



340582

CHAMBER ACTION

| <u>Senate</u> | . | <u>House</u> |
|---------------|---|--------------|
| Comm: RCS     | . |              |
| 4/22/2008     | . |              |
|               | . |              |
|               | . |              |

---

---

1 The Committee on Transportation and Economic Development  
2 Appropriations (Webster) recommended the following **amendment to**  
3 **amendment (582890):**

4  
5 **Senate Amendment (with title amendment)**

6 Delete line(s) 280 - 337

7 and insert:

8 exceed \$250 million and establish a self-insurance retention fund  
9 for the purpose of paying the deductible limit established in the  
10 insurance policies it may obtain, including coverage for the  
11 department, any freight rail operator as described in paragraph  
12 (a), commuter rail service providers, governmental entities, or  
13 ancillary development; however, the insureds shall pay a  
14 reasonable monetary contribution to the cost of such liability  
15 coverage for the sole benefit of the insured. Such insurance and  
16 self-insurance retention fund may provide coverage for all  
17 damages, including, but not limited to, compensatory, special,



340582

18 and exemplary, and be maintained to provide an adequate fund to  
19 cover claims and liabilities for loss, injury, or damage arising  
20 out of or connected with the ownership, operation, maintenance,  
21 and management of a rail corridor.

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

24  
25 Neither the assumption by contract to protect, defend, indemnify,  
26 and hold harmless; the purchase of insurance; nor the  
27 establishment of a self-insurance retention fund shall be deemed  
28 to be a waiver of any defense of sovereign immunity for torts nor  
29 deemed to increase the limits of the department's or the  
30 governmental entity's liability for torts as provided in s.  
31 768.28. The requirements of s. 287.022(1) shall not apply to the  
32 purchase of any insurance hereunder. The provisions of this  
33 subsection shall apply and inure fully as to any other  
34 governmental entity providing commuter rail service and  
35 constructing, operating, maintaining, or managing a rail corridor  
36 on publicly owned right-of-way under contract by the governmental  
37 entity with the department or a governmental entity designated by  
38 the department.

39 (19)~~(17)~~ Exercise such other functions, powers, and duties  
40 in connection with the rail system plan as are necessary to  
41 develop a safe, efficient, and effective statewide transportation  
42 system.

43 Section 4. Paragraph (d) of subsection (10) of section  
44 768.28, Florida Statutes, is amended to read:

45 768.28 Waiver of sovereign immunity in tort actions;  
46 recovery limits; limitation on attorney fees; statute of



340582

47 | limitations; exclusions; indemnification; risk management  
48 | programs.--  
49 |       (10)  
50 |       (d) For the purposes of this section, operators,  
51 | dispatchers, and providers of security for rail services and rail  
52 | facility maintenance providers in the South Florida Rail Corridor  
53 | or the Central Florida Rail Corridor, or any of their employees  
54 | or agents, performing such services under contract with and on  
55 | behalf of the ~~South Florida Regional Transportation Authority or~~  
56 | ~~the~~ Department of Transportation shall be considered agents of  
57 | the state while acting within the scope of and pursuant to  
58 | guidelines established in the said contract or by rule; provided,  
59 | however, that the state, for itself, the Department of  
60 | Transportation and such agents, hereby waives sovereign immunity  
61 | for liability for torts within the limits of insurance and self  
62 | insurance coverage provided for each rail corridor, which  
63 | coverage shall not be less than 250 million dollars per year  
64 | aggregate coverage per corridor with limits of not less than  
65 | \$250,000 dollars per person and \$500,000 dollars per incident or  
66 | occurrence. Notwithstanding subsection (8), an attorney may  
67 | charge, demand, receive, or collect, for services rendered, fees  
68 | up to 40 percent of any judgment or settlement related to the  
69 | South Florida Rail Corridor or the Central Florida Rail Corridor.

70 |  
71 | ===== T I T L E   A M E N D M E N T =====  
72 | And the title is amended as follows:  
73 |       Delete line(s) 349 -368  
74 | and insert:  
75 |       maintenance of commuter rail service facilities; amending  
76 |       s. 341.301, F.S.; providing definitions relating to



340582

77 | commuter rail service, rail corridors, and railroad  
78 | operation for purposes of the rail program within the  
79 | department; amending s. 341.302, F.S.; authorizing the  
80 | department to purchase specified property for the purpose  
81 | of implementing commuter rail service; authorizing the  
82 | department to assume certain liability on a rail corridor;  
83 | authorizing the department to indemnify and hold harmless  
84 | a railroad company when the department acquires a rail  
85 | corridor from the company; providing allocation of risk;  
86 | providing a specific cap on the amount of the contractual  
87 | duty for such indemnification; authorizing the department  
88 | to purchase and provide insurance in relation to rail  
89 | corridors; authorizing marketing and promotional expenses;  
90 | extending provisions to other governmental entities  
91 | providing commuter rail service on public right-of-way;  
92 | amending s. 768.28, F.S.; expanding the list of entities  
93 | considered agents of the state in relation to the South  
94 | Florida Rail Corridor or the Central Florida Rail  
95 | Corridor; limiting attorney fees for settlements related  
96 | to the corridors;