



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Currently, there are five regional transportation authorities: the South Florida Regional Transportation Authority; the Central Florida Regional Transportation Authority; the Tampa Bay Commuter Transit Authority; Northwest Florida Regional Transportation Corridor Authority; and the Bay Area Regional Transportation Authority created in Ch. 343, F.S. There is one local transportation authority, the Jacksonville Transportation Authority, created in Ch. 349, F.S. These six authorities have various membership structures, powers and duties. All have some form of bond financing authority to carry out their individual transportation missions.

In 1955, the Jacksonville Expressway Authority was founded to build bridges and expressways in Duval County funded by toll revenues. A merger in 1971 of the original Expressway Authority and several private bus companies paved the way for the Jacksonville Transportation Authority (JTA) as it is known today. The Jacksonville Transportation Authority provides regional transit services and roadway infrastructure connecting Northeast Florida.

The governing body of the JTA consists of seven members. Three members are appointed by the Governor and confirmed by the Senate. Three members are appointed by the mayor of the City of Jacksonville and are subject to confirmation by the council of the City of Jacksonville. The seventh non-voting member is the district secretary of the Department of Transportation serving in the district that contains the City of Jacksonville. Except for the seventh member, members shall be residents and qualified electors of the City of Jacksonville and serve a term of four years.

##### **Proposed Changes**

House Bill 311 removes obsolete language and modernizes existing sections of Ch. 349, F.S., in an effort to provide consistency within the JTA statutes as compared to other transportation authorities in the state. Specifically, the bill:

##### Powers and Duties

- Clarifies the Authority is an agency of the state and not a component of any other political subdivision;
- Revises the Authority's membership, except the Department of Transportation's District Secretary, to be residents and qualified electors of Duval County, previously referenced as the City of Jacksonville;
- Revises the Authority's jurisdiction to include all of Duval County, previously referenced as the City of Jacksonville;

- Provides for monitoring and review by the Florida Transportation Commission, and for financial disclosure requirements.
- Includes language that clarifies the Authority's intent to plan and develop multimodal transportation projects;
- Reinforces the Authority's intent to establish and maintain operating fund reserves to mitigate cost increases;
- Includes provisions that allow the authority to enter into interlocal agreements for transportation facilities;
- Allows the authority to establish an employee benefit fund;
- Modifies the Authority's public hearing process to reflect the absence of a planning board (the planning board no longer exist, but the public hearing process has been retained);
- Provides that the Authority is not subject to liability related to preexisting contamination of property acquired by the Authority due solely to its ownership; the liability of past owners is not affected.
- Allows the Authority to enter into lease-purchase agreements with DOT. DOT also may be appointed by the Authority as its agent to oversee construction of the system's components.
- Allows the Authority to enter into public-private partnerships to construct, operate, own, or finance transportation facilities that are part of the system;
- Provides that property already devoted to a public use may be acquired by eminent domain, provided that no real property belonging to the city, the county, the state, or any political subdivision thereof may be acquired without its consent;
- Clarifies the Authority's ability to set, collect and enforce tolls, fees, and other charges;

#### Bond Financing

- Provides legislative approval for bond financing by the Authority for transportation improvements;
- Clarifies the Authority's power to issue revenue bonds, either on its own or through the state Division of Bond Finance for construction of or improvements to commuter rail systems, transit systems, ferry systems, highways, bridges, toll collection facilities, interchanges, and any other transportation facility necessary to the system;
- Clarifies that bonds issued by the Authority or through the state Division of Bond Finance must conform to the State Bond Act requirements;
- Provides the bonds shall not be pledges against the credit of the State of Florida;
- Provides for rights and remedies of bondholders to take action upon default by the Authority or DOT to comply with provisions of any bond agreement.

#### Effects on Other Governmental Entities

HB 311 does not encroach on any existing laws relating to other governmental entities. The bill:

- Does not repeal, rescind, or modify any existing laws related to the State Board of Administration, the DOT, or the Division of Bond Finance.
- Does not preclude DOT from developing and producing projects in their five-year work program, which are on the state highway system in the same geographical area as the Jacksonville Transportation Authority.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 349.02, F.S., revising current definitions and adding a new definition for the term “transportation facilities”.

**Section 2.** Amends s. 349.03, F.S., specifying that the authority is an agency of the state and not a unit of any other political subdivision.

