

1 A bill to be entitled
2 An act relating to transportation; amending s. 20.23,
3 F.S.; revising the organization of the Department of
4 Transportation; revising and providing for the
5 delegation of certain responsibilities; revising
6 provisions relating to the operation of a rail
7 enterprise; amending s. 206.46, F.S.; removing a
8 limitation on an annual transfer from the State
9 Transportation Trust Fund to the Right-of-Way
10 Acquisition and Bridge Construction Trust Fund;
11 amending ss. 206.606, 206.608, and 212.0501, F.S.;
12 removing a requirement for deduction of certain
13 service charges before distributing certain moneys;
14 amending s. 286.23, F.S.; revising the time period
15 within which a disclosure of beneficial interests must
16 be submitted to the state or any local governmental
17 unit to which certain property is to be conveyed;
18 authorizing notice by the state or such governmental
19 unit to the person required to make certain
20 disclosures to be delivered by certified mail, an
21 alternative delivery service, or electronically under
22 certain circumstances; amending s. 311.101, F.S.;
23 deleting the scheduled repeal of funding for the
24 Intermodal Logistics Center Infrastructure Support
25 Program; amending s. 316.126, F.S.; requiring the

26 operator of a motor vehicle to take certain actions
27 under certain circumstances when a road and bridge
28 maintenance or construction vehicle is on the
29 roadside; amending s. 319.32, F.S.; removing a
30 requirement for deduction of certain service charges
31 before depositing fees for a certificate of title into
32 the State Transportation Trust Fund; amending s.
33 333.03, F.S.; requiring airport protection zoning
34 regulations to require certain permit applicants to
35 submit a final valid determination from the Federal
36 Aviation Administration; amending s. 339.135, F.S.;
37 conforming provisions to changes made by the act;
38 deleting the scheduled repeal of provisions relating
39 to approval of amendments submitted to the Legislative
40 Budget Commission by the department; amending s.
41 339.175, F.S.; revising the date by which a
42 metropolitan planning organization must submit a list
43 of project priorities to the appropriate department
44 district; amending s. 341.302, F.S.; revising
45 department responsibilities regarding rail systems;
46 revising the maximum amount of liability insurance the
47 department may purchase; amending s. 341.303, F.S.;
48 revising department funding authority regarding rail
49 systems; repealing s. 339.2821, F.S., relating to
50 economic development transportation projects; amending

51 ss. 288.0656, 339.08, and 377.809, F.S.; conforming
 52 provisions to changes made by the act; providing an
 53 effective date.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. Paragraphs (a) and (f) of subsection (4) of
 58 section 20.23, Florida Statutes, are amended to read:

59 20.23 Department of Transportation.—There is created a
 60 Department of Transportation which shall be a decentralized
 61 agency.

62 (4) (a) The operations of the department shall be organized
 63 into seven districts, each headed by a district secretary, and a
 64 turnpike enterprise ~~and a rail enterprise, each enterprise~~
 65 headed by an executive director. The district secretaries and
 66 the executive director ~~directors~~ shall be registered
 67 professional engineers in accordance with ~~the provisions of~~
 68 chapter 471 or the laws of another state, or, in lieu of
 69 professional engineer registration, a district secretary or the
 70 executive director may hold an advanced degree in an appropriate
 71 related discipline, such as a Master of Business Administration.
 72 The headquarters of the districts shall be located in Polk,
 73 Columbia, Washington, Broward, Volusia, Miami-Dade, and
 74 Hillsborough Counties. The headquarters of the turnpike
 75 enterprise shall be located in Orange County. ~~The headquarters~~

76 ~~of the rail enterprise shall be located in Leon County.~~ In order
77 to provide for efficient operations and to expedite the
78 decisionmaking process, the department shall provide for maximum
79 decentralization to the districts.

