

CHAPTER 2013-173

Committee Substitute for Senate Bill No. 606

An act relating to the Northeast Florida Regional Transportation Commission; providing a directive to the Division of Law Revision and Information; creating s. 343.1001, F.S.; providing a short title; creating s. 343.1002, F.S.; providing definitions; creating s. 343.1003, F.S.; creating the Northeast Florida Regional Transportation Commission; providing for a nine-member commission board; providing for board appointment; providing for staffing; providing for member removal; providing liability protection for members; creating s. 343.1004, F.S.; providing commission powers and duties; prohibiting the commission from pledging the state's credit; creating s. 343.1005, F.S.; providing for transportation projects of regional significance; specifying the characteristics for such projects; creating s. 343.1006, F.S.; requiring commission plans and planning activity to be coordinated with other specified entities; creating s. 343.1008, F.S.; authorizing other governmental units and the commission to contract with each other; creating s. 343.1009, F.S.; exempting the commission from taxes or assessments; creating s. 343.1010, F.S.; specifying that the powers of the commission are supplemental to other laws; creating s. 343.1011, F.S.; providing for public meetings and hearings; creating s. 343.1012, F.S.; specifying that the commission is not an authority for purposes of specified provisions relating to a discretionary tax; creating s. 343.1013, F.S.; providing for repeal; amending s. 120.52, F.S.; conforming provisions; providing an effective date.

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

Section 1. The Division of Law Revision and Information is requested to create part V of chapter 343, Florida Statutes, consisting of ss. 343.1001-343.1013, Florida Statutes.

Section 2. Section 343.1001, Florida Statutes, is created to read:

343.1001 Short title.—This part may be cited as the “Northeast Florida Regional Transportation Commission Act.”

Section 3. Section 343.1002, Florida Statutes, is created to read:

343.1002 Definitions.—As used in this part, the term:

(1) “Agency of the state” means the state and any department of the state, the commission, or any corporation, agency, or instrumentality created, designated, or established by the state.

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

(3) “Commission” means the Northeast Florida Regional Transportation Commission.

(4) “Department” means the Department of Transportation.

(5) “Transportation authorities” means the department and any entity created under this chapter, chapter 348, or chapter 349.

(6) “Transportation facilities” means all mobile and fixed assets, including real or personal property or rights therein, used in the transportation of persons or property by any means of conveyance, and all appurtenances thereto, such as, but not limited to: highways; bridges; limited or controlled access roadways, lanes, and related facilities; docks, wharves, vessels, jetties, piers, and marine terminals; vehicles, fixed guideway facilities, including freight rail, intermodal facilities, and any means of conveyance of persons or property of all types; passenger and other terminals; park-and-ride facilities; bicycle ways and related facilities; pedestrian ways and pedestrian-related facilities appurtenant to other transportation facilities; transit-related improvements or developments adjacent to transit facilities or stations; bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities; and administrative and other office space necessary for the exercise by the commission of the powers and obligations granted under this part.

(7) “Transportation services” means the conveyance of persons or property, including mass transit services such as fixed-route bus service, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service, and the planning and funding of transportation facilities.

Section 4. Section 343.1003, Florida Statutes, is created to read:

343.1003 Northeast Florida Regional Transportation Commission.—

(1) The Northeast Florida Regional Transportation Commission, an agency of the state, is created and established as a body politic and corporate, covering the six-county area comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties.

(2) The nine-member governing board of the commission shall be selected and serve as follows:

(a) The county commissions of Baker, Clay, Nassau, Putnam, and St. Johns Counties shall each appoint one person, who may be an elected official of such county. However, in order to ensure continuity on the initial governing board, the initial appointees under this paragraph shall draw lots at the first meeting of the governing board to determine which two members shall serve initial terms of 2 years, which member shall serve an initial term of 3 years, and which two members shall serve initial terms of 4 years.

