



389186

LEGISLATIVE ACTION

Senate

House

.
. .
. .
. .
. .
. .

Floor: WD/2R

12/08/2009 01:16 PM

Senator Dockery moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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



389186

14 (2)

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

16 1. Recommend major transportation policies for the
17 Governor's approval, and assure that approved policies and any
18 revisions thereto are properly executed.

19 2. Periodically review the status of the state
20 transportation system including highway, transit, rail, seaport,
21 intermodal development, and aviation components of the system
22 and recommend improvements therein to the Governor and the
23 Legislature.

24 3. Perform an in-depth evaluation of the annual department
25 budget request, the Florida Transportation Plan, and the
26 tentative work program for compliance with all applicable laws
27 and established departmental policies. Except as specifically
28 provided in s. 339.135(4)(c)2., (d), and (f), the commission may
29 not consider individual construction projects, but shall
30 consider methods of accomplishing the goals of the department in
31 the most effective, efficient, and businesslike manner.

32 4. Monitor the financial status of the department on a
33 regular basis to assure that the department is managing revenue
34 and bond proceeds responsibly and in accordance with law and
35 established policy.

36 5. Monitor on at least a quarterly basis, the efficiency,
37 productivity, and management of the department, using
38 performance and production standards developed by the commission
39 pursuant to s. 334.045.

40 6. Perform an in-depth evaluation of the factors causing
41 disruption of project schedules in the adopted work program and
42 recommend to the Legislature and the Governor methods to



389186

43 eliminate or reduce the disruptive effects of these factors.

44 7. Recommend to the Governor and the Legislature
45 improvements to the department's organization in order to
46 streamline and optimize the efficiency of the department. In
47 reviewing the department's organization, the commission shall
48 determine if the current district organizational structure is
49 responsive to Florida's changing economic and demographic
50 development patterns. The initial report by the commission must
51 be delivered to the Governor and Legislature by December 15,
52 2000, and each year thereafter, as appropriate. The commission
53 may retain such experts as are reasonably necessary to
54 effectuate this subparagraph, and the department shall pay the
55 expenses of such experts.

56 8. Monitor the efficiency, productivity, and management of
57 the authorities created under chapters ~~343~~, ~~348~~, and 349,
58 including any authority formed using the provisions of part I of
59 chapter 348 and any authority formed under chapter 343 which is
60 not monitored under subsection (3). The commission shall also
61 conduct periodic reviews of each authority's operations and
62 budget, acquisition of property, management of revenue and bond
63 proceeds, and compliance with applicable laws and generally
64 accepted accounting principles.

65 (3) There is created the Florida Statewide Passenger Rail
66 Commission.

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

69 a. Three members shall be appointed by the Governor, one of
70 whom must have a background in the area of environmental
71 concerns, one of whom must have a legislative background, and



389186

72 one of whom must have a general business background.

73 b. Three members shall be appointed by the President of the
74 Senate, one of whom must have a background in civil engineering,
75 one of whom must have a background in transportation
76 construction, and one of whom must have a general business
77 background.

78 c. Three members shall be appointed by the Speaker of the
79 House of Representatives, one of whom must have a legal
80 background, one of whom must have a background in financial
81 matters, and one of whom must have a general business
82 background.

83 2. The initial term of each member appointed by the
84 Governor shall be for 4 years. The initial term of each member
85 appointed by the President of the Senate shall be for 3 years.
86 The initial term of each member appointed by the Speaker of the
87 House of Representatives shall be for 2 years. Succeeding terms
88 for all members shall be for 4 years.

89 3. A vacancy occurring during a term shall be filled by the
90 respective appointing authority in the same manner as the
91 original appointment and only for the balance of the unexpired
92 term. An appointment to fill a vacancy shall be made within 60
93 days after the occurrence of the vacancy.

94 4. The commission shall elect one of its members as chair
95 of the commission. The chair shall hold office at the will of
96 the commission. Five members of the commission shall constitute
97 a quorum, and the vote of five members shall be necessary for
98 any action taken by the commission. The commission may meet upon
99 the constitution of a quorum. A vacancy in the commission does
100 not impair the right of a quorum to exercise all rights and



389186

101 perform all duties of the commission.

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

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

106 1. Monitoring the efficiency, productivity, and management
107 of all publicly funded passenger rail systems in the state,
108 including, but not limited to, any authority created under
109 chapter 343, chapter 349, or chapter 163 if the authority
110 receives public funds for the provision of passenger rail
111 service. The commission shall advise each monitored authority of
112 its findings and recommendations. The commission shall also
113 conduct periodic reviews of each monitored authority's passenger
114 rail and associated transit operations and budget, acquisition
115 of property, management of revenue and bond proceeds, and
116 compliance with applicable laws and generally accepted
117 accounting principles. The commission may seek the assistance of
118 the Auditor General in conducting such reviews and shall report
119 the findings of such reviews to the Legislature. This paragraph
120 does not preclude the Florida Transportation Commission from
121 conducting its performance and work program monitoring
122 responsibilities.

123 2. Advising the department on policies and strategies used
124 in planning, designing, building, operating, financing, and
125 maintaining a coordinated statewide system of passenger rail
126 services.

127 3. Evaluating passenger rail policies and providing advice
128 and recommendations to the Legislature on passenger rail
129 operations in the state.



389186

130 (c) The commission or a member of the commission may not
131 enter into the day-to-day operation of the department or a
132 monitored authority and is specifically prohibited from taking
133 part in:

134 1. The awarding of contracts.

135 2. The selection of a consultant or contractor or the
136 prequalification of any individual consultant or contractor.

137 However, the commission may recommend to the secretary standards
138 and policies governing the procedure for selection and
139 prequalification of consultants and contractors.

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

141 4. The specific location of a transportation facility.

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

143 6. The employment, promotion, demotion, suspension,
144 transfer, or discharge of any department personnel.

145 7. The granting, denial, suspension, or revocation of any
146 license or permit issued by the department.

147 (d) The commission is assigned to the Office of the
148 Secretary of the Department of Transportation for administrative
149 and fiscal accountability purposes, but it shall otherwise
150 function independently of the control and direction of the
151 department except that reasonable expenses of the commission
152 shall be subject to approval by the Secretary of Transportation.
153 The department shall provide administrative support and service
154 to the commission.

155 (5)-(4)(a) The operations of the department shall be
156 organized into seven districts, each headed by a district
157 secretary, and a turnpike enterprise and a rail enterprise, each
158 enterprise headed by an executive director. The district



389186

159 secretaries and the ~~turnpike~~ executive directors ~~director~~ shall
160 be registered professional engineers in accordance with the
161 provisions of chapter 471 or, in lieu of professional engineer
162 registration, a district secretary or ~~turnpike~~ executive
163 director may hold an advanced degree in an appropriate related
164 discipline, such as a Master of Business Administration. The
165 headquarters of the districts shall be located in Polk,
166 Columbia, Washington, Broward, Volusia, Miami-Dade, and
167 Hillsborough Counties. The headquarters of the turnpike
168 enterprise shall be located in Orange County. The headquarters
169 of the rail enterprise shall be located in Leon County. In order
170 to provide for efficient operations and to expedite the
171 decisionmaking process, the department shall provide for maximum
172 decentralization to the districts.

173 (b) Each district secretary may appoint up to three
174 district directors or, until July 1, 2005, each district
175 secretary may appoint up to four district directors. These
176 positions are exempt from part II of chapter 110.

177 (c) Within each district, offices shall be established for
178 managing major functional responsibilities of the department.
179 The heads of these offices shall be exempt from part II of
180 chapter 110.

181 (d) The district director for the Fort Myers Urban Office
182 of the Department of Transportation is responsible for
183 developing the 5-year Transportation Plan for Charlotte,
184 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort
185 Myers Urban Office also is responsible for providing policy,
186 direction, local government coordination, and planning for those
187 counties.



389186

188 (e)1. The responsibility for the turnpike system shall be
189 delegated by the secretary to the executive director of the
190 turnpike enterprise, who shall serve at the pleasure of the
191 secretary. The executive director shall report directly to the
192 secretary, and the turnpike enterprise shall operate pursuant to
193 ss. 338.22-338.241.

