

PCB EDCA 09B-01

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1 A bill to be entitled  
2 An act relating to transportation; amending s. 20.23,  
3 F.S.; creating the Florida Statewide Passenger Rail  
4 Commission to monitor passenger rail systems and  
5 associated operations, advise the Department of  
6 Transportation concerning a statewide system of passenger  
7 rail service, evaluate passenger rail policies, and  
8 provide advice and recommendations to the Legislature on  
9 passenger rail operations in the state; providing for  
10 membership and organization of the commission; authorizing  
11 reimbursement for travel and other expenses of members;  
12 prohibiting the commission and its members from taking  
13 part in operations of the department or a monitored  
14 authority; assigning the commission to the Office of the  
15 Secretary of the department for administrative purposes;  
16 providing that expenses of the commission shall be  
17 approved by the secretary; directing the department to  
18 provide administrative support and services to the  
19 commission; providing for a rail enterprise in the  
20 department to be headed by an executive director and  
21 headquartered in Leon County; providing that the executive  
22 director shall be appointed by the Secretary of  
23 Transportation; directing the secretary to assign to the  
24 executive director the responsibility for funding,  
25 developing, and operating high-speed and passenger rail  
26 systems under specified provisions and coordinating  
27 publicly funded passenger rail operations; exempting the  
28 enterprise from department policies, procedures, and

29 standards; providing exceptions; amending s. 201.15, F.S.;

30 revising allocation of certain moneys in the State

31 Transportation Trust Fund by increasing the percentage to

32 be allocated for purposes of the Small County Outreach

33 Program and providing for an annual allocation to the

34 Florida Rail Enterprise; amending s. 339.135, F.S.;

35 providing a funding source for allocations to the South

36 Florida Regional Transportation Authority under specified

37 provisions; amending s. 343.58, F.S., relating to the

38 South Florida Regional Transportation Authority; providing

39 that funds dedicated by county governments may be used for

40 certain purposes; providing for allocation of funds from

41 the State Transportation Trust Fund to the authority;

42 providing for cessation of the allocation under certain

43 circumstances; amending s. 341.301, F.S.; revising the

44 definition of "railroad" or "rail system" to include a

45 high-speed rail system and providing definitions for

46 purposes of provisions for rail programs; amending s.

47 341.302, F.S.; revising duties and responsibilities of the

48 department to develop and implement a rail program;

49 authorizing the department's rail system plan to include

50 regional components for certain purposes; revising

51 requirements for the plan to be updated; requiring a plan

52 status report to the Legislature; directing the department

53 to work with local communities to address impacts of

54 passenger rail implementation, finalize alternative routes

55 for through freight rail traffic in Central Florida, and

56 provide technical assistance to a coalition of

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57 municipalities and counties in Central Florida for  
58 development of a regional rail system plan; providing  
59 parameters within which the department may by contract  
60 indemnify against loss a freight rail operator from whom  
61 it has acquired interest in a rail corridor; authorizing  
62 the department to purchase liability insurance including  
63 coverage for the department, any freight rail operator,  
64 commuter rail service providers, governmental entities, or  
65 any ancillary development and establish a self-insurance  
66 retention fund; limiting the amount of the insurance and  
67 self-insurance retention fund; providing that the insureds  
68 must make payments for the coverage; providing that the  
69 insurance may provide coverage for all damages and be  
70 maintained to provide a fund to cover liabilities arising  
71 from rail corridor ownership and operations; authorizing  
72 the department to incur certain marketing expenses  
73 relating to rail corridor acquisition, ownership,  
74 construction, and operation; providing that  
75 indemnification by contract, the purchase of insurance, or  
76 establishment of a self-insurance retention fund does not  
77 waive sovereign immunity or increase liability limits  
78 provided under specified provisions; providing that  
79 specified provisions apply to the purchase of insurance;  
80 providing that specified provisions relating to rail  
81 service apply to other governmental entities under  
82 contract with the department or designated by the  
83 department; providing for application of specified  
84 provisions to procurement contracts for the construction,

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85 | operation, maintenance, and management of a rail corridor  
86 | by the department, a governmental entity under contract  
87 | with the department, or a governmental entity designated  
88 | by the department; authorizing the department to complete  
89 | an escrowed closing on the Central Florida Rail Corridor  
90 | acquisition if Federal Transit Administration full-funding  
91 | grant agreement approval is obtained for the proposed  
92 | Central Florida Commuter Rail Transit Project Initial  
93 | Operating Segment; amending s. 341.303, F.S.; revising  
94 | provisions for distribution of rail funds; removing  
95 | provisions for funding service development projects;  
96 | authorizing the department to fund net operating costs of  
97 | eligible intercity or commuter rail systems for a certain  
98 | time period; authorizing the department, through the  
99 | Florida Rail Enterprise, to use specified funds to fund  
100 | certain costs of passenger rail capital improvement  
101 | projects, passenger rail planning and development, the  
102 | high-speed rail system, and projects necessary to identify  
103 | or address anticipated impacts of increased freight rail  
104 | traffic due to implementing passenger rail systems;  
105 | providing that the enterprise shall be a single budget  
106 | entity; providing that the enterprise's budget include all  
107 | passenger rail funding and be submitted to the Legislature  
108 | along with the department's budget; directing the Governor  
109 | to certify forward unexpended funds of the enterprise;  
110 | providing for use of unencumbered funds certified forward;  
111 | amending s. 341.8201, F.S.; revising a short title;  
112 | providing that specified provisions may be cited as the

113 "Florida Rail Enterprise Act"; amending s. 341.8203, F.S.;

114 providing definitions for purposes of such act; amending

115 s. 341.822, F.S.; providing powers and duties of the

116 enterprise in addition to the powers and duties of the

117 department; authorizing the enterprise to plan, construct,

118 maintain, repair, operate, and promote a high-speed rail

119 system, to acquire corridors, and to coordinate the

120 development and operation of publicly funded passenger

121 rail systems; providing intent; authorizing the enterprise

122 to cooperate, coordinate, partner, and contract with other

123 entities to accomplish its purposes; authorizing the

124 enterprise to employ certain procurement methods;

125 authorizing the executive director to employ staff;

126 providing that such staff are exempt from specified Career

127 Service System provisions; providing for construction;

128 providing that provisions for powers of the enterprise

129 supersede other laws that are inconsistent; requiring rail

130 enterprise projects or improvements to be developed in

131 accordance with the Florida Transportation Plan and the

132 department's work program; creating s. 341.8225, F.S.;

133 providing that only the department may acquire, construct,

134 maintain, or operate the high-speed rail system; providing

135 for an exception with legislative authorization;

136 authorizing local governmental entities to negotiate with

137 the department for the design, right-of-way acquisition,

138 and construction of components of the system; amending s.

139 341.836, F.S.; providing for the enterprise to undertake

140 associated developments for certain purposes; amending s.

141 341.838, F.S.; authorizing the enterprise to establish and  
 142 collect fares, rates, and other charges for services  
 143 provided by the system; authorizing the enterprise to  
 144 contract with other entities; directing the enterprise to  
 145 review the fares, rates, and other charges annually;  
 146 providing for use of moneys collected; providing that such  
 147 fares, rates, and other charges are not subject to  
 148 supervision or regulation by other entities; amending s.  
 149 341.839, F.S.; providing for construction of provisions  
 150 granting powers to the enterprise; removing provisions  
 151 relating to the Florida High-Speed Rail Authority;  
 152 repealing ss. 341.8202, 341.821, 341.823, 341.824,  
 153 341.827, 341.828, 341.829, 341.830, 341.831, 341.832,  
 154 341.833, 341.834, 341.835, 341.837, and 341.841, F.S.,  
 155 relating to the Florida High-Speed Rail Authority,  
 156 legislative findings and intent, criteria for assessment  
 157 and recommendations, technical, scientific, or other  
 158 assistance, service areas, segment designation,  
 159 permitting, conflict prevention, mitigation, and  
 160 resolution, procurement, prequalification, request for  
 161 qualifications, request for proposals, award of contract,  
 162 acquisition of property, rights-of-way, and disposal of  
 163 land, payment of expenses, and reports and audits;  
 164 amending s. 110.205, F.S.; conforming cross-references;  
 165 providing effective dates.

166  
 167 Be It Enacted by the Legislature of the State of Florida:  
 168

169 Section 1. Paragraph (b) of subsection (2) and present  
 170 subsection (4) of section 20.23, Florida Statutes, are amended,  
 171 present subsections (3) through (6) are renumbered as  
 172 subsections (4) through (7), respectively, and a new subsection  
 173 (3) is added to that section, to read:

174 20.23 Department of Transportation.—There is created a  
 175 Department of Transportation which shall be a decentralized  
 176 agency.

177 (2)

178 (b) The commission shall have the primary functions to:

179 1. Recommend major transportation policies for the  
 180 Governor's approval, and assure that approved policies and any  
 181 revisions thereto are properly executed.

182 2. Periodically review the status of the state  
 183 transportation system including highway, transit, rail, seaport,  
 184 intermodal development, and aviation components of the system  
 185 and recommend improvements therein to the Governor and the  
 186 Legislature.

