

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
TRANSPORTATION
FINAL ANALYSIS**

BILL #: HB 489, 3rd ENG.

RELATING TO: High-Speed Rail

SPONSOR(S): Representative(s) Johnson, Russell and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 10 NAYS 3
- (2) FISCAL POLICY & RESOURCES YEAS 11 NAYS 1
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 14 NAYS 0
- (4) COUNCIL FOR READY INFRASTRUCTURE YEAS 17 NAYS 1
- (5)

I. SUMMARY:

In the November 7, 2000, statewide referendum, a majority of Florida voters approved Amendment 1 to the state Constitution, to create a high-speed rail system capable of traveling at least 120 mph and connecting the state's five largest urban areas. The amendment directs the Legislature, Governor and Cabinet to proceed with developing this rail system using a public and/or private arrangement. Construction must begin by November 1, 2003.

HB 489, 3rd Engrossed, creates a 10-member High-Speed Rail Authority. The Governor, the President of the Senate, and the Speaker of the House of Representatives each will appoint three people, representing a variety of interests, as voting members. The Secretary of the Department of Transportation (DOT) will serve as an ex officio, nonvoting member.

The Authority is directed to plan, administer and manage the preliminary engineering and preliminary environmental assessment of an intrastate high-speed rail system. It has all of the powers granted to corporations under state law, except that it may not incur debt.

Among its powers and duties are: authorization to seek federal or other matching funds to assist in developing, building and operating a high-speed rail system; the ability to hire and set compensation for an executive director; and development of a preliminary engineering study, preliminary environmental assessment, and a report of recommendations due to the Legislature by Jan. 1, 2001. The Authority's report should include recommendations on:

- The locomotive technology to be used.
- The preferred routes linking St. Petersburg, Tampa and Orlando in the high-speed rail's first phase.
- The format and types of information to be included in a financial or business plan for the system.
- Any changes in state and federal law necessary to obtain federal funding for the system.

HB 489, 3rd Engrossed, appropriates \$4.5 million from the Transportation Outreach program within DOT's budget. The Authority will use the funds to contract for assistance in researching and drafting the required studies, and for other costs associated with fulfilling its statutory obligations.

The bill raises no constitutional or legal issues, and takes effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

HB 489, 3rd Engrossed, creates a 10-member Florida High-Speed Rail Authority, with specific powers, to oversee the development and management of a high-speed rail system for Florida. The Authority can be abolished only by act of the Legislature.

B. PRESENT SITUATION:

High-speed rail refers to trains – typically for passengers – that travel at speeds in excess of 90 mph. They can be powered by diesel fuels, electricity, or magnetic levitation. These so-called “bullet trains” have been used in Europe and Japan for more than two decades. Research into the history of these international rail systems indicates many of them either are owned by their governments, were publicly owned until privatized, or still receive public subsidies. In the United States, the only operating high-speed rail train is Amtrak’s Acela, which has connected Washington, D.C., New York and Boston since November 2000. Acela can travel at speeds upwards of 150 mph.

Florida has twice been on the verge of approving a high-speed rail system, to be built and operated by the private sector. In both instances, the rail route would have connected Tampa, Orlando and Miami.

In the mid-1980s the front-runner for building a bullet train was the Florida High-Speed Rail Corp., a consortium with European backing. Originally, the rail line was to have been funded largely by the private sector, via granting of development rights along the rail corridor and in adjacent communities. Later, a 2.5-cent state gas tax, \$2 surcharge on license tags and creation of special county tax districts were proposed to help fund the project. First estimated at \$3.5 billion, by 1990 the high-speed rail’s projected total costs had risen to the extent that the project’s backers sought legislation giving the project \$5.35 billion in public funds. Former Gov. Chiles rejected the high-speed rail proposal shortly after his inauguration in 1991, primarily because of financial concerns.

However, a year later the concept of a high-speed rail system was resurrected. In 1992, a new High-Speed Rail Act became law, putting DOT in charge of the project, which was seen as a public-private partnership. Eventually, Florida Overland eXpress (or FOX) was selected to build and operate the system. FOX’s financial contribution initially was \$58 million in private equity and \$291 million worth of rolling stock; the state’s share was \$6.5 billion over 40 years. By the late 1990s, financial, ridership and technological questions were being raised about the project, and Gov. Jeb Bush terminated it shortly after his 1999 inauguration.

Proponents of a high-speed rail system led a successful petition initiative drive in 1999 and 2000. The Florida Supreme Court approved the initiative for the ballot on October 3, 2000. The

constitutional amendment proposal for a statewide high-speed monorail, fixed guideway or magnetic levitation system was placed on the November 7, 2000, General Election ballot. The vote was 2,900,253 in favor of the amendment (52.7%), and 2,607,495 opposed (47.3%).

