

By Senators Ring, Constantine, Fasano, Gaetz, Gardiner, Lawson,  
and Negron

32-00001A-09B

20092B

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  
7           passenger rail service, evaluate passenger rail  
8           policies, and provide advice and recommendations to  
9           the Legislature on passenger rail operations in the  
10          state; providing for membership and organization of  
11          the commission; authorizing reimbursement for travel  
12          and other expenses of members; prohibiting the  
13          commission and its members from taking part in  
14          operations of the department or a monitored authority;  
15          assigning the commission to the Office of the  
16          Secretary of the department for administrative  
17          purposes; providing that expenses of the commission  
18          shall be approved by the secretary; directing the  
19          department to provide administrative support and  
20          services to the commission; providing for a rail  
21          enterprise in the department to be headed by an  
22          executive director and headquartered in Leon County;  
23          providing that the executive director shall be  
24          appointed by the Secretary of Transportation;  
25          directing the secretary to assign to the executive  
26          director the responsibility for funding, developing,  
27          and operating high-speed and passenger rail systems  
28          under specified provisions and coordinating publicly  
29          funded passenger rail operations; exempting the

32-00001A-09B

20092B

30 enterprise from department policies, procedures, and  
31 standards; providing exceptions; amending s. 201.15,  
32 F.S.; revising allocation of certain moneys in the  
33 State Transportation Trust Fund by increasing the  
34 percentage to be allocated for purposes of the Small  
35 County Outreach Program and providing for an annual  
36 allocation to the Florida Rail Enterprise; amending s.  
37 339.135, F.S.; providing a funding source for  
38 allocations to the South Florida Regional  
39 Transportation Authority under specified provisions;  
40 amending s. 343.58, F.S., relating to the South  
41 Florida Regional Transportation Authority; providing  
42 that funds dedicated by county governments may be used  
43 for certain purposes; providing for allocation of  
44 funds from the State Transportation Trust Fund to the  
45 authority; providing for cessation of the allocation  
46 under certain circumstances; amending s. 341.301,  
47 F.S.; revising the definition of "railroad" or "rail  
48 system" to include a high-speed rail system and  
49 providing definitions for purposes of provisions for  
50 rail programs; amending s. 341.302, F.S.; revising  
51 duties and responsibilities of the department to  
52 develop and implement a rail program; authorizing the  
53 department's rail system plan to include regional  
54 components for certain purposes; revising requirements  
55 for the plan to be updated; requiring a plan status  
56 report to the Legislature; directing the department to  
57 work with local communities to address impacts of  
58 passenger rail implementation, finalize alternative

32-00001A-09B

20092B

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

32-00001A-09B

20092B

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

32-00001A-09B

20092B

117 directing the Governor to certify forward unexpended  
118 funds of the enterprise; providing for use of  
119 unencumbered funds certified forward; amending s.  
120 341.8201, F.S.; revising a short title; providing that  
121 specified provisions may be cited as the "Florida Rail  
122 Enterprise Act"; amending s. 341.8203, F.S.; providing  
123 definitions for purposes of such act; amending s.  
124 341.822, F.S.; providing powers and duties of the  
125 enterprise in addition to the powers and duties of the  
126 department; authorizing the enterprise to plan,  
127 construct, maintain, repair, operate, and promote a  
128 high-speed rail system, to acquire corridors, and to  
129 coordinate the development and operation of publicly  
130 funded passenger rail systems; providing intent;  
131 authorizing the enterprise to cooperate, coordinate,  
132 partner, and contract with other entities to  
133 accomplish its purposes; authorizing the enterprise to  
134 employ certain procurement methods; authorizing the  
135 executive director to employ staff; providing that  
136 such staff are exempt from specified Career Service  
137 System provisions; providing for construction;  
138 providing that provisions for powers of the enterprise  
139 supersede other laws that are inconsistent; requiring  
140 rail enterprise projects or improvements to be  
141 developed in accordance with the Florida  
142 Transportation Plan and the department's work program;  
143 creating s. 341.8225, F.S.; providing that only the  
144 department may acquire, construct, maintain, or  
145 operate the high-speed rail system; providing for an

32-00001A-09B

20092B

146 exception with legislative authorization; authorizing  
147 local governmental entities to negotiate with the  
148 department for the design, right-of-way acquisition,  
149 and construction of components of the system; amending  
150 s. 341.836, F.S.; providing for the enterprise to  
151 undertake associated developments for certain  
152 purposes; amending s. 341.838, F.S.; authorizing the  
153 enterprise to establish and collect fares, rates, and  
154 other charges for services provided by the system;  
155 authorizing the enterprise to contract with other  
156 entities; directing the enterprise to review the  
157 fares, rates, and other charges annually; providing  
158 for use of moneys collected; providing that such  
159 fares, rates, and other charges are not subject to  
160 supervision or regulation by other entities; amending  
161 s. 341.839, F.S.; providing for construction of  
162 provisions granting powers to the enterprise; removing  
163 provisions relating to the Florida High-Speed Rail  
164 Authority; repealing ss. 341.8202, 341.821, 341.823,  
165 341.824, 341.827, 341.828, 341.829, 341.830, 341.831,  
166 341.832, 341.833, 341.834, 341.835, 341.837, and  
167 341.841, F.S., relating to the Florida High-Speed Rail  
168 Authority, legislative findings and intent, criteria  
169 for assessment and recommendations, technical,  
170 scientific, or other assistance, service areas,  
171 segment designation, permitting, conflict prevention,  
172 mitigation, and resolution, procurement,  
173 prequalification, request for qualifications, request  
174 for proposals, award of contract, acquisition of

32-00001A-09B

20092B

175 property, rights-of-way, and disposal of land, payment  
176 of expenses, and reports and audits; amending s.  
177 110.205, F.S.; conforming cross-references; providing  
178 effective dates.

179

180 Be It Enacted by the Legislature of the State of Florida:

181

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

187 20.23 Department of Transportation.—There is created a  
188 Department of Transportation which shall be a decentralized  
189 agency.

190 (2)

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

192 1. Recommend major transportation policies for the  
193 Governor's approval, and assure that approved policies and any  
194 revisions thereto are properly executed.

195 2. Periodically review the status of the state  
196 transportation system including highway, transit, rail, seaport,  
197 intermodal development, and aviation components of the system  
198 and recommend improvements therein to the Governor and the  
199 Legislature.

200 3. Perform an in-depth evaluation of the annual department  
201 budget request, the Florida Transportation Plan, and the  
202 tentative work program for compliance with all applicable laws  
203 and established departmental policies. Except as specifically

32-00001A-09B

20092B

204 provided in s. 339.135(4)(c)2., (d), and (f), the commission may  
205 not consider individual construction projects, but shall  
206 consider methods of accomplishing the goals of the department in  
207 the most effective, efficient, and businesslike manner.

208 4. Monitor the financial status of the department on a  
209 regular basis to assure that the department is managing revenue  
210 and bond proceeds responsibly and in accordance with law and  
211 established policy.

212 5. Monitor on at least a quarterly basis, the efficiency,  
213 productivity, and management of the department, using  
214 performance and production standards developed by the commission  
215 pursuant to s. 334.045.

216 6. Perform an in-depth evaluation of the factors causing  
217 disruption of project schedules in the adopted work program and  
218 recommend to the Legislature and the Governor methods to  
219 eliminate or reduce the disruptive effects of these factors.

220 7. Recommend to the Governor and the Legislature  
221 improvements to the department's organization in order to  
222 streamline and optimize the efficiency of the department. In  
223 reviewing the department's organization, the commission shall  
224 determine if the current district organizational structure is  
225 responsive to Florida's changing economic and demographic  
226 development patterns. The initial report by the commission must  
227 be delivered to the Governor and Legislature by December 15,  
228 2000, and each year thereafter, as appropriate. The commission  
229 may retain such experts as are reasonably necessary to  
230 effectuate this subparagraph, and the department shall pay the  
231 expenses of such experts.