194 2. To facilitate the most efficient and effective
195 management of the turnpike enterprise, including the use of best
196 business practices employed by the private sector, the turnpike
197 enterprise, except as provided in s. 287.055, shall be exempt
198 from departmental policies, procedures, and standards, subject
199 to the secretary having the authority to apply any such
200 policies, procedures, and standards to the turnpike enterprise
201 from time to time as deemed appropriate.

202 (f)1. The responsibility for developing and operating the
203 high-speed and passenger rail systems established in chapter
204 341, directing funding for passenger rail systems under s.
205 341.303, and coordinating publicly funded passenger rail
206 operations in the state, including freight rail interoperability
207 issues, shall be delegated by the secretary to the executive
208 director of the rail enterprise, who shall serve at the pleasure
209 of the secretary. The executive director shall report directly
210 to the secretary, and the rail enterprise shall operate pursuant
211 to ss. 341.8201-341.842.

212 2. To facilitate the most efficient and effective
213 management of the rail enterprise, including the use of best
214 business practices employed by the private sector, the rail
215 enterprise, except as provided in s. 287.055, shall be exempt
216 from departmental policies, procedures, and standards, subject



389186

217 to the secretary having the authority to apply any such
218 policies, procedures, and standards to the rail enterprise from
219 time to time as deemed appropriate.

220 Section 2. Paragraph (c) of subsection (1) of section
221 201.15, Florida Statutes, as amended by chapters 2009-21 and
222 2009-68, Laws of Florida, is amended to read:

223 201.15 Distribution of taxes collected.—All taxes collected
224 under this chapter are subject to the service charge imposed in
225 s. 215.20(1). Prior to distribution under this section, the
226 Department of Revenue shall deduct amounts necessary to pay the
227 costs of the collection and enforcement of the tax levied by
228 this chapter. Such costs and the service charge may not be
229 levied against any portion of taxes pledged to debt service on
230 bonds to the extent that the costs and service charge are
231 required to pay any amounts relating to the bonds. After
232 distributions are made pursuant to subsection (1), all of the
233 costs of the collection and enforcement of the tax levied by
234 this chapter and the service charge shall be available and
235 transferred to the extent necessary to pay debt service and any
236 other amounts payable with respect to bonds authorized before
237 January 1, 2010, secured by revenues distributed pursuant to
238 subsection (1). All taxes remaining after deduction of costs and
239 the service charge shall be distributed as follows:

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

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

245 1. The State Transportation Trust Fund in the Department of



389186

246 Transportation in the amount of the lesser of 38.2 percent of
247 the remainder or \$541.75 million in each fiscal year, to be used
248 for the following specified purposes, notwithstanding any other
249 law to the contrary:

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

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

257 c. For the purposes of the Strategic Intermodal System
258 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
259 of these funds after allocating for the New Starts Transit
260 Program described in sub-subparagraph a. and the Small County
261 Outreach Program described in sub-subparagraph b.; and

262 d. For the purposes of the Transportation Regional
263 Incentive Program specified in s. 339.2819, 25 percent of these
264 funds after allocating for the New Starts Transit Program
265 described in sub-subparagraph a. and the Small County Outreach
266 Program described in sub-subparagraph b. Effective July 1, 2014,
267 the first \$60 million of the funds allocated pursuant to this
268 sub-subparagraph shall be allocated annually to the Florida Rail
269 Enterprise for the purposes established in s. 341.303(5).

270 2. The Grants and Donations Trust Fund in the Department of
271 Community Affairs in the amount of the lesser of .23 percent of
272 the remainder or \$3.25 million in each fiscal year, with 92
273 percent to be used to fund technical assistance to local
274 governments and school boards on the requirements and



389186

275 implementation of this act and the remaining amount to be used
276 to fund the Century Commission established in s. 163.3247.

277 3. The Ecosystem Management and Restoration Trust Fund in
278 the amount of the lesser of 2.12 percent of the remainder or \$30
279 million in each fiscal year, to be used for the preservation and
280 repair of the state's beaches as provided in ss. 161.091-
281 161.212.

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

286
287 Moneys distributed pursuant to this paragraph may not be pledged
288 for debt service unless such pledge is approved by referendum of
289 the voters.

290 Section 3. Paragraph (a) of subsection (4) of section
291 339.135, Florida Statutes, is amended to read:

292 339.135 Work program; legislative budget request;
293 definitions; preparation, adoption, execution, and amendment.-

294 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.-

295 (a)1. To assure that no district or county is penalized for
296 local efforts to improve the State Highway System, the
297 department shall, for the purpose of developing a tentative work
298 program, allocate funds for new construction to the districts,
299 except for the turnpike enterprise, based on equal parts of
300 population and motor fuel tax collections. Funds for
301 resurfacing, bridge repair and rehabilitation, bridge fender
302 system construction or repair, public transit projects except
303 public transit block grants as provided in s. 341.052, and other



389186

304 programs with quantitative needs assessments shall be allocated
305 based on the results of these assessments. The department may
306 not transfer any funds allocated to a district under this
307 paragraph to any other district except as provided in subsection
308 (7). Funds for public transit block grants shall be allocated to
309 the districts pursuant to s. 341.052. Funds for the intercity
310 bus program provided for under s. 5311(f) of the federal
311 nonurbanized area formula program shall be administered and
312 allocated directly to eligible bus carriers as defined in s.
313 341.031(12) at the state level rather than the district. In
314 order to provide state funding to support the intercity bus
315 program provided for under provisions of the federal 5311(f)
316 program, the department shall allocate an amount equal to the
317 federal share of the 5311(f) program from amounts calculated
318 pursuant to s. 206.46(3).

319 2. Notwithstanding the provisions of subparagraph 1., the
320 department shall allocate at least 50 percent of any new
321 discretionary highway capacity funds to the Florida Strategic
322 Intermodal System created pursuant to s. 339.61. Any remaining
323 new discretionary highway capacity funds shall be allocated to
324 the districts for new construction as provided in subparagraph
325 1. For the purposes of this subparagraph, the term "new
326 discretionary highway capacity funds" means any funds available
327 to the department above the prior year funding level for
328 capacity improvements, which the department has the discretion
329 to allocate to highway projects.

330 3. Notwithstanding subparagraph 1. and ss. 206.46(3),
331 334.044(26), and 339.2819(3), and for the 2009-2010 fiscal year
332 only, the department shall reduce work program levels to balance



389186

333 the finance plan to the revised funding levels resulting from
334 any reduction in the 2009-2010 General Appropriations Act. This
335 subparagraph expires July 1, 2010.

336 4. For the 2009-2010 fiscal year only, prior to any project
337 or phase thereof being deferred, the department's cash balances
338 shall be as provided in paragraph (6) (b), and the reductions in
339 subparagraph 3. shall be made to financial projects not
340 programmed for contract letting as identified with a work
341 program contract class code 8 and the box code RV. These
342 reductions shall not negatively impact safety or maintenance or
343 project contingency percentage levels as of April 21, 2009. This
344 subparagraph expires July 1, 2010.

345 5. Notwithstanding subparagraphs 1. and 2. and ss.
346 206.46(3) and 334.044(26), and for fiscal years 2009-2010
347 through 2013-2014 only, the department shall annually allocate
348 up to \$15 million of the first proceeds of the increased
349 revenues estimated by the November 2009 Revenue Estimating
350 Conference to be deposited into the State Transportation Trust
351 Fund to provide for the portion of the transfer of funds
352 included in s. 343.58(4) (a)1.a. or s. 343.58(4) (a)2.a.,
353 whichever is applicable. The transfer of funds included in s.
354 343.58(4) shall not negatively impact projects included in
355 fiscal years 2009-2010 through 2013-2014 of the work program as
356 of July 1, 2009, as amended pursuant to subsection (7). This
357 subparagraph expires July 1, 2014.

