

1                   A bill to be entitled  
2           An act relating to the South Florida Regional  
3           Transportation Authority; creating s. 343.545, F.S.;  
4           defining terms; authorizing the South Florida Regional  
5           Transportation Authority, in conjunction with the  
6           operation of a certain commuter rail service, to have  
7           the power to assume specified indemnification and  
8           insurance obligations, subject to certain  
9           requirements; amending s. 343.58, F.S.; requiring the  
10          Department of Transportation to transfer specified  
11          amounts annually from the State Transportation Trust  
12          Fund to the authority through quarterly payments  
13          commencing at the start of each fiscal year;  
14          prohibiting certain state funds provided to the  
15          authority from being considered state financial  
16          assistance subject to specified provisions; amending  
17          s. 341.302, F.S.; authorizing the department to agree  
18          to assume certain indemnification and insurance  
19          obligations under certain circumstances; providing an  
20          effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24          Section 1.   Section 343.545, Florida Statutes, is created  
25   to read:

26 343.545 Power to assume indemnification and insurance  
 27 obligations; definitions.—

28 (1) As used in this section, the term:

29 (a) "All Aboard Florida" or "AAF" means All Aboard Florida  
 30 Operations, LLC, or its successors and assigns.

31 (b) "AAF intercity rail passenger" means any person,  
 32 ticketed or unticketed, using the AAF intercity passenger rail  
 33 service on the rail corridor:

34 1. On board trains, locomotives, rail cars, or rail  
 35 equipment employed in AAF intercity passenger rail service or  
 36 entraining thereon and detraining therefrom;

37 2. On or about the rail corridor for any purpose related  
 38 to the AAF intercity passenger rail service, including parking  
 39 or purchasing tickets therefor and coming to, waiting for, and  
 40 leaving from locomotives, rail cars, or rail equipment; or

41 3. Meeting, assisting, or in the company of any person  
 42 described in subparagraph 1. or subparagraph 2.

43 (c) "AAF rail corridor invitee" means any rail corridor  
 44 invitee who is an AAF intercity rail passenger or is otherwise  
 45 present on the rail corridor at the request of, pursuant to a  
 46 contract with, or otherwise for the purpose of doing business  
 47 with or at the behest of AAF, including persons who are vendors  
 48 or employees of vendors at the MiamiCentral station or any other  
 49 station that AAF may construct on the rail corridor. The term  
 50 does not include patrons at any station, except those patrons

51 who are also AAF's intercity rail passengers; commercial or  
52 residential tenants of the developments in and around the  
53 stations or their invitees; or any third parties performing work  
54 at a station or in the rail corridor, such as employees and  
55 invitees of PI or related entities, utilities, and fiber optic  
56 companies, or invitees or employees of the department or any  
57 county or municipality.

58 (d) "Authority" or "SFRTA" means the South Florida  
59 Regional Transportation Authority.

60 (e) "Commuter rail passenger" means any person, ticketed  
61 or unticketed, using the commuter rail service on the rail  
62 corridor:

63 1. On board trains, locomotives, rail cars, or rail  
64 equipment employed in commuter rail service or entraining  
65 thereon and detraining therefrom;

66 2. On or about the rail corridor for any purpose related  
67 to the commuter rail service, including parking or purchasing  
68 tickets therefor and coming to, waiting for, and leaving from  
69 locomotives, rail cars, or rail equipment; or

70 3. Meeting, assisting, or in the company of any person  
71 described in subparagraph 1. or subparagraph 2.

72 (f) "Commuter rail service" means the operation of the  
73 authority's trains transporting passengers and making frequent  
74 stops within urban areas and their immediate suburbs along the  
75 rail corridor for the purpose of passengers entraining and

76 detraining, and including the nonrevenue movement of trains for  
77 storage or maintenance. The term does not include the operation  
78 of trains by AAF transporting passengers in intercity passenger  
79 rail service between passenger rail stations established by AAF  
80 at Miami-Dade, Fort Lauderdale, West Palm Beach, or future  
81 stations but shall include the provision of non-SFRTA commuter  
82 rail service by AAF or a third party designated by AAF,  
83 including SFRTA.