80 (f)~~1~~. The responsibility for developing and operating the
81 high-speed and passenger rail systems established in chapter
82 341, directing funding for passenger rail systems under s.
83 341.303, general rail safety, coordinating efforts to enhance
84 passenger rail safety in the state, and coordinating publicly
85 funded passenger rail operations in the state, including freight
86 rail interoperability issues, shall be delegated to a
87 departmental entity to be named by the secretary ~~to the~~
88 ~~executive director of the rail enterprise, who shall serve at~~
89 ~~the pleasure of the secretary. The executive director shall~~
90 ~~report directly to the secretary, and the rail enterprise shall~~
91 ~~operate pursuant to ss. 341.8201-341.842.~~

92 ~~2. To facilitate the most efficient and effective~~
93 ~~management of the rail enterprise, including the use of best~~
94 ~~business practices employed by the private sector, the rail~~
95 ~~enterprise, except as provided in s. 287.055, shall be exempt~~
96 ~~from departmental policies, procedures, and standards, subject~~
97 ~~to the secretary having the authority to apply any such~~
98 ~~policies, procedures, and standards to the rail enterprise from~~
99 ~~time to time as deemed appropriate.~~

100 Section 2. Subsection (2) of section 206.46, Florida

101 Statutes, is amended to read:

102 206.46 State Transportation Trust Fund.—

103 (2) Notwithstanding any other provision ~~provisions~~ of law,
 104 from the revenues deposited into the State Transportation Trust
 105 Fund, up to a maximum of 7 percent in each fiscal year shall be
 106 transferred into the Right-of-Way Acquisition and Bridge
 107 Construction Trust Fund created in s. 215.605~~7~~, as needed to meet
 108 the requirements of the documents authorizing the bonds issued
 109 or proposed to be issued under ss. 215.605 and 337.276 or at a
 110 minimum amount sufficient to pay for the debt service coverage
 111 requirements of outstanding bonds. ~~Notwithstanding the 7 percent~~
 112 ~~annual transfer authorized in this subsection, the annual amount~~
 113 ~~transferred under this subsection shall not exceed an amount~~
 114 ~~necessary to provide the required debt service coverage levels~~
 115 ~~for a maximum debt service not to exceed \$275 million.~~ Such
 116 transfer shall be payable primarily from the motor and diesel
 117 fuel taxes transferred to the State Transportation Trust Fund
 118 from the Fuel Tax Collection Trust Fund.

119 Section 3. Subsection (1) of section 206.606, Florida
 120 Statutes, is amended to read:

121 206.606 Distribution of certain proceeds.—

122 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
 123 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
 124 Fund. Such moneys, after deducting ~~the service charges imposed~~
 125 ~~by s. 215.20~~, the refunds granted pursuant to s. 206.41~~7~~, and the

126 administrative costs incurred by the department in collecting,
127 administering, enforcing, and distributing the tax, which
128 administrative costs may not exceed 2 percent of collections,
129 shall be distributed monthly to the State Transportation Trust
130 Fund, except that:

131 (a) Each fiscal year, \$6.3 ~~\$6.30~~ million shall be
132 transferred to the Fish and Wildlife Conservation Commission ~~in~~
133 ~~each fiscal year~~ and deposited in the Invasive Plant Control
134 Trust Fund to be used for aquatic plant management, including
135 nonchemical control of aquatic weeds, research into nonchemical
136 controls, and enforcement activities. The commission shall
137 allocate at least \$1 million of such funds to the eradication of
138 melaleuca.

139 (b) Annually, \$2.5 million shall be transferred to the
140 State Game Trust Fund in the Fish and Wildlife Conservation
141 Commission and used for recreational boating activities and
142 freshwater fisheries management and research. The transfers must
143 be made in equal monthly amounts beginning on July 1 of each
144 fiscal year. The commission shall annually determine where unmet
145 needs exist for boating-related activities, and may fund such
146 activities in counties where, due to the number of vessel
147 registrations, sufficient financial resources are unavailable.

148 1. A minimum of \$1.25 million shall be used to fund local
149 projects to provide recreational channel marking and other
150 uniform waterway markers, public boat ramps, lifts, and hoists,

151 marine railways, and other public launching facilities, derelict
152 vessel removal, and other local boating-related activities. In
153 funding the projects, the commission shall give priority
154 consideration to:

155 a. Unmet needs in counties having populations of 100,000
156 or fewer.

