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2009 Legislature

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

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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

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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.

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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:
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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

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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

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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

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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

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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

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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.

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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

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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

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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).

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 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

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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

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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 annually allocate
 511 up to \$15 million of the first proceeds of the increased
 512 revenues estimated by the November 2009 Revenue Estimating
 513 Conference to be deposited into the State Transportation Trust
 514 Fund to provide for the portion of the transfer of funds
 515 included in s. 343.58(4)(a)1.a. or s. 343.58(4)(a)2.a.,
 516 whichever is applicable. The transfer of funds included in s.
 517 343.58(4) shall not negatively impact projects included in
 518 fiscal years 2009-2010 through 2013-2014 of the work program as
 519 of July 1, 2009, as amended pursuant to subsection (7). This
 520 subparagraph expires July 1, 2014.

521 Section 4. Section 343.58, Florida Statutes, is amended to
 522 read:

523 343.58 County funding for the South Florida Regional
 524 Transportation Authority.—

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

531 (2) At least \$45 million of a state-authorized, local
 532 option recurring funding source available to Broward, Miami-

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533 Dade, and Palm Beach counties is directed to the authority to
 534 fund its capital, operating, and maintenance expenses. The
 535 funding source shall be dedicated to the authority only if
 536 Broward, Miami-Dade, and Palm Beach counties impose the local
 537 option funding source.

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

543 (4) Notwithstanding any other provision of law to the
 544 contrary and effective July 1, 2010, the department shall
 545 transfer annually from the State Transportation Trust Fund to
 546 the South Florida Regional Transportation Authority the amounts
 547 specified in subparagraph (a)1. or subparagraph (a)2.

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

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

553 b. An amount no less than the work program commitments
 554 equal to \$27.1 million for fiscal year 2010-2011, as of July 1,
 555 2009, for operating assistance to the authority and corridor
 556 track maintenance and contract maintenance for the South Florida
 557 Rail Corridor.

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

560 a. \$13.3 million from the State Transportation Trust Fund

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561 to the South Florida Regional Transportation Authority for
 562 operations; and

563 b. An amount no less than the work program commitments
 564 equal to \$17.3 million for fiscal year 2010-2011, as of July 1,
 565 2009, for operating assistance to the authority.

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

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

585 Section 5. Section 341.301, Florida Statutes, is amended
 586 to read:

587 341.301 Definitions; ss. 341.302-341.303 ~~ss. 341.302 and~~
 588 ~~341.303.~~-As used in ss. 341.302-341.303 ~~ss. 341.302 and 341.303,~~

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589 the term:

590 (1) "Ancillary development" includes any lessee or
 591 licensee of the department, including other governmental
 592 entities, vendors, retailers, restaurateurs, or contract service
 593 providers, within a department-owned rail corridor, except for
 594 providers of commuter rail service, intercity rail passenger
 595 service, or freight rail service. The term includes air and
 596 subsurface rights, services that provide a local area network
 597 for devices for transmitting data over wireless networks, and
 598 advertising.

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

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

608 (a) On board trains, locomotives, rail cars, or rail
 609 equipment employed in commuter rail service or entraining
 610 thereon and detraining therefrom;

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

616 (c) Meeting, assisting, or in the company of any person

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617 described in paragraph (a) or paragraph (b).

618 (4) "Commuter rail service" means the transportation of
 619 commuter rail passengers and other passengers by rail pursuant
 620 to a rail program provided by the department or any other
 621 governmental entity.

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

625 (6)-(2) "Intercity rail transportation system" means the
 626 network of railroad facilities used or available for interstate
 627 and intrastate passenger and freight operations by railroads,
 628 whether or not on a schedule or whether or not restricted.

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

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

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645 equipment used for the purposes of construction, operation, or
 646 maintenance of a railroad that provides rail service.

