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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/25/2013	.	
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The Committee on Appropriations (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1733 -1734  
and insert:

Section 44. New subsections (2) and (7) are added to section 341.8203, Florida Statutes, to read:

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

(1) "Associated development" means property, equipment, buildings, or other related facilities which are built, installed, used, or established to provide financing, funding, or revenues for the planning, building, managing, and operation



632806

13 of a high-speed rail system and which are associated with or  
14 part of the rail stations. The term includes air and subsurface  
15 rights, services that provide local area network devices for  
16 transmitting data over wireless networks, parking facilities,  
17 retail establishments, restaurants, hotels, offices,  
18 advertising, or other commercial, civic, residential, or support  
19 facilities.

20 (2) "Communication facilities" means the communication  
21 systems related to high-speed passenger rail operations,  
22 including those which are built, installed, used, or established  
23 for the planning building, managing, and operating of a high-  
24 speed rail system. The term includes the land, structures,  
25 improvements, rights-of-way, easements, positive train control  
26 system, wireless communication towers and facilities that are  
27 designed to provide voice and data services for the safe and  
28 efficient operation of the high-speed rail system and as  
29 amenities that may be made available to crew and passengers as  
30 part of a high-speed rail service, and any other facilities or  
31 equipment used for operation of, or the facilitation of  
32 communications for, a high-speed rail system.

33 (3)~~(2)~~ "Enterprise" means the Florida Rail Enterprise.

34 (4)~~(3)~~ "High-speed rail system" means any high-speed fixed  
35 guideway system for transporting people or goods, which system  
36 is, by definition of the United States Department of  
37 Transportation, reasonably expected to reach speeds of at least  
38 110 miles per hour, including, but not limited to, a monorail  
39 system, dual track rail system, suspended rail system, magnetic  
40 levitation system, pneumatic repulsion system, or other system  
41 approved by the enterprise. The term includes a corridor,



632806

42 associated intermodal connectors, and structures essential to  
43 the operation of the line, including the land, structures,  
44 improvements, rights-of-way, easements, rail lines, rail beds,  
45 guideway structures, switches, yards, parking facilities, power  
46 relays, switching houses, and rail stations and also includes  
47 facilities or equipment used exclusively for the purposes of  
48 design, construction, operation, maintenance, or the financing  
49 of the high-speed rail system.

50 (5)~~(4)~~ "Joint development" means the planning, managing,  
51 financing, or constructing of projects adjacent to, functionally  
52 related to, or otherwise related to a high-speed rail system  
53 pursuant to agreements between any person, firm, corporation,  
54 association, organization, agency, or other entity, public or  
55 private.

56 (6)~~(5)~~ "Rail station," "station," or "high-speed rail  
57 station" means any structure or transportation facility that is  
58 part of a high-speed rail system designed to accommodate the  
59 movement of passengers from one mode of transportation to  
60 another at which passengers board or disembark from  
61 transportation conveyances and transfer from one mode of  
62 transportation to another.

63 (7) "Railroad company" means a person developing, or  
64 providing service on, a high-speed rail system.

65 (8)~~(6)~~ "Selected person or entity" means the person or  
66 entity to whom the enterprise awards a contract to establish a  
67 high-speed rail system pursuant to ss. 341.8201-341.842.

68 Section 45. Paragraph (c) is added to subsection (2) of  
69 section 341.822, Florida Statutes, to read:

70 341.822 Powers and duties.—



632806

71 (2) (a) In addition to the powers granted to the department,  
72 the enterprise has full authority to exercise all powers granted  
73 to it under this chapter. Powers shall include, but are not  
74 limited to, the ability to plan, construct, maintain, repair,  
75 and operate a high-speed rail system, to acquire corridors, and  
76 to coordinate the development and operation of publicly funded  
77 passenger rail systems in the state.