157 b. Unmet needs in coastal counties having a high level of
158 boating-related activities from individuals residing in other
159 counties.

160 2. The remaining \$1.25 million may be used for
161 recreational boating activities and freshwater fisheries
162 management and research.

163 3. The commission may adopt rules to administer a Florida
164 Boating Improvement Program.

165
166 The commission shall prepare and make available on its ~~Internet~~
167 website an annual report outlining the status of its Florida
168 Boating Improvement Program, including the projects funded, and
169 a list of counties the whose needs of which are unmet due to
170 insufficient financial resources from vessel registration fees.

171 (c) ~~0.65 percent~~ Of the moneys collected pursuant to s.
172 206.41(1)(g), 0.65 percent shall be transferred to the
173 Agricultural Emergency Eradication Trust Fund.

174 (d) Each fiscal year, \$13.4 million ~~in fiscal year 2007-~~
175 ~~2008 and each fiscal year thereafter~~ of the moneys attributable

176 to the sale of motor and diesel fuel at marinas shall be
 177 transferred from the Fuel Tax Collection Trust Fund to the
 178 Marine Resources Conservation Trust Fund in the Fish and
 179 Wildlife Conservation Commission.

180 Section 4. Section 206.608, Florida Statutes, is amended
 181 to read:

182 206.608 State Comprehensive Enhanced Transportation System
 183 Tax; deposit of proceeds; distribution.—Moneys received pursuant
 184 to ss. 206.41(1)(f) and 206.87(1)(d) shall be deposited in the
 185 Fuel Tax Collection Trust Fund~~7~~ and, after deducting the ~~service~~
 186 ~~charge imposed in chapter 215 and~~ administrative costs incurred
 187 by the department in collecting, administering, enforcing, and
 188 distributing the tax, which administrative costs may not exceed
 189 2 percent of collections, shall be distributed as follows:

190 (1) ~~0.65 percent~~ Of the proceeds of the tax levied
 191 pursuant to s. 206.41(1)(f), 0.65 percent shall be transferred
 192 to the Agricultural Emergency Eradication Trust Fund.

193 (2) The remaining proceeds of the tax levied pursuant to
 194 s. 206.41(1)(f) and all of the proceeds from the tax imposed by
 195 s. 206.87(1)(d) shall be transferred into the State
 196 Transportation Trust Fund~~7~~ and may be used only for projects in
 197 the adopted work program in the district in which the tax
 198 proceeds are collected~~7~~ and~~7~~ to the maximum extent feasible,
 199 such moneys shall be programmed for use in the county where
 200 collected. However, ~~no~~ revenue from the taxes imposed pursuant

201 to ss. 206.41(1)(f) and 206.87(1)(d) in a county may not ~~shall~~
 202 be expended unless the projects funded with such revenues have
 203 been included in the work program adopted pursuant to s.
 204 339.135.

205 Section 5. Subsection (6) of section 212.0501, Florida
 206 Statutes, is amended to read:

207 212.0501 Tax on diesel fuel for business purposes;
 208 purchase, storage, and use.—

209 (6) All taxes required to be paid on fuel used in self-
 210 propelled off-road equipment shall be deposited in the Fuel Tax
 211 Collection Trust Fund, ~~to be distributed, after deduction of the~~
 212 ~~general revenue service charge pursuant to s. 215.20,~~ to the
 213 State Transportation Trust Fund. The department shall, each
 214 month, make a transfer, from general revenue collections, equal
 215 to such use tax reported on dealers' sales and use tax returns.

216 Section 6. Subsections (1) and (2) of section 286.23,
 217 Florida Statutes, are amended to read:

218 286.23 Real property conveyed to public agency; disclosure
 219 of beneficial interests; notice; exemptions.—

220 (1) A ~~Any~~ person or entity holding real property in the
 221 form of a partnership, limited partnership, corporation, trust,
 222 or any form of representative capacity whatsoever for others,
 223 except as otherwise provided in this section, shall, before
 224 entering into a a ~~any~~ contract whereby such real property held in
 225 representative capacity is sold, leased, taken by eminent