232 8. Monitor the efficiency, productivity, and management of

32-00001A-09B

20092B\_\_

233 the authorities created under chapters ~~343~~, 348~~7~~, and 349,  
234 including any authority formed using the provisions of part I of  
235 chapter 348 and any authority formed under chapter 343 which is  
236 not monitored under subsection (3). The commission shall also  
237 conduct periodic reviews of each authority's operations and  
238 budget, acquisition of property, management of revenue and bond  
239 proceeds, and compliance with applicable laws and generally  
240 accepted accounting principles.

241 (3) There is created the Florida Statewide Passenger Rail  
242 Commission.

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

245 a. Three members shall be appointed by the Governor, one of  
246 whom must have a background in the area of environmental  
247 concerns, one of whom must have a legislative background, and  
248 one of whom must have a general business background.

249 b. Three members shall be appointed by the President of the  
250 Senate, one of whom must have a background in civil engineering,  
251 one of whom must have a background in transportation  
252 construction, and one of whom must have a general business  
253 background.

254 c. Three members shall be appointed by the Speaker of the  
255 House of Representatives, one of whom must have a legal  
256 background, one of whom must have a background in financial  
257 matters, and one of whom must have a general business  
258 background.

259 2. The initial term of each member appointed by the  
260 Governor shall be for 4 years. The initial term of each member  
261 appointed by the President of the Senate shall be for 3 years.

32-00001A-09B

20092B

262 The initial term of each member appointed by the Speaker of the  
263 House of Representatives shall be for 2 years. Succeeding terms  
264 for all members shall be for 4 years.

265 3. A vacancy occurring during a term shall be filled by the  
266 respective appointing authority in the same manner as the  
267 original appointment and only for the balance of the unexpired  
268 term. An appointment to fill a vacancy shall be made within 60  
269 days after the occurrence of the vacancy.

270 4. The commission shall elect one of its members as chair  
271 of the commission. The chair shall hold office at the will of  
272 the commission. Five members of the commission shall constitute  
273 a quorum, and the vote of five members shall be necessary for  
274 any action taken by the commission. The commission may meet upon  
275 the constitution of a quorum. A vacancy in the commission does  
276 not impair the right of a quorum to exercise all rights and  
277 perform all duties of the commission.

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

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

282 1. Monitoring the efficiency, productivity, and management  
283 of all publicly funded passenger rail systems in the state,  
284 including, but not limited to, any authority created under  
285 chapter 343, chapter 349, or chapter 163 if the authority  
286 receives public funds for the provision of passenger rail  
287 service. The commission shall advise each monitored authority of  
288 its findings and recommendations. The commission shall also  
289 conduct periodic reviews of each monitored authority's passenger  
290 rail and associated transit operations and budget, acquisition

32-00001A-09B

20092B

291 of property, management of revenue and bond proceeds, and  
292 compliance with applicable laws and generally accepted  
293 accounting principles. The commission may seek the assistance of  
294 the Auditor General in conducting such reviews and shall report  
295 the findings of such reviews to the Legislature. This paragraph  
296 does not preclude the Florida Transportation Commission from  
297 conducting its performance and work program monitoring  
298 responsibilities.

299 2. Advising the department on policies and strategies used  
300 in planning, designing, building, operating, financing, and  
301 maintaining a coordinated statewide system of passenger rail  
302 services.

303 3. Evaluating passenger rail policies and providing advice  
304 and recommendations to the Legislature on passenger rail  
305 operations in the state.

306 (c) The commission or a member of the commission may not  
307 enter into the day-to-day operation of the department or a  
308 monitored authority and is specifically prohibited from taking  
309 part in:

310 1. The awarding of contracts.

311 2. The selection of a consultant or contractor or the  
312 prequalification of any individual consultant or contractor.

313 However, the commission may recommend to the secretary standards  
314 and policies governing the procedure for selection and  
315 prequalification of consultants and contractors.

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

317 4. The specific location of a transportation facility.

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

319 6. The employment, promotion, demotion, suspension,

32-00001A-09B

20092B

320 transfer, or discharge of any department personnel.

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

323 (d) The commission is assigned to the Office of the  
324 Secretary of the Department of Transportation for administrative  
325 and fiscal accountability purposes, but it shall otherwise  
326 function independently of the control and direction of the  
327 department except that reasonable expenses of the commission  
328 shall be subject to approval by the Secretary of Transportation.  
329 The department shall provide administrative support and service  
330 to the commission.

331 (5)(4)(a) The operations of the department shall be  
332 organized into seven districts, each headed by a district  
333 secretary, and a turnpike enterprise and a rail enterprise, each  
334 enterprise headed by an executive director. The district  
335 secretaries and the ~~turnpike~~ executive directors ~~director~~ shall  
336 be registered professional engineers in accordance with the  
337 provisions of chapter 471 or, in lieu of professional engineer  
338 registration, a district secretary or ~~turnpike~~ executive  
339 director may hold an advanced degree in an appropriate related  
340 discipline, such as a Master of Business Administration. The  
341 headquarters of the districts shall be located in Polk,  
342 Columbia, Washington, Broward, Volusia, Miami-Dade, and  
343 Hillsborough Counties. The headquarters of the turnpike  
344 enterprise shall be located in Orange County. The headquarters  
345 of the rail enterprise shall be located in Leon County. In order  
346 to provide for efficient operations and to expedite the  
347 decisionmaking process, the department shall provide for maximum  
348 decentralization to the districts.

32-00001A-09B

20092B

349 (b) Each district secretary may appoint up to three  
350 district directors or, until July 1, 2005, each district  
351 secretary may appoint up to four district directors. These  
352 positions are exempt from part II of chapter 110.

353 (c) Within each district, offices shall be established for  
354 managing major functional responsibilities of the department.  
355 The heads of these offices shall be exempt from part II of  
356 chapter 110.

357 (d) The district director for the Fort Myers Urban Office  
358 of the Department of Transportation is responsible for  
359 developing the 5-year Transportation Plan for Charlotte,  
360 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort  
361 Myers Urban Office also is responsible for providing policy,  
362 direction, local government coordination, and planning for those  
363 counties.

364 (e)1. The responsibility for the turnpike system shall be  
365 delegated by the secretary to the executive director of the  
366 turnpike enterprise, who shall serve at the pleasure of the  
367 secretary. The executive director shall report directly to the  
368 secretary, and the turnpike enterprise shall operate pursuant to  
369 ss. 338.22-338.241.

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

32-00001A-09B

20092B

378       (f)1. The responsibility for developing and operating the  
379 high-speed and passenger rail systems established in chapter  
380 341, directing funding for passenger rail systems under s.  
381 341.303, and coordinating publicly funded passenger rail  
382 operations in the state, including freight rail interoperability  
383 issues, shall be delegated by the secretary to the executive  
384 director of the rail enterprise, who shall serve at the pleasure  
385 of the secretary. The executive director shall report directly  
386 to the secretary, and the rail enterprise shall operate pursuant  
387 to ss. 341.8201-341.842.

388       2. To facilitate the most efficient and effective  
389 management of the rail enterprise, including the use of best  
390 business practices employed by the private sector, the rail  
391 enterprise, except as provided in s. 287.055, shall be exempt  
392 from departmental policies, procedures, and standards, subject  
393 to the secretary having the authority to apply any such  
394 policies, procedures, and standards to the rail enterprise from  
395 time to time as deemed appropriate.