78 (b) It is the express intention of ss. 341.8201-341.842  
79 that the enterprise be authorized to plan, develop, own,  
80 purchase, lease, or otherwise acquire, demolish, construct,  
81 improve, relocate, equip, repair, maintain, operate, and manage  
82 the high-speed rail system; to expend funds to publicize,  
83 advertise, and promote the advantages of using the high-speed  
84 rail system and its facilities; and to cooperate, coordinate,  
85 partner, and contract with other entities, public and private,  
86 to accomplish these purposes.

87 (c) The enterprise shall establish a process to issue  
88 permits to railroad companies for the construction of  
89 communication facilities within a new or existing public or  
90 private high-speed rail system. The enterprise may adopt rules  
91 to administer such permits, including rules regarding the form,  
92 content, and necessary supporting documentation for permit  
93 applications, the process for submitting applications, and the  
94 application fee for a permit under s. 341.825.

95 Section 46. Section 341.825, Florida Statutes, is created  
96 to read:

97 341.825 Communication facilities.—

98 (1) LEGISLATIVE INTENT.—The Legislature intends to:

99 (a) Establish a streamlined process to authorize the



632806

100 location, construction, operation, and maintenance of  
101 communication facilities within new and existing high-speed rail  
102 systems.

103 (b) Expedite the expansion of the high-speed rail system's  
104 wireless voice and data coverage and capacity for the safe and  
105 efficient operation of the high-speed rail system and the  
106 safety, use, and efficiency of its crew and passengers as a  
107 critical communication facilities component.

108 (2) APPLICATION SUBMISSION.—A railroad company may submit  
109 to the enterprise an application to obtain a permit to construct  
110 communication facilities within a new or existing high speed  
111 rail system. The application shall include an application fee  
112 that shall not exceed \$10,000, which shall be deposited into the  
113 State Transportation Trust Fund. The application shall include  
114 the following information:

115 (a) The location of the proposed communication facilities.

116 (b) A description of the proposed communication facilities.

117 (c) Any other information reasonably required by the  
118 enterprise.

119 (3) APPLICATION REVIEW.—The enterprise shall review each  
120 application for completeness within 30 days after receipt of the  
121 application.

122 (a) If the enterprise determines that an application is not  
123 complete, the enterprise shall, within 30 days after the receipt  
124 of the initial application, notify the applicant in writing of  
125 any errors or omissions. An applicant shall have 30 days within  
126 which to correct the errors or omissions in the initial  
127 application.

128 (b) If the enterprise determines that an application is



632806

129 complete, the enterprise shall act upon the permit application  
130 within 60 days of the receipt of the completed application by  
131 approving in whole, approving with conditions as the enterprise  
132 deems appropriate, or denying the application, and stating the  
133 reason for issuance or denial. In determining whether an  
134 application should be approved, approved with modifications or  
135 conditions, or denied, the enterprise shall consider the extent  
136 to which the proposed communication facilities:

137 1. Are located in a manner that is appropriate for the  
138 communication technology specified by the applicant.

139 2. Serve an existing or projected future need for  
140 communication facilities.

141 3. Provide sufficient wireless voice and data coverage and  
142 capacity for the safe and efficient operation of the high-speed  
143 rail system and the safety, use, and efficiency of its crew and  
144 passengers.

145 (4) EFFECT OF PERMIT.—Subject to the conditions set forth  
146 therein, a permit issued by the enterprise shall constitute the  
147 sole permit of the state and any agency as to the approval of  
148 the location, construction, operation, and maintenance of the  
149 communication facilities within the new or existing high speed  
150 rail system.

151 (a) A permit authorizes the permittee to locate, construct,  
152 operate, and maintain the communication facilities within a new  
153 or existing high speed rail system, subject only to the  
154 conditions set forth in the permit. Such activities are not  
155 subject to local government land use or zoning regulations.

156 (b) A permit may include conditions that constitute  
157 variances and exemptions from rules of the enterprise or any



632806

158 other agency, which would otherwise be applicable to the  
159 communication facilities within the new or existing high speed  
160 rail system.

161 (c) The permit shall be in lieu of any license, permit,  
162 certificate, or similar document required by any state,  
163 regional, or local agency under, but not limited to, chapter  
164 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter  
165 253, chapter 258, chapter 298, chapter 373, chapter 376, chapter  
166 379, chapter 380, chapter 381, chapter 403, chapter 404, chapter  
167 553, and the Florida Transportation Code.

