

By the Committee on Transportation; and Senator Galvano

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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; requiring that the transfer be  
13 made through quarterly payments commencing at the  
14 start of each fiscal year; amending s. 341.302, F.S.;  
15 authorizing the department to agree to assume certain  
16 indemnification and insurance obligations under  
17 certain circumstances; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Section 343.545, Florida Statutes, is created to  
22 read:

23 343.545 Power to assume indemnification and insurance  
24 obligations; definitions.—

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

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

28 (b) "AAF intercity rail passenger" means any person,  
29 ticketed or unticketed, using the AAF intercity passenger rail

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30 service on the rail corridor:

31 1. On board trains, locomotives, rail cars, or rail  
32 equipment employed in AAF intercity passenger rail service or  
33 entraining thereon and detraining therefrom;

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

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

40 (c) "AAF rail corridor invitee" means any rail corridor  
41 invitee who is an AAF intercity rail passenger or is otherwise  
42 present on the rail corridor at the request of, pursuant to a  
43 contract with, or otherwise for the purpose of doing business  
44 with or at the behest of AAF, including persons who are vendors  
45 or employees of vendors at the MiamiCentral station or any other  
46 station that AAF may construct on the rail corridor. The term  
47 does not include patrons at any station, except those patrons  
48 who are also AAF's intercity rail passengers; commercial or  
49 residential tenants of the developments in and around the  
50 stations or their invitees; or any third parties performing work  
51 at a station or in the rail corridor, such as employees and  
52 invitees of PI or related entities, utilities, and fiber optic  
53 companies, or invitees or employees of the department or any  
54 county or municipality.

55 (d) "Commuter rail passenger" means any person, ticketed or  
56 unticketed, using the commuter rail service on the rail  
57 corridor:

58 1. On board trains, locomotives, rail cars, or rail

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59 equipment employed in commuter rail service or entraining  
60 thereon and detraining therefrom;

61 2. On or about the rail corridor for any purpose related to  
62 the commuter rail service, including parking or purchasing  
63 tickets therefor and coming to, waiting for, and leaving from  
64 locomotives, rail cars, or rail equipment; or

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

67 (e) "Commuter rail service" means the operation of the  
68 authority's trains transporting passengers and making frequent  
69 stops within urban areas and their immediate suburbs along the  
70 rail corridor for the purpose of passengers entraining and  
71 detraining, and including the nonrevenue movement of trains for  
72 storage or maintenance. The term does not include the operation  
73 of trains by AAF transporting passengers in intercity passenger  
74 rail service between passenger rail stations established by AAF  
75 at Miami-Dade, Fort Lauderdale, West Palm Beach, or future  
76 stations, but shall include the provision of non-SFRTA commuter  
77 rail service by AAF or a third party designated by AAF,  
78 including SFRTA.

79 (f) "Existing IRIS crossing" means the existing, at-grade  
80 railroad crossing between the SFRC and the rail corridor located  
81 in Miami-Dade County.

82 (g) "Florida East Coast Railway" or "FECR" means Florida  
83 East Coast Railway, LLC, or its successors and assigns.

84 (h) "FECR rail corridor invitee" means any rail corridor  
85 invitee who is present on the rail corridor at the request of,  
86 pursuant to a contract with, or otherwise for the purpose of  
87 doing business with or at the behest of FECR. The term does not

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88 include patrons at any station; commercial or residential  
89 tenants of the developments in and around the stations or their  
90 invitees; or any third parties performing work at a station or  
91 in the rail corridor, such as employees and invitees of PI or  
92 related entities, utilities, and fiber optic companies or  
93 others, or invitees or employees of the department or any county  
94 or municipality.

95 (i) "Freight rail service" means any and all uses and  
96 purposes that are ancillary or related to current and future  
97 freight rail operations on, along, over, under, and across the  
98 rail corridor, including operating trains, rail cars, business  
99 cars, locomotives, hi-rail vehicles, and other rail equipment  
100 for the movement of freight in overhead and local service;  
101 interchanging rail cars with other freight railroads; providing  
102 pickups, setoffs, transloading services, or storage in transit;  
103 and any and all other activities that are ancillary or related  
104 to the transportation of freight on or along the rail corridor.

105 (j) "Intercity passenger rail service" means all passenger  
106 service on the rail corridor other than commuter rail service  
107 and is characterized by trains making less frequent stops along  
108 the rail corridor than the commuter rail service does.