396       Section 2. Paragraph (c) of subsection (1) of section  
397 201.15, Florida Statutes, as amended by chapters 2009-21 and  
398 2009-68, Laws of Florida, is amended to read:

399       201.15 Distribution of taxes collected.—All taxes collected  
400 under this chapter are subject to the service charge imposed in  
401 s. 215.20(1). Prior to distribution under this section, the  
402 Department of Revenue shall deduct amounts necessary to pay the  
403 costs of the collection and enforcement of the tax levied by  
404 this chapter. Such costs and the service charge may not be  
405 levied against any portion of taxes pledged to debt service on  
406 bonds to the extent that the costs and service charge are

32-00001A-09B

20092B

407 required to pay any amounts relating to the bonds. After  
408 distributions are made pursuant to subsection (1), all of the  
409 costs of the collection and enforcement of the tax levied by  
410 this chapter and the service charge shall be available and  
411 transferred to the extent necessary to pay debt service and any  
412 other amounts payable with respect to bonds authorized before  
413 January 1, 2010, secured by revenues distributed pursuant to  
414 subsection (1). All taxes remaining after deduction of costs and  
415 the service charge shall be distributed as follows:

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

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

421 1. The State Transportation Trust Fund in the Department of  
422 Transportation in the amount of the lesser of 38.2 percent of  
423 the remainder or \$541.75 million in each fiscal year, to be used  
424 for the following specified purposes, notwithstanding any other  
425 law to the contrary:

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

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

433 c. For the purposes of the Strategic Intermodal System  
434 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent  
435 of these funds after allocating for the New Starts Transit

32-00001A-09B

20092B

436 Program described in sub-subparagraph a. and the Small County  
437 Outreach Program described in sub-subparagraph b.; and  
438 d. For the purposes of the Transportation Regional  
439 Incentive Program specified in s. 339.2819, 25 percent of these  
440 funds after allocating for the New Starts Transit Program  
441 described in sub-subparagraph a. and the Small County Outreach  
442 Program described in sub-subparagraph b. Effective July 1, 2014,  
443 the first \$60 million of the funds allocated pursuant to this  
444 sub-subparagraph shall be allocated annually to the Florida Rail  
445 Enterprise for the purposes established in s. 341.303(5).

446 2. The Grants and Donations Trust Fund in the Department of  
447 Community Affairs in the amount of the lesser of .23 percent of  
448 the remainder or \$3.25 million in each fiscal year, with 92  
449 percent to be used to fund technical assistance to local  
450 governments and school boards on the requirements and  
451 implementation of this act and the remaining amount to be used  
452 to fund the Century Commission established in s. 163.3247.

453 3. The Ecosystem Management and Restoration Trust Fund in  
454 the amount of the lesser of 2.12 percent of the remainder or \$30  
455 million in each fiscal year, to be used for the preservation and  
456 repair of the state's beaches as provided in ss. 161.091-  
457 161.212.

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

462  
463 Moneys distributed pursuant to this paragraph may not be pledged  
464 for debt service unless such pledge is approved by referendum of

32-00001A-09B

20092B

465 the voters.

466 Section 3. Paragraph (a) of subsection (4) of section  
467 339.135, Florida Statutes, is amended to read:

468 339.135 Work program; legislative budget request;  
469 definitions; preparation, adoption, execution, and amendment.—

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

471 (a)1. To assure that no district or county is penalized for  
472 local efforts to improve the State Highway System, the  
473 department shall, for the purpose of developing a tentative work  
474 program, allocate funds for new construction to the districts,  
475 except for the turnpike enterprise, based on equal parts of  
476 population and motor fuel tax collections. Funds for  
477 resurfacing, bridge repair and rehabilitation, bridge fender  
478 system construction or repair, public transit projects except  
479 public transit block grants as provided in s. 341.052, and other  
480 programs with quantitative needs assessments shall be allocated  
481 based on the results of these assessments. The department may  
482 not transfer any funds allocated to a district under this  
483 paragraph to any other district except as provided in subsection  
484 (7). Funds for public transit block grants shall be allocated to  
485 the districts pursuant to s. 341.052. Funds for the intercity  
486 bus program provided for under s. 5311(f) of the federal  
487 nonurbanized area formula program shall be administered and  
488 allocated directly to eligible bus carriers as defined in s.  
489 341.031(12) at the state level rather than the district. In  
490 order to provide state funding to support the intercity bus  
491 program provided for under provisions of the federal 5311(f)  
492 program, the department shall allocate an amount equal to the  
493 federal share of the 5311(f) program from amounts calculated

32-00001A-09B

20092B

494 pursuant to s. 206.46(3).

495 2. Notwithstanding the provisions of subparagraph 1., the  
496 department shall allocate at least 50 percent of any new  
497 discretionary highway capacity funds to the Florida Strategic  
498 Intermodal System created pursuant to s. 339.61. Any remaining  
499 new discretionary highway capacity funds shall be allocated to  
500 the districts for new construction as provided in subparagraph  
501 1. For the purposes of this subparagraph, the term "new  
502 discretionary highway capacity funds" means any funds available  
503 to the department above the prior year funding level for  
504 capacity improvements, which the department has the discretion  
505 to allocate to highway projects.

506 3. Notwithstanding subparagraph 1. and ss. 206.46(3),  
507 334.044(26), and 339.2819(3), and for the 2009-2010 fiscal year  
508 only, the department shall reduce work program levels to balance  
509 the finance plan to the revised funding levels resulting from  
510 any reduction in the 2009-2010 General Appropriations Act. This  
511 subparagraph expires July 1, 2010.

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

521 5. Notwithstanding subparagraphs 1. and 2. and ss.  
522 206.46(3) and 334.044(26), and for fiscal years 2009-2010

32-00001A-09B

20092B

523 through 2013-2014 only, the department shall allocate the first  
524 proceeds of the increased revenues to be deposited into the  
525 State Transportation Trust Fund estimated by the November 2009  
526 Revenue Estimating Conference to provide for the transfer of  
527 funds included in s. 343.58(4). The transfer of funds included  
528 in s. 343.58(4) may not negatively impact projects included in  
529 fiscal years 2009-2010 through 2013-2014 of the work program as  
530 of July 1, 2009, as amended pursuant to subsection (7). This  
531 subparagraph expires July 1, 2014.

532 Section 4. Section 343.58, Florida Statutes, is amended to  
533 read:

534 343.58 County funding for the South Florida Regional  
535 Transportation Authority.—

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

542 (2) At least \$45 million of a state-authorized, local  
543 option recurring funding source available to Broward, Miami-  
544 Dade, and Palm Beach counties is directed to the authority to  
545 fund its capital, operating, and maintenance expenses. The  
546 funding source shall be dedicated to the authority only if  
547 Broward, Miami-Dade, and Palm Beach counties impose the local  
548 option funding source.

549 (3) In addition, each county shall continue to annually  
550 fund the operations of the South Florida Regional Transportation  
551 Authority in an amount not less than \$1.565 million. Revenue

32-00001A-09B

20092B

552 raised pursuant to this subsection shall also be considered a  
553 dedicated funding source.

554 (4) Notwithstanding any other provision of law to the  
555 contrary and effective July 1, 2010, the department shall  
556 transfer annually from the State Transportation Trust Fund to  
557 the South Florida Regional Transportation Authority the  
558 following:

559 (a)1. If the authority becomes responsible for operating,  
560 maintaining, and dispatching the South Florida Rail Corridor,  
561 \$15 million from the State Transportation Trust Fund to the  
562 South Florida Regional Transportation Authority for operations,  
563 maintenance, and dispatch and an amount no less than the work  
564 program commitments for fiscal year 2010-2011, as of July 1,  
565 2009, for operating assistance to the authority and corridor  
566 track maintenance and contract maintenance for the South Florida  
567 Rail Corridor; or

568 2. If the authority does not become responsible for  
569 operating, maintaining, and dispatching the South Florida Rail  
570 Corridor, \$13.3 million from the State Transportation Trust Fund  
571 to the South Florida Regional Transportation Authority for  
572 operations and maintenance, and an amount no less than the work  
573 program commitments for fiscal year 2010-2011, as of July 1,  
574 2009, for operating assistance to the authority.