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

649 (a) For any purpose related to any ancillary development
 650 thereon; or

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

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

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

669 (12)-(5) "Railroad" or "rail system" means any common
 670 carrier fixed-guideway transportation system such as the
 671 conventional steel rail-supported, steel-wheeled system as well
 672 as the high-speed rail system defined in s. 341.8203. The term

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673 ~~does not include a high speed rail line developed by the~~
 674 ~~Department of Transportation pursuant to ss. 341.8201-341.842.~~

675 (13) ~~(6)~~ "Railroad capital improvement project" means a
 676 project identified by the rail component of the Florida
 677 Transportation Plan, which project involves the leasing,
 678 acquisition, design, construction, reconstruction, or
 679 improvement to the existing intercity rail transportation system
 680 or future segments thereof, including such items as locomotives
 681 and other rolling stock, tracks, terminals, and rights-of-way
 682 for the continuance or expansion of rail service as necessary to
 683 ensure the continued effectiveness of the state's rail
 684 facilities and systems in meeting mobility and industrial
 685 development needs.

686 (14) "Railroad operations" means the use of the rail
 687 corridor to conduct commuter rail service, intercity rail
 688 passenger service, or freight rail service.

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

695 Section 6. Section 341.302, Florida Statutes, is amended
 696 to read:

697 341.302 Rail program;7 duties and responsibilities of the
 698 department.—The department, in conjunction with other
 699 governmental entities, including the rail enterprise units and
 700 the private sector, shall develop and implement a rail program

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701 of statewide application designed to ensure the proper
 702 maintenance, safety, revitalization, and expansion of the rail
 703 system to assure its continued and increased availability to
 704 respond to statewide mobility needs. Within the resources
 705 provided pursuant to chapter 216, and as authorized under
 706 federal law ~~Title 49 C.F.R. part 212~~, the department shall:

707 (1) Provide the overall leadership, coordination, and
 708 financial and technical assistance necessary to assure the
 709 effective responses of the state's rail system to current and
 710 anticipated mobility needs.

711 (2) Promote and facilitate the implementation of advanced
 712 rail systems, including high-speed rail and magnetic levitation
 713 systems.

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

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

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729 passenger rail service and freight rail service, accompanied by
 730 a report to the Legislature regarding the status of the plan.

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

734 1. Work closely with all affected communities along an
 735 impacted freight rail corridor to identify and address
 736 anticipated impacts associated with an increase in freight rail
 737 traffic due to implementation of passenger rail.

738 2. In coordination with the affected local governments and
 739 CSX Transportation, Inc., finalize all viable alternatives from
 740 the department's Rail Traffic Evaluation Study to identify and
 741 develop an alternative route for through freight rail traffic
 742 moving through Central Florida, including the counties of Polk
 743 and Hillsborough, which would address, to the extent
 744 practicable, the effects of commuter rail.

745 3. Provide technical assistance to a coalition of local
 746 governments in Central Florida, including the counties of
 747 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,
 748 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,
 749 Sumter, and Volusia, and the municipalities within those
 750 counties, to develop a regional rail system plan that addresses
 751 passenger and freight opportunities in the region, is consistent
 752 with the Florida Rail System Plan, and incorporates appropriate
 753 elements of the Tampa Bay Area Regional Authority Master Plan,
 754 the Metroplan Orlando Regional Transit System Concept Plan,
 755 including the SunRail project, and the Florida Department of
 756 Transportation Alternate Rail Traffic Evaluation.

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757 (4) As part of the work program of the department,
758 formulate a specific program of projects and financing to
759 respond to identified railroad needs.

760 (5) Provide technical and financial assistance to units of
761 local government to address identified rail transportation
762 needs.

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

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

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

781 (9) Assess penalties, in accordance with the applicable
782 federal regulations, for the failure to adhere to the state
783 standards.

784 (10) Administer rail operating and construction programs,

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785 | which programs shall include the regulation of maximum train
 786 | operating speeds, the opening and closing of public grade
 787 | crossings, the construction and rehabilitation of public grade
 788 | crossings, and the installation of traffic control devices at
 789 | public grade crossings, the administering of the programs by the
 790 | department including participation in the cost of the programs.

791 | (11) Coordinate and facilitate the relocation of railroads
 792 | from congested urban areas to nonurban areas when relocation has
 793 | been determined feasible and desirable from the standpoint of
 794 | safety, operational efficiency, and economics.

795 | (12) Implement a program of branch line continuance
 796 | projects when an analysis of the industrial and economic
 797 | potential of the line indicates that public involvement is
 798 | required to preserve essential rail service and facilities.

799 | (13) Provide new rail service and equipment when:

800 | (a) Pursuant to the transportation planning process, a
 801 | public need has been determined to exist;

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

806 | (c) Service cannot be reasonably provided by other
 807 | governmental or privately owned rail systems.