84 (g) "Existing IRIS crossing" means the existing, at-grade  
85 railroad crossing between the SFRC and the rail corridor located  
86 in Miami-Dade County.

87 (h) "Florida East Coast Railway" or "FECR" means Florida  
88 East Coast Railway, LLC, or its successors and assigns.

89 (i) "FECR rail corridor invitee" means any rail corridor  
90 invitee who is present on the rail corridor at the request of,  
91 pursuant to a contract with, or otherwise for the purpose of  
92 doing business with or at the behest of FECR. The term does not  
93 include patrons at any station; commercial or residential  
94 tenants of the developments in and around the stations or their  
95 invitees; or any third parties performing work at a station or  
96 in the rail corridor, such as employees and invitees of PI or  
97 related entities, utilities, and fiber optic companies or  
98 others, or invitees or employees of the department or any county  
99 or municipality.

100 (j) "Freight rail service" means any and all uses and

101 purposes that are related to or ancillary to current and future  
102 freight rail operations on, along, over, under, and across the  
103 rail corridor, including operating trains, rail cars, business  
104 cars, locomotives, hi-rail vehicles, and other rail equipment  
105 for the movement of freight in overhead and local service;  
106 interchanging rail cars with other freight railroads; providing  
107 pickups, setoffs, transloading services, or storage in transit;  
108 and any and all other activities that are ancillary or related  
109 to the transportation of freight on or along the rail corridor.

110 (k) "Intercity passenger rail service" means all passenger  
111 service on the rail corridor other than commuter rail service  
112 and is characterized by trains making less frequent stops along  
113 the rail corridor than the commuter rail service makes.

114 (l) "Joint infrastructure" means any portion or segment of  
115 the rail corridor which does not contain tracks or  
116 infrastructure designated for the exclusive use of the  
117 authority, AAF, or FECR and portions of the MiamiCentral station  
118 used by both AAF and SFRTA, including, but not limited to,  
119 stairs, elevators, and escalators.

120 (m) "Limited covered accident" means:

121 1. A collision directly between the trains, locomotives,  
122 rail cars, or rail equipment of SFRTA and FECR only, where the  
123 collision is caused by or arising from the willful misconduct of  
124 FECR or its subsidiaries, agents, licensees, employees,  
125 officers, or directors, as adjudicated pursuant to a final and

126 unappealable court order, or if punitive damages or exemplary  
127 damages are awarded due to the conduct of FECR or its  
128 subsidiaries, agents, licensees, employees, officers, or  
129 directors, as adjudicated pursuant to a final and unappealable  
130 court order; or

131 2. A collision directly between the trains, locomotives,  
132 rail cars, or rail equipment of SFRTA and AAF only, if the  
133 collision is caused by or arising from the willful misconduct of  
134 AAF or its subsidiaries, agents, licensees, employees, officers,  
135 or directors, as adjudicated pursuant to a final and  
136 unappealable court order, or if punitive damages or exemplary  
137 damages are awarded due to the conduct of AAF or its  
138 subsidiaries, agents, licensees, employees, officers, or  
139 directors, as adjudicated pursuant to a final and unappealable  
140 court order.

141 (n) "MiamiCentral" means the primary All Aboard Florida  
142 station located in downtown Miami, which includes exclusive  
143 areas used by the authority for commuter rail service.

144 (o) "Non-SFRTA commuter rail service" means AAF's  
145 operation, or an AAF third-party designee's operation, of trains  
146 in any commuter rail service on the rail corridor which is not  
147 SFRTA's commuter rail service. The term does not include:

148 1. Any service operated by the authority between the  
149 MiamiCentral station and any stations in Miami-Dade County,  
150 Broward County, Palm Beach County, or points north on the FECR

151 rail corridor; and

152 2. SFRTA's commuter rail service on the South Florida Rail  
153 Corridor owned by the department.