575 (b) Funding required by this subsection may not be provided  
576 from the funds dedicated to the Florida Rail Enterprise under s.  
577 201.15(1)(c)1.d.

578 (5)~~(4)~~ The current funding obligations under subsections  
579 (1), ~~and~~ (3), and (4) shall cease upon commencement of the  
580 collection of funding from the funding source under subsection

32-00001A-09B

20092B\_\_

581 (2). If the funding under subsection (2) is discontinued for any  
582 reason, the funding obligations under subsections (1) and (3)  
583 shall resume when collection from the funding source under  
584 subsection (2) ceases. Payment by the counties shall be on a pro  
585 rata basis the first year following cessation of the funding  
586 under subsection (2). The authority shall refund a pro rata  
587 share of the payments for the current fiscal year made pursuant  
588 to the current funding obligations under subsections (1) and (3)  
589 as soon as reasonably practicable after it begins to receive  
590 funds under subsection (2). If, by December 31, 2015, the South  
591 Florida Regional Transportation Authority has not received  
592 federal matching funds based upon the dedication of funds under  
593 subsection (1), subsection (1) shall be repealed.

594 Section 5. Section 341.301, Florida Statutes, is amended to  
595 read:

596 341.301 Definitions; ss. 341.302-341.303 ~~ss. 341.302 and~~  
597 ~~341.303.~~-As used in ss. 341.302-341.303 ~~ss. 341.302 and 341.303,~~  
598 the term:

599 (1) "Ancillary development" includes any lessee or licensee  
600 of the department, including other governmental entities,  
601 vendors, retailers, restaurateurs, or contract service  
602 providers, within a department-owned rail corridor, except for  
603 providers of commuter rail service, intercity rail passenger  
604 service, or freight rail service. The term includes air and  
605 subsurface rights, services that provide a local area network  
606 for devices for transmitting data over wireless networks, and  
607 advertising.

608 (2)~~(1)~~ "Branch line continuance project" means a project  
609 that involves branch line rehabilitation, new connecting track,

32-00001A-09B

20092B\_\_

610 rail banking, and other similar types of projects, including  
611 those specifically identified in the federal Railroad  
612 Revitalization and Regulatory Reform Act of 1976, and subsequent  
613 amendments to that act.

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

617 (a) On board trains, locomotives, rail cars, or rail  
618 equipment employed in commuter rail service or entraining  
619 thereon and detraining therefrom;

620 (b) On or about the rail corridor for any purpose related  
621 to the commuter rail service, including parking, inquiring about  
622 commuter rail service, or purchasing tickets therefor, and  
623 coming to, waiting for, leaving from, or observing trains,  
624 locomotives, rail cars, or rail equipment; or

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

627 (4) "Commuter rail service" means the transportation of  
628 commuter rail passengers and other passengers by rail pursuant  
629 to a rail program provided by the department or any other  
630 governmental entity.

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

634 (6)~~(2)~~ "Intercity rail transportation system" means the  
635 network of railroad facilities used or available for interstate  
636 and intrastate passenger and freight operations by railroads,  
637 whether or not on a schedule or whether or not restricted.

638 (7) "Limited covered accident" means a collision directly

32-00001A-09B

20092B

639 between the trains, locomotives, rail cars, or rail equipment of  
640 the department and the freight rail operator only, where the  
641 collision is caused by or arising from the willful misconduct of  
642 the freight rail operator or its subsidiaries, agents,  
643 licensees, employees, officers, or directors or where punitive  
644 damages or exemplary damages are awarded due to the conduct of  
645 the freight rail operator or its subsidiaries, agents,  
646 licensees, employees, officers, or directors.

647 (8) "Rail corridor" means a linear contiguous strip of real  
648 property that is used for rail service. The term includes the  
649 corridor and structures essential to railroad operations,  
650 including the land, structures, improvements, rights-of-way,  
651 easements, rail lines, rail beds, guideway structures, switches,  
652 yards, parking facilities, power relays, switching houses, rail  
653 stations, any ancillary development, and any other facilities or  
654 equipment used for the purposes of construction, operation, or  
655 maintenance of a railroad that provides rail service.

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

658 (a) For any purpose related to any ancillary development  
659 thereon; or

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

662 (10)-(3) "Rail programs" means those programs administered  
663 by the state or other governmental entities which involve  
664 projects affecting the movement of people or goods by rail lines  
665 that have been or will be constructed to serve freight or  
666 passenger markets within a city or between cities.

667 (11)-(4) "Rail service development project" means a project

32-00001A-09B

20092B

668 undertaken by a public agency to determine whether a new or  
669 innovative technique or measure can be utilized to improve or  
670 expand rail service. The duration of the project funding shall  
671 be limited according to the type of project and in no case shall  
672 exceed 3 years. Rail service development projects include those  
673 projects and other actions undertaken to enhance railroad  
674 operating efficiency or increased rail service, including  
675 measures that result in improved speed profiles, operations, or  
676 technological applications that lead to reductions in operating  
677 costs and increases in productivity or service.

678 (12)~~(5)~~ "Railroad" or "rail system" means any common  
679 carrier fixed-guideway transportation system such as the  
680 conventional steel rail-supported, steel-wheeled system as well  
681 as the high-speed rail system defined in s. 341.8203. ~~The term~~  
682 ~~does not include a high-speed rail line developed by the~~  
683 ~~Department of Transportation pursuant to ss. 341.8201-341.842.~~

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

695 (14) "Railroad operations" means the use of the rail  
696 corridor to conduct commuter rail service, intercity rail

32-00001A-09B

20092B\_\_

697 passenger service, or freight rail service.

698 (15)-(7) "Train" means any locomotive engine that is powered  
699 by diesel fuel, electricity, or other means, with or without  
700 cars coupled thereto, and operated upon a railroad track or any  
701 other form of fixed guideway, except that the term does not  
702 include a light rail vehicle such as a streetcar or people  
703 mover.

704 Section 6. Section 341.302, Florida Statutes, is amended to  
705 read:

706 341.302 Rail program;7 duties and responsibilities of the  
707 department.—The department, in conjunction with other  
708 governmental entities, including the rail enterprise units and  
709 the private sector, shall develop and implement a rail program  
710 of statewide application designed to ensure the proper  
711 maintenance, safety, revitalization, and expansion of the rail  
712 system to assure its continued and increased availability to  
713 respond to statewide mobility needs. Within the resources  
714 provided pursuant to chapter 216, and as authorized under  
715 federal law Title 49 C.F.R. part 212, the department shall:

716 (1) Provide the overall leadership, coordination, and  
717 financial and technical assistance necessary to assure the  
718 effective responses of the state's rail system to current and  
719 anticipated mobility needs.

720 (2) Promote and facilitate the implementation of advanced  
721 rail systems, including high-speed rail and magnetic levitation  
722 systems.

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

725 (a) The plan may contain detailed regional components,

32-00001A-09B

20092B

726 consistent with regional transportation plans, as needed to  
727 ensure connectivity within the state's regions, and it shall be  
728 consistent with the Florida Transportation Plan developed  
729 pursuant to s. 339.155. The rail system plan shall include an  
730 identification of priorities, programs, and funding levels  
731 required to meet statewide and regional needs. The rail system  
732 plan shall be developed in a manner that will assure the maximum  
733 use of existing facilities and the optimum integration and  
734 coordination of the various modes of transportation, public and  
735 private, in the most cost-effective manner possible. The rail  
736 system plan shall be updated no later than January 1, 2011, and  
737 at least every 5 ~~2~~ years thereafter, and include plans for both  
738 passenger rail service and freight rail service, accompanied by  
739 a report to the Legislature regarding the status of the plan.