(b) The City of Jacksonville shall be represented by four members, who may be elected officials of the city. Of the four members, the mayor of the City of Jacksonville shall appoint two members, and the Jacksonville City Council shall appoint two members. However, in order to ensure continuity on the

initial governing board, the initial appointees shall draw lots at the first meeting of the governing board to determine which member shall serve an initial term of 2 years, which two members shall serve initial terms of 3 years, and which member shall serve an initial term of 4 years.

(c) An appointed member may not select or have a designee selected to serve in the absence of the member, whether such member is an elected official or otherwise. However, if an appointed member is designated by the appointing entity by title, such as the chair of a county commission or the chair of a transportation or planning agency, the successor or vice chair may serve for such appointee in his or her absence.

(d) Except for the initial board, members shall be appointed for 4-year terms. A member may not serve more than two consecutive terms.

(3) The secretary of the department shall appoint a nonvoting advisor to the board.

(4) The board may create an advisory panel, with membership to be determined by the board, and may establish committees by and at the will of the chair, or upon vote of the board.

(5) The members of the board shall serve without compensation but are entitled to receive reimbursement from the commission for travel expenses and per diem incurred in connection with the business of the commission as provided in s. 112.061. Persons appointed to a committee or an advisory panel shall also serve without compensation but may be entitled to per diem or travel expenses incurred in connection with the business of the commission as provided in s. 112.061.

(6) Notwithstanding s. 348.0003(4)(c), members of the board shall file a statement of financial interest with the Commission on Ethics pursuant to s. 112.3145.

(7) At its inaugural meeting, the board shall establish the duties and powers of its officers as set forth in subsection (8) and its initial rules of conduct and meeting procedures.

(8) At its inaugural meeting, and annually thereafter, the board shall elect a chair, vice chair, secretary, and treasurer from among its members, to serve for a term of 1 year. No person may hold the office of chair for more than two consecutive terms.

(9) The first meeting of the commission shall be held within 60 days after the creation of the commission.

(10) Six members of the board constitute a quorum. The commission may meet upon the presence of a quorum. A vacancy on the board does not impair the ability of a quorum to exercise all rights and perform all duties of the commission.

(11) The commission may employ an executive director and an administrative assistant to the board and to the executive director. The commission may employ permanent or temporary staff, including consultants, as it determines necessary or convenient, or, subject to approval by their respective boards or administrative chiefs, may use the staff of:

(a) The Jacksonville Transportation Authority, its legal counsel, technical experts, engineers, and other administrative employees.

(b) The North Florida Transportation Planning Organization, for planning matters.

(c) The Northeast Florida Regional Council, for planning and coordination matters.

(d) The department.

(e) The Jacksonville Port Authority.

(f) The counties represented on the commission board, on an as-needed basis.

(12) An appointing county commission, or, in the case of Duval County, upon request of the mayor or the city council president, the Jacksonville City Council, may remove a member appointed by it for cause, including, but not limited to, failure to attend two or more meetings of the commission during any 9-month period.

(13) No liability on the part of, and no cause of action may arise against, any member for any action taken in the performance of his or her duties under this part.

Section 5. Section 343.1004, Florida Statutes, is created to read:

343.1004 Commission powers and duties.—

(1) The express purposes of the commission are to improve mobility and expand multimodal transportation options for persons and freight throughout the six-county North Florida region. The commission shall, at a minimum:

(a) Use the data contained in the Long Range Transportation Plan of the North Florida Transportation Planning Organization and other data to develop a multimodal and prioritized regional transportation plan consisting of transportation projects of regional significance; and

(b) Research and develop an implementation plan that identifies available but not yet imposed, and potentially developable, sources of funding to execute the regional transportation plan. In developing the regional transportation plan, the commission shall review and coordinate with the future land use, capital improvements, and traffic circulation elements of the

counties' local government comprehensive plans, the Strategic Regional Policy Plan of the Northeast Florida Regional Council, and the schedules of other units of government having transit or transportation authority within whose jurisdictions the projects or improvements will be located in order to define and resolve potential inconsistencies between such plans and the commission's regional transportation plan. The commission shall present the regional transportation plan and updates to the governing bodies of the constituent counties within 90 days after adoption. The commission shall update the regional transportation plan and the implementation plan at least every other year.