The amendment language, now Article X, Section 19, Fla. Const., reads:

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 of a monorail, fixed guideway or magnetic levitation system, capable of speeds in excess of 120 mph, 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 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, as provided by specific appropriation and by law, with construction to begin on or before November 1, 2003.

DOT was unable to estimate the amount of state revenues required to fund a high-speed rail system as framed in the constitutional amendment because the amendment does not specify the train's route or the technology to be used, what portion of capital and operating costs could be supported by passenger fares, or what implementation timeframe is planned. Instead, DOT has made available some total cost figures for hypothetical diesel and magnetic levitation systems that can be compared to the cost of the previous FOX electrified system. Those cost estimates are \$5.6 billion for a diesel system, \$6.2 billion for an electrified system, and \$11.2 billion for a magnetic levitation system.

Although the constitutional amendment is very specific about when the construction of the high-speed rail project must begin, it did not address the project's many technical and financial issues. The Legislature currently is engaged in discussions on how to address these other issues raised by the constitutional amendment.

C. EFFECT OF PROPOSED CHANGES:

HB 489, 3rd Engrossed, includes the following key provisions:

- Creates a 10-member High-Speed Rail Authority, comprised of three appointments each by the Governor, the Senate President, and the Speaker of the House of Representatives, plus the DOT secretary as a nonvoting, ex-officio member. Of the Governor's appointees, one must have a background in environmental concerns, one must have a legislative background, and one must have a general business background. Of the Senate President's appointees, one must have a background in civil engineering, one must have a background in transportation construction, and one must have a general business background. Of the House Speaker's appointees, one must have a legal background, one must have a background in financial matters, and one must have a general business background.

The initial terms of authority members will be 4 years for the Governor's appointees, 3 years for the Senate President's appointees, and 2 years for the Speaker's appointees. Succeeding terms of office shall be 4 years for each authority members.

The initial appointments must be made within 30 days after the effective date of HB 489, 3rd Engrossed.

Authority members are not subject to Senate confirmation. The Authority shall select from among its members a chair. Five members constitute a quorum. The members are not eligible to receive compensation, but shall be entitled to be reimbursed for travel and other expense associated with conducting the Authority's business, as provided in s. 112.061, F.S., s

When the Authority is making an official decision on high-speed rail issues, the members' firms or related entities are prohibited from having a financial or economic interest in the decision, nor shall the Authority contract with, or do business with, a member, a member's firm, or a directly business entity.

- Specifies that:
 - Florida's high-speed rail system shall be capable of traveling at speeds in excess of 120 mph on dedicated rails or guideways separated from motor vehicle traffic;
 - The initial segments of the high-speed rail system will be developed and operated between St. Petersburg, Tampa and Orlando, with future service to Miami; and
 - The Authority is to develop a proposal for a high-speed rail system that utilizes, to the maximum extent feasible, nongovernmental sources of funds for the design, construction and operation of the system.
- Directs the Authority to make recommendations on:
 - The format and types of information that must be included in a financial or business plan for the system. The Authority may develop that plan.
 - The preferred routes between the cities listed in the first phase, and the preferred locations for rail stations in those cities.
 - The preferred locomotion technology for the rail system.
 - Any changes to state or federal laws needed to make the high-speed rail project eligible for federal funding.
 - Any other issues the Commission deems relevant to the development of a high-speed rail system.
- Details the type of information to be included in an "operation plan" for the high-speed rail system.
- Directs the Authority to prepare a report of its actions, findings and recommendations, and to submit that report to the Governor, the Senate President and the House Speaker on or before Jan. 1, 2002.
- Directs DOT to begin, as soon as possible, collecting and organizing existing research and other information pertaining to high-speed rail. DOT also is allowed to prepare and issue a "request for information" from private-sector entities that are interested in participating in the financing, building and operation of a high-speed rail system. Finally, DOT is allowed to issue a "request for proposals" for consultants to work with the Authority in developing reports or otherwise assisting the Authority in implementing the provisions of HB 489, 3rd Engrossed.

- Directs the Florida Transportation Commission, the Department of Environmental Protection, and the Department of Community Affairs to provide technical, scientific or other assistance to the Authority, at its request.
- Assigns the Authority to DOT for administrative purposes only; DOT shall not try to control, supervise, or direct the Authority in any circumstance, including budgetary, personnel and purchasing matters.
- Appropriates \$4.5 million to the Authority from the Transportation Outreach Program (TOP) to assist in paying the Authority's expenses.

HB 489, 3rd ENG., takes effect as soon as it becomes law.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 341.821, F.S., the Florida High-Speed Rail Authority. Specifies membership, eligibility for per diem and travel expenses pursuant to s. 112.061, F.S., and process for filling vacancies. Specifies when a conflict of interest may exist. Assigns Authority to DOT for administrative purposes only.