187 3. Perform an in-depth evaluation of the annual department  
 188 budget request, the Florida Transportation Plan, and the  
 189 tentative work program for compliance with all applicable laws  
 190 and established departmental policies. Except as specifically  
 191 provided in s. 339.135(4)(c)2., (d), and (f), the commission may  
 192 not consider individual construction projects, but shall  
 193 consider methods of accomplishing the goals of the department in  
 194 the most effective, efficient, and businesslike manner.

195 4. Monitor the financial status of the department on a  
 196 regular basis to assure that the department is managing revenue

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197 and bond proceeds responsibly and in accordance with law and  
198 established policy.

199 5. Monitor on at least a quarterly basis, the efficiency,  
200 productivity, and management of the department, using  
201 performance and production standards developed by the commission  
202 pursuant to s. 334.045.

203 6. Perform an in-depth evaluation of the factors causing  
204 disruption of project schedules in the adopted work program and  
205 recommend to the Legislature and the Governor methods to  
206 eliminate or reduce the disruptive effects of these factors.

207 7. Recommend to the Governor and the Legislature  
208 improvements to the department's organization in order to  
209 streamline and optimize the efficiency of the department. In  
210 reviewing the department's organization, the commission shall  
211 determine if the current district organizational structure is  
212 responsive to Florida's changing economic and demographic  
213 development patterns. The initial report by the commission must  
214 be delivered to the Governor and Legislature by December 15,  
215 2000, and each year thereafter, as appropriate. The commission  
216 may retain such experts as are reasonably necessary to  
217 effectuate this subparagraph, and the department shall pay the  
218 expenses of such experts.

219 8. Monitor the efficiency, productivity, and management of  
220 the authorities created under chapters ~~343~~, ~~348~~, and 349,  
221 including any authority formed using the provisions of part I of  
222 chapter 348 and any authority formed under chapter 343 which is  
223 not monitored under subsection (3). The commission shall also  
224 conduct periodic reviews of each authority's operations and



225 budget, acquisition of property, management of revenue and bond  
 226 proceeds, and compliance with applicable laws and generally  
 227 accepted accounting principles.

228 (3) There is created the Florida Statewide Passenger Rail  
 229 Commission.

230 (a)1. The commission shall consist of nine voting members  
 231 appointed as follows:

232 a. Three members shall be appointed by the Governor, one  
 233 of whom must have a background in the area of environmental  
 234 concerns, one of whom must have a legislative background, and  
 235 one of whom must have a general business background.

236 b. Three members shall be appointed by the President of  
 237 the Senate, one of whom must have a background in civil  
 238 engineering, one of whom must have a background in  
 239 transportation construction, and one of whom must have a general  
 240 business background.

241 c. Three members shall be appointed by the Speaker of the  
 242 House of Representatives, one of whom must have a legal  
 243 background, one of whom must have a background in financial  
 244 matters, and one of whom must have a general business  
 245 background.

246 2. The initial term of each member appointed by the  
 247 Governor shall be for 4 years. The initial term of each member  
 248 appointed by the President of the Senate shall be for 3 years.  
 249 The initial term of each member appointed by the Speaker of the  
 250 House of Representatives shall be for 2 years. Succeeding terms  
 251 for all members shall be for 4 years.

252 3. A vacancy occurring during a term shall be filled by

253 the respective appointing authority in the same manner as the  
 254 original appointment and only for the balance of the unexpired  
 255 term. An appointment to fill a vacancy shall be made within 60  
 256 days after the occurrence of the vacancy.

257 4. The commission shall elect one of its members as chair  
 258 of the commission. The chair shall hold office at the will of  
 259 the commission. Five members of the commission shall constitute  
 260 a quorum, and the vote of five members shall be necessary for  
 261 any action taken by the commission. The commission may meet upon  
 262 the constitution of a quorum. A vacancy in the commission does  
 263 not impair the right of a quorum to exercise all rights and  
 264 perform all duties of the commission.

265 5. The members of the commission are not entitled to  
 266 compensation but are entitled to reimbursement for travel and  
 267 other necessary expenses as provided in s. 112.061.

268 (b) The commission shall have the primary functions of:

269 1. Monitoring the efficiency, productivity, and management  
 270 of all publicly funded passenger rail systems in the state,  
 271 including, but not limited to, any authority created under  
 272 chapter 343, chapter 349, or chapter 163 if the authority  
 273 receives public funds for the provision of passenger rail  
 274 service. The commission shall advise each monitored authority of  
 275 its findings and recommendations. The commission shall also  
 276 conduct periodic reviews of each monitored authority's passenger  
 277 rail and associated transit operations and budget, acquisition  
 278 of property, management of revenue and bond proceeds, and  
 279 compliance with applicable laws and generally accepted  
 280 accounting principles. The commission may seek the assistance of

281 the Auditor General in conducting such reviews and shall report  
 282 the findings of such reviews to the Legislature. This paragraph  
 283 does not preclude the Florida Transportation Commission from  
 284 conducting its performance and work program monitoring  
 285 responsibilities.

286 2. Advising the department on policies and strategies used  
 287 in planning, designing, building, operating, financing, and  
 288 maintaining a coordinated statewide system of passenger rail  
 289 services.

290 3. Evaluating passenger rail policies and providing advice  
 291 and recommendations to the Legislature on passenger rail  
 292 operations in the state.

293 (c) The commission or a member of the commission may not  
 294 enter into the day-to-day operation of the department or a  
 295 monitored authority and is specifically prohibited from taking  
 296 part in:

297 1. The awarding of contracts.

298 2. The selection of a consultant or contractor or the  
 299 prequalification of any individual consultant or contractor.  
 300 However, the commission may recommend to the secretary standards  
 301 and policies governing the procedure for selection and  
 302 prequalification of consultants and contractors.

303 3. The selection of a route for a specific project.

304 4. The specific location of a transportation facility.

305 5. The acquisition of rights-of-way.

306 6. The employment, promotion, demotion, suspension,  
 307 transfer, or discharge of any department personnel.

308 7. The granting, denial, suspension, or revocation of any

309 license or permit issued by the department.

310 (d) The commission is assigned to the Office of the  
 311 Secretary of the Department of Transportation for administrative  
 312 and fiscal accountability purposes, but it shall otherwise  
 313 function independently of the control and direction of the  
 314 department except that reasonable expenses of the commission  
 315 shall be subject to approval by the Secretary of Transportation.  
 316 The department shall provide administrative support and service  
 317 to the commission.

318 (5)-(4)-(a) The operations of the department shall be  
 319 organized into seven districts, each headed by a district  
 320 secretary, and a turnpike enterprise and a rail enterprise, each  
 321 enterprise headed by an executive director. The district  
 322 secretaries and the ~~turnpike~~ executive directors ~~director~~ shall  
 323 be registered professional engineers in accordance with the  
 324 provisions of chapter 471 or, in lieu of professional engineer  
 325 registration, a district secretary or ~~turnpike~~ executive  
 326 director may hold an advanced degree in an appropriate related  
 327 discipline, such as a Master of Business Administration. The  
 328 headquarters of the districts shall be located in Polk,  
 329 Columbia, Washington, Broward, Volusia, Miami-Dade, and  
 330 Hillsborough Counties. The headquarters of the turnpike  
 331 enterprise shall be located in Orange County. The headquarters  
 332 of the rail enterprise shall be located in Leon County. In order  
 333 to provide for efficient operations and to expedite the  
 334 decisionmaking process, the department shall provide for maximum  
 335 decentralization to the districts.

336 (b) Each district secretary may appoint up to three

337 district directors or, until July 1, 2005, each district  
 338 secretary may appoint up to four district directors. These  
 339 positions are exempt from part II of chapter 110.

340 (c) Within each district, offices shall be established for  
 341 managing major functional responsibilities of the department.  
 342 The heads of these offices shall be exempt from part II of  
 343 chapter 110.

344 (d) The district director for the Fort Myers Urban Office  
 345 of the Department of Transportation is responsible for  
 346 developing the 5-year Transportation Plan for Charlotte,  
 347 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort  
 348 Myers Urban Office also is responsible for providing policy,  
 349 direction, local government coordination, and planning for those  
 350 counties.

351 (e)1. The responsibility for the turnpike system shall be  
 352 delegated by the secretary to the executive director of the  
 353 turnpike enterprise, who shall serve at the pleasure of the  
 354 secretary. The executive director shall report directly to the  
 355 secretary, and the turnpike enterprise shall operate pursuant to  
 356 ss. 338.22-338.241.

357 2. To facilitate the most efficient and effective  
 358 management of the turnpike enterprise, including the use of best  
 359 business practices employed by the private sector, the turnpike  
 360 enterprise, except as provided in s. 287.055, shall be exempt  
 361 from departmental policies, procedures, and standards, subject  
 362 to the secretary having the authority to apply any such  
 363 policies, procedures, and standards to the turnpike enterprise  
 364 from time to time as deemed appropriate.