(2) The commission may plan, develop, coordinate, and promote transportation projects and transportation services of regional significance which are identified in the commission's regional transportation plan.

(a) Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may provide transportation services of regional significance which are identified in the regional transportation plan.

(b) To ensure coordination of its plans with those of local governments, the commission shall consult with local governments concerning the commission's regional transportation plan.

(c) The commission may facilitate efforts to secure funding commitments from federal and state sources, or from the applicable counties, for the planning, development, construction, purchase, operation, and maintenance of transportation projects that are of regional significance or that support intercounty mobility for persons or freight.

(3) In carrying out its purposes and powers, the commission may request funding and technical assistance from the department and from federal and local agencies. In order to carry out the purposes and powers of the commission for its first 5 years, the commission shall also timely request annually that each constituent county appropriate a cash contribution of up to 30 cents per capita per year, based on the latest decennial census, to support its budget; however, the contribution of Duval County may not exceed 45 percent of the commission's budget for any fiscal year.

(4) The commission may exercise all powers necessary, appurtenant, convenient, or incidental to carrying out the purposes identified in subsections (1)-(3), including, but not limited to, the power to:

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

(b) Adopt and use a corporate seal.

(c) Apply for and accept grants from federal, state, local, or private sources for the carrying out of the purposes and powers of the commission.

(d) Partner with private sector business community entities that may further the commission's mission and engage the public in support of regional multimodal transportation improvements.

(e) Adopt rules, including bylaws and sanctions, for the regulation of the affairs and the conducting of business, including termination of membership in the commission for nonpayment of county contributions required under subsection (3).

(f) Advertise, market, and promote regional transit services and facilities, freight mobility plans and projects, and the general activities of the commission.

(g) Cooperate with other governmental entities and contract with other governmental agencies, including the Federal Government, the department, counties, transit and transportation authorities or agencies, municipalities, and expressway and bridge authorities.

(h) Purchase liability insurance directly from local, national, or international insurance companies which the commission is contractually and legally obligated to provide, notwithstanding s. 287.022(1).

(i) Make contracts and execute all instruments necessary or convenient for conducting its business.

(j) Form, alone or with one or more other agencies of the state or local governments, public benefit corporations to carry out the powers and obligations granted under this part or the powers and obligations of such other agencies or local governments.

(k) Do everything necessary or convenient for the conduct of its business and the general welfare of the commission in order to carry out the powers granted to it by this part or any other law.

(5) The commission may not pledge the credit or taxing power of the state or any political subdivision or agency thereof, nor may any of the commission's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof, nor may the state or any political subdivision or agency thereof, except the commission, be liable for the payment of the principal of or interest on such obligations.

Section 6. Section 343.1005, Florida Statutes, is created to read:

343.1005 Transportation projects of regional significance.—Transportation projects of regional significance are those transportation facilities and transportation services within, in whole or in part, a regional transportation corridor identified in the commission report presented to the Legislature on or about December 31, 2012, or subsequently identified by the commission, which have one or more of the following characteristics:

(1) Exhibit a significant level of travel between counties or regions.

(2) Provide a primary connection between activity centers or municipalities.

(3) Exhibit a significant percentage of freight conveyance.

(4) Provide a primary connection to marine, aviation, or intermodal facilities.

(5) Provide a regional emergency evacuation route.

(6) Support or enhance the functionality of another identified transportation project of regional significance in the corridor by providing for regional movement or removing nonregional trips from other transportation projects of regional significance.

(7) Such other characteristics as the commission may determine relating to regional significance.

Section 7. Section 343.1006, Florida Statutes, is created to read:

343.1006 Plan coordination with other agencies.—The regional transportation plan and implementation plan shall be forwarded to the North Florida Transportation Planning Organization for inclusion in its long range transportation plan and other planning documents as required by law. To the extent feasible, the commission’s planning activities, including the development and adoption of the regional transportation plan and the implementation plan, shall be coordinated with the work of the North Florida Transportation Planning Organization, the Northeast Florida Regional Council, and the department.