226 domain, or otherwise conveyed to the state or any local
227 governmental unit, or an agency of either, make a public
228 disclosure in writing, under oath and subject to the penalties
229 prescribed for perjury, which shall state his or her name and
230 address and the name and address of every person having a
231 beneficial interest in the real property, however small or
232 minimal. This written disclosure shall be made to the chief
233 officer, or to his or her officially designated representative,
234 of the state, the local governmental unit, or the agency of
235 either, with which the transaction is made at least 10 days
236 before ~~prior to~~ the time of closing or, in the case of an
237 eminent domain taking, within 5 business days ~~48 hours~~ after the
238 time when the required sum is deposited in the registry of the
239 court. Notice of the deposit shall be made to the person or
240 entity by registered or certified mail before the 5-business-day
241 ~~48-hour~~ period begins.

242 (2) The state or local governmental unit, or an agency of
243 either, shall send written notice to the person required to make
244 disclosures under this section by registered or certified mail,
245 by an alternative delivery service that provides verification of
246 receipt, or by electronic delivery after receipt of the person's
247 notarized authorization to use such method. Notification shall
248 be made before ~~to the person required to make disclosures under~~
249 ~~this section, prior to~~ the time when such disclosures are
250 required to be made. The, ~~which~~ written notice ~~request~~ shall

251 also inform the person required to make such disclosure that
252 such disclosure must be made under oath, subject to the
253 penalties prescribed for perjury.

254 Section 7. Subsection (7) of section 311.101, Florida
255 Statutes, is amended to read:

256 311.101 Intermodal Logistics Center Infrastructure Support
257 Program.—

258 (7) ~~Beginning in fiscal year 2014-2015,~~ At least \$5
259 million per fiscal year shall be made available from the State
260 Transportation Trust Fund for the program. The Department of
261 Transportation shall include projects proposed to be funded
262 under this section in the tentative work program developed
263 pursuant to s. 339.135(4). ~~This subsection expires on July 1,~~
264 ~~2020.~~

265 Section 8. Paragraph (b) of subsection (1) of section
266 316.126, Florida Statutes, is amended to read:

267 316.126 Operation of vehicles and actions of pedestrians
268 on approach of an authorized emergency, sanitation, or utility
269 service vehicle.—

270 (1)

271 (b) If an authorized emergency vehicle displaying any
272 visual signals is parked on the roadside, a sanitation vehicle
273 is performing a task related to the provision of sanitation
274 services on the roadside, a utility service vehicle is
275 performing a task related to the provision of utility services

276 on the roadside, ~~or~~ a wrecker displaying amber rotating or
 277 flashing lights is performing a recovery or loading on the
 278 roadside, or a road and bridge maintenance or construction
 279 vehicle displaying warning lights is on the roadside without
 280 advance signs and channelizing devices, the driver of every
 281 other vehicle, as soon as it is safe:

282 1. Shall vacate the lane closest to the emergency vehicle,
 283 sanitation vehicle, utility service vehicle, ~~or wrecker,~~ or road
 284 and bridge maintenance or construction vehicle when driving on
 285 an interstate highway or other highway with two or more lanes
 286 traveling in the direction of the emergency vehicle, sanitation
 287 vehicle, utility service vehicle, ~~or wrecker,~~ or road and bridge
 288 maintenance or construction vehicle, except when otherwise
 289 directed by a law enforcement officer. If such movement cannot
 290 be safely accomplished, the driver shall reduce speed as
 291 provided in subparagraph 2.

292 2. Shall slow to a speed that is 20 miles per hour less
 293 than the posted speed limit when the posted speed limit is 25
 294 miles per hour or greater; or travel at 5 miles per hour when
 295 the posted speed limit is 20 miles per hour or less, when
 296 driving on a two-lane road, except when otherwise directed by a
 297 law enforcement officer.