154 (p) "Non-SFRTA commuter rail service operator" means the  
155 operator of any non-SFRTA commuter rail service.

156 (q) "Other train" means a train that is not SFRTA's train,  
157 FECR's train, AAF's train, a train of a non-SFRTA commuter rail  
158 service operator, or a train of any other operator of intercity  
159 rail passenger service and must be treated as a train of the  
160 entity that made the initial request for the train to operate on  
161 the rail corridor.

162 (r) "Passenger easement" means a permanent, perpetual, and  
163 exclusive easement on, along, over, under, or across the rail  
164 corridor for commuter rail service.

165 (s) "PI" means FDG Flagler Station II, LLC, which has an  
166 easement on the rail corridor for nonrail uses.

167 (t) "Rail corridor" means the portion of a linear  
168 contiguous strip of real property which is used for rail service  
169 and owned by FECR or owned or controlled by AAF. The term  
170 applies only when the authority has, by contract, assumed the  
171 obligation to forever protect, defend, indemnify, and hold  
172 harmless FECR, AAF, or their successors, in accordance with  
173 subsection (2), and acquired an easement interest, a lease, a  
174 right to operate, or a right of access. The term includes  
175 structures essential to railroad operations, including the land,

176 structures, improvements, rights-of-way, easements, rail lines,  
177 rail beds, guideway structures, switches, yards, parking  
178 facilities, power relays, switching houses, rail stations, any  
179 ancillary development, and any other facilities or equipment  
180 used for the purposes of construction, operation, or maintenance  
181 of a railroad that provides rail service.

182 (u) "Rail corridor invitee" means any person who is on or  
183 about the rail corridor in which the AAF, SFRTA, or non-SFRTA  
184 commuter rail service operator has an easement interest, a  
185 lease, a right to operate, or a right of access and who is:

186 1. Present at the behest of an AAF, an SFRTA, an FECR, or  
187 the non-SFRTA commuter rail service operator for any purpose;

188 2. Otherwise entitled to be on or about the rail corridor;  
189 or

190 3. Meeting, assisting, or in the company of a person  
191 described in subparagraph 1. or subparagraph 2.

192 (v) "SFRC" means South Florida Rail Corridor.

193 (w) "SFRTA rail corridor invitee" means any rail corridor  
194 invitee who is SFRTA's commuter rail passenger or is otherwise  
195 present on the rail corridor at the request of, pursuant to a  
196 contract with, for the purpose of doing business with, or at the  
197 behest of SFRTA. The term does not include patrons at any  
198 station, except those patrons who are also SFRTA's commuter rail  
199 passengers; any person present on the rail corridor who is a  
200 patron of the non-SFRTA commuter rail service or is meeting or



201 assisting a person who is a patron of the non-SFRTA commuter  
202 rail service; commercial or residential tenants of the  
203 developments in and around the stations or their invitees; or  
204 any third parties performing work at a station or in the rail  
205 corridor, such as employees and invitees of PI or related  
206 entities, utilities, and fiber optic companies or others or  
207 invitees or employees of the department or any county or  
208 municipality.

209 (2) The authority, in conjunction with the operation of a  
210 commuter rail service on a rail corridor, has the power to  
211 assume the following obligations:

212 (a) To indemnify AAF and FECR in accordance with the terms  
213 specified in this paragraph for so long as AAF and FECR or their  
214 successors in interest agree to indemnify the authority in  
215 accordance with the terms specified in this paragraph.