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

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813 (14) Furnish required emergency rail transportation
 814 service if no other private or public rail transportation
 815 operation is available to supply the required service and such
 816 service is clearly in the best interest of the people in the
 817 communities being served. Such emergency service may be
 818 furnished through contractual arrangement, actual operation of
 819 state-owned equipment and facilities, or any other means
 820 determined appropriate by the secretary.

821 (15) Assist in the development and implementation of
 822 marketing programs for rail services and of information systems
 823 directed toward assisting rail systems users.

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

827 (17) In conjunction with the acquisition, ownership,
 828 construction, operation, maintenance, and management of a rail
 829 corridor, have the authority to:

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

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841 nonfeasance, or misfeasance of such freight rail operator, its
842 successors, or its officers, agents, and employees, or any other
843 person or persons whomsoever, provided that such assumption of
844 liability of the department by contract shall not in any
845 instance exceed the following parameters of allocation of risk:

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

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

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

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869 commuter rail passengers and rail corridor invitees.

870 4. For the purposes of this subsection, any train involved
871 in an incident that is neither the department's train nor the
872 freight rail operator's train, hereinafter referred to in this
873 subsection as an "other train," may be treated as a department
874 train, solely for purposes of any allocation of liability
875 between the department and the freight rail operator only, but
876 only if the department and the freight rail operator share
877 responsibility equally as to third parties outside the rail
878 corridor who incur loss, injury, or damage as a result of any
879 incident involving both a department train and a freight rail
880 operator train, and the allocation as between the department and
881 the freight rail operator, regardless of whether the other train
882 is treated as a department train, shall remain one-half each as
883 to third parties outside the rail corridor who incur loss,
884 injury, or damage as a result of the incident. The involvement
885 of any other train shall not alter the sharing of equal
886 responsibility as to third parties outside the rail corridor who
887 incur loss, injury, or damage as a result of the incident.

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

889 a. If only a department train and freight rail operator's
890 train, or only an other train as described in subparagraph 4.
891 and a freight rail operator's train, are involved in an
892 incident, the department may be responsible for its property and
893 all of its people, all commuter rail passengers, rail corridor
894 invitees, but only if the freight rail operator is responsible
895 for its property and all of its people, and the department and
896 the freight rail operator each share one-half responsibility as

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897 to trespassers or third parties outside the rail corridor who
898 incur loss, injury, or damage as a result of the incident.

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

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

924 a. No such contractual duty shall in any case be effective

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925 nor otherwise extend the department's liability in scope and
 926 effect beyond the contractual liability insurance and self-
 927 insurance retention fund required pursuant to this paragraph;
 928 and

929 b. The freight rail operator's compensation to the
 930 department for future use of the department's rail corridor
 931 shall include a monetary contribution to the cost of such
 932 liability coverage for the sole benefit of the freight rail
 933 operator.

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

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

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953
 954 Neither the assumption by contract to protect, defend,
 955 indemnify, and hold harmless; the purchase of insurance; nor the
 956 establishment of a self-insurance retention fund shall be deemed
 957 to be a waiver of any defense of sovereign immunity for torts
 958 nor deemed to increase the limits of the department's or the
 959 governmental entity's liability for torts as provided in s.
 960 768.28. The requirements of s. 287.022(1) shall not apply to the
 961 purchase of any insurance under this subsection. The provisions
 962 of this subsection shall apply and inure fully as to any other
 963 governmental entity providing commuter rail service and
 964 constructing, operating, maintaining, or managing a rail
 965 corridor on publicly owned right-of-way under contract by the
 966 governmental entity with the department or a governmental entity
 967 designated by the department. Notwithstanding any law to the
 968 contrary, procurement for the construction, operation,
 969 maintenance, and management of any rail corridor described in
 970 this subsection, whether by the department, a governmental
 971 entity under contract with the department, or a governmental
 972 entity designated by the department, shall be pursuant to s.
 973 287.057 and shall include, but not be limited to, criteria for
 974 the consideration of qualifications, technical aspects of the
 975 proposal, and price. Further, any such contract for design-build
 976 shall be procured pursuant to the criteria in s. 337.11(7).