358 Section 4. Section 343.58, Florida Statutes, is amended to
359 read:

360 343.58 County funding for the South Florida Regional
361 Transportation Authority.-



389186

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

368 (2) At least \$45 million of a state-authorized, local
369 option recurring funding source available to Broward, Miami-
370 Dade, and Palm Beach counties is directed to the authority to
371 fund its capital, operating, and maintenance expenses. The
372 funding source shall be dedicated to the authority only if
373 Broward, Miami-Dade, and Palm Beach counties impose the local
374 option funding source.

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

380 (4) Notwithstanding any other provision of law to the
381 contrary and effective July 1, 2010, the department shall
382 transfer annually from the State Transportation Trust Fund to
383 the South Florida Regional Transportation Authority the amounts
384 specified in subparagraph (a)1. or subparagraph (a)2.

385 (a)1. If the authority becomes responsible for maintaining
386 and dispatching the South Florida Rail Corridor:

387 a. \$15 million from the State Transportation Trust Fund to
388 the South Florida Regional Transportation Authority for
389 operations, maintenance, and dispatch; and

390 b. An amount no less than the work program commitments



389186

391 equal to \$27.1 million for fiscal year 2010-2011, as of July 1,
392 2009, for operating assistance to the authority and corridor
393 track maintenance and contract maintenance for the South Florida
394 Rail Corridor.

395 2. If the authority does not become responsible for
396 maintaining and dispatching the South Florida Rail Corridor:

397 a. \$13.3 million from the State Transportation Trust Fund
398 to the South Florida Regional Transportation Authority for
399 operations; and

400 b. An amount no less than the work program commitments
401 equal to \$17.3 million for fiscal year 2010-2011, as of July 1,
402 2009, for operating assistance to the authority.

403 (b) Funding required by this subsection may not be provided
404 from the funds dedicated to the Florida Rail Enterprise under s.
405 201.15(1)(c)1.d.

406 (5)~~(4)~~ The current funding obligations under subsections
407 (1), ~~and~~ (3), and (4) shall cease upon commencement of the
408 collection of funding from the funding source under subsection
409 (2). If the funding under subsection (2) is discontinued for any
410 reason, the funding obligations under subsections (1) and (3)
411 shall resume when collection from the funding source under
412 subsection (2) ceases. Payment by the counties shall be on a pro
413 rata basis the first year following cessation of the funding
414 under subsection (2). The authority shall refund a pro rata
415 share of the payments for the current fiscal year made pursuant
416 to the current funding obligations under subsections (1) and (3)
417 as soon as reasonably practicable after it begins to receive
418 funds under subsection (2). If, by December 31, 2015, the South
419 Florida Regional Transportation Authority has not received



389186

420 federal matching funds based upon the dedication of funds under
421 subsection (1), subsection (1) shall be repealed.

422 Section 5. Section 341.301, Florida Statutes, is amended to
423 read:

424 341.301 Definitions; ss. 341.302-341.303 ~~ss. 341.302 and~~
425 ~~341.303.~~—As used in ss. 341.302-341.303 ~~ss. 341.302 and 341.303,~~
426 the term:

427 (1) "Ancillary development" includes any lessee or licensee
428 of the department, including other governmental entities,
429 vendors, retailers, restaurateurs, or contract service
430 providers, within a department-owned rail corridor, except for
431 providers of commuter rail service, intercity rail passenger
432 service, or freight rail service. The term includes air and
433 subsurface rights, services that provide a local area network
434 for devices for transmitting data over wireless networks, and
435 advertising.

436 (2)~~(1)~~ "Branch line continuance project" means a project
437 that involves branch line rehabilitation, new connecting track,
438 rail banking, and other similar types of projects, including
439 those specifically identified in the federal Railroad
440 Revitalization and Regulatory Reform Act of 1976, and subsequent
441 amendments to that act.

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

445 (a) On board trains, locomotives, rail cars, or rail
446 equipment employed in commuter rail service or entraining
447 thereon and detraining therefrom;

448 (b) On or about the rail corridor for any purpose related



389186

449 to the commuter rail service, including parking, inquiring about
450 commuter rail service, or purchasing tickets therefor, and
451 coming to, waiting for, leaving from, or observing trains,
452 locomotives, rail cars, or rail equipment; or

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

455 (4) "Commuter rail service" means the transportation of
456 commuter rail passengers and other passengers by rail pursuant
457 to a rail program provided by the department or any other
458 governmental entity.

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

462 (6)-(2) "Intercity rail transportation system" means the
463 network of railroad facilities used or available for interstate
464 and intrastate passenger and freight operations by railroads,
465 whether or not on a schedule or whether or not restricted.

466 (7) "Limited covered accident" means a collision directly
467 between the trains, locomotives, rail cars, or rail equipment of
468 the department and the freight rail operator only, where the
469 collision is caused by or arising from the willful misconduct of
470 the freight rail operator or its subsidiaries, agents,
471 licensees, employees, officers, or directors or where punitive
472 damages or exemplary damages are awarded due to the conduct of
473 the freight rail operator or its subsidiaries, agents,
474 licensees, employees, officers, or directors.

475 (8) "Rail corridor" means a linear contiguous strip of real
476 property that is used for rail service. The term includes the
477 corridor and structures essential to railroad operations,



389186

478 including the land, structures, improvements, rights-of-way,
479 easements, rail lines, rail beds, guideway structures, switches,
480 yards, parking facilities, power relays, switching houses, rail
481 stations, any ancillary development, and any other facilities or
482 equipment used for the purposes of construction, operation, or
483 maintenance of a railroad that provides rail service. Provided,
484 however, the department may not acquire outright a rail corridor
485 it did not own outright on or before November 1, 2009, for a
486 commuter rail system using funds generated by local, state, or
487 federal revenues, fares, or other means unless the rail corridor
488 acquisition and commuter rail system to be operated on the rail
489 corridor has been approved by a majority of the qualified
490 electors voting in a referendum in each county within which the
491 commuter rail corridor is to be located. The referendum ballot
492 must identify the source of local funds designated for the rail
493 system. The Central Florida Commuter Rail System shall not be
494 subject to this referendum requirement if all of the draw-down
495 conditions established by section 7 of this act have been
496 satisfied.

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

499 (a) For any purpose related to any ancillary development
500 thereon; or

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

503 (10) ~~(3)~~ "Rail programs" means those programs administered
504 by the state or other governmental entities which involve
505 projects affecting the movement of people or goods by rail lines
506 that have been or will be constructed to serve freight or



389186

507 passenger markets within a city or between cities.

508 (11)~~(4)~~ "Rail service development project" means a project
509 undertaken by a public agency to determine whether a new or
510 innovative technique or measure can be utilized to improve or
511 expand rail service. The duration of the project funding shall
512 be limited according to the type of project and in no case shall
513 exceed 3 years. Rail service development projects include those
514 projects and other actions undertaken to enhance railroad
515 operating efficiency or increased rail service, including
516 measures that result in improved speed profiles, operations, or
517 technological applications that lead to reductions in operating
518 costs and increases in productivity or service.

519 (12)~~(5)~~ "Railroad" or "rail system" means any common
520 carrier fixed-guideway transportation system such as the
521 conventional steel rail-supported, steel-wheeled system as well
522 as the high-speed rail system defined in s. 341.8203. ~~The term~~
523 ~~does not include a high-speed rail line developed by the~~
524 ~~Department of Transportation pursuant to ss. 341.8201-341.842.~~

525 (13)~~(6)~~ "Railroad capital improvement project" means a
526 project identified by the rail component of the Florida
527 Transportation Plan, which project involves the leasing,
528 acquisition, design, construction, reconstruction, or
529 improvement to the existing intercity rail transportation system
530 or future segments thereof, including such items as locomotives
531 and other rolling stock, tracks, terminals, and rights-of-way
532 for the continuance or expansion of rail service as necessary to
533 ensure the continued effectiveness of the state's rail
534 facilities and systems in meeting mobility and industrial
535 development needs.



389186

536 (14) "Railroad operations" means the use of the rail
537 corridor to conduct commuter rail service, intercity rail
538 passenger service, or freight rail service.