216 1. Except as specifically provided in this paragraph, the  
217 authority shall protect, defend, indemnify, and hold harmless  
218 FECR and its officers, agents, employees, successors, and  
219 assigns from and against any liability, cost, and expense,  
220 including, but not limited to, SFRTA's commuter rail passengers  
221 and rail corridor invitees in, on, or about the rail corridor,  
222 regardless of whether the loss, damage, destruction, injury, or  
223 death giving rise to any such liability, cost, or expense is  
224 caused in whole or in part, and to whatever nature or degree, by  
225 the fault, failure, negligence, misconduct, nonfeasance, or

226 misfeasance of FECR or its officers, agents, employees,  
227 successors, and assigns;

228 2. Except as specifically provided in this paragraph, the  
229 authority shall protect, defend, indemnify, and hold harmless  
230 AAF and its officers, agents, employees, successors, and assigns  
231 from and against any liability, cost, and expense, including,  
232 but not limited to, SFRTA commuter rail passengers and SFRTA  
233 rail corridor invitees in, on, or about the rail corridor,  
234 regardless of whether the loss, damage, destruction, injury, or  
235 death giving rise to any such liability, cost, or expense is  
236 caused in whole or in part, and to whatever nature or degree, by  
237 the fault, failure, negligence, misconduct, nonfeasance, or  
238 misfeasance of AAF or its officers, agents, employees,  
239 successors, and assigns; and

240 3. The assumption of liability by the authority may not in  
241 any instance exceed the following parameters of allocation of  
242 risk:

243 a. The authority shall be solely responsible for any loss,  
244 injury, or damage to SFRTA commuter rail passengers, or to SFRTA  
245 rail corridor invitees, or trespassers, other than passengers or  
246 invitees of the non-SFRTA commuter rail service, regardless of  
247 circumstances or cause, subject to the terms and provisions of  
248 this paragraph.

249 b. FECR shall, with respect to a limited covered accident,  
250 protect, defend, and indemnify SFRTA for the amount of the self-

251 insurance retention account.

252 c. AAF shall, with respect to a limited covered accident,  
253 protect, defend, and indemnify SFRTA for the amount of the self-  
254 insurance retention account.

255 d. When only one train is involved in an incident,  
256 including incidents with trespassers or at at-grade crossings,  
257 the authority shall be solely responsible for any loss, injury,  
258 or damage if the train is an SFRTA train.

259 e. When an incident occurs with only FECR's train  
260 involved, including incidents with trespassers or at at-grade  
261 crossings, FECR shall be solely responsible for any loss,  
262 injury, or damage, except for SFRTA's commuter rail passengers,  
263 SFRTA employees, and SFRTA rail corridor invitees.

264 f. When an incident occurs with only AAF's train involved,  
265 including incidents with trespassers or at at-grade crossings,  
266 AAF shall be solely responsible for any loss, injury, or damage,  
267 except for SFRTA's commuter rail passengers, SFRTA employees,  
268 and SFRTA rail corridor invitees.

269 g. For the purposes of this paragraph:

270 (I) An "other train" shall be treated as the train of the  
271 entity that made the initial request for the train to operate on  
272 the rail corridor.

273 (II) In an incident involving any other train that is not  
274 an SFRTA train, the other train shall be treated as an SFRTA  
275 train solely for purposes of any allocation of liability

276 between:

277 (A) SFRTA and FECR. SFRTA and FECR shall share  
278 responsibility equally as to third parties outside the rail  
279 corridor who incur loss, injury, or damage as a result of any  
280 incident involving both SFRTA's train and FECR's train, and the  
281 allocation as between SFRTA and FECR, regardless of whether the  
282 other train is treated as an SFRTA train, shall remain one-half  
283 each as to third parties outside the rail corridor who incur  
284 loss, injury, or damage as a result of the incident. The  
285 involvement of any other train shall not alter the sharing of  
286 equal responsibility as to third parties outside the rail  
287 corridor who incur loss, injury, or damage as a result of the  
288 incident.