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

743 1. Work closely with all affected communities along an  
744 impacted freight rail corridor to identify and address  
745 anticipated impacts associated with an increase in freight rail  
746 traffic due to implementation of passenger rail.

747 2. In coordination with the affected local governments and  
748 CSX Transportation, Inc., finalize all viable alternatives from  
749 the department's Rail Traffic Evaluation Study to identify and  
750 develop an alternative route for through freight rail traffic  
751 moving through Central Florida, including the counties of Polk  
752 and Hillsborough, which would address, to the extent  
753 practicable, the effects of commuter rail.

754 3. Provide technical assistance to a coalition of local

32-00001A-09B

20092B

755 governments in Central Florida, including the counties of  
756 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,  
757 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,  
758 Sumter, and Volusia, and the municipalities within those  
759 counties, to develop a regional rail system plan that addresses  
760 passenger and freight opportunities in the region, is consistent  
761 with the Florida Rail System Plan, and incorporates appropriate  
762 elements of the Tampa Bay Area Regional Authority Master Plan,  
763 the Metroplan Orlando Regional Transit System Concept Plan,  
764 including the SunRail project, and the Florida Department of  
765 Transportation Alternate Rail Traffic Evaluation.

766 (4) As part of the work program of the department,  
767 formulate a specific program of projects and financing to  
768 respond to identified railroad needs.

769 (5) Provide technical and financial assistance to units of  
770 local government to address identified rail transportation  
771 needs.

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

775 (7) Develop and administer state standards concerning the  
776 safety and performance of rail systems, hazardous material  
777 handling, and operations. Such standards shall be developed  
778 jointly with representatives of affected rail systems, with full  
779 consideration given to nationwide industry norms, and shall  
780 define the minimum acceptable standards for safety and  
781 performance.

782 (8) Conduct, at a minimum, inspections of track and rolling  
783 stock; train signals and related equipment; hazardous materials

32-00001A-09B

20092B

784 transportation, including the loading, unloading, and labeling  
785 of hazardous materials at shippers', receivers', and transfer  
786 points; and train operating practices to determine adherence to  
787 state and federal standards. Department personnel may enforce  
788 any safety regulation issued under the Federal Government's  
789 preemptive authority over interstate commerce.

790 (9) Assess penalties, in accordance with the applicable  
791 federal regulations, for the failure to adhere to the state  
792 standards.

793 (10) Administer rail operating and construction programs,  
794 which programs shall include the regulation of maximum train  
795 operating speeds, the opening and closing of public grade  
796 crossings, the construction and rehabilitation of public grade  
797 crossings, and the installation of traffic control devices at  
798 public grade crossings, the administering of the programs by the  
799 department including participation in the cost of the programs.

800 (11) Coordinate and facilitate the relocation of railroads  
801 from congested urban areas to nonurban areas when relocation has  
802 been determined feasible and desirable from the standpoint of  
803 safety, operational efficiency, and economics.

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

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

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

811 (b) The cost of providing such service does not exceed the  
812 sum of revenues from fares charged to users, services purchased

32-00001A-09B

20092B\_\_

813 by other public agencies, local fund participation, and specific  
814 legislative appropriation for this purpose; and

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

817  
818 The department may own, lease, and otherwise encumber  
819 facilities, equipment, and appurtenances thereto, as necessary  
820 to provide new rail services; or the department may provide such  
821 service by contracts with privately owned service providers.

822 (14) Furnish required emergency rail transportation service  
823 if no other private or public rail transportation operation is  
824 available to supply the required service and such service is  
825 clearly in the best interest of the people in the communities  
826 being served. Such emergency service may be furnished through  
827 contractual arrangement, actual operation of state-owned  
828 equipment and facilities, or any other means determined  
829 appropriate by the secretary.

830 (15) Assist in the development and implementation of  
831 marketing programs for rail services and of information systems  
832 directed toward assisting rail systems users.

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

836 (17) In conjunction with the acquisition, ownership,  
837 construction, operation, maintenance, and management of a rail  
838 corridor, have the authority to:

839 (a) Assume the obligation by contract to forever protect,  
840 defend, indemnify, and hold harmless the freight rail operator,  
841 or its successors, from whom the department has acquired a real

32-00001A-09B

20092B

842 property interest in the rail corridor, and that freight rail  
843 operator's officers, agents, and employees, from and against any  
844 liability, cost, and expense, including, but not limited to,  
845 commuter rail passengers and rail corridor invitees in the rail  
846 corridor, regardless of whether the loss, damage, destruction,  
847 injury, or death giving rise to any such liability, cost, or  
848 expense is caused in whole or in part, and to whatever nature or  
849 degree, by the fault, failure, negligence, misconduct,  
850 nonfeasance, or misfeasance of such freight rail operator, its  
851 successors, or its officers, agents, and employees, or any other  
852 person or persons whomsoever, provided that such assumption of  
853 liability of the department by contract shall not in any  
854 instance exceed the following parameters of allocation of risk:  
855 1. The department may be solely responsible for any loss,  
856 injury, or damage to commuter rail passengers, or rail corridor  
857 invitees, or trespassers, regardless of circumstances or cause,  
858 subject to subparagraphs 2., 3., 4., 5., and 6.  
859 2. In the event of a limited covered accident, the  
860 authority of the department to protect, defend and indemnify the  
861 freight operator for all liability, cost and expense, including  
862 punitive or exemplary damages, in excess of the deductible or  
863 self-insurance retention fund established under paragraph (b)  
864 and actually in force at the time of the limited covered  
865 accident exists only if the freight operator agrees, with  
866 respect to the limited covered accident, to protect, defend, and  
867 indemnify the department for the amount of the deductible or  
868 self-insurance retention fund established under paragraph (b)  
869 and actually in force at the time of the limited covered  
870 accident.

32-00001A-09B

20092B

871 3. When only one train is involved in an incident, the  
872 department may be solely responsible for any loss, injury, or  
873 damage if the train is a department train or other train  
874 pursuant to subparagraph 4., but only if when an incident occurs  
875 with only a freight train involved, including incidents with  
876 trespassers or at grade crossings, the freight rail operator is  
877 solely responsible for any loss, injury, or damage, except for  
878 commuter rail passengers and rail corridor invitees.

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

897 5. When more than one train is involved in an incident:  
898 a. If only a department train and freight rail operator's  
899 train, or only an other train as described in subparagraph 4.

32-00001A-09B

20092B

900 and a freight rail operator's train, are involved in an  
901 incident, the department may be responsible for its property and  
902 all of its people, all commuter rail passengers, rail corridor  
903 invitees, but only if the freight rail operator is responsible  
904 for its property and all of its people, and the department and  
905 the freight rail operator each share one-half responsibility as  
906 to trespassers or third parties outside the rail corridor who  
907 incur loss, injury, or damage as a result of the incident.

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

925 6. Any such contractual duty to protect, defend, indemnify,  
926 and hold harmless such a freight rail operator shall expressly  
927 include a specific cap on the amount of the contractual duty,  
928 which amount shall not exceed \$200 million without prior

32-00001A-09B

20092B

929 legislative approval, and the department to purchase liability  
930 insurance and establish a self-insurance retention fund in the  
931 amount of the specific cap established under this subparagraph,  
932 provided that:

933 a. No such contractual duty shall in any case be effective  
934 nor otherwise extend the department's liability in scope and  
935 effect beyond the contractual liability insurance and self-  
936 insurance retention fund required pursuant to this paragraph;  
937 and

938 b. The freight rail operator's compensation to the  
939 department for future use of the department's rail corridor  
940 shall include a monetary contribution to the cost of such  
941 liability coverage for the sole benefit of the freight rail  
942 operator.

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

32-00001A-09B

20092B

958 ownership, operation, maintenance, and management of a rail  
959 corridor.