539 (15)~~(7)~~ "Train" means any locomotive engine that is powered
540 by diesel fuel, electricity, or other means, with or without
541 cars coupled thereto, and operated upon a railroad track or any
542 other form of fixed guideway, except that the term does not
543 include a light rail vehicle such as a streetcar or people
544 mover.

545 Section 6. Section 341.302, Florida Statutes, is amended to
546 read:

547 341.302 Rail program;~~r~~ duties and responsibilities of the
548 department.—The department, in conjunction with other
549 governmental entities, including the rail enterprise units and
550 the private sector, shall develop and implement a rail program
551 of statewide application designed to ensure the proper
552 maintenance, safety, revitalization, and expansion of the rail
553 system to assure its continued and increased availability to
554 respond to statewide mobility needs. Within the resources
555 provided pursuant to chapter 216, and as authorized under
556 federal law Title 49 C.F.R. part 212, the department shall:

557 (1) Provide the overall leadership, coordination, and
558 financial and technical assistance necessary to assure the
559 effective responses of the state's rail system to current and
560 anticipated mobility needs.

561 (2) Promote and facilitate the implementation of advanced
562 rail systems, including high-speed rail and magnetic levitation
563 systems.

564 (3) Develop and periodically update the rail system plan,



389186

565 on the basis of an analysis of statewide transportation needs.

566 (a) The plan may contain detailed regional components,
567 consistent with regional transportation plans, as needed to
568 ensure connectivity within the state's regions, and it shall be
569 consistent with the Florida Transportation Plan developed
570 pursuant to s. 339.155. The rail system plan shall include an
571 identification of priorities, programs, and funding levels
572 required to meet statewide and regional needs. The rail system
573 plan shall be developed in a manner that will assure the maximum
574 use of existing facilities and the optimum integration and
575 coordination of the various modes of transportation, public and
576 private, in the most cost-effective manner possible. The rail
577 system plan shall be updated no later than January 1, 2011, and
578 at least every 5 2 years thereafter, and include plans for both
579 passenger rail service and freight rail service, accompanied by
580 a report to the Legislature regarding the status of the plan.

581 (b) In recognition of the department's role in the
582 enhancement of the state's rail system to improve freight and
583 passenger mobility, the department shall:

584 1. Work closely with all affected communities along an
585 impacted freight rail corridor to identify and address
586 anticipated impacts associated with an increase in freight rail
587 traffic due to implementation of passenger rail.

588 2. In coordination with the affected local governments and
589 CSX Transportation, Inc., finalize all viable alternatives from
590 the department's Rail Traffic Evaluation Study to identify and
591 develop an alternative route for through freight rail traffic
592 moving through Central Florida, including the counties of Polk
593 and Hillsborough, which would address, to the extent



389186

594 practicable, the effects of commuter rail.

595 3. Provide technical assistance to a coalition of local
596 governments in Central Florida, including the counties of
597 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,
598 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,
599 Sumter, and Volusia, and the municipalities within those
600 counties, to develop a regional rail system plan that addresses
601 passenger and freight opportunities in the region, is consistent
602 with the Florida Rail System Plan, and incorporates appropriate
603 elements of the Tampa Bay Area Regional Authority Master Plan,
604 the Metroplan Orlando Regional Transit System Concept Plan,
605 including the SunRail project, and the Florida Department of
606 Transportation Alternate Rail Traffic Evaluation.

607 (4) As part of the work program of the department,
608 formulate a specific program of projects and financing to
609 respond to identified railroad needs.

610 (5) Provide technical and financial assistance to units of
611 local government to address identified rail transportation
612 needs.

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

616 (7) Develop and administer state standards concerning the
617 safety and performance of rail systems, hazardous material
618 handling, and operations. Such standards shall be developed
619 jointly with representatives of affected rail systems, with full
620 consideration given to nationwide industry norms, and shall
621 define the minimum acceptable standards for safety and
622 performance.



389186

623 (8) Conduct, at a minimum, inspections of track and rolling
624 stock; train signals and related equipment; hazardous materials
625 transportation, including the loading, unloading, and labeling
626 of hazardous materials at shippers', receivers', and transfer
627 points; and train operating practices to determine adherence to
628 state and federal standards. Department personnel may enforce
629 any safety regulation issued under the Federal Government's
630 preemptive authority over interstate commerce.

631 (9) Assess penalties, in accordance with the applicable
632 federal regulations, for the failure to adhere to the state
633 standards.

634 (10) Administer rail operating and construction programs,
635 which programs shall include the regulation of maximum train
636 operating speeds, the opening and closing of public grade
637 crossings, the construction and rehabilitation of public grade
638 crossings, and the installation of traffic control devices at
639 public grade crossings, the administering of the programs by the
640 department including participation in the cost of the programs.

641 (11) Coordinate and facilitate the relocation of railroads
642 from congested urban areas to nonurban areas when relocation has
643 been determined feasible and desirable from the standpoint of
644 safety, operational efficiency, and economics.

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

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

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



389186

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

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

658

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

663 (14) Furnish required emergency rail transportation service
664 if no other private or public rail transportation operation is
665 available to supply the required service and such service is
666 clearly in the best interest of the people in the communities
667 being served. Such emergency service may be furnished through
668 contractual arrangement, actual operation of state-owned
669 equipment and facilities, or any other means determined
670 appropriate by the secretary.

671 (15) Assist in the development and implementation of
672 marketing programs for rail services and of information systems
673 directed toward assisting rail systems users.

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

677 (17) In conjunction with the acquisition, ownership,
678 construction, operation, maintenance, and management of a rail
679 corridor, have the authority to:

680 (a) Assume the obligation by contract to forever protect,



389186

681 defend, indemnify, and hold harmless the freight rail operator,
682 or its successors, from whom the department has acquired a real
683 property interest in the rail corridor, and that freight rail
684 operator's officers, agents, and employees, from and against any
685 liability, cost, and expense, including, but not limited to,
686 commuter rail passengers and rail corridor invitees in the rail
687 corridor, regardless of whether the loss, damage, destruction,
688 injury, or death giving rise to any such liability, cost, or
689 expense is caused in whole or in part, and to whatever nature or
690 degree, by the fault, failure, negligence, misconduct,
691 nonfeasance, or misfeasance of such freight rail operator, its
692 successors, or its officers, agents, and employees, or any other
693 person or persons whomsoever, provided that such assumption of
694 liability of the department by contract shall not in any
695 instance exceed the following parameters of allocation of risk:
696 1. The department may be solely responsible for any loss,
697 injury, or damage to commuter rail passengers, or rail corridor
698 invitees, or trespassers, regardless of circumstances or cause,
699 subject to subparagraphs 2., 3., 4., 5., and 6.
700 2. In the event of a limited covered accident, the
701 authority of the department to protect, defend and indemnify the
702 freight operator for all liability, cost and expense, including
703 punitive or exemplary damages, in excess of the deductible or
704 self-insurance retention fund established under paragraph (b)
705 and actually in force at the time of the limited covered
706 accident exists only if the freight operator agrees, with
707 respect to the limited covered accident, to protect, defend, and
708 indemnify the department for the amount of the deductible or
709 self-insurance retention fund established under paragraph (b)



389186

710 and actually in force at the time of the limited covered
711 accident.

712 3. When only one train is involved in an incident, the
713 department may be solely responsible for any loss, injury, or
714 damage if the train is a department train or other train
715 pursuant to subparagraph 4., but only if when an incident occurs
716 with only a freight train involved, including incidents with
717 trespassers or at grade crossings, the freight rail operator is
718 solely responsible for any loss, injury, or damage, except for
719 commuter rail passengers and rail corridor invitees.

720 4. For the purposes of this subsection, any train involved
721 in an incident that is neither the department's train nor the
722 freight rail operator's train, hereinafter referred to in this
723 subsection as an "other train," may be treated as a department
724 train, solely for purposes of any allocation of liability
725 between the department and the freight rail operator only, but
726 only if the department and the freight rail operator share
727 responsibility equally as to third parties outside the rail
728 corridor who incur loss, injury, or damage as a result of any
729 incident involving both a department train and a freight rail
730 operator train, and the allocation as between the department and
731 the freight rail operator, regardless of whether the other train
732 is treated as a department train, shall remain one-half each as
733 to third parties outside the rail corridor who incur loss,
734 injury, or damage as a result of the incident. The involvement
735 of any other train shall not alter the sharing of equal
736 responsibility as to third parties outside the rail corridor who
737 incur loss, injury, or damage as a result of the incident.