365       (f)1. The responsibility for developing and operating the  
 366 high-speed and passenger rail systems established in chapter  
 367 341, directing funding for passenger rail systems under s.  
 368 341.303, and coordinating publicly funded passenger rail  
 369 operations in the state, including freight rail interoperability  
 370 issues, shall be delegated by the secretary to the executive  
 371 director of the rail enterprise, who shall serve at the pleasure  
 372 of the secretary. The executive director shall report directly  
 373 to the secretary, and the rail enterprise shall operate pursuant  
 374 to ss. 341.8201-341.842.

375       2. To facilitate the most efficient and effective  
 376 management of the rail enterprise, including the use of best  
 377 business practices employed by the private sector, the rail  
 378 enterprise, except as provided in s. 287.055, shall be exempt  
 379 from departmental policies, procedures, and standards, subject  
 380 to the secretary having the authority to apply any such  
 381 policies, procedures, and standards to the rail enterprise from  
 382 time to time as deemed appropriate.

383       Section 2. Paragraph (c) of subsection (1) of section  
 384 201.15, Florida Statutes, as amended by chapters 2009-21 and  
 385 2009-68, Laws of Florida, is amended to read:

386       201.15 Distribution of taxes collected.—All taxes  
 387 collected under this chapter are subject to the service charge  
 388 imposed in s. 215.20(1). Prior to distribution under this  
 389 section, the Department of Revenue shall deduct amounts  
 390 necessary to pay the costs of the collection and enforcement of  
 391 the tax levied by this chapter. Such costs and the service  
 392 charge may not be levied against any portion of taxes pledged to

393 debt service on bonds to the extent that the costs and service  
 394 charge are required to pay any amounts relating to the bonds.  
 395 After distributions are made pursuant to subsection (1), all of  
 396 the costs of the collection and enforcement of the tax levied by  
 397 this chapter and the service charge shall be available and  
 398 transferred to the extent necessary to pay debt service and any  
 399 other amounts payable with respect to bonds authorized before  
 400 January 1, 2010, secured by revenues distributed pursuant to  
 401 subsection (1). All taxes remaining after deduction of costs and  
 402 the service charge shall be distributed as follows:

403 (1) Sixty-three and thirty-one hundredths percent of the  
 404 remaining taxes shall be used for the following purposes:

405 (c) After the required payments under paragraphs (a) and  
 406 (b), the remainder shall be paid into the State Treasury to the  
 407 credit of:

408 1. The State Transportation Trust Fund in the Department  
 409 of Transportation in the amount of the lesser of 38.2 percent of  
 410 the remainder or \$541.75 million in each fiscal year, to be used  
 411 for the following specified purposes, notwithstanding any other  
 412 law to the contrary:

413 a. For the purposes of capital funding for the New Starts  
 414 Transit Program, authorized by Title 49, U.S.C. s. 5309 and  
 415 specified in s. 341.051, 10 percent of these funds;

416 b. For the purposes of the Small County Outreach Program  
 417 specified in s. 339.2818, 5 percent of these funds. Effective  
 418 July 1, 2014, the percentage allocated under this sub-  
 419 subparagraph shall be increased to 10 percent;

420 c. For the purposes of the Strategic Intermodal System

421 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent  
 422 of these funds after allocating for the New Starts Transit  
 423 Program described in sub-subparagraph a. and the Small County  
 424 Outreach Program described in sub-subparagraph b.; and

425 d. For the purposes of the Transportation Regional  
 426 Incentive Program specified in s. 339.2819, 25 percent of these  
 427 funds after allocating for the New Starts Transit Program  
 428 described in sub-subparagraph a. and the Small County Outreach  
 429 Program described in sub-subparagraph b. Effective July 1, 2014,  
 430 the first \$60 million of the funds allocated pursuant to this  
 431 sub-subparagraph shall be allocated annually to the Florida Rail  
 432 Enterprise for the purposes established in s. 341.303(5).

433 2. The Grants and Donations Trust Fund in the Department  
 434 of Community Affairs in the amount of the lesser of .23 percent  
 435 of the remainder or \$3.25 million in each fiscal year, with 92  
 436 percent to be used to fund technical assistance to local  
 437 governments and school boards on the requirements and  
 438 implementation of this act and the remaining amount to be used  
 439 to fund the Century Commission established in s. 163.3247.

440 3. The Ecosystem Management and Restoration Trust Fund in  
 441 the amount of the lesser of 2.12 percent of the remainder or \$30  
 442 million in each fiscal year, to be used for the preservation and  
 443 repair of the state's beaches as provided in ss. 161.091-  
 444 161.212.

445 4. General Inspection Trust Fund in the amount of the  
 446 lesser of .02 percent of the remainder or \$300,000 in each  
 447 fiscal year to be used to fund oyster management and restoration  
 448 programs as provided in s. 379.362(3).



449  
 450 Moneys distributed pursuant to this paragraph may not be pledged  
 451 for debt service unless such pledge is approved by referendum of  
 452 the voters.

453 Section 3. Paragraph (a) of subsection (4) of section  
 454 339.135, Florida Statutes, is amended to read:

455 339.135 Work program; legislative budget request;  
 456 definitions; preparation, adoption, execution, and amendment.—

457 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

458 (a)1. To assure that no district or county is penalized  
 459 for local efforts to improve the State Highway System, the  
 460 department shall, for the purpose of developing a tentative work  
 461 program, allocate funds for new construction to the districts,  
 462 except for the turnpike enterprise, based on equal parts of  
 463 population and motor fuel tax collections. Funds for  
 464 resurfacing, bridge repair and rehabilitation, bridge fender  
 465 system construction or repair, public transit projects except  
 466 public transit block grants as provided in s. 341.052, and other  
 467 programs with quantitative needs assessments shall be allocated  
 468 based on the results of these assessments. The department may  
 469 not transfer any funds allocated to a district under this  
 470 paragraph to any other district except as provided in subsection  
 471 (7). Funds for public transit block grants shall be allocated to  
 472 the districts pursuant to s. 341.052. Funds for the intercity  
 473 bus program provided for under s. 5311(f) of the federal  
 474 nonurbanized area formula program shall be administered and  
 475 allocated directly to eligible bus carriers as defined in s.  
 476 341.031(12) at the state level rather than the district. In

477 order to provide state funding to support the intercity bus  
 478 program provided for under provisions of the federal 5311(f)  
 479 program, the department shall allocate an amount equal to the  
 480 federal share of the 5311(f) program from amounts calculated  
 481 pursuant to s. 206.46(3).

482 2. Notwithstanding the provisions of subparagraph 1., the  
 483 department shall allocate at least 50 percent of any new  
 484 discretionary highway capacity funds to the Florida Strategic  
 485 Intermodal System created pursuant to s. 339.61. Any remaining  
 486 new discretionary highway capacity funds shall be allocated to  
 487 the districts for new construction as provided in subparagraph  
 488 1. For the purposes of this subparagraph, the term "new  
 489 discretionary highway capacity funds" means any funds available  
 490 to the department above the prior year funding level for  
 491 capacity improvements, which the department has the discretion  
 492 to allocate to highway projects.

493 3. Notwithstanding subparagraph 1. and ss. 206.46(3),  
 494 334.044(26), and 339.2819(3), and for the 2009-2010 fiscal year  
 495 only, the department shall reduce work program levels to balance  
 496 the finance plan to the revised funding levels resulting from  
 497 any reduction in the 2009-2010 General Appropriations Act. This  
 498 subparagraph expires July 1, 2010.

499 4. For the 2009-2010 fiscal year only, prior to any  
 500 project or phase thereof being deferred, the department's cash  
 501 balances shall be as provided in paragraph (6)(b), and the  
 502 reductions in subparagraph 3. shall be made to financial  
 503 projects not programmed for contract letting as identified with  
 504 a work program contract class code 8 and the box code RV. These

505 reductions shall not negatively impact safety or maintenance or  
 506 project contingency percentage levels as of April 21, 2009. This  
 507 subparagraph expires July 1, 2010.

508 5. Notwithstanding subparagraphs 1. and 2. and ss.  
 509 206.46(3) and 334.044(26), and for fiscal years 2009-2010  
 510 through 2013-2014 only, the department shall allocate the first  
 511 proceeds of the increased revenues to be deposited into the  
 512 State Transportation Trust Fund estimated by the November 2009  
 513 Revenue Estimating Conference to provide for the transfer of  
 514 funds included in s. 343.58(4). The transfer of funds included  
 515 in s. 343.58(4) may not negatively impact projects included in  
 516 fiscal years 2009-2010 through 2013-2014 of the work program as  
 517 of July 1, 2009, as amended pursuant to subsection (7). This  
 518 subparagraph expires July 1, 2014.

519 Section 4. Section 343.58, Florida Statutes, is amended to  
 520 read:

521 343.58 County funding for the South Florida Regional  
 522 Transportation Authority.—

523 (1) Each county served by the South Florida Regional  
 524 Transportation Authority must dedicate and transfer not less  
 525 than \$2.67 million to the authority annually. The recurring  
 526 annual \$2.67 million must be dedicated by the governing body of  
 527 each county before October 31 of each fiscal year. These funds  
 528 may be used for capital, operations, and maintenance.