977 (18)~~(17)~~ Exercise such other functions, powers, and duties
 978 in connection with the rail system plan as are necessary to
 979 develop a safe, efficient, and effective statewide
 980 transportation system.

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981 Section 7. The Department of Transportation may complete
 982 an escrowed closing on the pending Central Florida Rail Corridor
 983 acquisition; however, the drawdown of such escrowed closing
 984 shall not occur unless and until final Federal Transit
 985 Administration full-funding grant agreement approval is obtained
 986 for the proposed Central Florida Commuter Rail Transit Project
 987 Initial Operating Segment.

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

991 341.303 Funding authorization and appropriations;
 992 eligibility and participation.—

993 (4) FUND PARTICIPATION; OPERATING COSTS SERVICE
 994 DEVELOPMENT.—

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

1000 ~~(b) The department is authorized to fund up to 100 percent~~
 1001 ~~of the net operating costs of any eligible intercity or commuter~~
 1002 ~~rail service development project that is statewide in scope or~~
 1003 ~~involves more than one county if no other governmental unit of~~
 1004 ~~appropriate jurisdiction exists. For commuter rail service,~~
 1005 ~~after the 5th year of operation, the department's participation~~
 1006 ~~is limited to a maximum of 50 percent of the net operating costs~~
 1007 ~~of the service.~~

1008 ~~(c) Each such local or statewide service development~~

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1009 ~~project shall be identified in the appropriation request of the~~
 1010 ~~department in a manner that defines project objectives, the~~
 1011 ~~assigned operational and financial responsibilities, the~~
 1012 ~~timeframe required to develop the service, and the criteria by~~
 1013 ~~which the success of the project can be judged.~~

1014 ~~(d) Any service development project funded under this~~
 1015 ~~section shall continue to be eligible for such funds only if the~~
 1016 ~~project reaches a systemwide operating ratio of 25 percent or~~
 1017 ~~more during the 5th year.~~

1018 ~~(b)(e)~~ The term "net operating costs" means all operating
 1019 costs of the project less any federal funds, fares, or other
 1020 sources of income to the project.

1021 (5) FUND PARTICIPATION; FLORIDA RAIL ENTERPRISE.-

1022 (a) 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 50 percent of the nonfederal share of the costs of
 1025 any eligible passenger rail capital improvement project.

1026 (b) The department, through the Florida Rail Enterprise,
 1027 is authorized to use funds provided under s. 201.15(1)(c)1.d. to
 1028 fund up to 100 percent of planning and development costs related
 1029 to the provision of a passenger rail system, including, but not
 1030 limited to, preliminary engineering, revenue studies,
 1031 environmental impact studies, financial advisory services,
 1032 engineering design, and other appropriate professional services.

1033 (c) The department, through the Florida Rail Enterprise,
 1034 is authorized to use funds provided under s. 201.15(1)(c)1.d. to
 1035 fund the high-speed rail system.

1036 (d) The department, through the Florida Rail Enterprise,

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1037 is authorized to use funds provided under s. 201.15(1)(c)1.d. to
 1038 fund projects necessary to identify or address anticipated
 1039 impacts of increased freight rail traffic resulting from the
 1040 implementation of passenger rail systems as provided in s.
 1041 341.302(3)(b).

1042 (6) FLORIDA RAIL ENTERPRISE; BUDGET.-

1043 (a) The Florida Rail Enterprise shall be a single budget
 1044 entity and shall develop a budget pursuant to chapter 216. The
 1045 enterprise's budget shall be submitted to the Legislature along
 1046 with the department's budget. All passenger rail funding by the
 1047 department shall be included in this budget entity.

1048 (b) Notwithstanding the provisions of s. 216.301 to the
 1049 contrary and in accordance with s. 216.351, the Executive Office
 1050 of the Governor shall, on July 1 of each year, certify forward
 1051 all unexpended funds appropriated or provided pursuant to this
 1052 section for the enterprise. Of the unexpended funds certified
 1053 forward, any unencumbered amounts shall be carried forward. Such
 1054 funds carried forward shall not exceed 5 percent of the original
 1055 approved operating budget of the enterprise pursuant to s.
 1056 216.181(1). Funds carried forward pursuant to this section may
 1057 be used for any lawful purpose, including, but not limited to,
 1058 promotional and market activities, technology, and training. Any
 1059 certified-forward funds remaining undisbursed on September 30 of
 1060 each year shall be carried forward.