298 Section 9. Subsection (5) of section 319.32, Florida
 299 Statutes, is amended to read:

300 319.32 Fees; service charges; disposition.—

301 (5) (a) Forty-seven dollars of each fee collected, except
 302 for fees charged on a certificate of title for a motor vehicle
 303 for hire registered under s. 320.08(6), for each applicable
 304 original certificate of title and each applicable duplicate copy
 305 of a certificate of title, ~~after deducting the service charges~~
 306 ~~imposed by s. 215.20,~~ shall be deposited into the State
 307 Transportation Trust Fund. Deposits to the State Transportation
 308 Trust Fund pursuant to this paragraph may not exceed \$200
 309 million in any fiscal year, and any collections in excess of
 310 that amount during the fiscal year shall be paid into the
 311 General Revenue Fund.

312 (b) All fees collected pursuant to subsection (3) shall be
 313 paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of
 314 each fee, except for fees charged on a certificate of title for
 315 a motor vehicle for hire registered under s. 320.08(6), for each
 316 applicable original certificate of title and each applicable
 317 duplicate copy of a certificate of title, ~~after deducting the~~
 318 ~~service charges imposed by s. 215.20,~~ shall be deposited into
 319 the State Transportation Trust Fund. All other fees collected by
 320 the department under this chapter shall be paid into the General
 321 Revenue Fund.

322 Section 10. Paragraph (c) of subsection (1) of section
 323 333.03, Florida Statutes, is amended to read:

324 333.03 Requirement to adopt airport zoning regulations.—

325 (1)

326 (c) Airport protection zoning regulations adopted under
 327 paragraph (a) must, at a minimum, require:

328 1. A permit for the construction or alteration of any
 329 obstruction.~~†~~

330 2. Obstruction marking and lighting for obstructions.~~†~~

331 3. Documentation showing compliance with the federal
 332 requirement for notification of proposed construction or
 333 alteration of structures and a final valid determination from
 334 the Federal Aviation Administration aeronautical study submitted
 335 by each person applying for a permit.~~†~~

336 4. Consideration of the criteria in s. 333.025(6)~~†~~ when
 337 determining whether to issue or deny a permit.~~†~~ and

338 5. That approval of a permit not be based solely on the
 339 determination by the Federal Aviation Administration that the
 340 proposed structure is not an airport hazard.

341 Section 11. Paragraph (c) of subsection (4) and paragraph
 342 (g) of subsection (7) of section 339.135, Florida Statutes, are
 343 amended to read:

344 339.135 Work program; legislative budget request;
 345 definitions; preparation, adoption, execution, and amendment.—

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

347 (c)1. For purposes of this section, the board of county
 348 commissioners shall serve as the metropolitan planning
 349 organization in those counties that ~~which~~ are not located in a
 350 metropolitan planning organization and shall be involved in the

351 development of the district work program to the same extent as a
352 metropolitan planning organization.

353 2. The district work program shall be developed
354 cooperatively from the outset with the various metropolitan
355 planning organizations of the state and include, to the maximum
356 extent feasible, the project priorities of metropolitan planning
357 organizations which have been submitted to the district by
358 August ~~October~~ 1 of each year pursuant to s. 339.175(8)(b);
359 however, the department and a metropolitan planning organization
360 may, in writing, cooperatively agree to vary this submittal
361 date. To assist the metropolitan planning organizations in
362 developing their lists of project priorities, the district shall
363 disclose to each metropolitan planning organization any
364 anticipated changes in the allocation or programming of state
365 and federal funds which may affect the inclusion of metropolitan
366 planning organization project priorities in the district work
367 program.

368 3. Before ~~Prior to~~ submittal of the district work program
369 to the central office, the district shall provide the affected
370 metropolitan planning organization with written justification
371 for any project proposed to be rescheduled or deleted from the
372 district work program which project is part of the metropolitan
373 planning organization's transportation improvement program and
374 is contained in the last 4 years of the previous adopted work
375 program. By no later than 14 days after submittal of the

376 district work program to the central office, the affected
377 metropolitan planning organization may file an objection to such
378 rescheduling or deletion. When an objection is filed with the
379 secretary, the rescheduling or deletion may not be included in
380 the district work program unless the inclusion of such
381 rescheduling or deletion is specifically approved by the
382 secretary. The Florida Transportation Commission shall include
383 such objections in its evaluation of the tentative work program
384 only when the secretary has approved the rescheduling or
385 deletion.