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

962  
963 Neither the assumption by contract to protect, defend,  
964 indemnify, and hold harmless; the purchase of insurance; nor the  
965 establishment of a self-insurance retention fund shall be deemed  
966 to be a waiver of any defense of sovereign immunity for torts  
967 nor deemed to increase the limits of the department's or the  
968 governmental entity's liability for torts as provided in s.  
969 768.28. The requirements of s. 287.022(1) shall not apply to the  
970 purchase of any insurance under this subsection. The provisions  
971 of this subsection shall apply and inure fully as to any other  
972 governmental entity providing commuter rail service and  
973 constructing, operating, maintaining, or managing a rail  
974 corridor on publicly owned right-of-way under contract by the  
975 governmental entity with the department or a governmental entity  
976 designated by the department. Notwithstanding any law to the  
977 contrary, procurement for the construction, operation,  
978 maintenance, and management of any rail corridor described in  
979 this subsection, whether by the department, a governmental  
980 entity under contract with the department, or a governmental  
981 entity designated by the department, shall be pursuant to s.  
982 287.057 and shall include, but not be limited to, criteria for  
983 the consideration of qualifications, technical aspects of the  
984 proposal, and price. Further, any such contract for design-build  
985 shall be procured pursuant to the criteria in s. 337.11(7).

986 (18) ~~(17)~~ Exercise such other functions, powers, and duties

32-00001A-09B

20092B\_\_

987 in connection with the rail system plan as are necessary to  
 988 develop a safe, efficient, and effective statewide  
 989 transportation system.

990 Section 7. The Department of Transportation may complete an  
 991 escrowed closing on the pending Central Florida Rail Corridor  
 992 acquisition; however, the drawdown of such escrowed closing  
 993 shall not occur unless and until final Federal Transit  
 994 Administration full-funding grant agreement approval is obtained  
 995 for the proposed Central Florida Commuter Rail Transit Project  
 996 Initial Operating Segment.

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

1000 341.303 Funding authorization and appropriations;  
 1001 eligibility and participation.—

1002 (4) FUND PARTICIPATION; OPERATING COSTS SERVICE  
 1003 DEVELOPMENT.—

1004 (a) The department is authorized to fund up to 100 ~~50~~  
 1005 percent of the net operating costs of any eligible intercity or  
 1006 commuter rail system for up to 7 years, beginning from the open-  
 1007 to-service date service development project that is local in  
 1008 scope, not to exceed the local match.

1009 ~~(b) The department is authorized to fund up to 100 percent~~  
 1010 ~~of the net operating costs of any eligible intercity or commuter~~  
 1011 ~~rail service development project that is statewide in scope or~~  
 1012 ~~involves more than one county if no other governmental unit of~~  
 1013 ~~appropriate jurisdiction exists. For commuter rail service,~~  
 1014 ~~after the 5th year of operation, the department's participation~~  
 1015 ~~is limited to a maximum of 50 percent of the net operating costs~~

32-00001A-09B

20092B

1016 ~~of the service.~~

1017 ~~(c) Each such local or statewide service development~~  
1018 ~~project shall be identified in the appropriation request of the~~  
1019 ~~department in a manner that defines project objectives, the~~  
1020 ~~assigned operational and financial responsibilities, the~~  
1021 ~~timeframe required to develop the service, and the criteria by~~  
1022 ~~which the success of the project can be judged.~~

1023 ~~(d) Any service development project funded under this~~  
1024 ~~section shall continue to be eligible for such funds only if the~~  
1025 ~~project reaches a systemwide operating ratio of 25 percent or~~  
1026 ~~more during the 5th year.~~

1027 ~~(b)(e)~~ The term "net operating costs" means all operating  
1028 costs of the project less any federal funds, fares, or other  
1029 sources of income to the project.

1030 (5) FUND PARTICIPATION; FLORIDA RAIL ENTERPRISE.—

1031 (a) The department, through the Florida Rail Enterprise, is  
1032 authorized to use funds provided under s. 201.15(1)(c)1.d. to  
1033 fund up to 50 percent of the nonfederal share of the costs of  
1034 any eligible passenger rail capital improvement project.

1035 (b) The department, through the Florida Rail Enterprise, is  
1036 authorized to use funds provided under s. 201.15(1)(c)1.d. to  
1037 fund up to 100 percent of planning and development costs related  
1038 to the provision of a passenger rail system, including, but not  
1039 limited to, preliminary engineering, revenue studies,  
1040 environmental impact studies, financial advisory services,  
1041 engineering design, and other appropriate professional services.

1042 (c) The department, through the Florida Rail Enterprise, is  
1043 authorized to use funds provided under s. 201.15(1)(c)1.d. to  
1044 fund the high-speed rail system.

32-00001A-09B

20092B

1045 (d) The department, through the Florida Rail Enterprise, is  
1046 authorized to use funds provided under s. 201.15(1)(c)1.d. to  
1047 fund projects necessary to identify or address anticipated  
1048 impacts of increased freight rail traffic resulting from the  
1049 implementation of passenger rail systems as provided in s.  
1050 341.302(3)(b).

1051 (6) FLORIDA RAIL ENTERPRISE; BUDGET.—

1052 (a) The Florida Rail Enterprise shall be a single budget  
1053 entity and shall develop a budget pursuant to chapter 216. The  
1054 enterprise's budget shall be submitted to the Legislature along  
1055 with the department's budget. All passenger rail funding by the  
1056 department shall be included in this budget entity.

1057 (b) Notwithstanding the provisions of s. 216.301 to the  
1058 contrary and in accordance with s. 216.351, the Executive Office  
1059 of the Governor shall, on July 1 of each year, certify forward  
1060 all unexpended funds appropriated or provided pursuant to this  
1061 section for the enterprise. Of the unexpended funds certified  
1062 forward, any unencumbered amounts shall be carried forward. Such  
1063 funds carried forward shall not exceed 5 percent of the original  
1064 approved operating budget of the enterprise pursuant to s.  
1065 216.181(1). Funds carried forward pursuant to this section may  
1066 be used for any lawful purpose, including, but not limited to,  
1067 promotional and market activities, technology, and training. Any  
1068 certified-forward funds remaining undisbursed on September 30 of  
1069 each year shall be carried forward.

1070 Section 9. Section 341.8201, Florida Statutes, is amended  
1071 to read:

1072 341.8201 Short title.—Sections 341.8201-341.842 may be  
1073 cited as the "Florida ~~High-Speed Rail Enterprise Authority~~ Act."

32-00001A-09B

20092B

1074 Section 10. Section 341.8202, Florida Statutes, is  
 1075 repealed.

1076 Section 11. Section 341.8203, Florida Statutes, is amended  
 1077 to read:

1078 341.8203 Definitions.—As used in ss. 341.8201-341.842 ~~this~~  
 1079 ~~act~~, unless the context clearly indicates otherwise, the term:

1080 (1) "Associated development" means property, equipment,  
 1081 buildings, or other related ancillary facilities which are  
 1082 built, installed, used, or established to provide financing,  
 1083 funding, or revenues for the planning, building, managing, and  
 1084 operation of a high-speed rail system and which are associated  
 1085 with or part of the rail stations. The term includes air and  
 1086 subsurface rights, services that provide local area network  
 1087 devices for transmitting data over wireless networks, ~~property,~~  
 1088 ~~including air rights, necessary for joint development, such as~~  
 1089 parking facilities, retail establishments, restaurants, hotels,  
 1090 offices, advertising, or other commercial, civic, residential,  
 1091 or support facilities, ~~and may also include property necessary~~  
 1092 ~~to protect or preserve the rail station area by reducing urban~~  
 1093 ~~blight or traffic congestion or property necessary to accomplish~~  
 1094 ~~any of the purposes set forth in this subsection which are~~  
 1095 ~~reasonably anticipated or necessary.~~

