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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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04/29/2013 06:47 PM

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Senator Brandes moved the following:

1           **Senate Amendment to Amendment (740626) (with title**  
2 **amendment)**

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4           Between lines 1474 and 1475  
5 insert:

6           Section 47. Section 341.8203, Florida Statutes, is amended  
7 to read:

8           341.8203 Definitions.—As used in ss. 341.8201-341.842,  
9 unless the context clearly indicates otherwise, the term:

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



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

21 (2) "Communication facilities" means the communication  
22 systems related to high-speed passenger rail operations,  
23 including those which are built, installed, used, or established  
24 for the planning, building, managing, and operating of a high-  
25 speed rail system. The term includes the land, structures,  
26 improvements, rights-of-way, easements, positive train control  
27 systems, wireless communication towers, and facilities that are  
28 designed to provide voice and data services for the safe and  
29 efficient operation of the high-speed rail system, voice, data,  
30 and wireless communication amenities made available to the high-  
31 speed rail system and for the safety of the crew and passengers  
32 of the high-speed rail system as part of a high-speed rail  
33 service, and any other facilities or equipment used for  
34 operation of, or the facilitation of communications for, a high-  
35 speed rail system. Communications facilities may not be offered  
36 to provide voice or data service to any entity other than  
37 passengers, crew, or other persons who are involved in the  
38 operation of a high-speed rail system.

39 (3)~~(2)~~ "Enterprise" means the Florida Rail Enterprise.

40 (4)~~(3)~~ "High-speed rail system" means any high-speed fixed  
41 guideway system for transporting people or goods, which system  
42 is, by definition of the United States Department of



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43 Transportation, reasonably expected to reach speeds of at least  
44 110 miles per hour, including, but not limited to, a monorail  
45 system, dual track rail system, suspended rail system, magnetic  
46 levitation system, pneumatic repulsion system, or other system  
47 approved by the enterprise. The term includes a corridor,  
48 associated intermodal connectors, and structures essential to  
49 the operation of the line, including the land, structures,  
50 improvements, rights-of-way, easements, rail lines, rail beds,  
51 guideway structures, switches, yards, parking facilities, power  
52 relays, switching houses, and rail stations and also includes  
53 facilities or equipment used exclusively for the purposes of  
54 design, construction, operation, maintenance, or the financing  
55 of the high-speed rail system.

56 (5)~~(4)~~ "Joint development" means the planning, managing,  
57 financing, or constructing of projects adjacent to, functionally  
58 related to, or otherwise related to a high-speed rail system  
59 pursuant to agreements between any person, firm, corporation,  
60 association, organization, agency, or other entity, public or  
61 private.

62 (6)~~(5)~~ "Rail station," "station," or "high-speed rail  
63 station" means any structure or transportation facility that is  
64 part of a high-speed rail system designed to accommodate the  
65 movement of passengers from one mode of transportation to  
66 another at which passengers board or disembark from  
67 transportation conveyances and transfer from one mode of  
68 transportation to another.

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

71 (8)~~(6)~~ "Selected person or entity" means the person or



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72 entity to whom the enterprise awards a contract to establish a  
73 high-speed rail system pursuant to ss. 341.8201-341.842.

74 Section 48. Paragraph (c) is added to subsection (2) of  
75 section 341.822, Florida Statutes, to read:

76 341.822 Powers and duties.—

77 (2)

78 (c) The enterprise shall establish a process to issue  
79 permits to railroad companies for the construction of  
80 communication facilities within a new or existing public or  
81 private high-speed rail system. The enterprise may adopt rules  
82 to administer such permits, including rules regarding the form,  
83 content, and necessary supporting documentation for permit  
84 applications, the process for submitting applications, and the  
85 application fee for a permit under s. 341.825. The enterprise  
86 shall provide a copy of a completed permit application to each  
87 municipality and county where the high-speed rail system will be  
88 located. The enterprise shall allow each municipality and county  
89 30 days after receipt of the completed application to provide  
90 comments to the enterprise regarding the application, including  
91 any recommendations regarding conditions that may be placed on  
92 the permit.