386 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

387 (g)1. A ~~Any~~ work program amendment that ~~which~~ also
388 requires the transfer of fixed capital outlay appropriations
389 between categories within the department or the increase of an
390 appropriation category is subject to the approval of the
391 Legislative Budget Commission.

392 2. If a meeting of the Legislative Budget Commission
393 cannot be held within 30 days after the department submits an
394 amendment to the Legislative Budget Commission, the chair and
395 vice chair of the Legislative Budget Commission may authorize
396 such amendment to be approved pursuant to s. 216.177. ~~This~~
397 ~~subparagraph expires July 1, 2020.~~

398 Section 12. Paragraph (b) of subsection (8) of section
399 339.175, Florida Statutes, is amended to read:

400 339.175 Metropolitan planning organization.—

401 (8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall,
402 in cooperation with the state and affected public transportation
403 operators, develop a transportation improvement program for the
404 area within the jurisdiction of the M.P.O. In the development of
405 the transportation improvement program, each M.P.O. must provide
406 the public, affected public agencies, representatives of
407 transportation agency employees, freight shippers, providers of
408 freight transportation services, private providers of
409 transportation, representatives of users of public transit, and
410 other interested parties with a reasonable opportunity to
411 comment on the proposed transportation improvement program.

412 (b) Each M.P.O. annually shall prepare a list of project
413 priorities and shall submit the list to the appropriate district
414 of the department by August ~~October~~ 1 of each year; however, the
415 department and a metropolitan planning organization may, in
416 writing, agree to vary this submittal date. Where more than one
417 M.P.O. exists in an urbanized area, the M.P.O.'s shall
418 coordinate in the development of regionally significant project
419 priorities. The list of project priorities must be formally
420 reviewed by the technical and citizens' advisory committees, and
421 approved by the M.P.O., before it is transmitted to the
422 district. The approved list of project priorities must be used
423 by the district in developing the district work program and must
424 be used by the M.P.O. in developing its transportation
425 improvement program. The annual list of project priorities must

426 | be based upon project selection criteria that, at a minimum,
 427 | consider the following:

- 428 | 1. The approved M.P.O. long-range transportation plan.†
- 429 | 2. The Strategic Intermodal System Plan developed under s.
 430 | 339.64.
- 431 | 3. The priorities developed pursuant to s. 339.2819(4).
- 432 | 4. The results of the transportation management systems.†
 433 | and
- 434 | 5. The M.P.O.'s public-involvement procedures.

435 | Section 13. Section 341.302, Florida Statutes, is amended
 436 | to read:

437 | 341.302 Rail program; duties and responsibilities of the
 438 | department.—The department, in conjunction with other
 439 | governmental entities,~~including the rail enterprise~~ and the
 440 | private sector, shall develop and implement a rail program of
 441 | statewide application designed to ensure the proper maintenance,
 442 | safety, revitalization, and expansion of the rail system to
 443 | assure its continued and increased availability to respond to
 444 | statewide mobility needs. Within the resources provided pursuant
 445 | to chapter 216, and as authorized under federal law, the
 446 | department shall:

- 447 | (1) Provide the overall leadership, coordination, and
 448 | financial and technical assistance necessary to ensure ~~assure~~
 449 | the effective responses of the state's rail system to current
 450 | and anticipated mobility needs.

451 (2) Coordinate the development, general rail safety, and
452 operation of publicly funded passenger ~~Promote and facilitate~~
453 ~~the implementation of advanced rail systems in this state,~~
454 ~~including high-speed rail and magnetic levitation systems.~~

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

457 (a) The plan may contain detailed regional components,
458 consistent with regional transportation plans, as needed to
459 ensure connectivity within the state's regions, and it shall be
460 consistent with the Florida Transportation Plan developed
461 pursuant to s. 339.155. The rail system plan shall include an
462 identification of priorities, programs, and funding levels
463 required to meet statewide and regional needs. The rail system
464 plan shall be developed in a manner that will ensure ~~assure~~ the
465 maximum use of existing facilities and the optimum integration
466 and coordination of the various modes of transportation, public
467 and private, in the most cost-effective manner possible. The
468 rail system plan shall be updated no later than January 1, 2011,
469 and at least every 5 years thereafter, and include plans for
470 both passenger rail service and freight rail service,
471 accompanied by a report to the Legislature regarding the status
472 of the plan.

