

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – HB 1123 places additional administrative responsibilities on the Department of Revenue (DOR) to collect and distribute the local-option surcharge.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act, provides the process by which agencies must adopt rules. These methods provide for public notice of agency intent to adopt a rule and for intervention by persons substantially affected by the decision to implement that rule. Chapter 120, F.S., also controls administrative dispute resolution procedures in cases when the effect on a person's substantial interests regarding the enforcement of an administrative decision or application of a rule must be determined.

For purposes of the Administrative Procedure Act, "Agency," as defined in s. 120.52, F.S., means:

- The Governor;
- State officers;
- Each department, authority, board, commission, regional planning agency, multicounty special district with a majority of its governing board composed of non-elected persons, educational unit, and entities described in chapters 163, 373, 380, and 582 and s. 186.504, F.S.; and
- Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

Certain entities are exempted from this definition, including such transportation related entities as any metropolitan planning organization created pursuant to s. 339.175, F.S., any separate legal or administrative entity created pursuant to s. 339.175, F.S., of which a metropolitan planning organization is a member, an expressway authority pursuant to chapter 348, F.S., or transportation authority under chapter 349, F.S.

Regional Transportation Authorities

Currently, there are five regional transportation authorities created in chapter 343, F.S.; the South Florida Regional Transportation Authority (SFRTA); the Central Florida Regional Transportation Authority; the Tampa Bay Commuter Transit Authority; the Northwest Florida Regional Transportation Corridor Authority; the Tampa Bay Area Regional Transportation Authority. These authorities have various membership structures, and powers and duties. All have some form of bond financing authority to carry out their individual transportation missions.

South Florida Regional Transportation Authority (SFRTA)

In an attempt to ease the disruptions created for commuters while it was widening I-95 in the mid-1980s, the Department of Transportation (DOT) purchased an 81-mile rail corridor from CSXT for \$264 million and began building a commuter train system. Under terms of the sale, CSXT continued to

operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatches all trains using the tracks--its own, Tri-Rail and Amtrak trains. In 1989, the Legislature passed the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward and Palm Beach counties.

In 2003, the Legislature reconfigured the Tri-Rail Commuter Rail Authority as the SFRTA. The SFRTA is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous powers and responsibilities, including the power to acquire, sell, and lease property; to use eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The 2003 law also required each of the three counties served by the SFRTA to dedicate funding of \$2.67 million annually, no later than October 31 of each fiscal year and a total of \$45 million of a recurring funding source if the counties served by the Authority impose a local option funding source.

The potential sources of this dedicated funding include:

- Local-option fuel taxes;
- Each county's share of the local ninth-cent fuel tax; or
- Other non-federal funds.

In addition, each county must provide annual funding for operations of at least \$1.565 million. These local funding requirements are repealed if the Authority does not obtain federal matching funds by December 31, 2015.

DOT is authorized by, s. 341.303, F.S., to fund up to 50 percent of the net operating costs of any eligible intercity or commuter rail service development project that is local in scope, not to exceed the local match. Approximately \$18 million in annual funding is being provided for SFRTA rail operations from state transportation funds over the next five years.

Rental-car Surcharge

In 1989, the Legislature created s. 212.0606, F.S., to impose a statewide rental-car surcharge. The surcharge was initially levied at 50 cents per day upon the lease or rental of for-hire motor vehicles designed to carry fewer than nine passengers. The surcharge was increased to \$2 per day in 1990.

The surcharge was used initially to fund children and adolescent substance abuse programs and law enforcement needs, but has been amended in subsequent years to remove the initial funding uses and replace them with funding the state's transportation needs, the state's tourism promotion and marketing efforts, and the state's international trade and promotion efforts. The actual distribution of the \$2 per day surcharge is: \$1.49 to the State Transportation Trust Fund; 29 cents to the Tourism Promotion Trust Fund; 8 cents to the Florida International Trade & Promotion Trust Fund; about 14 cents to the General Revenue Fund (7.3-percent service charge); and less than 1 cent to the Department of Revenue as an administrative charge.

The statewide surcharge is levied per day on the lease or rental of a motor vehicle licensed for hire and designed to carry fewer than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies only to the first 30 days of the term of any lease or rental. The surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

DOR is responsible for collecting and distributing monies collected under the rental car surcharge as well as enforcing its collection. According to DOR, the rental car surcharge is collected from 1,800 rental car dealers, of which 130 operate in more than one county.

The distribution of monies placed in the State Transportation Trust Fund was amended in 2002 to require that beginning in FY 2007-08, the proceeds deposited from the surcharge would be allocated on an annual basis in DOT's work program to each of the seven transportation districts, except the Turnpike Enterprise. The amount allocated to each district must be based on the amount of proceeds collected in the counties within each respective district.

The manner in which dealers reported surcharges was amended by the 2003 Legislature to authorize DOR to require dealers to report surcharge collections according to the county in which the surcharge was collected, in order to facilitate the allocation of surcharge revenues to each DOT district. This requirement was authorized to begin January 1, 2004. The change in law was intended to help DOT meet its statutory requirement that proceeds of the surcharge be allocated to each DOT district for projects, based on the amount of proceeds collected in the counties within each respective district.