529 (2) At least \$45 million of a state-authorized, local  
 530 option recurring funding source available to Broward, Miami-  
 531 Dade, and Palm Beach counties is directed to the authority to  
 532 fund its capital, operating, and maintenance expenses. The

533 funding source shall be dedicated to the authority only if  
 534 Broward, Miami-Dade, and Palm Beach counties impose the local  
 535 option funding source.

536 (3) In addition, each county shall continue to annually  
 537 fund the operations of the South Florida Regional Transportation  
 538 Authority in an amount not less than \$1.565 million. Revenue  
 539 raised pursuant to this subsection shall also be considered a  
 540 dedicated funding source.

541 (4) Notwithstanding any other provision of law to the  
 542 contrary and effective July 1, 2010, the department shall  
 543 transfer annually from the State Transportation Trust Fund to  
 544 the South Florida Regional Transportation Authority the  
 545 following:

546 (a)1. If the authority becomes responsible for operating,  
 547 maintaining, and dispatching the South Florida Rail Corridor,  
 548 \$15 million from the State Transportation Trust Fund to the  
 549 South Florida Regional Transportation Authority for operations,  
 550 maintenance, and dispatch and an amount no less than the work  
 551 program commitments for fiscal year 2010-2011, as of July 1,  
 552 2009, for operating assistance to the authority and corridor  
 553 track maintenance and contract maintenance for the South Florida  
 554 Rail Corridor; or

555 2. If the authority does not become responsible for  
 556 operating, maintaining, and dispatching the South Florida Rail  
 557 Corridor, \$13.3 million from the State Transportation Trust Fund  
 558 to the South Florida Regional Transportation Authority for  
 559 operations and maintenance, and an amount no less than the work  
 560 program commitments for fiscal year 2010-2011, as of July 1,

561 2009, for operating assistance to the authority.

562 (b) Funding required by this subsection may not be  
 563 provided from the funds dedicated to the Florida Rail Enterprise  
 564 under s. 201.15(1)(c)1.d.

565 (5)(4) The current funding obligations under subsections  
 566 (1), ~~and~~ (3), and (4) shall cease upon commencement of the  
 567 collection of funding from the funding source under subsection  
 568 (2). If the funding under subsection (2) is discontinued for any  
 569 reason, the funding obligations under subsections (1) and (3)  
 570 shall resume when collection from the funding source under  
 571 subsection (2) ceases. Payment by the counties shall be on a pro  
 572 rata basis the first year following cessation of the funding  
 573 under subsection (2). The authority shall refund a pro rata  
 574 share of the payments for the current fiscal year made pursuant  
 575 to the current funding obligations under subsections (1) and (3)  
 576 as soon as reasonably practicable after it begins to receive  
 577 funds under subsection (2). If, by December 31, 2015, the South  
 578 Florida Regional Transportation Authority has not received  
 579 federal matching funds based upon the dedication of funds under  
 580 subsection (1), subsection (1) shall be repealed.

581 Section 5. Section 341.301, Florida Statutes, is amended  
 582 to read:

583 341.301 Definitions; ss. 341.302-341.303 ~~ss. 341.302 and~~  
 584 ~~341.303.~~—As used in ss. 341.302-341.303 ~~ss. 341.302 and 341.303,~~  
 585 the term:

586 (1) "Ancillary development" includes any lessee or  
 587 licensee of the department, including other governmental  
 588 entities, vendors, retailers, restaurateurs, or contract service

589 providers, within a department-owned rail corridor, except for  
 590 providers of commuter rail service, intercity rail passenger  
 591 service, or freight rail service. The term includes air and  
 592 subsurface rights, services that provide a local area network  
 593 for devices for transmitting data over wireless networks, and  
 594 advertising.

595 (2)~~(1)~~ "Branch line continuance project" means a project  
 596 that involves branch line rehabilitation, new connecting track,  
 597 rail banking, and other similar types of projects, including  
 598 those specifically identified in the federal Railroad  
 599 Revitalization and Regulatory Reform Act of 1976, and subsequent  
 600 amendments to that act.

601 (3) "Commuter rail passenger" or "passengers" means all  
 602 persons, ticketed or unticketed, using the commuter rail service  
 603 on a department-owned rail corridor:

604 (a) On board trains, locomotives, rail cars, or rail  
 605 equipment employed in commuter rail service or entraining  
 606 thereon and detraining therefrom;

607 (b) On or about the rail corridor for any purpose related  
 608 to the commuter rail service, including parking, inquiring about  
 609 commuter rail service, or purchasing tickets therefor, and  
 610 coming to, waiting for, leaving from, or observing trains,  
 611 locomotives, rail cars, or rail equipment; or

612 (c) Meeting, assisting, or in the company of any person  
 613 described in paragraph (a) or paragraph (b).

614 (4) "Commuter rail service" means the transportation of  
 615 commuter rail passengers and other passengers by rail pursuant  
 616 to a rail program provided by the department or any other

617 governmental entity.

618 (5) "Governmental entity" or "entities" has the same  
 619 meaning as provided in s. 11.45, including a "public agency" as  
 620 defined in s. 163.01.

621 (6)~~(2)~~ "Intercity rail transportation system" means the  
 622 network of railroad facilities used or available for interstate  
 623 and intrastate passenger and freight operations by railroads,  
 624 whether or not on a schedule or whether or not restricted.

625 (7) "Limited covered accident" means a collision directly  
 626 between the trains, locomotives, rail cars, or rail equipment of  
 627 the department and the freight rail operator only, where the  
 628 collision is caused by or arising from the willful misconduct of  
 629 the freight rail operator or its subsidiaries, agents,  
 630 licensees, employees, officers, or directors or where punitive  
 631 damages or exemplary damages are awarded due to the conduct of  
 632 the freight rail operator or its subsidiaries, agents,  
 633 licensees, employees, officers, or directors.

634 (8) "Rail corridor" means a linear contiguous strip of  
 635 real property that is used for rail service. The term includes  
 636 the corridor and structures essential to railroad operations,  
 637 including the land, structures, improvements, rights-of-way,  
 638 easements, rail lines, rail beds, guideway structures, switches,  
 639 yards, parking facilities, power relays, switching houses, rail  
 640 stations, any ancillary development, and any other facilities or  
 641 equipment used for the purposes of construction, operation, or  
 642 maintenance of a railroad that provides rail service.

643 (9) "Rail corridor invitee" means all persons who are on  
 644 or about a department-owned rail corridor:

645 (a) For any purpose related to any ancillary development  
 646 thereon; or

647 (b) Meeting, assisting, or in the company of any person  
 648 described in paragraph (a).

649 (10)-(3) "Rail programs" means those programs administered  
 650 by the state or other governmental entities which involve  
 651 projects affecting the movement of people or goods by rail lines  
 652 that have been or will be constructed to serve freight or  
 653 passenger markets within a city or between cities.

654 (11)-(4) "Rail service development project" means a project  
 655 undertaken by a public agency to determine whether a new or  
 656 innovative technique or measure can be utilized to improve or  
 657 expand rail service. The duration of the project funding shall  
 658 be limited according to the type of project and in no case shall  
 659 exceed 3 years. Rail service development projects include those  
 660 projects and other actions undertaken to enhance railroad  
 661 operating efficiency or increased rail service, including  
 662 measures that result in improved speed profiles, operations, or  
 663 technological applications that lead to reductions in operating  
 664 costs and increases in productivity or service.

665 (12)-(5) "Railroad" or "rail system" means any common  
 666 carrier fixed-guideway transportation system such as the  
 667 conventional steel rail-supported, steel-wheeled system as well  
 668 as the high-speed rail system defined in s. 341.8203. ~~The term~~  
 669 ~~does not include a high-speed rail line developed by the~~  
 670 ~~Department of Transportation pursuant to ss. 341.8201-341.842.~~

671 (13)-(6) "Railroad capital improvement project" means a  
 672 project identified by the rail component of the Florida



673 Transportation Plan, which project involves the leasing,  
 674 acquisition, design, construction, reconstruction, or  
 675 improvement to the existing intercity rail transportation system  
 676 or future segments thereof, including such items as locomotives  
 677 and other rolling stock, tracks, terminals, and rights-of-way  
 678 for the continuance or expansion of rail service as necessary to  
 679 ensure the continued effectiveness of the state's rail  
 680 facilities and systems in meeting mobility and industrial  
 681 development needs.

682 (14) "Railroad operations" means the use of the rail  
 683 corridor to conduct commuter rail service, intercity rail  
 684 passenger service, or freight rail service.

685 (15)~~(7)~~ "Train" means any locomotive engine that is  
 686 powered by diesel fuel, electricity, or other means, with or  
 687 without cars coupled thereto, and operated upon a railroad track  
 688 or any other form of fixed guideway, except that the term does  
 689 not include a light rail vehicle such as a streetcar or people  
 690 mover.