1061 Section 9. Section 341.8201, Florida Statutes, is amended
 1062 to read:

1063 341.8201 Short title.—Sections 341.8201–341.842 may be
 1064 cited as the "Florida ~~High-Speed Rail~~ Enterprise Authority Act."

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1065 Section 10. Section 341.8202, Florida Statutes, is
 1066 repealed.

1067 Section 11. Section 341.8203, Florida Statutes, is amended
 1068 to read:

1069 341.8203 Definitions.—As used in ss. 341.8201-341.842 ~~this~~
 1070 ~~act,~~ unless the context clearly indicates otherwise, the term:

1071 (1) "Associated development" means property, equipment,
 1072 buildings, or other related ~~ancillary~~ facilities which are
 1073 built, installed, used, or established to provide financing,
 1074 funding, or revenues for the planning, building, managing, and
 1075 operation of a high-speed rail system and which are associated
 1076 with or part of the rail stations. The term includes air and
 1077 subsurface rights, services that provide local area network
 1078 devices for transmitting data over wireless networks, ~~property,~~
 1079 ~~including air rights, necessary for joint development, such as~~
 1080 ~~parking facilities, retail establishments, restaurants, hotels,~~
 1081 ~~offices, advertising, or other commercial, civic, residential,~~
 1082 ~~or support facilities, and may also include property necessary~~
 1083 ~~to protect or preserve the rail station area by reducing urban~~
 1084 ~~blight or traffic congestion or property necessary to accomplish~~
 1085 ~~any of the purposes set forth in this subsection which are~~
 1086 ~~reasonably anticipated or necessary.~~

1087 (2) "Enterprise" means the Florida Rail Enterprise.
 1088 ~~"Authority" means the Florida High-Speed Rail Authority and its~~
 1089 ~~agents. However, for purposes of s. 341.840, the term does not~~
 1090 ~~include any agent of the authority except as provided in that~~
 1091 ~~section.~~

1092 ~~(3) "Central Florida" means the counties of Lake,~~

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1093 ~~Seminole, Orange, Osceola, Citrus, Sumter, Volusia, Brevard,~~
 1094 ~~Hernando, Pasco, Hillsborough, Pinellas, and Polk.~~

1095 ~~(4) "DBOM contract" means the document and all concomitant~~
 1096 ~~rights approved by the authority providing the selected person~~
 1097 ~~or entity the exclusive right to design, build, operate, and~~
 1098 ~~maintain a high-speed rail system.~~

1099 ~~(5) "DBOM & F contract" means the document and all~~
 1100 ~~concomitant rights approved by the authority providing the~~
 1101 ~~selected person or entity the exclusive right to design, build,~~
 1102 ~~operate, maintain, and finance a high-speed rail system.~~

1103 ~~(3)~~(6) "High-speed rail system" means any high-speed fixed
 1104 guideway system for transporting people or goods, which system
 1105 is, by definition of the United States Department of
 1106 Transportation, reasonably expected to reach speeds of at least
 1107 110 ~~capable of operating at speeds in excess of 120~~ miles per
 1108 hour, including, but not limited to, a monorail system, dual
 1109 track rail system, suspended rail system, magnetic levitation
 1110 system, pneumatic repulsion system, or other system approved by
 1111 the enterprise authority. The term includes a corridor,
 1112 associated intermodal connectors, and structures essential to
 1113 the operation of the line, including the land, structures,
 1114 improvements, rights-of-way, easements, rail lines, rail beds,
 1115 guideway structures, switches, yards, parking facilities, power
 1116 relays, switching houses, and rail stations and also includes
 1117 facilities or equipment used exclusively for the purposes of
 1118 design, construction, operation, maintenance, or the financing
 1119 of the high-speed rail system.

1120 ~~(4)~~(7) "Joint development" means the planning, managing,

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1121 financing, or constructing of projects adjacent to, functionally
 1122 related to, or otherwise related to a high-speed rail system
 1123 pursuant to agreements between any person, firm, corporation,
 1124 association, organization, agency, or other entity, public or
 1125 private.