289 (B) SFRTA and AAF. SFRTA and AAF shall share  
290 responsibility equally as to third parties outside the rail  
291 corridor who incur loss, injury, or damage as a result of any  
292 incident involving both SFRTA's train and AAF's train, and the  
293 allocation as between SFRTA and AAF, regardless of whether the  
294 other train is treated as an SFRTA train, shall remain one-half  
295 each as to third parties outside the rail corridor who incur  
296 loss, injury, or damage as a result of the incident. The  
297 involvement of any other train shall not alter the sharing of  
298 equal responsibility as to third parties outside the rail  
299 corridor who incur loss, injury, or damage as a result of the  
300 incident.

301 h. When more than one train is involved in an incident:

302 (I) If only an SFRTA train and an FECR train, or only an  
303 other train that is an SFRTA train by definition and an FECR  
304 train, are involved in an incident, SFRTA shall be responsible  
305 for its property and all SFRTA's commuter rail passengers, SFRTA  
306 employees, and SFRTA rail corridor invitees. FECR shall be  
307 responsible for its property and all of its employees and FECR  
308 rail corridor invitees. SFRTA and FECR shall each share one-half  
309 responsibility as to the joint infrastructure and rail corridor  
310 invitees who are not SFRTA rail corridor invitees or FECR rail  
311 corridor invitees, including, but not limited to, trespassers or  
312 third parties outside the rail corridor who incur loss, injury,  
313 or damage as a result of the incident.

314 (II) If only an SFRTA train and an AAF train, or only an  
315 other train that is by definition an SFRTA train and an AAF  
316 train, are involved in an incident, SFRTA shall be responsible  
317 for its property and all SFRTA's commuter rail passengers, SFRTA  
318 employees, and SFRTA rail corridor invitees. AAF shall be  
319 responsible for its property and all of its employees, AAF's  
320 intercity rail passengers, and AAF rail corridor invitees. SFRTA  
321 and AAF shall each share one-half responsibility as to the joint  
322 infrastructure and rail corridor invitees who are not SFRTA rail  
323 corridor invitees or AAF rail corridor invitees, including, but  
324 not limited to, trespassers or third parties outside the rail  
325 corridor who incur loss, injury, or damage as a result of the

326 incident.

327 (III) If an FECR train, an SFRTA train, and an AAF train  
328 are involved in an incident, SFRTA shall be responsible for its  
329 property and all SFRTA's commuter rail passengers, SFRTA  
330 employees, and SFRTA rail corridor invitees. AAF shall be  
331 responsible for its property and all of its employees, AAF's  
332 intercity rail passengers, and AAF rail corridor invitees. FECR  
333 shall be responsible for its property and all of its employees  
334 and FECR rail corridor invitees. SFRTA, FECR, and AAF shall each  
335 share one-third responsibility as to the joint infrastructure  
336 and rail corridor invitees who are not SFRTA rail corridor  
337 invitees, AAF rail corridor invitees, or FECR rail corridor  
338 invitees, including, but not limited to, trespassers or third  
339 parties outside the rail corridor who incur loss, injury, or  
340 damage as a result of the incident.

341 (IV) If an SFRTA train, an FECR train, and an AAF train  
342 are involved in an incident, the allocation of liability among  
343 SFRTA, FECR, and AAF shall be one-third each as to third parties  
344 outside the rail corridor who incur loss, injury, or damage as a  
345 result of the incident.

346 (V) If an SFRTA train, an FECR train, and any other train  
347 are involved in an incident, the allocation of liability among  
348 SFRTA, FECR, and the other train shall be one-third each as to  
349 third parties outside the rail corridor who incur loss, injury,  
350 or damage as a result of the incident.

351 (VI) If an SFRTA train, an AAF train, and any other train  
352 are involved in an incident, the allocation of liability among  
353 SFRTA, AAF, and the other train shall be one-third each as to  
354 third parties outside the rail corridor who incur loss, injury,  
355 or damage as a result of the incident.

356 i. Notwithstanding anything to the contrary set forth in  
357 this paragraph, SFRTA is not obligated to indemnify FEER and AAF  
358 for any amount in excess of the insurance coverage limit.  
359 Regardless of whether SFRTA maintains the insurance coverage  
360 required pursuant to paragraph (b) to cover the indemnification  
361 obligations of this paragraph, SFRTA shall remain responsible  
362 for the indemnification obligations set forth in this paragraph  
363 up to the insurance coverage limit.