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



389186

739 a. If only a department train and freight rail operator's
740 train, or only an other train as described in subparagraph 4.
741 and a freight rail operator's train, are involved in an
742 incident, the department may be responsible for its property and
743 all of its people, all commuter rail passengers, rail corridor
744 invitees, but only if the freight rail operator is responsible
745 for its property and all of its people, and the department and
746 the freight rail operator each share one-half responsibility as
747 to trespassers or third parties outside the rail corridor who
748 incur loss, injury, or damage as a result of the incident.

749 b. If a department train, a freight rail operator train,
750 and any other train are involved in an incident, the allocation
751 of liability between the department and the freight rail
752 operator, regardless of whether the other train is treated as a
753 department train, shall remain one-half each as to third parties
754 outside the rail corridor who incur loss, injury, or damage as a
755 result of the incident; the involvement of any other train shall
756 not alter the sharing of equal responsibility as to third
757 parties outside the rail corridor who incur loss, injury, or
758 damage as a result of the incident; and, if the owner, operator,
759 or insurer of the other train makes any payment to injured third
760 parties outside the rail corridor who incur loss, injury, or
761 damage as a result of the incident, the allocation of credit
762 between the department and the freight rail operator as to such
763 payment shall not in any case reduce the freight rail operator's
764 third-party-sharing allocation of one-half under this paragraph
765 to less than one-third of the total third party liability.

766 6. Any such contractual duty to protect, defend, indemnify,
767 and hold harmless such a freight rail operator shall expressly



389186

768 include a specific cap on the amount of the contractual duty,
769 which amount shall not exceed \$200 million without prior
770 legislative approval, and the department to purchase liability
771 insurance and establish a self-insurance retention fund in the
772 amount of the specific cap established under this subparagraph,
773 provided that:

774 a. No such contractual duty shall in any case be effective
775 nor otherwise extend the department's liability in scope and
776 effect beyond the contractual liability insurance and self-
777 insurance retention fund required pursuant to this paragraph;
778 and

779 b. The freight rail operator's compensation to the
780 department for future use of the department's rail corridor
781 shall include a monetary contribution to the cost of such
782 liability coverage for the sole benefit of the freight rail
783 operator.

784 (b) Purchase liability insurance, which amount shall not
785 exceed \$200 million, and establish a self-insurance retention
786 fund for the purpose of paying the deductible limit established
787 in the insurance policies it may obtain, including coverage for
788 the department, any freight rail operator as described in
789 paragraph (a), commuter rail service providers, governmental
790 entities, or any ancillary development, which self-insurance
791 retention fund or deductible shall not exceed \$10 million. The
792 insureds shall pay a reasonable monetary contribution to the
793 cost of such liability coverage for the sole benefit of the
794 insured. Such insurance and self-insurance retention fund may
795 provide coverage for all damages, including, but not limited to,
796 compensatory, special, and exemplary, and be maintained to



389186

797 provide an adequate fund to cover claims and liabilities for
798 loss, injury, or damage arising out of or connected with the
799 ownership, operation, maintenance, and management of a rail
800 corridor.

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

803
804 Neither the assumption by contract to protect, defend,
805 indemnify, and hold harmless; the purchase of insurance; nor the
806 establishment of a self-insurance retention fund shall be deemed
807 to be a waiver of any defense of sovereign immunity for torts
808 nor deemed to increase the limits of the department's or the
809 governmental entity's liability for torts as provided in s.
810 768.28. The requirements of s. 287.022(1) shall not apply to the
811 purchase of any insurance under this subsection. The provisions
812 of this subsection shall apply and inure fully as to any other
813 governmental entity providing commuter rail service and
814 constructing, operating, maintaining, or managing a rail
815 corridor on publicly owned right-of-way under contract by the
816 governmental entity with the department or a governmental entity
817 designated by the department. Notwithstanding any law to the
818 contrary, procurement for the construction, operation,
819 maintenance, and management of any rail corridor described in
820 this subsection, whether by the department, a governmental
821 entity under contract with the department, or a governmental
822 entity designated by the department, shall be pursuant to s.
823 287.057 and shall include, but not be limited to, criteria for
824 the consideration of qualifications, technical aspects of the
825 proposal, and price. Further, any such contract for design-build



389186

826 shall be procured pursuant to the criteria in s. 337.11(7).

827 (18)(17) Exercise such other functions, powers, and duties
828 in connection with the rail system plan as are necessary to
829 develop a safe, efficient, and effective statewide
830 transportation system.

831 Section 7. The Department of Transportation may complete an
832 escrowed closing on the pending Central Florida Rail Corridor
833 acquisition; however, the drawdown of such escrowed closing
834 shall not occur unless and until Florida is funded through the
835 Federal Railroad Administration's High Speed Rail Intercity
836 Passenger Program for the Tampa to Orlando corridor on or before
837 March 31, 2010, and all or part of the \$270 million in grant
838 funding is received through the Federal Railroad
839 Administration's High-Speed Rail Intercity Passenger Rail
840 Program for the Central Florida Rail Corridor.

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

844 341.303 Funding authorization and appropriations;
845 eligibility and participation.—

846 (4) FUND PARTICIPATION; OPERATING COSTS SERVICE
847 DEVELOPMENT.—

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

853 ~~(b) The department is authorized to fund up to 100 percent~~
854 ~~of the net operating costs of any eligible intercity or commuter~~



389186

855 ~~rail service development project that is statewide in scope or~~
856 ~~involves more than one county if no other governmental unit of~~
857 ~~appropriate jurisdiction exists. For commuter rail service,~~
858 ~~after the 5th year of operation, the department's participation~~
859 ~~is limited to a maximum of 50 percent of the net operating costs~~
860 ~~of the service.~~

861 ~~(c) Each such local or statewide service development~~
862 ~~project shall be identified in the appropriation request of the~~
863 ~~department in a manner that defines project objectives, the~~
864 ~~assigned operational and financial responsibilities, the~~
865 ~~timeframe required to develop the service, and the criteria by~~
866 ~~which the success of the project can be judged.~~

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

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

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

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

879 (b) The department, through the Florida Rail Enterprise, is
880 authorized to use funds provided under s. 201.15(1)(c)1.d. to
881 fund up to 100 percent of planning and development costs related
882 to the provision of a passenger rail system, including, but not
883 limited to, preliminary engineering, revenue studies,



389186

884 environmental impact studies, financial advisory services,
885 engineering design, and other appropriate professional services.

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

889 (d) The department, through the Florida Rail Enterprise, is
890 authorized to use funds provided under s. 201.15(1)(c)1.d. to
891 fund projects necessary to identify or address anticipated
892 impacts of increased freight rail traffic resulting from the
893 implementation of passenger rail systems as provided in s.
894 341.302(3)(b).

895 (6) FLORIDA RAIL ENTERPRISE; BUDGET.-

896 (a) The Florida Rail Enterprise shall be a single budget
897 entity and shall develop a budget pursuant to chapter 216. The
898 enterprise's budget shall be submitted to the Legislature along
899 with the department's budget. All passenger rail funding by the
900 department shall be included in this budget entity.

901 (b) Notwithstanding the provisions of s. 216.301 to the
902 contrary and in accordance with s. 216.351, the Executive Office
903 of the Governor shall, on July 1 of each year, certify forward
904 all unexpended funds appropriated or provided pursuant to this
905 section for the enterprise. Of the unexpended funds certified
906 forward, any unencumbered amounts shall be carried forward. Such
907 funds carried forward shall not exceed 5 percent of the original
908 approved operating budget of the enterprise pursuant to s.
909 216.181(1). Funds carried forward pursuant to this section may
910 be used for any lawful purpose, including, but not limited to,
911 promotional and market activities, technology, and training. Any
912 certified-forward funds remaining undisbursed on September 30 of



389186

913 each year shall be carried forward.