1096 (2) "Enterprise" means the Florida Rail Enterprise.  
 1097 ~~"Authority" means the Florida High-Speed Rail Authority and its~~  
 1098 ~~agents. However, for purposes of s. 341.840, the term does not~~  
 1099 ~~include any agent of the authority except as provided in that~~  
 1100 ~~section.~~

1101 (3) ~~"Central Florida" means the counties of Lake, Seminole,~~  
 1102 ~~Orange, Osceola, Citrus, Sumter, Volusia, Brevard, Hernando,~~

32-00001A-09B

20092B\_\_

1103 ~~Paseo, Hillsborough, Pinellas, and Polk.~~

1104 ~~(4) "DBOM contract" means the document and all concomitant~~  
1105 ~~rights approved by the authority providing the selected person~~  
1106 ~~or entity the exclusive right to design, build, operate, and~~  
1107 ~~maintain a high-speed rail system.~~

1108 ~~(5) "DBOM & F contract" means the document and all~~  
1109 ~~concomitant rights approved by the authority providing the~~  
1110 ~~selected person or entity the exclusive right to design, build,~~  
1111 ~~operate, maintain, and finance a high-speed rail system.~~

1112 (3)~~(6)~~ "High-speed rail system" means any high-speed fixed  
1113 guideway system for transporting people or goods, which system  
1114 is, by definition of the United States Department of  
1115 Transportation, reasonably expected to reach speeds of at least  
1116 110 ~~capable of operating at speeds in excess of 120~~ miles per  
1117 hour, including, but not limited to, a monorail system, dual  
1118 track rail system, suspended rail system, magnetic levitation  
1119 system, pneumatic repulsion system, or other system approved by  
1120 the enterprise authority. The term includes a corridor,  
1121 associated intermodal connectors, and structures essential to  
1122 the operation of the line, including the land, structures,  
1123 improvements, rights-of-way, easements, rail lines, rail beds,  
1124 guideway structures, switches, yards, parking facilities, power  
1125 relays, switching houses, and rail stations and also includes  
1126 facilities or equipment used exclusively for the purposes of  
1127 design, construction, operation, maintenance, or the financing  
1128 of the high-speed rail system.

1129 (4)~~(7)~~ "Joint development" means the planning, managing,  
1130 financing, or constructing of projects adjacent to, functionally  
1131 related to, or otherwise related to a high-speed rail system

32-00001A-09B

20092B

1132 pursuant to agreements between any person, firm, corporation,  
 1133 association, organization, agency, or other entity, public or  
 1134 private.

1135 ~~(8) "Northeast Florida" means the counties of Nassau,~~  
 1136 ~~Duval, Clay, St. Johns, Putnam, Alachua, Marion, and Flagler.~~

1137 ~~(9) "Northwest Florida" means the counties of Escambia,~~  
 1138 ~~Santa Rosa, Okaloosa, Walton, Holmes, Washington, Jackson,~~  
 1139 ~~Gadsden, Bay, Calhoun, Liberty, Gulf, Franklin, Leon, Jefferson,~~  
 1140 ~~Madison, Wakulla, Taylor, Hamilton, Suwannee, Columbia, Baker,~~  
 1141 ~~Union, Lafayette, Gilchrist, Dixie, Bradford, and Levy.~~

1142 (5) ~~(10)~~ "Rail station," "station," or "high-speed rail  
 1143 station" means any structure or transportation facility that is  
 1144 part of a high-speed rail system designed to accommodate the  
 1145 movement of passengers from one mode of transportation to  
 1146 another at which passengers board or disembark from  
 1147 transportation conveyances and transfer from one mode of  
 1148 transportation to another.

1149 (6) ~~(11)~~ "Selected person or entity" means the person or  
 1150 entity to whom the enterprise authority awards a contract ~~under~~  
 1151 ~~s. 341.834~~ to establish a high-speed rail system pursuant to ss.  
 1152 341.8201-341.842 ~~this act.~~

1153 ~~(12) "Southeast Florida" means the counties of Broward,~~  
 1154 ~~Monroe, Miami Dade, Indian River, St. Lucie, Martin, Okeechobee,~~  
 1155 ~~and Palm Beach.~~

1156 ~~(13) "Southwest Florida" means the counties of Manatee,~~  
 1157 ~~Hardee, DeSoto, Sarasota, Highlands, Charlotte, Glades, Lee,~~  
 1158 ~~Hendry, and Collier.~~

1159 ~~(14) "Urban areas" means Central Florida, Northeast~~  
 1160 ~~Florida, Northwest Florida, Southeast Florida, and Southwest~~

32-00001A-09B

20092B

1161 ~~Florida.~~

1162 Section 12. Section 341.821, Florida Statutes, is repealed.

1163 Section 13. Section 341.822, Florida Statutes, is amended  
1164 to read:

1165 341.822 Powers and duties.—

1166 (1) The enterprise authority created and established by  
1167 ~~this act~~ shall locate, plan, design, finance, construct,  
1168 maintain, own, operate, administer, and manage the high-speed  
1169 rail system in the state.

1170 (2) (a) In addition to the powers granted to the department,  
1171 the enterprise has full authority to exercise all powers granted  
1172 to it under this chapter. Powers shall include, but are not  
1173 limited to, the ability to plan, construct, maintain, repair,  
1174 and operate a high-speed rail system, to acquire corridors, and  
1175 to coordinate the development and operation of publicly funded  
1176 passenger rail systems in the state. The authority may exercise  
1177 all powers granted to corporations under the Florida Business  
1178 Corporation Act, chapter 607, except the authority may only  
1179 incur debt in accordance with levels authorized by the  
1180 Legislature.

1181 (b) It is the express intention of ss. 341.8201-341.842  
1182 that the enterprise be authorized to plan, develop, own,  
1183 purchase, lease, or otherwise acquire, demolish, construct,  
1184 improve, relocate, equip, repair, maintain, operate, and manage  
1185 the high-speed rail system; to expend funds to publicize,  
1186 advertise, and promote the advantages of using the high-speed  
1187 rail system and its facilities; and to cooperate, coordinate,  
1188 partner, and contract with other entities, public and private,  
1189 to accomplish these purposes.

32-00001A-09B

20092B\_\_

1190 ~~(3) The authority shall have perpetual succession as a body~~  
1191 ~~politic and corporate.~~

1192 (3)(4) The enterprise shall have the authority to employ  
1193 procurement methods available to the department under chapters  
1194 255, 287, 334, and 337, or otherwise in accordance with law. The  
1195 enterprise may also solicit proposals and, with legislative  
1196 approval as evidenced by approval of the project in the  
1197 department's work program, enter into agreements with private  
1198 entities, or consortia thereof, for the building, operation,  
1199 ownership, or financing of the high-speed rail system authority  
1200 ~~is authorized to seek and obtain federal matching funds or any~~  
1201 ~~other funds to fulfill the requirements of this act either~~  
1202 ~~directly or through the Department of Transportation.~~

1203 (4)(5) The authority may employ an executive director of  
1204 the enterprise shall appoint staff, who shall be exempt from  
1205 part II of chapter 110 as it may require and shall determine the  
1206 qualifications and fix the compensation. The authority may  
1207 delegate to one or more of its agents or employees such of its  
1208 power as it deems necessary to carry out the purposes of this  
1209 act, subject always to the supervision and control of the  
1210 authority.

1211 (5) The powers conferred upon the enterprise under ss.  
1212 341.8201-341.842 shall be in addition and supplemental to the  
1213 existing powers of the department, and these powers shall not be  
1214 construed as repealing any provision of any other law, general  
1215 or local, but shall supersede such other laws that are  
1216 inconsistent with the exercise of the powers provided under ss.  
1217 341.8201-341.842 and provide a complete method for the exercise  
1218 of such powers granted.

