

High Speed Rail, Commuter Rail, and Florida's Future

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Despite the deceleration in the state's growth rate over the last year, Florida is still the fourth largest populated state and has the highest anticipated growth rate in the nation. Likewise, Florida's non-resident tourist and visitor population is the highest amongst all the states, with approximately 71 million people visiting each year.¹ Overcrowding and traffic congestion has naturally become an on-going concern for Florida's transportation sector. Consequently the Florida Department of Transportation (FDOT) in coordination with other local, state and federal transportation authorities and officials have been looking to several different modes of transportation options working together - know as "intermodal" transportation to improve the congestion and gridlock. One such type of intermodal transportation is Florida's current push to expand the State's mass transit systems by adding a high-speed rail and a commuter rail network .

In Florida, a high-speed rail system is defined as any high-speed fixed guideway system for transporting people or goods, which system is capable of operating at speeds in excess of 120 miles per hour, including, but not limited to, a monorail system, dual track rail system, suspended rail system, or other system approved by the Florida High Speed Rail Authority (HSRA).² The HSRA is currently looking at competing for \$8 Billion in federal economic stimulus dollars specifically earmarked for a high-speed rail system. High speed rail has several benefits, including reducing the number of vehicles on our roads; providing relief to congested airports; providing a green solution for the environment by lessening the amount of harmful pollutants expelled into the air; providing economic growth through additional jobs; and providing residents and visitors alike with another intermodal mass-transportation option for easier travel.

Likewise, another intermodal transportation project gaining traction in Florida is commuter rail. Commuter rail is defined as a complete system of tracks, guideways, stations, and rolling stock necessary to effectuate medium-distance to long-distance passenger rail service to, from, or within municipalities.³ Currently, FDOT, in cooperation with the federal government and local officials in Orange, Seminole, Volusia and Osceola counties and the city of Orlando, is advancing SunRail, a commuter rail transit project that will run along a 61-mile stretch of existing rail freight tracks in the

¹ http://www.floridahighspeedrail.org/1b_overview.html

² Fla. Stat. § 341.8203 (6) (2008). The mission of the Florida High Speed Rail Authority is to advance the development of a Statewide High Speed Rail System in Florida in accordance with Article X Section 19 of the Florida Constitution and the Florida High Speed Rail Authority Act.

³ Fla. Stat. § 343.91 (e)(1) (2008).

four-county area.⁴ In February 2009, FDOT awarded a professional services contract to a joint venture led by Atlanta-based Archer Western Contractors Ltd. and RailWorks Track Systems, Inc. of New York City, for partial design and construction associated with Central Florida's *SunRail* commuter rail transit project. Additionally, the federal government has given the green light approval to proceed to Final Design.⁵ The only piece in the process not yet resolved is the Florida Legislature's approval of a CSX-Florida Department of Transportation liability agreement which limits the legal liability of CSX Transportation in cases of accidents involving its trains and commuter rail operations in the future.⁶ House Bill 1212⁷, Relating to Public Transit, co-sponsored by Senator Lee Constantine and Andy Gardiner is currently moving through the 2009 Legislative process in hopes of being passed, which will then allow FDOT to immediately negotiate a Full Funding Grant Agreement with Federal Transit Administration (FTA)- the final step in the federal process.⁸

Unquestionably, mass transit, especially rail, has had a long and tumultuous journey in Florida with support for these types of programs ebbing and flowing with the economic and political tide. A major catalyst for the recent resurgence in this arena, however, is heightened federal support, evidenced by the billions of federal dollars being made available for mass transit initiatives, as a result of President Bush's Rail Safety Improvement Act of 2008⁹ and the American Recovery and Reinvestment Act, recently signed into law by President Barack Obama¹⁰.