914 Section 9. Section 341.8201, Florida Statutes, is amended
915 to read:

916 341.8201 Short title.—Sections 341.8201-341.842 may be
917 cited as the “Florida ~~High-Speed Rail~~ Enterprise Authority Act.”

918 Section 10. Section 341.8202, Florida Statutes, is
919 repealed.

920 Section 11. Section 341.8203, Florida Statutes, is amended
921 to read:

922 341.8203 Definitions.—As used in ss. 341.8201-341.842 ~~this~~
923 ~~act~~, unless the context clearly indicates otherwise, the term:

924 (1) “Associated development” means property, equipment,
925 buildings, or other related ~~aneillary~~ facilities which are
926 built, installed, used, or established to provide financing,
927 funding, or revenues for the planning, building, managing, and
928 operation of a high-speed rail system and which are associated
929 with or part of the rail stations. The term includes air and
930 subsurface rights, services that provide local area network
931 devices for transmitting data over wireless networks, ~~property,~~
932 ~~including air rights, necessary for joint development, such as~~
933 parking facilities, retail establishments, restaurants, hotels,
934 offices, advertising, or other commercial, civic, residential,
935 or support facilities, ~~and may also include property necessary~~
936 ~~to protect or preserve the rail station area by reducing urban~~
937 ~~blight or traffic congestion or property necessary to accomplish~~
938 ~~any of the purposes set forth in this subsection which are~~
939 ~~reasonably anticipated or necessary.~~

940 (2) “Enterprise” means the Florida Rail Enterprise.

941 ~~“Authority” means the Florida High-Speed Rail Authority and its~~



389186

942 ~~agents. However, for purposes of s. 341.840, the term does not~~
943 ~~include any agent of the authority except as provided in that~~
944 ~~section.~~

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

948 ~~(4) "DBOM contract" means the document and all concomitant~~
949 ~~rights approved by the authority providing the selected person~~
950 ~~or entity the exclusive right to design, build, operate, and~~
951 ~~maintain a high-speed rail system.~~

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

956 ~~(3)(6)~~ "High-speed rail system" means any high-speed fixed
957 guideway system for transporting people or goods, which system
958 is, by definition of the United States Department of
959 Transportation, reasonably expected to reach speeds of at least
960 110 ~~capable of operating at speeds in excess of 120~~ miles per
961 hour, including, but not limited to, a monorail system, dual
962 track rail system, suspended rail system, magnetic levitation
963 system, pneumatic repulsion system, or other system approved by
964 the enterprise authority. The term includes a corridor,
965 associated intermodal connectors, and structures essential to
966 the operation of the line, including the land, structures,
967 improvements, rights-of-way, easements, rail lines, rail beds,
968 guideway structures, switches, yards, parking facilities, power
969 relays, switching houses, and rail stations and also includes
970 facilities or equipment used exclusively for the purposes of



389186

971 design, construction, operation, maintenance, or the financing
972 of the high-speed rail system.

973 ~~(4)(7)~~ "Joint development" means the planning, managing,
974 financing, or constructing of projects adjacent to, functionally
975 related to, or otherwise related to a high-speed rail system
976 pursuant to agreements between any person, firm, corporation,
977 association, organization, agency, or other entity, public or
978 private.

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

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

986 ~~(5)(10)~~ "Rail station," "station," or "high-speed rail
987 station" means any structure or transportation facility that is
988 part of a high-speed rail system designed to accommodate the
989 movement of passengers from one mode of transportation to
990 another at which passengers board or disembark from
991 transportation conveyances and transfer from one mode of
992 transportation to another.

993 ~~(6)(11)~~ "Selected person or entity" means the person or
994 entity to whom the enterprise authority awards a contract ~~under~~
995 ~~s. 341.834~~ to establish a high-speed rail system pursuant to ss.
996 341.8201-341.842 ~~this act.~~

997 ~~(12) "Southeast Florida" means the counties of Broward,~~
998 ~~Monroe, Miami Dade, Indian River, St. Lucie, Martin, Okeechobee,~~
999 ~~and Palm Beach.~~



389186

1000 ~~(13) "Southwest Florida" means the counties of Manatee,~~
1001 ~~Hardee, DeSoto, Sarasota, Highlands, Charlotte, Glades, Lee,~~
1002 ~~Hendry, and Collier.~~

1003 ~~(14) "Urban areas" means Central Florida, Northeast~~
1004 ~~Florida, Northwest Florida, Southeast Florida, and Southwest~~
1005 ~~Florida.~~

1006 Section 12. Section 341.821, Florida Statutes, is repealed.

1007 Section 13. Section 341.822, Florida Statutes, is amended
1008 to read:

1009 341.822 Powers and duties.—

1010 (1) The enterprise authority created and established by
1011 ~~this act~~ shall locate, plan, design, finance, construct,
1012 maintain, own, operate, administer, and manage the high-speed
1013 rail system in the state.

1014 (2) (a) In addition to the powers granted to the department,
1015 the enterprise has full authority to exercise all powers granted
1016 to it under this chapter. Powers shall include, but are not
1017 limited to, the ability to plan, construct, maintain, repair,
1018 and operate a high-speed rail system, to acquire corridors, and
1019 to coordinate the development and operation of publicly funded
1020 passenger rail systems in the state. The authority may exercise
1021 ~~all powers granted to corporations under the Florida Business~~
1022 ~~Corporation Act, chapter 607, except the authority may only~~
1023 ~~incur debt in accordance with levels authorized by the~~
1024 ~~Legislature.~~

1025 (b) It is the express intention of ss. 341.8201-341.842
1026 that the enterprise be authorized to plan, develop, own,
1027 purchase, lease, or otherwise acquire, demolish, construct,
1028 improve, relocate, equip, repair, maintain, operate, and manage



389186

1029 the high-speed rail system; to expend funds to publicize,
1030 advertise, and promote the advantages of using the high-speed
1031 rail system and its facilities; and to cooperate, coordinate,
1032 partner, and contract with other entities, public and private,
1033 to accomplish these purposes.

1034 ~~(3) The authority shall have perpetual succession as a body~~
1035 ~~politic and corporate.~~

1036 (3)(4) The enterprise shall have the authority to employ
1037 procurement methods available to the department under chapters
1038 255, 287, 334, and 337, or otherwise in accordance with law. The
1039 enterprise may also solicit proposals and, with legislative
1040 approval as evidenced by approval of the project in the
1041 department's work program, enter into agreements with private
1042 entities, or consortia thereof, for the building, operation,
1043 ownership, or financing of the high-speed rail system authority
1044 ~~is authorized to seek and obtain federal matching funds or any~~
1045 ~~other funds to fulfill the requirements of this act either~~
1046 ~~directly or through the Department of Transportation.~~

1047 ~~(4)(5) The authority may employ an executive director of~~
1048 ~~the enterprise shall appoint staff, who shall be exempt from~~
1049 ~~part II of chapter 110 as it may require and shall determine the~~
1050 ~~qualifications and fix the compensation. The authority may~~
1051 ~~delegate to one or more of its agents or employees such of its~~
1052 ~~power as it deems necessary to carry out the purposes of this~~
1053 ~~act, subject always to the supervision and control of the~~
1054 ~~authority.~~

1055 (5) The powers conferred upon the enterprise under ss.
1056 341.8201-341.842 shall be in addition and supplemental to the
1057 existing powers of the department, and these powers shall not be



389186

1058 construed as repealing any provision of any other law, general
1059 or local, but shall supersede such other laws that are
1060 inconsistent with the exercise of the powers provided under ss.
1061 341.8201-341.842 and provide a complete method for the exercise
1062 of such powers granted.

1063 (6) Any proposed rail enterprise project or improvement
1064 shall be developed in accordance with the Florida Transportation
1065 Plan and the work program under s. 339.135.

1066 Section 14. Section 341.8225, Florida Statutes, is created
1067 to read:

1068 341.8225 Department of Transportation sole governmental
1069 entity to acquire, construct, or operate high-speed rail
1070 projects; exception.-

1071 (1) No governmental entity other than the department may
1072 acquire, construct, maintain, or operate the high-speed rail
1073 system except upon specific authorization of the Legislature.