691 Section 6. Section 341.302, Florida Statutes, is amended  
 692 to read:

693 341.302 Rail program;~~7~~ duties and responsibilities of the  
 694 department.—The department, in conjunction with other  
 695 governmental entities, including the rail enterprise ~~units~~ and  
 696 the private sector, shall develop and implement a rail program  
 697 of statewide application designed to ensure the proper  
 698 maintenance, safety, revitalization, and expansion of the rail  
 699 system to assure its continued and increased availability to  
 700 respond to statewide mobility needs. Within the resources

701 provided pursuant to chapter 216, and as authorized under  
 702 federal law Title 49 C.F.R. part 212, the department shall:

703 (1) Provide the overall leadership, coordination, and  
 704 financial and technical assistance necessary to assure the  
 705 effective responses of the state's rail system to current and  
 706 anticipated mobility needs.

707 (2) Promote and facilitate the implementation of advanced  
 708 rail systems, including high-speed rail and magnetic levitation  
 709 systems.

710 (3) Develop and periodically update the rail system plan,  
 711 on the basis of an analysis of statewide transportation needs.

712 (a) The plan may contain detailed regional components,  
 713 consistent with regional transportation plans, as needed to  
 714 ensure connectivity within the state's regions, and it shall be  
 715 consistent with the Florida Transportation Plan developed  
 716 pursuant to s. 339.155. The rail system plan shall include an  
 717 identification of priorities, programs, and funding levels  
 718 required to meet statewide and regional needs. The rail system  
 719 plan shall be developed in a manner that will assure the maximum  
 720 use of existing facilities and the optimum integration and  
 721 coordination of the various modes of transportation, public and  
 722 private, in the most cost-effective manner possible. The rail  
 723 system plan shall be updated no later than January 1, 2011, and  
 724 at least every 5 2 years thereafter, and include plans for both  
 725 passenger rail service and freight rail service, accompanied by  
 726 a report to the Legislature regarding the status of the plan.

727 (b) In recognition of the department's role in the  
 728 enhancement of the state's rail system to improve freight and

729 passenger mobility, the department shall:

730 1. Work closely with all affected communities along an

731 impacted freight rail corridor to identify and address

732 anticipated impacts associated with an increase in freight rail

733 traffic due to implementation of passenger rail.

734 2. In coordination with the affected local governments and

735 CSX Transportation, Inc., finalize all viable alternatives from

736 the department's Rail Traffic Evaluation Study to identify and

737 develop an alternative route for through freight rail traffic

738 moving through Central Florida, including the counties of Polk

739 and Hillsborough, which would address, to the extent

740 practicable, the effects of commuter rail.

741 3. Provide technical assistance to a coalition of local

742 governments in Central Florida, including the counties of

743 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,

744 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,

745 Sumter, and Volusia, and the municipalities within those

746 counties, to develop a regional rail system plan that addresses

747 passenger and freight opportunities in the region, is consistent

748 with the Florida Rail System Plan, and incorporates appropriate

749 elements of the Tampa Bay Area Regional Authority Master Plan,

750 the Metroplan Orlando Regional Transit System Concept Plan,

751 including the SunRail project, and the Florida Department of

752 Transportation Alternate Rail Traffic Evaluation.

753 (4) As part of the work program of the department,

754 formulate a specific program of projects and financing to

755 respond to identified railroad needs.

756 (5) Provide technical and financial assistance to units of

757 local government to address identified rail transportation  
758 needs.

759 (6) Secure and administer federal grants, loans, and  
760 apportionments for rail projects within this state when  
761 necessary to further the statewide program.

762 (7) Develop and administer state standards concerning the  
763 safety and performance of rail systems, hazardous material  
764 handling, and operations. Such standards shall be developed  
765 jointly with representatives of affected rail systems, with full  
766 consideration given to nationwide industry norms, and shall  
767 define the minimum acceptable standards for safety and  
768 performance.

769 (8) Conduct, at a minimum, inspections of track and  
770 rolling stock; train signals and related equipment; hazardous  
771 materials transportation, including the loading, unloading, and  
772 labeling of hazardous materials at shippers', receivers', and  
773 transfer points; and train operating practices to determine  
774 adherence to state and federal standards. Department personnel  
775 may enforce any safety regulation issued under the Federal  
776 Government's preemptive authority over interstate commerce.

777 (9) Assess penalties, in accordance with the applicable  
778 federal regulations, for the failure to adhere to the state  
779 standards.

780 (10) Administer rail operating and construction programs,  
781 which programs shall include the regulation of maximum train  
782 operating speeds, the opening and closing of public grade  
783 crossings, the construction and rehabilitation of public grade  
784 crossings, and the installation of traffic control devices at

785 public grade crossings, the administering of the programs by the  
786 department including participation in the cost of the programs.

787 (11) Coordinate and facilitate the relocation of railroads  
788 from congested urban areas to nonurban areas when relocation has  
789 been determined feasible and desirable from the standpoint of  
790 safety, operational efficiency, and economics.

791 (12) Implement a program of branch line continuance  
792 projects when an analysis of the industrial and economic  
793 potential of the line indicates that public involvement is  
794 required to preserve essential rail service and facilities.

795 (13) Provide new rail service and equipment when:

796 (a) Pursuant to the transportation planning process, a  
797 public need has been determined to exist;

798 (b) The cost of providing such service does not exceed the  
799 sum of revenues from fares charged to users, services purchased  
800 by other public agencies, local fund participation, and specific  
801 legislative appropriation for this purpose; and

802 (c) Service cannot be reasonably provided by other  
803 governmental or privately owned rail systems.

804

805 The department may own, lease, and otherwise encumber  
806 facilities, equipment, and appurtenances thereto, as necessary  
807 to provide new rail services; or the department may provide such  
808 service by contracts with privately owned service providers.

809 (14) Furnish required emergency rail transportation  
810 service if no other private or public rail transportation  
811 operation is available to supply the required service and such  
812 service is clearly in the best interest of the people in the

813 communities being served. Such emergency service may be  
 814 furnished through contractual arrangement, actual operation of  
 815 state-owned equipment and facilities, or any other means  
 816 determined appropriate by the secretary.

817 (15) Assist in the development and implementation of  
 818 marketing programs for rail services and of information systems  
 819 directed toward assisting rail systems users.

820 (16) Conduct research into innovative or potentially  
 821 effective rail technologies and methods and maintain expertise  
 822 in state-of-the-art rail developments.

823 (17) In conjunction with the acquisition, ownership,  
 824 construction, operation, maintenance, and management of a rail  
 825 corridor, have the authority to:

826 (a) Assume the obligation by contract to forever protect,  
 827 defend, indemnify, and hold harmless the freight rail operator,  
 828 or its successors, from whom the department has acquired a real  
 829 property interest in the rail corridor, and that freight rail  
 830 operator's officers, agents, and employees, from and against any  
 831 liability, cost, and expense, including, but not limited to,  
 832 commuter rail passengers and rail corridor invitees in the rail  
 833 corridor, regardless of whether the loss, damage, destruction,  
 834 injury, or death giving rise to any such liability, cost, or  
 835 expense is caused in whole or in part, and to whatever nature or  
 836 degree, by the fault, failure, negligence, misconduct,  
 837 nonfeasance, or misfeasance of such freight rail operator, its  
 838 successors, or its officers, agents, and employees, or any other  
 839 person or persons whomsoever, provided that such assumption of  
 840 liability of the department by contract shall not in any

841 instance exceed the following parameters of allocation of risk:

842 1. The department may be solely responsible for any loss,  
 843 injury, or damage to commuter rail passengers, or rail corridor  
 844 invitees, or trespassers, regardless of circumstances or cause,  
 845 subject to subparagraphs 2., 3., 4., 5., and 6.

846 2. In the event of a limited covered accident, the  
 847 authority of the department to protect, defend and indemnify the  
 848 freight operator for all liability, cost and expense, including  
 849 punitive or exemplary damages, in excess of the deductible or  
 850 self-insurance retention fund established under paragraph (b)  
 851 and actually in force at the time of the limited covered  
 852 accident exists only if the freight operator agrees, with  
 853 respect to the limited covered accident, to protect, defend, and  
 854 indemnify the department for the amount of the deductible or  
 855 self-insurance retention fund established under paragraph (b)  
 856 and actually in force at the time of the limited covered  
 857 accident.

858 3. When only one train is involved in an incident, the  
 859 department may be solely responsible for any loss, injury, or  
 860 damage if the train is a department train or other train  
 861 pursuant to subparagraph 4., but only if when an incident occurs  
 862 with only a freight train involved, including incidents with  
 863 trespassers or at grade crossings, the freight rail operator is  
 864 solely responsible for any loss, injury, or damage, except for  
 865 commuter rail passengers and rail corridor invitees.

866 4. For the purposes of this subsection, any train involved  
 867 in an incident that is neither the department's train nor the  
 868 freight rail operator's train, hereinafter referred to in this

869 subsection as an "other train," may be treated as a department  
 870 train, solely for purposes of any allocation of liability  
 871 between the department and the freight rail operator only, but  
 872 only if the department and the freight rail operator share  
 873 responsibility equally as to third parties outside the rail  
 874 corridor who incur loss, injury, or damage as a result of any  
 875 incident involving both a department train and a freight rail  
 876 operator train, and the allocation as between the department and  
 877 the freight rail operator, regardless of whether the other train  
 878 is treated as a department train, shall remain one-half each as  
 879 to third parties outside the rail corridor who incur loss,  
 880 injury, or damage as a result of the incident. The involvement  
 881 of any other train shall not alter the sharing of equal  
 882 responsibility as to third parties outside the rail corridor who  
 883 incur loss, injury, or damage as a result of the incident.