Proposed Changes

Specifically, HB 1245:

- The bill provides that regional transportation authorities created pursuant to chapter 343, F.S., are not included in the definition of "agency" under chapter 120, F.S., and thus not subject to the provisions of the Administrative Procedure Act.
- Directs that 80 percent of the rental car surcharge revenues collected in a county that is served by an RTA are to be deposited into accounts of specified regional transportation authority's (RTAs);
- Requires the DOR to provide the RTAs with annual surcharge revenue information by September 1st of each year fiscal year;
- Amends DOT's obligation to fund up to 50 percent of the net operating costs of any eligible intercity or commuter rail service development project, by specifying DOT has no obligation to fund any regional transportation authority that receives a recurring dedicated funding source that provides 80 percent of rental-car surcharge proceeds collected in counties within the authority's service territory or an equivalent recurring funding source and after receipt of funds from such recurring dedicated funding source begins.
- Relieves Broward, Palm Beach, and Dade counties of their annual \$45 million in funding obligations to the SFRTA for capital, operating and maintenance expenses, required only when all three counties served by the authority impose a local option funding source.
- Relieves Broward, Palm Beach, and Dade counties of their annual \$1.565 million funding obligation required to fund the operations of the South Florida Regional Transportation Authority when a dedicated recurring revenue source provides at least 80 percent of the amount of rental car surcharge revenues collected.

C. SECTION DIRECTORY:

Section 1. Amends s. 120.52, F.S.; revising a definition.

Section 2. Amends s. 212,0606, F.S.; providing for deposit of a certain percentage of rental car surcharge revenues into accounts of regional transportation authorities; and requiring the DOR to provide authorities with certain annual surcharge revenue information.

Section 3. Amends s. 341.303, F.S.; relieving DOT's funding obligation to certain regional transportation authorities to conform; and revising DOT's obligation to fund certain regional transportation authorities under certain circumstances.

Section 4. Amends s. 343.58, F.S.; relieving certain counties of certain funding obligations to the SFRTA under certain circumstances to conform.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Based on the March 2008 Revenue Estimating Conference estimates inflated at 3 percent annually, HB 1245 has an estimated negative fiscal impact on the State Transportation Trust Fund as follows:

- FY 2008-09 - \$ 95.5 million
- FY 2009-10 - \$ 98.4 million
- FY 2010-11 - \$101.3 million
- FY 2011-12 - \$104.4 million
- FY 2012-13 - \$107.5 million

For an estimated total of \$507 million over the five year work program period.

2. Expenditures:

DOT will also be relieved of funding obligations to SFRTA rail operations of \$87 million over the five year work program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Section 2 of the bill relieves Broward, Palm Beach, and Dade counties of their annual \$1.565 million funding obligation required to fund the operations of the South Florida Regional Transportation Authority when a dedicated recurring revenue source provides at least 80 percent of the amount of rental car surcharge revenues collected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Although HB 1245 relieves Broward, Palm Beach, and Dade counties of their annual \$45 million in funding obligations to the South Florida Regional Transportation Authority (SFRTA) for capital, operating and maintenance expenses, none of these counties have currently dedicated this funding due to the fact that no local option funding source has been imposed.

HB 1245 has a positive fiscal impact on the RTAs by requiring that the 80 percent of rental-car surcharge revenues, collected in a county served by an RTA, be redirected from the State Transportation Trust Fund to the authorities. The revenues to be directed to each authority will vary as to the amount collected by each county served by the authority. The chart below displays the actual fiscal year 2006-07 collections that would have been distributed to the various RTA's as provided by this bill.

Revenue Increases by RTA
(Based on 2006-07 Actual Collections)

<u>Regional Transportation Authority</u>	<u>Estimated Revenue Increase</u>
Central Florida Regional Transportation Authority	\$ 27.98 million
Northwest Florida Transportation Corridor Authority	4.78 million
South Florida Regional Transportation Authority	39.54 million
Tampa Bay Area Regional Transportation Authority	8.40 million
Tampa Bay Commuter Rail Transit	<u>8.90 million</u>
Estimated Total	\$ 90 million

HB 1245 has a negative recurring fiscal impact on the State Transportation Trust Fund of approximately \$95.5 million in fiscal year 2008-09 and this amount will increase to \$107.5 million in fiscal year 2012-13, based on a 3 percent inflation rate. This results in an estimated \$507 million impact to the STTF over the five year work program period based on the March 2008 Revenue Estimating Conference estimates. Under the bill, DOT will be relieved of funding obligations to SFRTA operations of \$87 million over the five year work program for a net impact of \$420 million to the STTF.

This redirected revenue will be deposited in the accounts of RTAs as a recurring funding source and will result in a net positive fiscal impact of \$420 million to RTAs over the five year work program period.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HB 1245 was considered by the House Infrastructure Committee on March 20, 2008. The bill was reported favorably with three amendments:

- Amendment 1 relieved Broward, Palm Beach, and Dade counties of their \$2.67 million annual funding obligation to the SFRTA by October 1 of each fiscal year, when a dedicated funding source equal to 80 percent of the rental-car surcharge revenues collected by these counties is identified by all three of the counties.
- Amendment 2 provided that, with the exception of the SFRTA, RTAs are required to provide 60 day written notification to DOR of their intent to receive 80 percent of the proceeds from rental-car surcharges collected in the counties served by the authority. The amendment also deleted the requirement for the DOR to provide the RTAs with annual surcharge revenue information by September 1st of each year fiscal year. Instead, the amount due to each regional transportation authority will be based on the percentage attributable to each participating county as determined on September 1 of the preceding fiscal year.
- Amendment 3 abolished the Tampa Bay Commuter Transit Authority, an inactive transportation authority. This will have the effect of increasing Tampa Bay Area Regional Transportation Authority's share of rental car surcharge revenue.