Section 8. Section 343.1008, Florida Statutes, is created to read:

343.1008 Authority to contract.—Any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual, in or of the state, may make and enter into contracts, leases, conveyances, partnerships, or other agreements with the commission within the provisions and for the purposes of this part. The commission may make and enter into contracts, leases, conveyances, partnerships, interlocal agreements, and other agreements with any political subdivision, agency, or instrumentality of the state and any federal agencies, corporations, and individuals for the purpose of carrying out the provisions of this part and serving the purposes of the commission.

Section 9. Section 343.1009, Florida Statutes, is created to read:

343.1009 Exemption from taxation and assessment.—The effectuation of the authorized purposes of the commission created under this part is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and, because the commission performs essential governmental functions in

effectuating such purposes, the commission is not required to pay any taxes or assessments upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges at any time received by it.

Section 10. Section 343.1010, Florida Statutes, is created to read:

343.1010 Powers of commission are supplemental.—

(1) The powers conferred by this part are supplemental to the existing powers of the North Florida Transportation Planning Organization, the Jacksonville Transportation Authority, the Northeast Florida Regional Council, the counties and the municipalities located therein, and the department. This part does not repeal any provisions of any other law, general, special, or local, but supplements such other laws in the exercise of the powers provided under this part and provides a complete method for the exercise of the powers granted in this part. The projects of the commission must comply with all applicable federal, state, and local laws. The projects of the commission undertaken pursuant to this part may be accomplished without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law except as specifically set forth in this part.

(2) This part does not repeal, rescind, or modify any other law relating to the North Florida Transportation Planning Organization, the Jacksonville Transportation Authority, or the department.

Section 11. Section 343.1011, Florida Statutes, is created to read:

343.1011 Public meetings and hearings.—

(1) The commission shall hold regular public meetings at the times and locations determined by the chair but, if feasible, at least quarterly.

(2) Before the adoption of the regional transportation plan or the implementation plan, a public hearing shall be conducted by the commission in each of the counties affected, at least one of which must be before the board. Any interested party shall have the opportunity to be heard in person or by counsel and to introduce testimony in his or her behalf at the hearing. Reasonable notice of each public hearing must be published in a newspaper of general circulation in each county in which such hearings are required to be held, at least 7 days before the hearing. The commission shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Section 12. Section 343.1012, Florida Statutes, is created to read:

343.1012 Discretionary sales surtax.—The commission is not an “authority” for purposes of s. 212.055(1).

Section 13. Section 343.1013, Florida Statutes, is created to read:

343.1013 Repeal.—This part shall stand repealed on November 30, 2018, unless:

(1) The commission has adopted the regional transportation plan and the implementation plan, and at least Clay, Duval, Nassau, and St. Johns Counties have adopted resolutions endorsing such plans; and

(2) Adequate funding sources to carry out the initial phases of such plans have been secured.

Section 14. Subsection (1) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(1) “Agency” means the following officers or governmental entities if acting pursuant to powers other than those derived from the constitution:

(a) The Governor; each state officer and state department, and each departmental unit described in s. 20.04; the Board of Governors of the State University System; the Commission on Ethics; the Fish and Wildlife Conservation Commission; a regional water supply authority; a regional planning agency; a multicounty special district, but only ~~if~~ when a majority of its governing board is comprised of nonelected persons; educational units; and each entity described in chapters 163, 373, 380, and 582 and s. 186.504.

(b) Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county.

(c) Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to this chapter ~~act~~ by general or special law or existing judicial decisions.

This definition does not include ~~a any~~ municipality or legal entity created solely by a municipality; ~~a any~~ legal entity or agency created in whole or in part pursuant to part II of chapter 361; ~~a any~~ metropolitan planning organization created pursuant to s. 339.175; ~~a any~~ separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member; an expressway authority pursuant to chapter 348 or any transportation authority or commission under chapter 343 or chapter 349; or ~~a any~~ legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.

Section 15. This act shall take effect July 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.