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

476 1. Work closely with all affected communities along an
477 impacted freight rail corridor to identify and address
478 anticipated impacts associated with an increase in freight rail
479 traffic due to implementation of passenger rail.

480 2. In coordination with the affected local governments and
481 CSX Transportation, Inc., finalize all viable alternatives from
482 the department's Rail Traffic Evaluation Study to identify and
483 develop an alternative route for through freight rail traffic
484 moving through Central Florida, including the counties of Polk
485 and Hillsborough, which would address, to the extent
486 practicable, the effects of commuter rail.

487 3. Provide technical assistance to a coalition of local
488 governments in Central Florida, including the counties of
489 Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange,
490 Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole,
491 Sumter, and Volusia, and the municipalities within those
492 counties, to develop a regional rail system plan that addresses
493 passenger and freight opportunities in the region, is consistent
494 with the Florida Rail System Plan, and incorporates appropriate
495 elements of the Tampa Bay Area Regional Authority Master Plan,
496 the Metroplan Orlando Regional Transit System Concept Plan,
497 including the SunRail project, and the Florida Department of
498 Transportation Alternate Rail Traffic Evaluation.

499 (4) As part of the work program of the department,
500 formulate a specific program of projects and financing to

501 respond to identified railroad needs.

502 (5) Provide technical and financial assistance to units of
503 local government to address identified rail transportation
504 needs.

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

508 (7) Develop and administer state standards concerning the
509 safety and performance of rail systems, hazardous material
510 handling, and operations. Such standards shall be developed
511 jointly with representatives of affected rail systems, with full
512 consideration given to nationwide industry norms, and shall
513 define the minimum acceptable standards for safety and
514 performance.

515 (8) Conduct, at a minimum, inspections of track and
516 rolling stock; train signals and related equipment; hazardous
517 materials transportation, including the loading, unloading, and
518 labeling of hazardous materials at shippers', receivers', and
519 transfer points; and train operating practices to determine
520 adherence to state and federal standards. Department personnel
521 may enforce any safety regulation issued under the Federal
522 Government's preemptive authority over interstate commerce.

523 (9) Assess penalties, in accordance with the applicable
524 federal regulations, for the failure to adhere to the state
525 standards.

526 (10) Administer rail operating and construction programs,
527 which programs shall include the regulation of maximum ~~maxi-mum~~
528 train operating speeds, the opening and closing of public grade
529 crossings, the construction and rehabilitation of public grade
530 crossings, and the installation of traffic control devices at
531 public grade crossings, the administering of the programs by the
532 department including participation in the cost of the programs.

533 (11) Coordinate and facilitate the relocation of railroads
534 from congested urban areas to nonurban areas when relocation has
535 been determined feasible and desirable from the standpoint of
536 safety, operational efficiency, and economics.

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

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

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

544 (b) The cost of providing such service does not exceed the
545 sum of revenues from fares charged to users, services purchased
546 by other public agencies, local fund participation, and specific
547 legislative appropriation for this purpose; and

548 (c) Service cannot be reasonably provided by other
549 governmental or privately owned rail systems.
550

551 The department may own, lease, and otherwise encumber
552 facilities, equipment, and appurtenances thereto~~7~~ as necessary
553 to provide new rail services~~1~~ or the department may provide
554 such service by contracts with privately owned service
555 providers.

556 (14) Furnish required emergency rail transportation
557 service if no other private or public rail transportation
558 operation is available to supply the required service and such
559 service is clearly in the best interest of the people in the
560 communities being served. Such emergency service may be
561 furnished through contractual arrangement, actual operation of
562 state-owned equipment and facilities, or any other means
563 determined appropriate by the secretary.

564 (15) Assist in the development and implementation of
565 marketing programs for rail services and of information systems
566 directed toward assisting rail systems users.