1074 (2) (a) Local governmental entities, as defined in s.
1075 334.03(14), may negotiate with the department for the design,
1076 right-of-way acquisition, and construction of any component of
1077 the high-speed rail system within areas of their respective
1078 jurisdictions or within counties with which they have interlocal
1079 agreements.

1080 (b) However, the department may not acquire outright and
1081 construct, maintain, or operate the high-speed rail system using
1082 funds generated by local, state, or federal revenues, fares, or
1083 other means unless the rail system is approved by a majority of
1084 the qualified electors voting in a referendum in each county
1085 within which the high-speed rail system is to be located. The
1086 referendum ballot must identify the source of local funds



389186

1087 designated for the rail system.

1088 Section 15. Sections 341.823, 341.824, 341.827, 341.828,
1089 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, and
1090 341.835, Florida Statutes, are repealed.

1091 Section 16. Section 341.836, Florida Statutes, is amended
1092 to read:

1093 341.836 Associated development.—

1094 (1) The enterprise authority, alone or as part of a joint
1095 development, may undertake ~~development of~~ associated
1096 developments to be a source of revenue for the establishment,
1097 construction, operation, or maintenance of the high-speed rail
1098 system. Such associated developments must be ~~associated with a~~
1099 ~~rail station and have pedestrian ingress to and egress from the~~
1100 ~~rail station;~~ be consistent, to the extent feasible, with
1101 applicable local government comprehensive plans and local land
1102 development regulations~~+~~ and otherwise be in compliance with ss.
1103 341.8201-341.842 ~~the provisions of this act.~~

1104 (2) Sections 341.8201-341.842 do ~~This act does~~ not prohibit
1105 the enterprise authority, the selected person or entity, or a
1106 party to a joint venture with the enterprise authority or its
1107 selected person or entity from obtaining approval, pursuant to
1108 any other law, for any associated development that is reasonably
1109 related to the high-speed rail system.

1110 Section 17. Section 341.837, Florida Statutes, is repealed.

1111 Section 18. Section 341.838, Florida Statutes, is amended
1112 to read:

1113 341.838 Fares, rates, rents, fees, and charges.—

1114 (1) The enterprise may establish ~~authority is authorized to~~
1115 ~~fix~~, revise, charge, and collect fares, rates, rents, fees,



389186

1116 charges, and revenues for the use of and for the services
1117 furnished, or to be furnished, by the system and to contract
1118 with any person, partnership, association, corporation, or other
1119 body, public or private, in respect thereof. Such fares, rates,
1120 rents, fees, and charges shall be reviewed annually by the
1121 enterprise authority and may be adjusted as set forth in the
1122 contract setting such fares, rates, rents, fees, or charges. The
1123 funds collected pursuant to this section ~~hereunder~~ shall, with
1124 any other funds available, be used to pay the cost of ~~all~~
1125 ~~administrative expenses of the authority, and the cost of~~
1126 designing, building, operating, financing, and maintaining the
1127 system and each and every portion thereof, to the extent that
1128 the payment of such cost has not otherwise been adequately
1129 provided for.

1130 (2) Fares, rates, rents, fees, and charges established
1131 ~~fixed~~, revised, charged, and collected by the enterprise
1132 pursuant to this section shall not be subject to supervision or
1133 regulation by any other department, commission, board, body,
1134 bureau, or agency of this state other than the enterprise
1135 ~~authority~~.

1136 Section 19. Section 341.839, Florida Statutes, is amended
1137 to read:

1138 341.839 Alternate means.—Sections 341.8201-341.842 ~~The~~
1139 ~~foregoing sections of this act shall be deemed to provide an~~
1140 additional and alternative method for accomplishing the purposes
1141 authorized therein, and ~~are shall be regarded as~~ supplemental
1142 and additional to powers conferred by other laws. Except as
1143 otherwise expressly provided in ss. 341.8201-341.842 ~~this act~~,
1144 none of the powers granted to the enterprise authority under ss.



389186

1145 341.8201-341.842 are ~~the provisions of this act shall be~~ subject
1146 to the supervision or require the approval or consent of any
1147 municipality or political subdivision or any commission, board,
1148 body, bureau, or official.

1149 Section 20. Section 341.841, Florida Statutes, is repealed.

1150 Section 21. Paragraphs (j) and (m) of subsection (2) of
1151 section 110.205, Florida Statutes, are amended to read:

1152 110.205 Career service; exemptions.—

1153 (2) EXEMPT POSITIONS.—The exempt positions that are not
1154 covered by this part include the following:

1155 (j) The appointed secretaries and the State Surgeon
1156 General, assistant secretaries, deputy secretaries, and deputy
1157 assistant secretaries of all departments; the executive
1158 directors, assistant executive directors, deputy executive
1159 directors, and deputy assistant executive directors of all
1160 departments; the directors of all divisions and those positions
1161 determined by the department to have managerial responsibilities
1162 comparable to such positions, which positions include, but are
1163 not limited to, program directors, assistant program directors,
1164 district administrators, deputy district administrators, the
1165 Director of Central Operations Services of the Department of
1166 Children and Family Services, the State Transportation
1167 Development Administrator, State Public Transportation and Modal
1168 Administrator, district secretaries, district directors of
1169 transportation development, transportation operations,
1170 transportation support, and the managers of the offices
1171 specified in s. 20.23(4)~~(3)~~(b), of the Department of
1172 Transportation. Unless otherwise fixed by law, the department
1173 shall set the salary and benefits of these positions in



389186

1174 accordance with the rules of the Senior Management Service; and
1175 the county health department directors and county health
1176 department administrators of the Department of Health.

1177 (m) All assistant division director, deputy division
1178 director, and bureau chief positions in any department, and
1179 those positions determined by the department to have managerial
1180 responsibilities comparable to such positions, which positions
1181 include, but are not limited to:

1182 1. Positions in the Department of Health and the Department
1183 of Children and Family Services that are assigned primary duties
1184 of serving as the superintendent or assistant superintendent of
1185 an institution.

1186 2. Positions in the Department of Corrections that are
1187 assigned primary duties of serving as the warden, assistant
1188 warden, colonel, or major of an institution or that are assigned
1189 primary duties of serving as the circuit administrator or deputy
1190 circuit administrator.

1191 3. Positions in the Department of Transportation that are
1192 assigned primary duties of serving as regional toll managers and
1193 managers of offices, as defined in s. 20.23(4)(~~3~~)(b) and
1194 (5)(~~4~~)(c), and captains and majors of the Office of Motor
1195 Carrier Compliance.

1196 4. Positions in the Department of Environmental Protection
1197 that are assigned the duty of an Environmental Administrator or
1198 program administrator.

1199 5. Positions in the Department of Health that are assigned
1200 the duties of Environmental Administrator, Assistant County
1201 Health Department Director, and County Health Department
1202 Financial Administrator.



389186

1203
1204 Unless otherwise fixed by law, the department shall set the
1205 salary and benefits of the positions listed in this paragraph in
1206 accordance with the rules established for the Selected Exempt
1207 Service.

1208 Section 22. The Legislature expressly grants to the
1209 Department of Transportation the power and authority to
1210 negotiate with any freight rail carrier owning freight lines in
1211 this state and to lease as many miles of trackage rights from
1212 such freight line as the department deems necessary to operate a
1213 passenger rail system in this state.

1214 Section 23. Except as otherwise expressly provided in this
1215 act, this act shall take effect upon becoming a law.