Section 2: Creates s. 341.822, F.S. Specifies Authority's powers and duties, including the planning, administering and managing a preliminary engineering and preliminary environmental assessment for a high-speed rail project. Authorizes Authority to seek federal or other matching funds. Allows Authority to hire an executive director.

Section 3: Specifies criteria to be used by the Authority in developing the preliminary engineering study, the preliminary environmental assessment, and report on legislative recommendations. Specifies that where applicable and appropriate, the Authority will base projected estimates on costs, revenues, and expenses on documented expenditures or experience derived from similar projects.

Section 4: Directs Authority to prepare and submit a report of its actions, findings, and recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives on or before Jan. 1, 2002. Specifies that if statutory changes are recommended, the report shall contain proposed legislation necessary to implement those recommendations.

Section 5: Specifies that DOT may prepare and issue a "request for information" from private-sector entities interested in participating in the financing, building and operation of a high-speed rail system in Florida. Specifies that DOT may issue a "request for proposals" in order for the Authority to contract with a consultant to assist in its duties. Allows Authority to seek assistance from other private-sector entities and existing rail providers, including Amtrak. Directs DOT to begin, as soon as possible, collecting and organizing existing research, studies and reports concerning high-speed rail systems for the Authority's first meeting.

Section 6: Directs the Florida Transportation Commission, the Florida Department of Community Affairs, and the Florida Department of Environmental Protection to provide technical or other assistance, if requested by the Authority.

Section 7: Appropriates \$4.5 million from funds assigned to the Transportation Outreach Program to the Authority.

Section 8: Specifies that this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

A sum of \$4.5 million is appropriated from funds assigned to the Transportation Outreach Program (TOP) to the Authority to assist in preparing its report, hiring staff, and performing its duties.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Authority is expected to spend at least a portion of the \$4.5 million on consultants who will prepare the preliminary engineering and preliminary environmental assessment studies, and draft the investment-grade ridership study. These consultants are likely to be private-sector.

D. FISCAL COMMENTS:

HB 489, 3rd Engrossed, appropriates \$4.5 million from the \$115.8 million assigned to TOP. The FY 2001-2202 General Appropriations Act gives appropriates \$4.5 million from the State Transportation Trust Fund (line item 2052). This could result in a double appropriation, but House appropriations staff has been working with the Governor's Office to determine how to prevent that from happening.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 489, 3rd Engrossed, because the proposed bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 489, 3rd Engrossed, does not reduce the revenue-raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 489, 3rd Engrossed, does not reduce the state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. OTHER COMMENTS:

HB 489, 3rd Engrossed, includes a detailed listing of information that must be included in the "operating plan" prepared by the Authority, such as frequency of service, proposed fares, sale of development rights along the high-speed train's route, and a detailed study of potential ridership. Yet, preparation of an "operating plan" is not included among the powers and duties of the Authority listed in Section 2 of the bill. This language may be a carryover from other House and Senate bills that proposed creating a full-fledged, independent High-Speed Rail Authority that had the power to issue bonds and collect revenues.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

As originally drafted, HB 489 would have created the "High-Speed Rail Study Commission" and given it \$400,000 from the State Transportation Trust Fund to help draft a report of recommendations to be submitted to the Governor and legislative leaders by Jan. 1, 2002 for a high-speed rail system connecting Tampa and Orlando. (See previous bill analyses.)

On April 27, 2001, the House adopted six amendments to HB 489 on second reading. Two amendments deleted the word "Study" from the name of the commission; two amendments added requirements that the commission consider the use of existing rail; one amendment raised the appropriation to \$3 million; and the sixth amendment directed the commission to provide the documentation necessary to obtain federal funding for the rail project. The bill was then engrossed for the first time.

On May 30, 2001, the House adopted one amendment – raising the appropriation to \$4.5 million – and then passed the bill, as amended, by a vote of 88-14. HB 489 was engrossed a second time.

On May 1, the Senate took up HB 489, 2nd Engrossed, in lieu of CS/CS/SB 1178, and adopted a strike-all amendment and an amendment to the amendment. The strike-all amendment made the House bill identical to CS/CS/SB 1178. Its key changes were: the commission became the High-Speed Rail Authority, without legislative members; the Authority was directed to compile a preliminary engineering study and preliminary environmental assessment; and St. Petersburg was added to Tampa and Orlando as the cities to be initially connected by high-speed rail. The amendment to the amendment changed the appropriation from \$8 million to \$4.5 million, which put the project's funding in line with the budget conference report.

The following day, the Senate passed HB 489, 3rd Engrossed, by a vote of 38-1.

On May 3, 2001, the House concurred in how the Senate had amended HB 489, voting 97-14 in favor of the legislation.

HB 489, 3rd Engrossed, was signed by the Governor on June 1, 2001, and later was designated as Chapter 2001-153, Laws of Florida.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Douglas Pile

Staff Director:

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AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

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AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

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