1126 ~~(8) "Northeast Florida" means the counties of Nassau,~~
 1127 ~~Duval, Clay, St. Johns, Putnam, Alachua, Marion, and Flagler.~~

1128 ~~(9) "Northwest Florida" means the counties of Escambia,~~
 1129 ~~Santa Rosa, Okaloosa, Walton, Holmes, Washington, Jackson,~~
 1130 ~~Gadsden, Bay, Calhoun, Liberty, Gulf, Franklin, Leon, Jefferson,~~
 1131 ~~Madison, Wakulla, Taylor, Hamilton, Suwannee, Columbia, Baker,~~
 1132 ~~Union, Lafayette, Gilchrist, Dixie, Bradford, and Levy.~~

1133 ~~(5)(10)~~ (5) "Rail station," "station," or "high-speed rail
 1134 station" means any structure or transportation facility that is
 1135 part of a high-speed rail system designed to accommodate the
 1136 movement of passengers from one mode of transportation to
 1137 another at which passengers board or disembark from
 1138 transportation conveyances and transfer from one mode of
 1139 transportation to another.

1140 ~~(6)(11)~~ (6) "Selected person or entity" means the person or
 1141 entity to whom the enterprise authority awards a contract ~~under~~
 1142 ~~s. 341.834~~ to establish a high-speed rail system pursuant to ss.
 1143 341.8201-341.842 ~~this act.~~

1144 ~~(12) "Southeast Florida" means the counties of Broward,~~
 1145 ~~Monroe, Miami Dade, Indian River, St. Lucie, Martin, Okeechobee,~~
 1146 ~~and Palm Beach.~~

1147 ~~(13) "Southwest Florida" means the counties of Manatee,~~
 1148 ~~Hardee, DeSoto, Sarasota, Highlands, Charlotte, Glades, Lee,~~

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1149 ~~Hendry, and Collier.~~

1150 ~~(14) "Urban areas" means Central Florida, Northeast~~
 1151 ~~Florida, Northwest Florida, Southeast Florida, and Southwest~~
 1152 ~~Florida.~~

1153 Section 12. Section 341.821, Florida Statutes, is
 1154 repealed.

1155 Section 13. Section 341.822, Florida Statutes, is amended
 1156 to read:

1157 341.822 Powers and duties.—

1158 (1) ~~The enterprise authority created and established by~~
 1159 ~~this act shall locate, plan, design, finance, construct,~~
 1160 ~~maintain, own, operate, administer, and manage the high-speed~~
 1161 ~~rail system in the state.~~

1162 (2) (a) In addition to the powers granted to the
 1163 department, the enterprise has full authority to exercise all
 1164 powers granted to it under this chapter. Powers shall include,
 1165 but are not limited to, the ability to plan, construct,
 1166 maintain, repair, and operate a high-speed rail system, to
 1167 acquire corridors, and to coordinate the development and
 1168 operation of publicly funded passenger rail systems in the
 1169 state. ~~The authority may exercise all powers granted to~~
 1170 ~~corporations under the Florida Business Corporation Act, chapter~~
 1171 ~~607, except the authority may only incur debt in accordance with~~
 1172 ~~levels authorized by the Legislature.~~

1173 (b) It is the express intention of ss. 341.8201-341.842
 1174 that the enterprise be authorized to plan, develop, own,
 1175 purchase, lease, or otherwise acquire, demolish, construct,
 1176 improve, relocate, equip, repair, maintain, operate, and manage

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1177 the high-speed rail system; to expend funds to publicize,
 1178 advertise, and promote the advantages of using the high-speed
 1179 rail system and its facilities; and to cooperate, coordinate,
 1180 partner, and contract with other entities, public and private,
 1181 to accomplish these purposes.

1182 ~~(3) The authority shall have perpetual succession as a~~
 1183 ~~body politic and corporate.~~

1184 (3)(4) The enterprise shall have the authority to employ
 1185 procurement methods available to the department under chapters
 1186 255, 287, 334, and 337, or otherwise in accordance with law. The
 1187 enterprise may also solicit proposals and, with legislative
 1188 approval as evidenced by approval of the project in the
 1189 department's work program, enter into agreements with private
 1190 entities, or consortia thereof, for the building, operation,
 1191 ownership, or financing of the high-speed rail system authority
 1192 ~~is authorized to seek and obtain federal matching funds or any~~
 1193 ~~other funds to fulfill the requirements of this act either~~
 1194 ~~directly or through the Department of Transportation.~~

