that county. Insofar as is practicable, the citizen member shall represent the business and civic interests of the community.

3. The Governor shall appoint a citizen member to the board who is not a member of the county commission but who is a resident and a qualified elector of that county. The other eight members of the board shall elect, by a simple majority vote, an at-large member who is a resident and qualified elector in the area served by the tri-county rail.

(e) The Governor shall appoint two members one member to the board who are residents and qualified electors is a resident and qualified elector in the area served by the authority but who are not residents of the same county and also not residents of the county in which the district secretary who was appointed pursuant to paragraph (c) is a resident tri-county rail.

(3)(a) Members of the governing board of the authority shall be appointed to serve 4-year staggered terms, except that the terms of the appointees of the Governor shall be concurrent.

(b) The terms of the board members currently serving on the authority that is being succeeded by this act shall expire July 30, 2003, at which time the terms of the members appointed pursuant to subsection (2) shall commence. The Governor shall make his or her appointments to the board within 30 days after July 30, 2003. The terms of the county commissioners on the governing board of the authority shall be 2 years. All other members on the governing board of the authority shall serve staggered 4-year terms. Each member shall hold office until his or her successor has been appointed.

(4) A vacancy during a term shall be filled by the respective appointing authority in the same manner as the original appointment and only for the balance of the unexpired term.

(5) The members of the authority shall serve without ~~not be entitled to compensation, but are entitled to reimbursement shall be reimbursed~~ for travel expenses actually incurred in their duties as provided by law.

Section 4. Section 343.54, Florida Statutes, is amended to read:

343.54 Powers and duties.—

(1)(a) The authority created and established by this part shall have the right to own, operate, maintain, and manage a transit commuter rail system in the tri-county area of Broward, ~~Miami-Dade~~ Dade, and Palm Beach Counties, hereinafter referred to as the South Florida Regional Transportation Authority Tri-County Rail.

(b) It is the express intention of this part that the authority be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage a transit commuter rail system and transit commuter rail facilities; to establish and determine the such policies as may be necessary for the best interest of the operation and promotion of a transit commuter rail system; and to adopt such rules as may be necessary to govern the operation of a transit commuter rail system and transit commuter rail facilities. It is the intent of the Legislature that the South Florida Regional Transportation Authority shall have overall authority to coordinate, develop, and operate a regional transportation system within the area served.

(c) Notwithstanding subsection (3), the South Florida Regional Transportation Authority may not exercise the powers in paragraph (b) with respect to an existing system for transporting people and goods by any means which is owned by another entity without the consent of that entity. Furthermore, if the authority acquires, purchases, operates, condemns, or inherits an existing entity, the authority shall also inherit and assume all rights, assets, labor agreements, appropriations, privileges, and obligations of the existing entity. This paragraph does not preclude the South Florida Regional Transportation Authority from having the primary responsibility to develop and coordinate the transportation systems within the service area of the South Florida Regional Transportation Authority.

(2) The authority created in this part ~~herein~~ shall be the successor and assignee of the Tri-County Commuter Rail Authority Organization (TCRO) and shall inherit all rights, assets, labor agreements, appropriations, privileges, and obligations of the Tri-County Commuter Rail Authority TCRO.

(3) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.

(c) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(d) To acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority.

(e) To sell, convey, exchange, lease, or otherwise dispose of any real or personal property acquired by the authority, including air rights.

(f) To fix, alter, establish, and collect rates, fares, fees, rentals, and other charges for the use of any transit commuter rail system or transit facilities owned or operated by the authority.

(g) To develop and provide feeder transit services to or from rail stations within or across counties.

(h) To adopt bylaws for the regulation of the affairs and the conduct of the business of the authority. The bylaws shall provide for quorum and voting requirements, maintenance of minutes and other official records, and preparation and adoption of an annual budget.

(i) To lease, rent, or contract for the operation or management of any part of a transit ~~commuter rail~~ system or transit ~~commuter rail~~ facility, including feeder transit services and concessions. In awarding a contract, the authority shall consider, but is not limited to, the following:

1. The qualifications of each applicant.
2. The level of service.
3. The efficiency, cost, and anticipated revenue.
4. The construction, operation, and management plan.
5. The financial ability to provide reliable service.
6. The impact on other transportation modes, including the ability to interface with other transportation modes and facilities.

(j) To enforce collection of rates, fees, and charges, and to establish and enforce fines and penalties for violations of any rules.

(k) To advertise and promote transit ~~commuter rail~~ systems, transit facilities, and activities of the authority.

(l) To employ an executive director, attorney, staff, and consultants.

(m) To cooperate with other governmental entities and to contract with other governmental agencies, including the Department of Transportation, the Federal Government, regional planning councils, counties, and municipalities.

(n) To enter into joint development agreements.

(o) To accept funds from other governmental sources, and to accept private donations.

(p) To purchase by directly contracting with local, national, or international insurance companies to provide liability insurance which the authority is contractually and legally obligated to provide, the requirements of s. 287.022(1), notwithstanding.