**Section 3.** Amends s. 349.04, F.S., revising the scope of the authority to include certain services throughout Duval County; revising authority, powers, rights, and responsibilities of the authority; revising bonding provisions; providing for the authority to fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for any transportation facilities of the authority; authorizing purchases under government contract; revising eminent domain provisions; authorizing use of local option taxes or county gasoline tax funds to secure the payment of bonds; authorizing the authority to establish and fund reserve accounts, adopt an annual budget, use purchasing schedules and master purchasing contracts, retain legal counsel and other consultants, construct and own and maintain transportation facilities outside the jurisdictional boundaries of Duval County, form public benefit corporations, require bid bonds and protest bonds, prequalify bidders or proposers, suspend or debar consultants and contractors, and create and operate an employees' benefit fund; providing for the authority to expand its service area and enter into a partnership with a contiguous county; providing that the powers and obligations of the authority shall not be subject to supervision, approval, or consent of any municipality or county except as agreed upon in an interlocal agreement; providing for certain contractual obligations and recovery of damages; providing for relocation of utility facilities interfering with transportation projects; authorizing the authority to enter lands, waters, and premises of another in the performance of its duties; providing for monitoring and review by the Florida Transportation Commission, and for financial disclosure requirements.

**Section 4.** Amends s. 349.041, F.S., revising provisions for funds appropriated by the City of Jacksonville to the authority.

**Section 5.** Repeals s. 349.042, F.S., relating to the Jacksonville area planning board review of construction and operation of expressway and transit functions of the authority.

**Section 6.** Creates s. 349.043, F.S., requiring a public hearing prior to the designation or relocation of transportation facilities or substantive changes to these facilities; providing for procedures related to these modifications; and requiring the authority to comply with federal requirements related to new or altered transportation facilities or services.

**Section 7.** Amends s. 349.05, F.S., authorizing bonds to be issued on behalf of the authority; revising provisions for the issuance and sale of bonds; authorizing certain refunding bonds; revising provisions for resolutions authorizing bonds; revising provisions for fiscal agents; and providing that bonds are not obligations of the state.

**Section 8.** Repeals s. 349.06, F.S., relating to remedies of bondholders.

**Section 9.** Creates s. 349.061, F.S., providing approval for the authority's bond financing.

**Section 10.** Amends s. 349.07, F.S., revising provisions authorizing the Department of Transportation to expend certain funds and use its resources for certain items related to the Jacksonville Expressway System.

**Section 11.** Amends s. 349.10, F.S., revising provisions for the authority to acquire lands and land rights; limiting liability of the authority with respect to certain contamination of lands acquired; authorizing the authority and the Department of Environmental Protection to enter into agreements for the performance and funding of investigative and remedial acts.

**Section 12.** Amends s. 349.12, F.S., revising the covenant of the state related to bonds of the authority.

**Section 13.** Amends s. 349.13 F.S., specifying conditions under which property leased by the authority is exempt from ad valorem taxes.

**Section 14.** Amends s. 349.15 F.S., revising provisions for enforcement of rights by bondholders.

**Section 15.** Amends s. 349.17, F.S., revising provisions for application of and exemption from other laws relating to issuance of bonds.

**Section 16.** Amends s. 349.21, F.S., revising provisions for use of charter county transit system surtax funds.

**Section 17.** Creates s. 349.22, F.S., providing conditions for the authority to receive or solicit proposals and enter into agreements with private entities for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities; requiring certain costs to be paid by the private entity; authorizing the department to use state funds for projects on or that increase mobility on the State Highway System; requiring notice of proposals and providing procedures; providing for agreements to authorize the public-private entity to impose tolls; requiring public-private transportation facilities to comply with laws, comprehensive plans, and the authority's rules, policies, procedures, standards, and conditions; authorizing the authority to exercise its powers to facilitate public-private projects; providing for application; providing an effective date.

**Section 18.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

See D. Fiscal Comments, below.

2. Expenditures:

See D. Fiscal Comments, below.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Economic impact to the private sector is unknown at this time, as no projects (or project details) have been identified. Tolls, fees or other charges to be collected by the Authority cannot be determined until projects are identified.

**D. FISCAL COMMENTS:**

The fiscal impacts to local governments and DOT, including tolls, fees and other charges, are unknown at this time as no projects or contractual agreements have been identified.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to HB 311 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

The bill creates s. 349.22, F.S., which gives the Authority rule-making powers to implement public-private partnerships.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On February 8, 2008, one amendment was adopted by the Infrastructure Committee amending the bill to provide that the JTA will be deemed an “authority” for purposes of monitoring and review by the Florida Transportation Commission and for purposes of financial disclosure requirements.

On April 1, 2008, one amendment was adopted by the Economic Expansion and Infrastructure Council to provide that the JTA will not exercise its powers of eminent domain on any property of the city, county, or other governmental entity without their consent. This amendment was requested by DEP. The bill was reported favorable as a council substitute.