884 5. When more than one train is involved in an incident:

885 a. If only a department train and freight rail operator's  
 886 train, or only an other train as described in subparagraph 4.  
 887 and a freight rail operator's train, are involved in an  
 888 incident, the department may be responsible for its property and  
 889 all of its people, all commuter rail passengers, rail corridor  
 890 invitees, but only if the freight rail operator is responsible  
 891 for its property and all of its people, and the department and  
 892 the freight rail operator each share one-half responsibility as  
 893 to trespassers or third parties outside the rail corridor who  
 894 incur loss, injury, or damage as a result of the incident.

895 b. If a department train, a freight rail operator train,  
 896 and any other train are involved in an incident, the allocation



897 of liability between the department and the freight rail  
 898 operator, regardless of whether the other train is treated as a  
 899 department train, shall remain one-half each as to third parties  
 900 outside the rail corridor who incur loss, injury, or damage as a  
 901 result of the incident; the involvement of any other train shall  
 902 not alter the sharing of equal responsibility as to third  
 903 parties outside the rail corridor who incur loss, injury, or  
 904 damage as a result of the incident; and, if the owner, operator,  
 905 or insurer of the other train makes any payment to injured third  
 906 parties outside the rail corridor who incur loss, injury, or  
 907 damage as a result of the incident, the allocation of credit  
 908 between the department and the freight rail operator as to such  
 909 payment shall not in any case reduce the freight rail operator's  
 910 third-party-sharing allocation of one-half under this paragraph  
 911 to less than one-third of the total third party liability.

912 6. Any such contractual duty to protect, defend,  
 913 indemnify, and hold harmless such a freight rail operator shall  
 914 expressly include a specific cap on the amount of the  
 915 contractual duty, which amount shall not exceed \$200 million  
 916 without prior legislative approval, and the department to  
 917 purchase liability insurance and establish a self-insurance  
 918 retention fund in the amount of the specific cap established  
 919 under this subparagraph, provided that:

920 a. No such contractual duty shall in any case be effective  
 921 nor otherwise extend the department's liability in scope and  
 922 effect beyond the contractual liability insurance and self-  
 923 insurance retention fund required pursuant to this paragraph;  
 924 and

925 b. The freight rail operator's compensation to the  
 926 department for future use of the department's rail corridor  
 927 shall include a monetary contribution to the cost of such  
 928 liability coverage for the sole benefit of the freight rail  
 929 operator.

930 (b) Purchase liability insurance, which amount shall not  
 931 exceed \$200 million, and establish a self-insurance retention  
 932 fund for the purpose of paying the deductible limit established  
 933 in the insurance policies it may obtain, including coverage for  
 934 the department, any freight rail operator as described in  
 935 paragraph (a), commuter rail service providers, governmental  
 936 entities, or any ancillary development, which self-insurance  
 937 retention fund or deductible shall not exceed \$10 million. The  
 938 insureds shall pay a reasonable monetary contribution to the  
 939 cost of such liability coverage for the sole benefit of the  
 940 insured. Such insurance and self-insurance retention fund may  
 941 provide coverage for all damages, including, but not limited to,  
 942 compensatory, special, and exemplary, and be maintained to  
 943 provide an adequate fund to cover claims and liabilities for  
 944 loss, injury, or damage arising out of or connected with the  
 945 ownership, operation, maintenance, and management of a rail  
 946 corridor.

947 (c) Incur expenses for the purchase of advertisements,  
 948 marketing, and promotional items.

949  
 950 Neither the assumption by contract to protect, defend,  
 951 indemnify, and hold harmless; the purchase of insurance; nor the  
 952 establishment of a self-insurance retention fund shall be deemed

953 to be a waiver of any defense of sovereign immunity for torts  
 954 nor deemed to increase the limits of the department's or the  
 955 governmental entity's liability for torts as provided in s.  
 956 768.28. The requirements of s. 287.022(1) shall not apply to the  
 957 purchase of any insurance under this subsection. The provisions  
 958 of this subsection shall apply and inure fully as to any other  
 959 governmental entity providing commuter rail service and  
 960 constructing, operating, maintaining, or managing a rail  
 961 corridor on publicly owned right-of-way under contract by the  
 962 governmental entity with the department or a governmental entity  
 963 designated by the department. Notwithstanding any law to the  
 964 contrary, procurement for the construction, operation,  
 965 maintenance, and management of any rail corridor described in  
 966 this subsection, whether by the department, a governmental  
 967 entity under contract with the department, or a governmental  
 968 entity designated by the department, shall be pursuant to s.  
 969 287.057 and shall include, but not be limited to, criteria for  
 970 the consideration of qualifications, technical aspects of the  
 971 proposal, and price. Further, any such contract for design-build  
 972 shall be procured pursuant to the criteria in s. 337.11(7).

973 (18)~~(17)~~ Exercise such other functions, powers, and duties  
 974 in connection with the rail system plan as are necessary to  
 975 develop a safe, efficient, and effective statewide  
 976 transportation system.

977 Section 7. The Department of Transportation may complete  
 978 an escrowed closing on the pending Central Florida Rail Corridor  
 979 acquisition; however, the drawdown of such escrowed closing  
 980 shall not occur unless and until final Federal Transit

981 Administration full-funding grant agreement approval is obtained  
 982 for the proposed Central Florida Commuter Rail Transit Project  
 983 Initial Operating Segment.

984 Section 8. Effective July 1, 2010, subsection (4) of  
 985 section 341.303, Florida Statutes, is amended, and subsections  
 986 (5) and (6) are added to that section, to read:

987 341.303 Funding authorization and appropriations;  
 988 eligibility and participation.—

989 (4) FUND PARTICIPATION; OPERATING COSTS SERVICE  
 990 DEVELOPMENT.—

991 (a) The department is authorized to fund up to 100 ~~50~~  
 992 percent of the net operating costs of any eligible intercity or  
 993 commuter rail system for up to 7 years, beginning from the open-  
 994 to-service date ~~service development project that is local in~~  
 995 ~~scope, not to exceed the local match.~~

996 ~~(b) The department is authorized to fund up to 100 percent~~  
 997 ~~of the net operating costs of any eligible intercity or commuter~~  
 998 ~~rail service development project that is statewide in scope or~~  
 999 ~~involves more than one county if no other governmental unit of~~  
 1000 ~~appropriate jurisdiction exists. For commuter rail service,~~  
 1001 ~~after the 5th year of operation, the department's participation~~  
 1002 ~~is limited to a maximum of 50 percent of the net operating costs~~  
 1003 ~~of the service.~~

1004 ~~(c) Each such local or statewide service development~~  
 1005 ~~project shall be identified in the appropriation request of the~~  
 1006 ~~department in a manner that defines project objectives, the~~  
 1007 ~~assigned operational and financial responsibilities, the~~  
 1008 ~~timeframe required to develop the service, and the criteria by~~

1009 ~~which the success of the project can be judged.~~

1010 ~~(d) Any service development project funded under this~~  
 1011 ~~section shall continue to be eligible for such funds only if the~~  
 1012 ~~project reaches a systemwide operating ratio of 25 percent or~~  
 1013 ~~more during the 5th year.~~

1014 ~~(b)(e)~~ The term "net operating costs" means all operating  
 1015 costs of the project less any federal funds, fares, or other  
 1016 sources of income to the project.

1017 (5) FUND PARTICIPATION; FLORIDA RAIL ENTERPRISE.-

1018 (a) The department, through the Florida Rail Enterprise,  
 1019 is authorized to use funds provided under s. 201.15(1)(c)1.d. to  
 1020 fund up to 50 percent of the nonfederal share of the costs of  
 1021 any eligible passenger rail capital improvement project.

1022 (b) The department, through the Florida Rail Enterprise,  
 1023 is authorized to use funds provided under s. 201.15(1)(c)1.d. to  
 1024 fund up to 100 percent of planning and development costs related  
 1025 to the provision of a passenger rail system, including, but not  
 1026 limited to, preliminary engineering, revenue studies,  
 1027 environmental impact studies, financial advisory services,  
 1028 engineering design, and other appropriate professional services.

1029 (c) The department, through the Florida Rail Enterprise,  
 1030 is authorized to use funds provided under s. 201.15(1)(c)1.d. to  
 1031 fund the high-speed rail system.

1032 (d) The department, through the Florida Rail Enterprise,  
 1033 is authorized to use funds provided under s. 201.15(1)(c)1.d. to  
 1034 fund projects necessary to identify or address anticipated  
 1035 impacts of increased freight rail traffic resulting from the  
 1036 implementation of passenger rail systems as provided in s.

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1037 341.302 (3) (b) .

1038 (6) FLORIDA RAIL ENTERPRISE; BUDGET.-

1039 (a) The Florida Rail Enterprise shall be a single budget  
 1040 entity and shall develop a budget pursuant to chapter 216. The  
 1041 enterprise's budget shall be submitted to the Legislature along  
 1042 with the department's budget. All passenger rail funding by the  
 1043 department shall be included in this budget entity.