The Rail Safety Improvement Act of 2008, ("RSIA"), reauthorizes the Federal Railroad Administration after a ten year departure, and provides \$1.65 billion for the nation's rail safety program for fiscal years 2009 through 2013. The RSIA, among other things, clarifies the mission of the Federal Railroad Administration and provides resources for an additional 200 safety and rail inspection employees.¹¹ More importantly, the legislation initiates competition for federal money available for the advancement of high speed rail. Florida's Tampa-Orlando-Miami corridor is one of only eleven corridors included in the RSIA as eligible to compete for the coveted federal dollars based on the extensive ground work done in Florida to advance a high speed rail mass transit system along that corridor.¹²

Similarly, the American Recovery and Reinvestment Act, previously discussed in my February article with the same title that can be accessed on our website,¹³ allocates

⁴ <http://www.sunrail.com/>

⁵ <http://www.sunrail.com/documents.asp>

⁶ The CSX-FDOT liability and indemnity issue failed to pass in the 2008 legislative session.

⁷ The companion bill on the House side is HB 7009 - Relating to Public Transit by Economic Development & Community Affairs Policy Council.

⁸ <http://www.sunrail.com/documents.asp>

⁹ [http://www.thomas.gov/cgi-bin/cpquery/R?cp110:FLD010:@1\(hr336\);](http://www.thomas.gov/cgi-bin/cpquery/R?cp110:FLD010:@1(hr336);) Public Law No: 110-432

¹⁰ <http://thomas.loc.gov/cgi-bin/query/D?c111:7:./temp/~c111uzG03S::>; Public Law No: 111-5

¹¹ http://www.apta.gov/government_affairs/congress/rail_safety_improvement_act.cfm

¹² http://www.floridahighspeedrail.org/uploaddocuments/p25/SIGNED_RESOLUTION_FHSRA_2-26-09.pdf

¹³ www.twalaw.com

\$9.3 billion for the development of intercity and high speed passenger rail systems. Of this total, \$8 billion is being offered for the development of new intercity and high speed rail passenger infrastructure and service routes. The remaining \$1.3 billion will be made available for capital improvements and security upgrades for Amtrak. The Federal Railroad Administration must issue a strategic plan for the distribution of funds within 60 days of enactment, and issue program guidance within 180 days.¹⁴ Additionally, President Obama has allocated another \$5 billion over the next five years in the fiscal year 2010 budget for high speed rail initiatives and Amtrak funding.¹⁵ The amount of funding being allocated for high speed rail is unprecedented in U.S. history and is a sign that President Obama intends to deliver on campaign promises with regards to the development and modernization of mass transit and the transportation system in general.

Facilitated by the possibility of federal funding without the strings of a state match, the Florida High Speed Rail Authority reconvened for the first time in February 2009 after a long four year hiatus to discuss the possibility of Florida being a strong competitor in the upcoming months for these federal stimulus dollars.¹⁶ The Florida High Speed Rail Authority is currently seeking the support of Governor Charlie Crist and requesting that the Florida Department of Transportation immediately request release of previously authorized federal funding for the Authority from the Federal Railroad Administration in order to jumpstart its bid for the allocated federal dollars.

Florida will certainly be faced with stiff competition for federal funding in this arena from several states around the country, including California, Texas, New York and Illinois. However, because Florida has had the foresight to diligently pursue mass transit initiatives over the last decade, Florida will likely be one of the few states that will meet President Obama's short list federal funding requirement for "shovel ready" projects that can have the immediate economic benefit of creating needed jobs.

Undoubtedly, high speed rail and commuter rail will help Florida meet the growing transportation needs of the state and will help jumpstart economic development. Moreover, given the on-going budget crises, the influx of federal stimulus dollars to support an intermodal transportation infrastructure could not have come at a better time.

¹⁴ http://www.apta.com/government_affairs/washrep/2009february18.cfm

¹⁵ <http://www.gpoaccess.gov/usbudget/>

¹⁶ Funding for a high speed rail system was authorized by a 2000 referendum of Florida voters and the Florida High Speed Rail Authority was enacted by the Florida legislature in 2001 to aid the development of a high speed rail system, which would link Florida's five largest urban areas of Central Florida, Northeast Florida, Northwest Florida, Southeast Florida, and Southwest Florida. [Fla. Stat. § 341.8202 (2008)]. The group had not convened since the November 2004 referendum when Florida voters repealed the authorization and opposed granting state taxes to the project. (http://www.floridahighspeedrail.org/downloads/Florida_High_Speed_Rail_Authority_Act_2002.pdf).

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