(4) The authority shall develop and adopt a plan for the operation, maintenance, and expansion of the transit system ~~tri-county commuter rail service~~. Such plan shall address the authority's plan for the development of public and private revenue sources, and the service to be provided, including expansions of current service which are consistent, to the maximum extent

feasible, with approved local government comprehensive plans. The plan shall be reviewed and updated annually.

(5) The authority, by a resolution of its governing board, may expand its service area and enter into a partnership with any county that is contiguous to the service area of the authority. The board shall determine the conditions and terms of the partnership, except as provided herein. However, the authority may not expand its service area without the consent of the board of county commissioners representing the proposed expansion area, and a county may not be added to the service area except in the year that federal reauthorization legislation for transportation funds is enacted.

Section 5. Section 343.55, Florida Statutes, is amended to read:

343.55 Issuance of revenue bonds.—

(1) The authority is authorized to borrow money as provided by the State Bond Act for the purpose of paying all or any part of the cost of any one or more ~~Tri-County Rail~~ projects of the South Florida Regional Transportation Authority. The principal of, and the interest on, such bonds shall be payable solely from revenues pledged for their payment.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the Tri-County Rail projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided in this part and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same.

(3) The Division of Bond Finance is authorized to issue revenue bonds on behalf of the authority to finance or refinance the cost of ~~Tri-County Rail~~ projects.

Section 6. Section 343.56, Florida Statutes, is amended to read:

343.56 Bonds not debts or pledges of credit of state.—Revenue bonds issued under the provisions of this part are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. All such bonds shall contain a statement on their face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principal or interest of such bonds. The issuance of revenue bonds under the provisions of this part does not directly, indirectly, or contingently obligate the state to levy or to pledge any form of taxation whatsoever, or to make any appropriation for their payment. No state funds shall be used to pay the principal or interest of any bonds issued to finance or refinance any portion of the South Florida Regional Transportation Authority transit Tri-County Rail system, and all such bonds shall contain a statement on their face to this effect. However, federal funds being passed through the department to the South Florida Regional Transportation Authority Tri-County Rail system and those state matching funds required by the United States Depart-

ment of Transportation as a condition of federal funding may be used to pay principal and interest of any bonds issued.

Section 7. Section 343.57, Florida Statutes, is amended to read:

343.57 Pledge to bondholders not to restrict certain rights of authority.— The state pledges to and agrees with the holders of the bonds issued pursuant to this part that the state will not limit or restrict the rights vested in the authority to construct, reconstruct, maintain, and operate any ~~Tri-County Rail~~ project as defined in this part, to establish and collect such fees or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the ~~Tri-County Rail~~ system, and to fulfill the terms of any agreements made with the holders of bonds authorized by this part. The state further pledges that it will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest thereon, are fully paid and discharged.

Section 8. Paragraphs (a) and (b) of subsection (6) of section 112.3148, Florida Statutes, are amended to read:

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(6)(a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Tri-County Commuter Rail Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Tri-County Commuter Rail Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

Section 9. Paragraph (d) of subsection (10) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(d) For the purposes of this section, operators, dispatchers, and providers of security for rail services and rail facility maintenance providers in the South Florida Rail Corridor, or any of their employees or agents, performing such services under contract with and on behalf of the South Florida Regional Transportation Tri-County Commuter Rail Authority or the Department of Transportation shall be considered agents of the state while acting within the scope of and pursuant to guidelines established in said contract or by rule.

Section 10. Section 343.58, Florida Statutes, is created to read:

343.58 County funding for the South Florida Regional Transportation Authority.—

(1) Each county served by the South Florida Regional Transportation Authority must dedicate \$2.67 million to the authority annually. The recurring annual \$2.67 million must be dedicated by the governing body of each county by August 1, 2003. Notwithstanding ss. 206.41 and 206.87, such dedicated funding may come from each county's share of the ninth-cent fuel tax, the local option fuel tax, or any other source of local gas taxes or other nonfederal funds available to the counties. In addition, the Legislature authorizes the levy of an annual license tax in the amount of \$2 for the registration or renewal of registration of each vehicle taxed under s. 320.08 and registered in the area served by the South Florida Regional Transportation Authority. The annual license tax shall take effect in any county served by the authority upon approval by the residents in a county served by the authority. The annual license tax shall be levied and the Department of Highway Safety and Motor Vehicles shall remit the proceeds each month from the tax to the South Florida Regional Transportation Authority.

(2) In addition, each county shall continue to annually fund the operations of the South Florida Regional Transportation Authority in an amount not less than \$1.565 million. Such funds pursuant to this subsection shall also be considered a dedicated funding source.

If, by December 31, 2009, the South Florida Regional Transportation Authority has not received federal matching funds based upon the dedication of funds under subsection (1), subsection (1) shall be repealed.

Section 11. The Legislature finds that a proper and legitimate state purpose is served in the effective and efficient planning and operation of a regional transportation system. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 12. This act shall take effect July 1, 2003.

Approved by the Governor June 20, 2003.

Filed in Office Secretary of State June 20, 2003.