1044 (b) Notwithstanding the provisions of s. 216.301 to the  
 1045 contrary and in accordance with s. 216.351, the Executive Office  
 1046 of the Governor shall, on July 1 of each year, certify forward  
 1047 all unexpended funds appropriated or provided pursuant to this  
 1048 section for the enterprise. Of the unexpended funds certified  
 1049 forward, any unencumbered amounts shall be carried forward. Such  
 1050 funds carried forward shall not exceed 5 percent of the original  
 1051 approved operating budget of the enterprise pursuant to s.  
 1052 216.181(1). Funds carried forward pursuant to this section may  
 1053 be used for any lawful purpose, including, but not limited to,  
 1054 promotional and market activities, technology, and training. Any  
 1055 certified-forward funds remaining undisbursed on September 30 of  
 1056 each year shall be carried forward.

1057 Section 9. Section 341.8201, Florida Statutes, is amended  
 1058 to read:

1059 341.8201 Short title.—Sections 341.8201-341.842 may be  
 1060 cited as the "Florida ~~High-Speed Rail Enterprise Authority~~ Act."

1061 Section 10. Section 341.8202, Florida Statutes, is  
 1062 repealed.

1063 Section 11. Section 341.8203, Florida Statutes, is amended  
 1064 to read:

1065 341.8203 Definitions.—As used in ss. 341.8201-341.842 ~~this~~  
 1066 ~~act~~, unless the context clearly indicates otherwise, the term:

1067 (1) "Associated development" means property, equipment,  
 1068 buildings, or other related ~~aneillary~~ facilities which are  
 1069 built, installed, used, or established to provide financing,  
 1070 funding, or revenues for the planning, building, managing, and  
 1071 operation of a high-speed rail system and which are associated  
 1072 with or part of the rail stations. The term includes air and  
 1073 subsurface rights, services that provide local area network  
 1074 devices for transmitting data over wireless networks, ~~property,~~  
 1075 ~~including air rights, necessary for joint development, such as~~  
 1076 ~~parking facilities, retail establishments, restaurants, hotels,~~  
 1077 ~~offices, advertising, or other commercial, civic, residential,~~  
 1078 ~~or support facilities, and may also include property necessary~~  
 1079 ~~to protect or preserve the rail station area by reducing urban~~  
 1080 ~~blight or traffic congestion or property necessary to accomplish~~  
 1081 ~~any of the purposes set forth in this subsection which are~~  
 1082 ~~reasonably anticipated or necessary.~~

1083 (2) "Enterprise" means the Florida Rail Enterprise.  
 1084 ~~"Authority"~~ means the Florida High-Speed Rail Authority and its  
 1085 ~~agents. However, for purposes of s. 341.840, the term does not~~  
 1086 ~~include any agent of the authority except as provided in that~~  
 1087 ~~section.~~

1088 ~~(3) "Central Florida" means the counties of Lake,~~  
 1089 ~~Seminole, Orange, Osceola, Citrus, Sumter, Volusia, Brevard,~~  
 1090 ~~Hernando, Pasco, Hillsborough, Pinellas, and Polk.~~

1091 ~~(4) "DBOM contract" means the document and all concomitant~~  
 1092 ~~rights approved by the authority providing the selected person~~

1093 ~~or entity the exclusive right to design, build, operate, and~~  
 1094 ~~maintain a high-speed rail system.~~

1095 ~~(5) "DBOM & F contract" means the document and all~~  
 1096 ~~concomitant rights approved by the authority providing the~~  
 1097 ~~selected person or entity the exclusive right to design, build,~~  
 1098 ~~operate, maintain, and finance a high-speed rail system.~~

1099 (3)~~(6)~~ "High-speed rail system" means any high-speed fixed  
 1100 guideway system for transporting people or goods, which system  
 1101 is, by definition of the United States Department of  
 1102 Transportation, reasonably expected to reach speeds of at least  
 1103 110 ~~capable of operating at speeds in excess of 120~~ miles per  
 1104 hour, including, but not limited to, a monorail system, dual  
 1105 track rail system, suspended rail system, magnetic levitation  
 1106 system, pneumatic repulsion system, or other system approved by  
 1107 the enterprise authority. The term includes a corridor,  
 1108 associated intermodal connectors, and structures essential to  
 1109 the operation of the line, including the land, structures,  
 1110 improvements, rights-of-way, easements, rail lines, rail beds,  
 1111 guideway structures, switches, yards, parking facilities, power  
 1112 relays, switching houses, and rail stations and also includes  
 1113 facilities or equipment used exclusively for the purposes of  
 1114 design, construction, operation, maintenance, or the financing  
 1115 of the high-speed rail system.

1116 (4)~~(7)~~ "Joint development" means the planning, managing,  
 1117 financing, or constructing of projects adjacent to, functionally  
 1118 related to, or otherwise related to a high-speed rail system  
 1119 pursuant to agreements between any person, firm, corporation,  
 1120 association, organization, agency, or other entity, public or



1121 private.

1122 ~~(8) "Northeast Florida" means the counties of Nassau,~~  
 1123 ~~Duval, Clay, St. Johns, Putnam, Alachua, Marion, and Flagler.~~

1124 ~~(9) "Northwest Florida" means the counties of Escambia,~~  
 1125 ~~Santa Rosa, Okaloosa, Walton, Holmes, Washington, Jackson,~~  
 1126 ~~Gadsden, Bay, Calhoun, Liberty, Gulf, Franklin, Leon, Jefferson,~~  
 1127 ~~Madison, Wakulla, Taylor, Hamilton, Suwannee, Columbia, Baker,~~  
 1128 ~~Union, Lafayette, Gilchrist, Dixie, Bradford, and Levy.~~

1129 (5)~~(10)~~ "Rail station," "station," or "high-speed rail  
 1130 station" means any structure or transportation facility that is  
 1131 part of a high-speed rail system designed to accommodate the  
 1132 movement of passengers from one mode of transportation to  
 1133 another at which passengers board or disembark from  
 1134 transportation conveyances and transfer from one mode of  
 1135 transportation to another.

1136 (6)~~(11)~~ "Selected person or entity" means the person or  
 1137 entity to whom the enterprise authority awards a contract ~~under~~  
 1138 ~~s. 341.834~~ to establish a high-speed rail system pursuant to ss.  
 1139 341.8201-341.842 ~~this act.~~

1140 ~~(12) "Southeast Florida" means the counties of Broward,~~  
 1141 ~~Monroe, Miami-Dade, Indian River, St. Lucie, Martin, Okeechobee,~~  
 1142 ~~and Palm Beach.~~

1143 ~~(13) "Southwest Florida" means the counties of Manatee,~~  
 1144 ~~Hardee, DeSoto, Sarasota, Highlands, Charlotte, Glades, Lee,~~  
 1145 ~~Hendry, and Collier.~~

1146 ~~(14) "Urban areas" means Central Florida, Northeast~~  
 1147 ~~Florida, Northwest Florida, Southeast Florida, and Southwest~~  
 1148 ~~Florida.~~

1149           Section 12. Section 341.821, Florida Statutes, is  
 1150 repealed.

1151           Section 13. Section 341.822, Florida Statutes, is amended  
 1152 to read:

1153           341.822 Powers and duties.—

1154           (1) The enterprise authority created and established by  
 1155 this act shall locate, plan, design, finance, construct,  
 1156 maintain, own, operate, administer, and manage the high-speed  
 1157 rail system in the state.

1158           (2)(a) In addition to the powers granted to the  
 1159 department, the enterprise has full authority to exercise all  
 1160 powers granted to it under this chapter. Powers shall include,  
 1161 but are not limited to, the ability to plan, construct,  
 1162 maintain, repair, and operate a high-speed rail system, to  
 1163 acquire corridors, and to coordinate the development and  
 1164 operation of publicly funded passenger rail systems in the  
 1165 state. The authority may exercise all powers granted to  
 1166 corporations under the Florida Business Corporation Act, chapter  
 1167 607, except the authority may only incur debt in accordance with  
 1168 levels authorized by the Legislature.

1169           (b) It is the express intention of ss. 341.8201-341.842  
 1170 that the enterprise be authorized to plan, develop, own,  
 1171 purchase, lease, or otherwise acquire, demolish, construct,  
 1172 improve, relocate, equip, repair, maintain, operate, and manage  
 1173 the high-speed rail system; to expend funds to publicize,  
 1174 advertise, and promote the advantages of using the high-speed  
 1175 rail system and its facilities; and to cooperate, coordinate,  
 1176 partner, and contract with other entities, public and private,

1177 to accomplish these purposes.