168 (d) If any provision of this section is in conflict with  
169 any other provision, limitation, or restriction under any law,  
170 rule, regulation, or ordinance of this state or any political  
171 subdivision, municipality, or agency, this section shall control  
172 and such law, rule, regulation, or ordinance shall be deemed  
173 superseded. Nothing in this section is intended to impose  
174 procedures or restrictions on railroad companies that are  
175 subject to the exclusive jurisdiction of the federal Surface  
176 Transportation Board pursuant to the Interstate Commerce  
177 Commission Termination Act of 1995, 49 U.S.C. ss. 10101, et seq.

178 (5) MODIFICATION OF PERMIT.—A permit may be modified by the  
179 applicant after issuance upon the filing of a petition with the  
180 enterprise.

181 (a) A petition for modification must set forth the proposed  
182 modification and the factual reasons asserted for the  
183 modification.

184 (b) The enterprise shall act upon the petition within 30  
185 days by approving or denying the application, and stating the  
186 reason for issuance or denial.



632806

187 Section 47. Paragraph (b) of subsection (2) of section  
188 341.840, is amended to read:

189 341.840 Tax exemption.—

190 (2)

191 (b) For the purposes of this section, any item or property  
192 that is within the definition of the term "associated  
193 development" in s. 341.8203(1) may not be considered part of the  
194 high-speed rail system as defined in s. 341.3203(4) ~~341.8203(3)~~.

195  
196 ===== T I T L E A M E N D M E N T =====

197 And the title is amended as follows:

198 Delete line 151

199 and insert:

200 of the intermodal development program; amending s.  
201 341.3203, F.S.; defining the terms "communication  
202 facilities" and "railroad company;" amending s.  
203 341.822, F.S.; directing the Florida Rail Enterprise  
204 to establish a process to issue permits to railroad  
205 companies for the construction of communication  
206 facilities within a new or existing public or private  
207 high-speed rail system; authorizing the enterprise to  
208 adopt rules to administer the permits, including rules  
209 regarding the application, submission of the  
210 application, and an application fee; providing  
211 Legislative intent; authorizing a railroad company to  
212 submit to the enterprise an application to obtain a  
213 permit to construct communication facilities within a  
214 new or existing high-speed rail system; limiting the  
215 application fee; requiring the application fee to be





632806

216 deposited into the State Transportation Trust Fund;  
217 specifying information to be included in the  
218 application; directing the enterprise to review each  
219 application for completeness within 30 days of  
220 receipt; requiring the enterprise to provide a  
221 specified notice in writing of an incomplete  
222 application; providing an application 30 days within  
223 which to correct errors or omissions in the initial  
224 application; requiring the enterprise to act upon  
225 complete applications within 60 days of receipt;  
226 providing criteria for enterprise consideration in  
227 determining whether an application should be approved,  
228 approved with modifications or conditions, or denied;  
229 providing that a permit issued by the enterprise  
230 constitutes the sole permit of the state or any agency  
231 as to approval of communication facilities within the  
232 new or existing high-speed rail system; providing that  
233 a permit authorizes the location, construction,  
234 operation, and maintenance of the communication  
235 facilities, subject only to conditions set forth in  
236 the permit; providing that such activities are not  
237 subject to local government land use or zoning  
238 regulations; authorizing a permit to include  
239 conditions constituting variances and exemptions from  
240 rules of the enterprise or any other agency; providing  
241 that the permit is in lieu of any license, permit,  
242 certification, or similar document required by any  
243 state, regional, or local agency under, but not  
244 limited to, certain provisions of law; providing that



632806

245 the section controls and supersedes any conflicting  
246 law, rule, regulation, or ordinance; providing that  
247 the section is not intended to impose restrictions on  
248 railroad companies that are subject to certain federal  
249 law; providing a procedure for modification of a  
250 permit; revising a cross-reference; amending s.