1195 ~~(4)(5) The authority may employ an executive director of~~
 1196 ~~the enterprise shall appoint staff, who shall be exempt from~~
 1197 ~~part II of chapter 110 as it may require and shall determine the~~
 1198 ~~qualifications and fix the compensation. The authority may~~
 1199 ~~delegate to one or more of its agents or employees such of its~~
 1200 ~~power as it deems necessary to carry out the purposes of this~~
 1201 ~~act, subject always to the supervision and control of the~~
 1202 ~~authority.~~

1203 (5) The powers conferred upon the enterprise under ss.
 1204 341.8201-341.842 shall be in addition and supplemental to the

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1205 existing powers of the department, and these powers shall not be
 1206 construed as repealing any provision of any other law, general
 1207 or local, but shall supersede such other laws that are
 1208 inconsistent with the exercise of the powers provided under ss.
 1209 341.8201-341.842 and provide a complete method for the exercise
 1210 of such powers granted.

1211 (6) Any proposed rail enterprise project or improvement
 1212 shall be developed in accordance with the Florida Transportation
 1213 Plan and the work program under s. 339.135.

1214 Section 14. Section 341.8225, Florida Statutes, is created
 1215 to read:

1216 341.8225 Department of Transportation sole governmental
 1217 entity to acquire, construct, or operate high-speed rail
 1218 projects; exception.—

1219 (1) No governmental entity other than the department may
 1220 acquire, construct, maintain, or operate the high-speed rail
 1221 system except upon specific authorization of the Legislature.

1222 (2) Local governmental entities, as defined in s.
 1223 334.03(14), may negotiate with the department for the design,
 1224 right-of-way acquisition, and construction of any component of
 1225 the high-speed rail system within areas of their respective
 1226 jurisdictions or within counties with which they have interlocal
 1227 agreements.

1228 Section 15. Sections 341.823, 341.824, 341.827, 341.828,
 1229 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, and
 1230 341.835, Florida Statutes, are repealed.

1231 Section 16. Section 341.836, Florida Statutes, is amended
 1232 to read:

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1233 341.836 Associated development.—
 1234 (1) The enterprise authority, alone or as part of a joint
 1235 development, may undertake ~~development of~~ associated
 1236 developments to be a source of revenue for the establishment,
 1237 construction, operation, or maintenance of the high-speed rail
 1238 system. Such associated developments must be ~~associated with a~~
 1239 ~~rail station and have pedestrian ingress to and egress from the~~
 1240 ~~rail station;~~ be consistent, to the extent feasible, with
 1241 applicable local government comprehensive plans and local land
 1242 development regulations, and otherwise be in compliance with ss.
 1243 341.8201-341.842 ~~the provisions of this act.~~

1244 (2) Sections 341.8201-341.842 ~~This act does not~~
 1245 prohibit the enterprise authority, the selected person or
 1246 entity, or a party to a joint venture with the enterprise
 1247 authority or its selected person or entity from obtaining
 1248 approval, pursuant to any other law, for any associated
 1249 development that is reasonably related to the high-speed rail
 1250 system.

1251 Section 17. Section 341.837, Florida Statutes, is
 1252 repealed.

1253 Section 18. Section 341.838, Florida Statutes, is amended
 1254 to read:

1255 341.838 Fares, rates, rents, fees, and charges.—

1256 (1) The enterprise may establish authority ~~is authorized~~
 1257 ~~to fix,~~ revise, charge, and collect fares, rates, rents, fees,
 1258 charges, and revenues for the use of and for the services
 1259 furnished, or to be furnished, by the system and to contract
 1260 with any person, partnership, association, corporation, or other

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1261 body, public or private, in respect thereof. Such fares, rates,
 1262 rents, fees, and charges shall be reviewed annually by the
 1263 enterprise authority and may be adjusted as set forth in the
 1264 contract setting such fares, rates, rents, fees, or charges. The
 1265 funds collected pursuant to this section ~~hereunder~~ shall, with
 1266 any other funds available, be used to pay the cost of ~~all~~
 1267 ~~administrative expenses of the authority, and the cost of~~
 1268 designing, building, operating, financing, and maintaining the
 1269 system and each and every portion thereof, to the extent that
 1270 the payment of such cost has not otherwise been adequately
 1271 provided for.