109 (k) "Joint infrastructure" means any portion or segment of  
110 the rail corridor which does not contain tracks or  
111 infrastructure designated for the exclusive use of the  
112 authority, AAF, or FECR and portions of the MiamiCentral station  
113 used by both AAF and SFRTA, including, but not limited to,  
114 stairs, elevators, and escalators.

115 (l) "Limited covered accident" means:

116 1. A collision directly between the trains, locomotives,

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117 rail cars, or rail equipment of SFRTA and FECR only, where the  
118 collision is caused by or arising from the willful misconduct of  
119 FECR or its subsidiaries, agents, licensees, employees,  
120 officers, or directors, as adjudicated pursuant to a final and  
121 unappealable court order, or if punitive damages or exemplary  
122 damages are awarded due to the conduct of FECR or its  
123 subsidiaries, agents, licensees, employees, officers, or  
124 directors, as adjudicated pursuant to a final and unappealable  
125 court order; or

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

136 (m) "MiamiCentral" means the primary All Aboard Florida  
137 station located in downtown Miami, which includes exclusive  
138 areas used by the authority for commuter rail service.

139 (n) "Non-SFRTA commuter rail service" means AAF's  
140 operation, or an AAF third-party designee's operation, of trains  
141 in any commuter rail service on the rail corridor which is not  
142 SFRTA's commuter rail service. The term does not include:

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

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146 rail corridor; and

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

149 (o) "Non-SFRTA commuter rail service operator" means the  
150 operator of any non-SFRTA commuter rail service.

151 (p) "Other train" means a train that is not SFRTA's train,  
152 FECR's train, AAF's train, a train of a non-SFRTA commuter rail  
153 service operator, or a train of any other operator of intercity  
154 rail passenger service and must be treated as a train of the  
155 entity that made the initial request for the train to operate on  
156 the rail corridor.

157 (q) "Passenger easement" means a permanent, perpetual, and  
158 exclusive easement on, along, over, under, or across the rail  
159 corridor for commuter rail service.

160 (r) "PI" means FDG Flagler Station II, LLC, which has an  
161 easement on the rail corridor for nonrail uses.

162 (s) "Rail corridor" means the portion of a linear  
163 contiguous strip of real property which is used for rail service  
164 and owned by FECR or owned or controlled by AAF. The term  
165 applies only when the authority has, by contract, assumed the  
166 obligation to forever protect, defend, indemnify, and hold  
167 harmless FECR, AAF, or their successors, in accordance with  
168 subsection (2), and acquired an easement interest, a lease, a  
169 right to operate, or a right of access. The term includes  
170 structures essential to railroad operations, including the land,  
171 structures, improvements, rights-of-way, easements, rail lines,  
172 rail beds, guideway structures, switches, yards, parking  
173 facilities, power relays, switching houses, rail stations, any  
174 ancillary development, and any other facilities or equipment

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175 used for the purposes of construction, operation, or maintenance  
176 of a railroad that provides rail service.

177 (t) "Rail corridor invitee" means any person who is on or  
178 about the rail corridor in which the AAF, SFRTA, or the non-  
179 SFRTA commuter rail service operator has an easement interest, a  
180 lease, a right to operate, or a right of access, and who is:

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

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

184 or

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

187 (u) "SFRC" means South Florida Rail Corridor.

188 (v) "South Florida Regional Transportation Authority" or  
189 "SFRTA" means the authority.

190 (w) "SFRTA rail corridor invitee" means any rail corridor  
191 invitee who is SFRTA's commuter rail passenger or is otherwise  
192 present on the rail corridor at the request of, pursuant to a  
193 contract with, for the purpose of doing business with, or at the  
194 behest of SFRTA. The term does not include patrons at any  
195 station, except those patrons who are also SFRTA's commuter rail  
196 passengers; any person present on the rail corridor who is a  
197 patron of the non-SFRTA commuter rail service or is meeting or  
198 assisting a person who is a patron of the non-SFRTA commuter  
199 rail service; commercial or residential tenants of the  
200 developments in and around the stations or their invitees; or  
201 any third parties performing work at a station or in the rail  
202 corridor, such as employees and invitees of PI or related  
203 entities, utilities, and fiber optic companies or others, or

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204 invitees or employees of the department or any county or  
205 municipality.