1178 ~~(3) The authority shall have perpetual succession as a~~  
 1179 ~~body politic and corporate.~~

1180 (3)(4) The enterprise shall have the authority to employ  
 1181 procurement methods available to the department under chapters  
 1182 255, 287, 334, and 337, or otherwise in accordance with law. The  
 1183 enterprise may also solicit proposals and, with legislative  
 1184 approval as evidenced by approval of the project in the  
 1185 department's work program, enter into agreements with private  
 1186 entities, or consortia thereof, for the building, operation,  
 1187 ownership, or financing of the high-speed rail system authority  
 1188 ~~is authorized to seek and obtain federal matching funds or any~~  
 1189 ~~other funds to fulfill the requirements of this act either~~  
 1190 ~~directly or through the Department of Transportation.~~

1191 ~~(4)(5) The authority may employ an executive director of~~  
 1192 ~~the enterprise shall appoint staff, who shall be exempt from~~  
 1193 ~~part II of chapter 110 as it may require and shall determine the~~  
 1194 ~~qualifications and fix the compensation. The authority may~~  
 1195 ~~delegate to one or more of its agents or employees such of its~~  
 1196 ~~power as it deems necessary to carry out the purposes of this~~  
 1197 ~~act, subject always to the supervision and control of the~~  
 1198 ~~authority.~~

1199 (5) The powers conferred upon the enterprise under ss.  
 1200 341.8201-341.842 shall be in addition and supplemental to the  
 1201 existing powers of the department, and these powers shall not be  
 1202 construed as repealing any provision of any other law, general  
 1203 or local, but shall supersede such other laws that are  
 1204 inconsistent with the exercise of the powers provided under ss.

1205 341.8201-341.842 and provide a complete method for the exercise  
 1206 of such powers granted.

1207 (6) Any proposed rail enterprise project or improvement  
 1208 shall be developed in accordance with the Florida Transportation  
 1209 Plan and the work program under s. 339.135.

1210 Section 14. Section 341.8225, Florida Statutes, is created  
 1211 to read:

1212 341.8225 Department of Transportation sole governmental  
 1213 entity to acquire, construct, or operate high-speed rail  
 1214 projects; exception.—

1215 (1) No governmental entity other than the department may  
 1216 acquire, construct, maintain, or operate the high-speed rail  
 1217 system except upon specific authorization of the Legislature.

1218 (2) Local governmental entities, as defined in s.  
 1219 334.03(14), may negotiate with the department for the design,  
 1220 right-of-way acquisition, and construction of any component of  
 1221 the high-speed rail system within areas of their respective  
 1222 jurisdictions or within counties with which they have interlocal  
 1223 agreements.

1224 Section 15. Sections 341.823, 341.824, 341.827, 341.828,  
 1225 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, and  
 1226 341.835, Florida Statutes, are repealed.

1227 Section 16. Section 341.836, Florida Statutes, is amended  
 1228 to read:

1229 341.836 Associated development.—

1230 (1) The enterprise authority, alone or as part of a joint  
 1231 development, may undertake ~~development of~~ associated  
 1232 developments to be a source of revenue for the establishment,

1233 construction, operation, or maintenance of the high-speed rail  
 1234 system. Such associated developments must be ~~associated with a~~  
 1235 ~~rail station and have pedestrian ingress to and egress from the~~  
 1236 ~~rail station;~~ be consistent, to the extent feasible, with  
 1237 applicable local government comprehensive plans and local land  
 1238 development regulations, and otherwise be in compliance with ss.  
 1239 341.8201-341.842 ~~the provisions of this act.~~

1240 (2) Sections 341.8201-341.842 ~~This act does~~ not  
 1241 prohibit the enterprise authority, the selected person or  
 1242 entity, or a party to a joint venture with the enterprise  
 1243 ~~authority~~ or its selected person or entity from obtaining  
 1244 approval, pursuant to any other law, for any associated  
 1245 development that is reasonably related to the high-speed rail  
 1246 system.

1247 Section 17. Section 341.837, Florida Statutes, is  
 1248 repealed.

1249 Section 18. Section 341.838, Florida Statutes, is amended  
 1250 to read:

1251 341.838 Fares, rates, rents, fees, and charges.-

1252 (1) The enterprise may establish authority ~~is authorized~~  
 1253 ~~to fix,~~ revise, charge, and collect fares, rates, rents, fees,  
 1254 charges, and revenues for the use of and for the services  
 1255 furnished, or to be furnished, by the system and to contract  
 1256 with any person, partnership, association, corporation, or other  
 1257 body, public or private, in respect thereof. Such fares, rates,  
 1258 rents, fees, and charges shall be reviewed annually by the  
 1259 enterprise authority and may be adjusted as set forth in the  
 1260 contract setting such fares, rates, rents, fees, or charges. The

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1261 funds collected pursuant to this section ~~hereunder~~ shall, with  
 1262 any other funds available, be used to pay the cost of ~~all~~  
 1263 ~~administrative expenses of the authority, and the cost of~~  
 1264 designing, building, operating, financing, and maintaining the  
 1265 system and each and every portion thereof, to the extent that  
 1266 the payment of such cost has not otherwise been adequately  
 1267 provided for.

1268 (2) Fares, rates, rents, fees, and charges established  
 1269 ~~fixed,~~ revised, charged, and collected by the enterprise  
 1270 pursuant to this section shall not be subject to supervision or  
 1271 regulation by any other department, commission, board, body,  
 1272 bureau, or agency of this state other than the enterprise  
 1273 ~~authority.~~

1274 Section 19. Section 341.839, Florida Statutes, is amended  
 1275 to read:

1276 341.839 Alternate means.—Sections 341.8201-341.842 ~~The~~  
 1277 ~~foregoing sections of this act shall be deemed to provide an~~  
 1278 additional and alternative method for accomplishing the purposes  
 1279 authorized therein, ~~and~~ are ~~shall be regarded as~~ supplemental  
 1280 and additional to powers conferred by other laws. Except as  
 1281 otherwise expressly provided in ss. 341.8201-341.842 ~~this act,~~  
 1282 none of the powers granted to the enterprise authority under ss.  
 1283 341.8201-341.842 ~~are the provisions of this act shall be~~ subject  
 1284 to the supervision or require the approval or consent of any  
 1285 municipality or political subdivision or any commission, board,  
 1286 body, bureau, or official.

1287 Section 20. Section 341.841, Florida Statutes, is  
 1288 repealed.

1289 Section 21. Paragraphs (j) and (m) of subsection (2) of  
 1290 section 110.205, Florida Statutes, are amended to read:  
 1291 110.205 Career service; exemptions.—  
 1292 (2) EXEMPT POSITIONS.—The exempt positions that are not  
 1293 covered by this part include the following:  
 1294 (j) The appointed secretaries and the State Surgeon  
 1295 General, assistant secretaries, deputy secretaries, and deputy  
 1296 assistant secretaries of all departments; the executive  
 1297 directors, assistant executive directors, deputy executive  
 1298 directors, and deputy assistant executive directors of all  
 1299 departments; the directors of all divisions and those positions  
 1300 determined by the department to have managerial responsibilities  
 1301 comparable to such positions, which positions include, but are  
 1302 not limited to, program directors, assistant program directors,  
 1303 district administrators, deputy district administrators, the  
 1304 Director of Central Operations Services of the Department of  
 1305 Children and Family Services, the State Transportation  
 1306 Development Administrator, State Public Transportation and Modal  
 1307 Administrator, district secretaries, district directors of  
 1308 transportation development, transportation operations,  
 1309 transportation support, and the managers of the offices  
 1310 specified in s. 20.23 (4) ~~(3)~~ (b), of the Department of  
 1311 Transportation. Unless otherwise fixed by law, the department  
 1312 shall set the salary and benefits of these positions in  
 1313 accordance with the rules of the Senior Management Service; and  
 1314 the county health department directors and county health  
 1315 department administrators of the Department of Health.  
 1316 (m) All assistant division director, deputy division

1317 | director, and bureau chief positions in any department, and  
 1318 | those positions determined by the department to have managerial  
 1319 | responsibilities comparable to such positions, which positions  
 1320 | include, but are not limited to:

1321 |       1. Positions in the Department of Health and the  
 1322 | Department of Children and Family Services that are assigned  
 1323 | primary duties of serving as the superintendent or assistant  
 1324 | superintendent of an institution.

1325 |       2. Positions in the Department of Corrections that are  
 1326 | assigned primary duties of serving as the warden, assistant  
 1327 | warden, colonel, or major of an institution or that are assigned  
 1328 | primary duties of serving as the circuit administrator or deputy  
 1329 | circuit administrator.

1330 |       3. Positions in the Department of Transportation that are  
 1331 | assigned primary duties of serving as regional toll managers and  
 1332 | managers of offices, as defined in s. 20.23 (4) ~~(3)~~ (b) and  
 1333 | (5) ~~(4)~~ (c), and captains and majors of the Office of Motor  
 1334 | Carrier Compliance.

1335 |       4. Positions in the Department of Environmental Protection  
 1336 | that are assigned the duty of an Environmental Administrator or  
 1337 | program administrator.

1338 |       5. Positions in the Department of Health that are assigned  
 1339 | the duties of Environmental Administrator, Assistant County  
 1340 | Health Department Director, and County Health Department  
 1341 | Financial Administrator.

1342 |  
 1343 | Unless otherwise fixed by law, the department shall set the  
 1344 | salary and benefits of the positions listed in this paragraph in



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1345 | accordance with the rules established for the Selected Exempt  
1346 | Service.

1347 |       Section 22. Except as otherwise expressly provided in this  
1348 | act, this act shall take effect upon becoming a law.