1272 (2) Fares, rates, rents, fees, and charges established
 1273 ~~fixed,~~ revised, charged, and collected by the enterprise
 1274 pursuant to this section shall not be subject to supervision or
 1275 regulation by any other department, commission, board, body,
 1276 bureau, or agency of this state other than the enterprise
 1277 authority.

1278 Section 19. Section 341.839, Florida Statutes, is amended
 1279 to read:

1280 341.839 Alternate means.—Sections 341.8201-341.842 ~~The~~
 1281 ~~foregoing sections of this act shall be deemed to provide an~~
 1282 additional and alternative method for accomplishing the purposes
 1283 authorized therein, and are ~~shall be regarded as~~ supplemental
 1284 and additional to powers conferred by other laws. Except as
 1285 otherwise expressly provided in ss. 341.8201-341.842 ~~this act,~~
 1286 none of the powers granted to the enterprise authority under ss.
 1287 341.8201-341.842 ~~are the provisions of this act shall be subject~~
 1288 to the supervision or require the approval or consent of any

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1289 municipality or political subdivision or any commission, board,
 1290 body, bureau, or official.

1291 Section 20. Section 341.841, Florida Statutes, is
 1292 repealed.

1293 Section 21. Paragraphs (j) and (m) of subsection (2) of
 1294 section 110.205, Florida Statutes, are amended to read:

1295 110.205 Career service; exemptions.—

1296 (2) EXEMPT POSITIONS.—The exempt positions that are not
 1297 covered by this part include the following:

1298 (j) The appointed secretaries and the State Surgeon
 1299 General, assistant secretaries, deputy secretaries, and deputy
 1300 assistant secretaries of all departments; the executive
 1301 directors, assistant executive directors, deputy executive
 1302 directors, and deputy assistant executive directors of all
 1303 departments; the directors of all divisions and those positions
 1304 determined by the department to have managerial responsibilities
 1305 comparable to such positions, which positions include, but are
 1306 not limited to, program directors, assistant program directors,
 1307 district administrators, deputy district administrators, the
 1308 Director of Central Operations Services of the Department of
 1309 Children and Family Services, the State Transportation
 1310 Development Administrator, State Public Transportation and Modal
 1311 Administrator, district secretaries, district directors of
 1312 transportation development, transportation operations,
 1313 transportation support, and the managers of the offices
 1314 specified in s. 20.23 (4) ~~(3)~~ (b), of the Department of
 1315 Transportation. Unless otherwise fixed by law, the department
 1316 shall set the salary and benefits of these positions in

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1317 accordance with the rules of the Senior Management Service; and
 1318 the county health department directors and county health
 1319 department administrators of the Department of Health.

1320 (m) All assistant division director, deputy division
 1321 director, and bureau chief positions in any department, and
 1322 those positions determined by the department to have managerial
 1323 responsibilities comparable to such positions, which positions
 1324 include, but are not limited to:

1325 1. Positions in the Department of Health and the
 1326 Department of Children and Family Services that are assigned
 1327 primary duties of serving as the superintendent or assistant
 1328 superintendent of an institution.

1329 2. Positions in the Department of Corrections that are
 1330 assigned primary duties of serving as the warden, assistant
 1331 warden, colonel, or major of an institution or that are assigned
 1332 primary duties of serving as the circuit administrator or deputy
 1333 circuit administrator.

1334 3. Positions in the Department of Transportation that are
 1335 assigned primary duties of serving as regional toll managers and
 1336 managers of offices, as defined in s. 20.23(4)~~(3)~~(b) and
 1337 (5)~~(4)~~(c), and captains and majors of the Office of Motor
 1338 Carrier Compliance.

1339 4. Positions in the Department of Environmental Protection
 1340 that are assigned the duty of an Environmental Administrator or
 1341 program administrator.

1342 5. Positions in the Department of Health that are assigned
 1343 the duties of Environmental Administrator, Assistant County
 1344 Health Department Director, and County Health Department

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1345 | Financial Administrator.

1346

1347 | Unless otherwise fixed by law, the department shall set the
1348 | salary and benefits of the positions listed in this paragraph in
1349 | accordance with the rules established for the Selected Exempt
1350 | Service.

1351 | Section 22. Except as otherwise expressly provided in this
1352 | act, this act shall take effect upon becoming a law.