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

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

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

225 2. Except as specifically provided in this paragraph, the  
226 authority shall protect, defend, indemnify, and hold harmless  
227 AAF and its officers, agents, employees, successors, and assigns  
228 from and against any liability, cost, and expense, including,  
229 but not limited to, SFRTA commuter rail passengers and SFRTA  
230 rail corridor invitees in, on, or about the rail corridor,  
231 regardless of whether the loss, damage, destruction, injury, or  
232 death giving rise to any such liability, cost, or expense is

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233 caused in whole or in part, and to whatever nature or degree, by  
234 the fault, failure, negligence, misconduct, nonfeasance, or  
235 misfeasance of AAF or its officers, agents, employees,  
236 successors, and assigns; or

237 3. The assumption of liability by the authority may not in  
238 any instance exceed the following parameters of allocation of  
239 risk:

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

246 b. FECR shall, with respect to a limited covered accident,  
247 protect, defend, and indemnify SFRTA for the amount of the self-  
248 insurance retention account.

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

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

261 f. When an incident occurs with only AAF's train involved,

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262 including incidents with trespassers or at at-grade crossings,  
263 AAF shall be solely responsible for any loss, injury, or damage,  
264 except for SFRTA's commuter rail passengers, SFRTA employees,  
265 and SFRTA rail corridor invitees.

266 g. For the purposes of this paragraph:

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

270 (II) In an incident involving any other train that is not  
271 an SFRTA train, the other train shall be treated as an SFRTA  
272 train solely for purposes of any allocation of liability  
273 between:

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

286 (B) SFRTA and AAF. SFRTA and AAF shall share responsibility  
287 equally as to third parties outside the rail corridor who incur  
288 loss, injury, or damage as a result of any incident involving  
289 both an SFRTA train and AAF's train and the allocation as  
290 between SFRTA and AAF, regardless of whether the other train is

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291 treated as an SFRTA train, shall remain one-half each as to  
292 third parties outside the rail corridor who incur loss, injury,  
293 or damage as a result of the incident. The involvement of any  
294 other train shall not alter the sharing of equal responsibility  
295 as to third parties outside the rail corridor who incur loss,  
296 injury, or damage as a result of the incident.

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

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

310 (II) If only an SFRTA train and an AAF train, or only an  
311 other train that is by definition an SFRTA train and an AAF  
312 train, are involved in an incident, SFRTA shall be responsible  
313 for its property, all SFRTA's commuter rail passengers, SFRTA  
314 employees, and SFRTA rail corridor invitees. AAF shall be  
315 responsible for its property and all of its employees, AAF's  
316 intercity rail passengers, and AAF rail corridor invitees. SFRTA  
317 and AAF shall each share one-half responsibility as to the joint  
318 infrastructure and rail corridor invitees who are not SFRTA rail  
319 corridor invitees or AAF rail corridor invitees, including, but

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320 not limited to, trespassers or third parties outside the rail  
321 corridor who incur loss, injury, or damage as a result of the  
322 incident.

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

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

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

347 (VI) If an SFRTA train, an AAF train, and any other train  
348 are involved in an incident, the allocation of liability among

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349 SFRTA, AAF, and the other train shall be one-third each as to  
350 third parties outside the rail corridor who incur loss, injury,  
351 or damage as a result of the incident.

352 i. Notwithstanding anything to the contrary set forth in  
353 this paragraph, SFRTA is not obligated to indemnify FECR and AAF  
354 for any amount in excess of the insurance coverage limit.  
355 Whether or not SFRTA maintains the insurance coverage required  
356 pursuant to paragraph (b) to cover the indemnification  
357 obligations of this paragraph, SFRTA shall remain responsible  
358 for the indemnification obligations set forth in this paragraph  
359 up to the insurance coverage limit.

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

366 (b) To purchase railroad liability insurance of \$295  
367 million per occurrence, which amount shall be adjusted in  
368 accordance with applicable law up to the insurance coverage  
369 limit, with a \$5 million self-insurance retention account that  
370 shall be composed of and defined as the "SFRTA insurance  
371 program." The SFRTA insurance program may, at SFRTA's sole  
372 discretion, cover the obligations described in this section or  
373 any other service operated by SFRTA on a rail corridor. Because  
374 the self-insurance retention account is a part of the SFRTA  
375 insurance program, all definitions, terms, conditions,  
376 restrictions, exclusions, obligations, and duties included in  
377 any and all of the policies of insurance procured by SFRTA for

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378 the SFRTA insurance program shall apply to the self-insurance  
379 retention account and its application to claims against the  
380 applicable insureds. SFRTA shall name FECR and AAF as insureds  
381 on any policies it procures pursuant to this section at no cost  
382 to AAF and FECR and ensure that all policies shall have a waiver  
383 of exclusion for punitive damages and coverage for claims made  
384 pursuant to the Federal Employers Liability Act, 45 U.S.C. s. 51  
385 et seq. Such policies must also include terrorism coverage,  
386 pollution coverage, including, but not limited to, coverage  
387 applicable in the event of a railroad accident, a derailment, or  
388 an overturn, and evacuation expense coverage.