93 Section 49. Section 341.825, Florida Statutes, is created  
94 to read:

95 341.825 Communication facilities.—

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

97 (a) Establish a streamlined process to authorize the  
98 location, construction, operation, and maintenance of  
99 communication facilities within new and existing high-speed rail  
100 systems.



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

106       (2) APPLICATION SUBMISSION.—A railroad company may submit  
107 to the enterprise an application to obtain a permit to construct  
108 communication facilities within a new or existing high-speed  
109 rail system. The application must include an application fee  
110 limited to the amount needed to pay the anticipated cost of  
111 reviewing the application, not to exceed \$10,000, which must be  
112 deposited into the State Transportation Trust Fund. The  
113 application must include the following information:

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

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

116       (c) Any other information deemed reasonable and required by  
117 the enterprise.

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

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

127       (b) If the enterprise determines that an application is  
128 complete, the enterprise must act upon the permit application  
129 within 60 days of the receipt of the completed application by



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130 approving in whole, approving with conditions as the enterprise  
131 deems appropriate, or denying the application, and stating the  
132 reason for issuance or denial. In determining whether an  
133 application should be approved, approved with modifications or  
134 conditions, or denied, the enterprise shall consider any  
135 comments or recommendations received from a municipality or  
136 county and the extent to which the proposed communication  
137 facilities:

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

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

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

146 (c) The failure to adopt any recommendation or comment is  
147 not a basis for challenging the issuance of a permit.

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

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



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159           (b) A permit may include conditions that constitute  
160 variances and exemptions from rules of the enterprise or any  
161 other agency, which would otherwise be applicable to the  
162 communication facilities within the new or existing high-speed  
163 rail system.

164           (c) Notwithstanding any other provisions of law, the permit  
165 is in lieu of any license, permit, certificate, or similar  
166 document required by any state, regional, or local agency.

167           (d) This section is not intended to impose procedures or  
168 restrictions on a railroad company that is subject to the  
169 exclusive jurisdiction of the federal Surface Transportation  
170 Board pursuant to the Interstate Commerce Commission Termination  
171 Act of 1995, 49 U.S.C. ss. 10101 et seq.

172           (5) MODIFICATION OF PERMIT.—After a permit is issued, an  
173 applicant may file a petition with the enterprise to modify the  
174 permit.

175           (a) A petition for modification must set forth the proposed  
176 modification and the factual reasons asserted for the  
177 modification.

178           (b) The enterprise shall act upon the petition within 30  
179 days after receipt by approving or denying the application, and  
180 stating the reason for issuance or denial.

181           Section 50. Paragraph (b) of subsection (2) of section  
182 341.840, is amended to read:

183           341.840 Tax exemption.—

184           (2)

185           (b) For the purposes of this section, any item or property  
186 that is within the definition of the term "associated  
187 development" in s. 341.8203(1) may not be considered part of the



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188 high-speed rail system as defined in s. 341.8203 ~~s. 341.8203(3)~~.

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190 ===== T I T L E A M E N D M E N T =====

191 And the title is amended as follows:

192       Between lines 4556 and 4557

193 insert:

194       341.8203, F.S.; defining the terms "communication  
195 facilities" and "railroad company" as used in the  
196 Florida Rail Enterprise Act; amending s. 341.822,  
197 F.S.; requiring the rail enterprise to establish a  
198 process to issue permits for railroad companies to  
199 construct communication facilities within a high-speed  
200 rail system; providing rulemaking authority; providing  
201 for fees for issuing a permit; providing that copies  
202 of the permit application will be sent to  
203 municipalities and counties; requiring the rail  
204 enterprise to allow municipalities and counties to  
205 provide comments on the application; creating s.  
206 341.825, F.S.; providing for a permit authorizing the  
207 permittee to locate, construct, operate, and maintain  
208 communication facilities within a new or existing  
209 high-speed rail system; providing for application  
210 procedures and fees; providing for the effects of a  
211 permit; providing an exemption from local land use and  
212 zoning regulations; authorizing the enterprise to  
213 include, in a permit, variances and exemptions from  
214 rules of the enterprise or other agencies; providing  
215 that a permit is in lieu of licenses, permits,  
216 certificates, or similar documents; providing for a





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217 modification of a permit; amending s. 341.840, F.S.;

218 conforming a cross-reference; amending s.