364 j. If the non-SFRTA commuter rail service is provided by  
365 an entity under contract with AAF, SFRTA may elect, at its sole  
366 discretion, to provide the same insurance coverage and to  
367 indemnify and hold harmless any non-SFRTA commuter rail service  
368 operator to the same extent that it provides such insurance or  
369 indemnification to AAF pursuant to this section.

370 (b) To purchase railroad liability insurance of \$295  
371 million per occurrence, which amount shall be adjusted in  
372 accordance with applicable law up to the insurance coverage  
373 limit, with a \$5 million self-insurance retention account that  
374 shall be composed of and defined as the "SFRTA insurance  
375 program." The SFRTA insurance program may, at SFRTA's sole

376 discretion, cover the obligations described in this section or  
377 any other service operated by SFRTA on a rail corridor. Because  
378 the self-insurance retention account is a part of the SFRTA  
379 insurance program, all definitions, terms, conditions,  
380 restrictions, exclusions, obligations, and duties included in  
381 any and all of the policies of insurance procured by SFRTA for  
382 the SFRTA insurance program shall apply to the self-insurance  
383 retention account and its application to claims against the  
384 applicable insureds. SFRTA shall name FECR and AAF as insureds  
385 on any policies it procures pursuant to this section at no cost  
386 to AAF and FECR and ensure that all policies shall have a waiver  
387 of exclusion for punitive damages and coverage for claims made  
388 pursuant to the Federal Employers Liability Act, 45 U.S.C. ss.  
389 51 et seq. Such policies must also include terrorism coverage,  
390 pollution coverage, including, but not limited to, coverage  
391 applicable in the event of a railroad accident, a derailment, or  
392 an overturn, and evacuation expense coverage.

393 Section 2. Subsection (4) of section 343.58, Florida  
394 Statutes, is amended to read:

395 343.58 County funding for the South Florida Regional  
396 Transportation Authority.—

397 (4) Notwithstanding any other provision of law to the  
398 contrary and effective July 1, 2010, until as provided in  
399 paragraph (d), the department shall transfer annually from the  
400 State Transportation Trust Fund to the South Florida Regional



401 Transportation Authority, in quarterly payments commencing at  
402 the start of each fiscal year, the amounts specified in  
403 subparagraph (a)1. or subparagraph (a)2.

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

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

409 b. An amount no less than the work program commitments  
410 equal to \$27.1 million for fiscal year 2010-2011, as of July 1,  
411 2009, for operating assistance to the authority and corridor  
412 track maintenance and contract maintenance for the South Florida  
413 Rail Corridor.

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

416 a. \$13.3 million from the State Transportation Trust Fund  
417 to the South Florida Regional Transportation Authority for  
418 operations; and

419 b. An amount no less than the work program commitments  
420 equal to \$17.3 million for fiscal year 2010-2011, as of July 1,  
421 2009, for operating assistance to the authority.

422 (b) Funding required by this subsection may not be  
423 provided from the funds dedicated to the Florida Rail Enterprise  
424 pursuant to s. 201.15(4)(a)4.

425 (c)1. Funds provided to the authority by the department

426 | under this subsection may not be committed by the authority  
427 | without the approval of the department, which may not be  
428 | unreasonably withheld. At least 90 days before advertising any  
429 | procurement or renewing any existing contract that will rely on  
430 | state funds for payment, the authority shall notify the  
431 | department of the proposed procurement or renewal and the  
432 | proposed terms thereof. If the department, within 60 days after  
433 | receipt of notice, objects in writing to the proposed  
434 | procurement or renewal, specifying its reasons for objection,  
435 | the authority may not proceed with the proposed procurement or  
436 | renewal. Failure of the department to object in writing within  
437 | 60 days after notice shall be deemed consent. This requirement  
438 | does not impair or cause the authority to cancel contracts that  
439 | exist as of June 30, 2012.