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

391 343.58 County funding for the South Florida Regional  
392 Transportation Authority.—

393 (4) Notwithstanding any other provision of law to the  
394 contrary and effective July 1, 2010, until as provided in  
395 paragraph (d), the department shall transfer annually from the  
396 State Transportation Trust Fund to the South Florida Regional  
397 Transportation Authority, in quarterly payments commencing at  
398 the start of each fiscal year, the amounts specified in  
399 subparagraph (a)1. or subparagraph (a)2.

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

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

405 b. An amount no less than the work program commitments  
406 equal to \$27.1 million for fiscal year 2010-2011, as of July 1,

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407 2009, for operating assistance to the authority and corridor  
408 track maintenance and contract maintenance for the South Florida  
409 Rail Corridor.

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

412 a. \$13.3 million from the State Transportation Trust Fund  
413 to the South Florida Regional Transportation Authority for  
414 operations; and

415 b. An amount no less than the work program commitments  
416 equal to \$17.3 million for fiscal year 2010-2011, as of July 1,  
417 2009, for operating assistance to the authority.

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

421 (c)1. Funds provided to the authority by the department  
422 under this subsection may not be committed by the authority  
423 without the approval of the department, which may not be  
424 unreasonably withheld. At least 90 days before advertising any  
425 procurement or renewing any existing contract that will rely on  
426 state funds for payment, the authority shall notify the  
427 department of the proposed procurement or renewal and the  
428 proposed terms thereof. If the department, within 60 days after  
429 receipt of notice, objects in writing to the proposed  
430 procurement or renewal, specifying its reasons for objection,  
431 the authority may not proceed with the proposed procurement or  
432 renewal. Failure of the department to object in writing within  
433 60 days after notice shall be deemed consent. This requirement  
434 does not impair or cause the authority to cancel contracts that  
435 exist as of June 30, 2012.

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

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

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

459           341.302 Rail program; duties and responsibilities of the  
460 department.—The department, in conjunction with other  
461 governmental entities, including the rail enterprise and the  
462 private sector, shall develop and implement a rail program of  
463 statewide application designed to ensure the proper maintenance,  
464 safety, revitalization, and expansion of the rail system to

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465 assure its continued and increased availability to respond to  
466 statewide mobility needs. Within the resources provided pursuant  
467 to chapter 216, and as authorized under federal law, the  
468 department shall:

469 (17) In conjunction with the acquisition, ownership,  
470 construction, operation, maintenance, and management of a rail  
471 corridor, have the authority to:

472 (d) Without altering any of the rights granted to the  
473 department under this section, agree to assume the obligations  
474 to indemnify and insure, pursuant to s. 343.545, freight rail  
475 service, intercity passenger rail service, and commuter rail  
476 service on a department-owned rail corridor, whether ownership  
477 is in fee or by easement, or on a rail corridor where the  
478 department has the right to operate.

479  
480 Neither the assumption by contract to protect, defend,  
481 indemnify, and hold harmless; the purchase of insurance; nor the  
482 establishment of a self-insurance retention fund shall be deemed  
483 to be a waiver of any defense of sovereign immunity for torts  
484 nor deemed to increase the limits of the department's or the  
485 governmental entity's liability for torts as provided in s.  
486 768.28. The requirements of s. 287.022(1) shall not apply to the  
487 purchase of any insurance under this subsection. The provisions  
488 of this subsection shall apply and inure fully as to any other  
489 governmental entity providing commuter rail service and  
490 constructing, operating, maintaining, or managing a rail  
491 corridor on publicly owned right-of-way under contract by the  
492 governmental entity with the department or a governmental entity  
493 designated by the department. Notwithstanding any law to the

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494 contrary, procurement for the construction, operation,  
495 maintenance, and management of any rail corridor described in  
496 this subsection, whether by the department, a governmental  
497 entity under contract with the department, or a governmental  
498 entity designated by the department, shall be pursuant to s.  
499 287.057 and shall include, but not be limited to, criteria for  
500 the consideration of qualifications, technical aspects of the  
501 proposal, and price. Further, any such contract for design-build  
502 shall be procured pursuant to the criteria in s. 337.11(7).

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