32-00001A-09B

20092B\_\_

1219       (6) Any proposed rail enterprise project or improvement  
1220 shall be developed in accordance with the Florida Transportation  
1221 Plan and the work program under s. 339.135.

1222       Section 14. Section 341.8225, Florida Statutes, is created  
1223 to read:

1224       341.8225 Department of Transportation sole governmental  
1225 entity to acquire, construct, or operate high-speed rail  
1226 projects; exception.-

1227       (1) No governmental entity other than the department may  
1228 acquire, construct, maintain, or operate the high-speed rail  
1229 system except upon specific authorization of the Legislature.

1230       (2) Local governmental entities, as defined in s.  
1231 334.03(14), may negotiate with the department for the design,  
1232 right-of-way acquisition, and construction of any component of  
1233 the high-speed rail system within areas of their respective  
1234 jurisdictions or within counties with which they have interlocal  
1235 agreements.

1236       Section 15. Sections 341.823, 341.824, 341.827, 341.828,  
1237 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, and  
1238 341.835, Florida Statutes, are repealed.

1239       Section 16. Section 341.836, Florida Statutes, is amended  
1240 to read:

1241       341.836 Associated development.-

1242       (1) The enterprise authority, alone or as part of a joint  
1243 development, may undertake ~~development of~~ associated  
1244 developments to be a source of revenue for the establishment,  
1245 construction, operation, or maintenance of the high-speed rail  
1246 system. Such associated developments must be ~~associated with a~~  
1247 ~~rail station and have pedestrian ingress to and egress from the~~

32-00001A-09B

20092B\_\_

1248 ~~rail station; be~~ consistent, to the extent feasible, with  
 1249 applicable local government comprehensive plans and local land  
 1250 development regulations; and otherwise be in compliance with ss.  
 1251 341.8201-341.842 ~~the provisions of this act.~~

1252 (2) Sections 341.8201-341.842 do ~~This act does~~ not prohibit  
 1253 the enterprise authority, the selected person or entity, or a  
 1254 party to a joint venture with the enterprise authority or its  
 1255 selected person or entity from obtaining approval, pursuant to  
 1256 any other law, for any associated development that is reasonably  
 1257 related to the high-speed rail system.

1258 Section 17. Section 341.837, Florida Statutes, is repealed.

1259 Section 18. Section 341.838, Florida Statutes, is amended  
 1260 to read:

1261 341.838 Fares, rates, rents, fees, and charges.-

1262 (1) The enterprise may establish authority ~~is authorized to~~  
 1263 ~~fix,~~ revise, charge, and collect fares, rates, rents, fees,  
 1264 charges, and revenues for the use of and for the services  
 1265 furnished, or to be furnished, by the system and to contract  
 1266 with any person, partnership, association, corporation, or other  
 1267 body, public or private, in respect thereof. Such fares, rates,  
 1268 rents, fees, and charges shall be reviewed annually by the  
 1269 enterprise authority and may be adjusted as set forth in the  
 1270 contract setting such fares, rates, rents, fees, or charges. The  
 1271 funds collected pursuant to this section ~~hereunder~~ shall, with  
 1272 any other funds available, be used to pay the cost of ~~all~~  
 1273 ~~administrative expenses of the authority, and the cost of~~  
 1274 designing, building, operating, financing, and maintaining the  
 1275 system and each and every portion thereof, to the extent that  
 1276 the payment of such cost has not otherwise been adequately

32-00001A-09B

20092B\_\_

1277 provided for.

1278 (2) Fares, rates, rents, fees, and charges established  
 1279 ~~fixed~~, revised, charged, and collected by the enterprise  
 1280 pursuant to this section shall not be subject to supervision or  
 1281 regulation by any other department, commission, board, body,  
 1282 bureau, or agency of this state other than the enterprise  
 1283 authority.

1284 Section 19. Section 341.839, Florida Statutes, is amended  
 1285 to read:

1286 341.839 Alternate means.—Sections 341.8201-341.842 ~~The~~  
 1287 ~~foregoing sections of this act shall be deemed to provide an~~  
 1288 additional and alternative method for accomplishing the purposes  
 1289 authorized therein, and are shall be regarded as supplemental  
 1290 and additional to powers conferred by other laws. Except as  
 1291 otherwise expressly provided in ss. 341.8201-341.842 ~~this act~~,  
 1292 none of the powers granted to the enterprise authority under ss.  
 1293 341.8201-341.842 ~~are the provisions of this act shall be~~ subject  
 1294 to the supervision or require the approval or consent of any  
 1295 municipality or political subdivision or any commission, board,  
 1296 body, bureau, or official.

1297 Section 20. Section 341.841, Florida Statutes, is repealed.

1298 Section 21. Paragraphs (j) and (m) of subsection (2) of  
 1299 section 110.205, Florida Statutes, are amended to read:

1300 110.205 Career service; exemptions.—

1301 (2) EXEMPT POSITIONS.—The exempt positions that are not  
 1302 covered by this part include the following:

1303 (j) The appointed secretaries and the State Surgeon  
 1304 General, assistant secretaries, deputy secretaries, and deputy  
 1305 assistant secretaries of all departments; the executive

32-00001A-09B

20092B

1306 directors, assistant executive directors, deputy executive  
1307 directors, and deputy assistant executive directors of all  
1308 departments; the directors of all divisions and those positions  
1309 determined by the department to have managerial responsibilities  
1310 comparable to such positions, which positions include, but are  
1311 not limited to, program directors, assistant program directors,  
1312 district administrators, deputy district administrators, the  
1313 Director of Central Operations Services of the Department of  
1314 Children and Family Services, the State Transportation  
1315 Development Administrator, State Public Transportation and Modal  
1316 Administrator, district secretaries, district directors of  
1317 transportation development, transportation operations,  
1318 transportation support, and the managers of the offices  
1319 specified in s. 20.23 (4) ~~(3)~~ (b), of the Department of  
1320 Transportation. Unless otherwise fixed by law, the department  
1321 shall set the salary and benefits of these positions in  
1322 accordance with the rules of the Senior Management Service; and  
1323 the county health department directors and county health  
1324 department administrators of the Department of Health.

1325 (m) All assistant division director, deputy division  
1326 director, and bureau chief positions in any department, and  
1327 those positions determined by the department to have managerial  
1328 responsibilities comparable to such positions, which positions  
1329 include, but are not limited to:

1330 1. Positions in the Department of Health and the Department  
1331 of Children and Family Services that are assigned primary duties  
1332 of serving as the superintendent or assistant superintendent of  
1333 an institution.

1334 2. Positions in the Department of Corrections that are

32-00001A-09B

20092B\_\_

1335 assigned primary duties of serving as the warden, assistant  
1336 warden, colonel, or major of an institution or that are assigned  
1337 primary duties of serving as the circuit administrator or deputy  
1338 circuit administrator.

1339 3. Positions in the Department of Transportation that are  
1340 assigned primary duties of serving as regional toll managers and  
1341 managers of offices, as defined in s. 20.23(4)-(3)(b) and  
1342 (5)-(4)(c), and captains and majors of the Office of Motor  
1343 Carrier Compliance.

1344 4. Positions in the Department of Environmental Protection  
1345 that are assigned the duty of an Environmental Administrator or  
1346 program administrator.

1347 5. Positions in the Department of Health that are assigned  
1348 the duties of Environmental Administrator, Assistant County  
1349 Health Department Director, and County Health Department  
1350 Financial Administrator.

1351  
1352 Unless otherwise fixed by law, the department shall set the  
1353 salary and benefits of the positions listed in this paragraph in  
1354 accordance with the rules established for the Selected Exempt  
1355 Service.

1356 Section 22. Except as otherwise expressly provided in this  
1357 act, this act shall take effect upon becoming a law.