440 |       2. To enable the department to evaluate the authority's  
441 | proposed uses of state funds, the authority shall annually  
442 | provide the department with its proposed budget for the  
443 | following authority fiscal year and shall provide the department  
444 | with any additional documentation or information required by the  
445 | department for its evaluation of the proposed uses of the state  
446 | funds.

447 |       3. State funds provided to the authority pursuant to this  
448 | subsection beginning July 1, 2010, and thereafter may not be  
449 | considered state financial assistance subject to s. 215.97 or s.  
450 | 215.971.

451 (d) Funding required by this subsection shall cease upon  
452 commencement of an alternate dedicated local funding source  
453 sufficient for the authority to meet its responsibilities for  
454 operating, maintaining, and dispatching the South Florida Rail  
455 Corridor. The authority and the department shall cooperate in  
456 the effort to identify and implement such an alternate dedicated  
457 local funding source before July 1, 2019. Upon commencement of  
458 the alternate dedicated local funding source, the department  
459 shall convey to the authority a perpetual commuter rail easement  
460 in the South Florida Rail Corridor and all of the department's  
461 right, title, and interest in rolling stock, equipment, tracks,  
462 and other personal property owned and used by the department for  
463 the operation and maintenance of the commuter rail operations in  
464 the South Florida Rail Corridor.

465 Section 3. Paragraph (d) is added to subsection (17) of  
466 section 341.302, Florida Statutes, to read:

467 341.302 Rail program; duties and responsibilities of the  
468 department.—The department, in conjunction with other  
469 governmental entities, including the rail enterprise and the  
470 private sector, shall develop and implement a rail program of  
471 statewide application designed to ensure the proper maintenance,  
472 safety, revitalization, and expansion of the rail system to  
473 assure its continued and increased availability to respond to  
474 statewide mobility needs. Within the resources provided pursuant  
475 to chapter 216, and as authorized under federal law, the

476 department shall:

477 (17) In conjunction with the acquisition, ownership,  
478 construction, operation, maintenance, and management of a rail  
479 corridor, have the authority to:

480 (d) Without altering any of the rights granted to the  
481 department under this section, agree to assume the obligations  
482 to indemnify and insure, pursuant to s. 343.545, freight rail  
483 service, intercity passenger rail service, and commuter rail  
484 service on a department-owned rail corridor, whether ownership  
485 is in fee or by easement, or on a rail corridor where the  
486 department has the right to operate.

487  
488 Neither the assumption by contract to protect, defend,  
489 indemnify, and hold harmless; the purchase of insurance; nor the  
490 establishment of a self-insurance retention fund shall be deemed  
491 to be a waiver of any defense of sovereign immunity for torts  
492 nor deemed to increase the limits of the department's or the  
493 governmental entity's liability for torts as provided in s.  
494 768.28. The requirements of s. 287.022(1) shall not apply to the  
495 purchase of any insurance under this subsection. The provisions  
496 of this subsection shall apply and inure fully as to any other  
497 governmental entity providing commuter rail service and  
498 constructing, operating, maintaining, or managing a rail  
499 corridor on publicly owned right-of-way under contract by the  
500 governmental entity with the department or a governmental entity

501 designated by the department. Notwithstanding any law to the  
502 contrary, procurement for the construction, operation,  
503 maintenance, and management of any rail corridor described in  
504 this subsection, whether by the department, a governmental  
505 entity under contract with the department, or a governmental  
506 entity designated by the department, shall be pursuant to s.  
507 287.057 and shall include, but not be limited to, criteria for  
508 the consideration of qualifications, technical aspects of the  
509 proposal, and price. Further, any such contract for design-build  
510 shall be procured pursuant to the criteria in s. 337.11(7).

511 Section 4. This act shall take effect July 1, 2017.

512