1216
1217 ===== T I T L E A M E N D M E N T =====

1218 And the title is amended as follows:

1219 Delete everything before the enacting clause
1220 and insert:

1221 A bill to be entitled
1222 An act relating to transportation; amending s. 20.23,
1223 F.S.; creating the Florida Statewide Passenger Rail
1224 Commission to monitor passenger rail systems and
1225 associated operations, advise the Department of
1226 Transportation concerning a statewide system of
1227 passenger rail service, evaluate passenger rail
1228 policies, and provide advice and recommendations to
1229 the Legislature on passenger rail operations in the
1230 state; providing for membership and organization of
1231 the commission; authorizing reimbursement for travel



389186

1232 and other expenses of members; prohibiting the
1233 commission and its members from taking part in
1234 operations of the department or a monitored authority;
1235 assigning the commission to the Office of the
1236 Secretary of the department for administrative
1237 purposes; providing that expenses of the commission
1238 shall be approved by the secretary; directing the
1239 department to provide administrative support and
1240 services to the commission; providing for a rail
1241 enterprise in the department to be headed by an
1242 executive director and headquartered in Leon County;
1243 providing that the executive director shall be
1244 appointed by the Secretary of Transportation;
1245 directing the secretary to assign to the executive
1246 director the responsibility for funding, developing,
1247 and operating high-speed and passenger rail systems
1248 under specified provisions and coordinating publicly
1249 funded passenger rail operations; exempting the
1250 enterprise from department policies, procedures, and
1251 standards; providing exceptions; amending s. 201.15,
1252 F.S.; revising allocation of certain moneys in the
1253 State Transportation Trust Fund by increasing the
1254 percentage to be allocated for purposes of the Small
1255 County Outreach Program and providing for an annual
1256 allocation to the Florida Rail Enterprise; amending s.
1257 339.135, F.S.; providing a funding source for
1258 allocations to the South Florida Regional
1259 Transportation Authority under specified provisions;
1260 amending s. 343.58, F.S., relating to the South



389186

1261 Florida Regional Transportation Authority; providing
1262 that funds dedicated by county governments may be used
1263 for certain purposes; providing for allocation of
1264 funds from the State Transportation Trust Fund to the
1265 authority; providing for cessation of the allocation
1266 under certain circumstances; amending s. 341.301,
1267 F.S.; revising the definition of "railroad" or "rail
1268 system" to include a high-speed rail system and
1269 providing definitions for purposes of provisions for
1270 rail programs; amending s. 341.302, F.S.; revising
1271 duties and responsibilities of the department to
1272 develop and implement a rail program; authorizing the
1273 department's rail system plan to include regional
1274 components for certain purposes; revising requirements
1275 for the plan to be updated; requiring a plan status
1276 report to the Legislature; directing the department to
1277 work with local communities to address impacts of
1278 passenger rail implementation, finalize alternative
1279 routes for through freight rail traffic in Central
1280 Florida, and provide technical assistance to a
1281 coalition of municipalities and counties in Central
1282 Florida for development of a regional rail system
1283 plan; providing parameters within which the department
1284 may by contract indemnify against loss a freight rail
1285 operator from whom it has acquired interest in a rail
1286 corridor; authorizing the department to purchase
1287 liability insurance including coverage for the
1288 department, any freight rail operator, commuter rail
1289 service providers, governmental entities, or any



389186

1290 ancillary development and establish a self-insurance
1291 retention fund; limiting the amount of the insurance
1292 and self-insurance retention fund; providing that the
1293 insureds must make payments for the coverage;
1294 providing that the insurance may provide coverage for
1295 all damages and be maintained to provide a fund to
1296 cover liabilities arising from rail corridor ownership
1297 and operations; authorizing the department to incur
1298 certain marketing expenses relating to rail corridor
1299 acquisition, ownership, construction, and operation;
1300 providing that indemnification by contract, the
1301 purchase of insurance, or establishment of a self-
1302 insurance retention fund does not waive sovereign
1303 immunity or increase liability limits provided under
1304 specified provisions; providing that specified
1305 provisions apply to the purchase of insurance;
1306 providing that specified provisions relating to rail
1307 service apply to other governmental entities under
1308 contract with the department or designated by the
1309 department; providing for application of specified
1310 provisions to procurement contracts for the
1311 construction, operation, maintenance, and management
1312 of a rail corridor by the department, a governmental
1313 entity under contract with the department, or a
1314 governmental entity designated by the department;
1315 authorizing the department to complete an escrowed
1316 closing on the Central Florida Rail Corridor
1317 acquisition if certain funding is obtained on or
1318 before a specified date; amending s. 341.303, F.S.;



389186

1319 revising provisions for distribution of rail funds;
1320 removing provisions for funding service development
1321 projects; authorizing the department to fund net
1322 operating costs of eligible intercity or commuter rail
1323 systems for a certain time period; authorizing the
1324 department, through the Florida Rail Enterprise, to
1325 use specified funds to fund certain costs of passenger
1326 rail capital improvement projects, passenger rail
1327 planning and development, the high-speed rail system,
1328 and projects necessary to identify or address
1329 anticipated impacts of increased freight rail traffic
1330 due to implementing passenger rail systems; providing
1331 that the enterprise shall be a single budget entity;
1332 providing that the enterprise's budget include all
1333 passenger rail funding and be submitted to the
1334 Legislature along with the department's budget;
1335 directing the Governor to certify forward unexpended
1336 funds of the enterprise; providing for use of
1337 unencumbered funds certified forward; amending s.
1338 341.8201, F.S.; revising a short title; providing that
1339 specified provisions may be cited as the "Florida Rail
1340 Enterprise Act"; amending s. 341.8203, F.S.; providing
1341 definitions for purposes of such act; amending s.
1342 341.822, F.S.; providing powers and duties of the
1343 enterprise in addition to the powers and duties of the
1344 department; authorizing the enterprise to plan,
1345 construct, maintain, repair, operate, and promote a
1346 high-speed rail system, to acquire corridors, and to
1347 coordinate the development and operation of publicly



389186

1348 funded passenger rail systems; providing intent;
1349 authorizing the enterprise to cooperate, coordinate,
1350 partner, and contract with other entities to
1351 accomplish its purposes; authorizing the enterprise to
1352 employ certain procurement methods; authorizing the
1353 executive director to employ staff; providing that
1354 such staff are exempt from specified Career Service
1355 System provisions; providing for construction;
1356 providing that provisions for powers of the enterprise
1357 supersede other laws that are inconsistent; requiring
1358 rail enterprise projects or improvements to be
1359 developed in accordance with the Florida
1360 Transportation Plan and the department's work program;
1361 creating s. 341.8225, F.S.; providing that only the
1362 department may acquire, construct, maintain, or
1363 operate the high-speed rail system; providing for an
1364 exception with legislative authorization; authorizing
1365 local governmental entities to negotiate with the
1366 department for the design, right-of-way acquisition,
1367 and construction of components of the system;
1368 requiring each county within which the high-speed rail
1369 system is to be located to approve the system by a
1370 referendum vote of the county electors; amending s.
1371 341.836, F.S.; providing for the enterprise to
1372 undertake associated developments for certain
1373 purposes; amending s. 341.838, F.S.; authorizing the
1374 enterprise to establish and collect fares, rates, and
1375 other charges for services provided by the system;
1376 authorizing the enterprise to contract with other



389186

1377 entities; directing the enterprise to review the
1378 fares, rates, and other charges annually; providing
1379 for use of moneys collected; providing that such
1380 fares, rates, and other charges are not subject to
1381 supervision or regulation by other entities; amending
1382 s. 341.839, F.S.; providing for construction of
1383 provisions granting powers to the enterprise; removing
1384 provisions relating to the Florida High-Speed Rail
1385 Authority; repealing ss. 341.8202, 341.821, 341.823,
1386 341.824, 341.827, 341.828, 341.829, 341.830, 341.831,
1387 341.832, 341.833, 341.834, 341.835, 341.837, and
1388 341.841, F.S., relating to the Florida High-Speed Rail
1389 Authority, legislative findings and intent, criteria
1390 for assessment and recommendations, technical,
1391 scientific, or other assistance, service areas,
1392 segment designation, permitting, conflict prevention,
1393 mitigation, and resolution, procurement,
1394 prequalification, request for qualifications, request
1395 for proposals, award of contract, acquisition of
1396 property, rights-of-way, and disposal of land, payment
1397 of expenses, and reports and audits; amending s.
1398 110.205, F.S.; conforming cross-references;
1399 authorizing the Department of Transportation to lease
1400 trackage rights from a freight rail carrier owning
1401 freight lines in this state; providing effective
1402 dates.