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

570 (17) In conjunction with the acquisition, ownership,
571 construction, operation, maintenance, and management of a rail
572 corridor, have the authority to:

573 (a) Assume obligations pursuant to the following:

574 1.a. The department may assume the obligation by contract
575 to forever protect, defend, indemnify, and hold harmless the

576 freight rail operator, or its successors, from whom the
577 department has acquired a real property interest in the rail
578 corridor, and that freight rail operator's officers, agents, and
579 employees, from and against any liability, cost, and expense,
580 including, but not limited to, commuter rail passengers and rail
581 corridor invitees in the rail corridor, regardless of whether
582 the loss, damage, destruction, injury, or death giving rise to
583 any such liability, cost, or expense is caused in whole or in
584 part, and to whatever nature or degree, by the fault, failure,
585 negligence, misconduct, nonfeasance, or misfeasance of such
586 freight rail operator, its successors, or its officers, agents,
587 and employees, or any other person or persons whomsoever; or
588 b. The department may assume the obligation by contract to
589 forever protect, defend, indemnify, and hold harmless National
590 Railroad Passenger Corporation, or its successors, and officers,
591 agents, and employees of National Railroad Passenger
592 Corporation, from and against any liability, cost, and expense,
593 including, but not limited to, commuter rail passengers and rail
594 corridor invitees in the rail corridor, regardless of whether
595 the loss, damage, destruction, injury, or death giving rise to
596 any such liability, cost, or expense is caused in whole or in
597 part, and to whatever nature or degree, by the fault, failure,
598 negligence, misconduct, nonfeasance, or misfeasance of National
599 Railroad Passenger Corporation, its successors, or its officers,
600 agents, and employees, or any other person or persons

601 | whomsoever.

602 | 2. The assumption of liability of the department by
603 | contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
604 | 1.b. may not in any instance exceed the following parameters of
605 | allocation of risk:

606 | a. The department may be solely responsible for any loss,
607 | injury, or damage to commuter rail passengers, ~~or~~ rail corridor
608 | invitees, or trespassers, regardless of circumstances or cause,
609 | subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
610 | 6.

611 | b.(I) In the event of a limited covered accident, the
612 | authority of the department to protect, defend, and indemnify
613 | the freight operator for all liability, cost, and expense,
614 | including punitive or exemplary damages, in excess of the
615 | deductible or self-insurance retention fund established under
616 | paragraph (b) and actually in force at the time of the limited
617 | covered accident exists only if the freight operator agrees,
618 | with respect to the limited covered accident, to protect,
619 | defend, and indemnify the department for the amount of the
620 | deductible or self-insurance retention fund established under
621 | paragraph (b) and actually in force at the time of the limited
622 | covered accident.

623 | (II) In the event of a limited covered accident, the
624 | authority of the department to protect, defend, and indemnify
625 | National Railroad Passenger Corporation for all liability, cost,

626 and expense, including punitive or exemplary damages, in excess
627 of the deductible or self-insurance retention fund established
628 under paragraph (b) and actually in force at the time of the
629 limited covered accident exists only if National Railroad
630 Passenger Corporation agrees, with respect to the limited
631 covered accident, to protect, defend, and indemnify the
632 department for the amount of the deductible or self-insurance
633 retention fund established under paragraph (b) and actually in
634 force at the time of the limited covered accident.

635 3. When only one train is involved in an incident, the
636 department may be solely responsible for any loss, injury, or
637 damage if the train is a department train or other train
638 pursuant to subparagraph 4., but only if:

639 a. When an incident occurs with only a freight train
640 involved, including incidents with trespassers or at grade
641 crossings, the freight rail operator is solely responsible for
642 any loss, injury, or damage, except for commuter rail passengers
643 and rail corridor invitees; or

644 b. When an incident occurs with only a National Railroad
645 Passenger Corporation train involved, including incidents with
646 trespassers or at grade crossings, National Railroad Passenger
647 Corporation is solely responsible for any loss, injury, or
648 damage, except for commuter rail passengers and rail corridor
649 invitees.

650 4. For the purposes of this subsection:

651 a. Any train involved in an incident that is neither the
652 department's train nor the freight rail operator's train,
653 hereinafter referred to in this subsection as an "other train,"
654 may be treated as a department train, solely for purposes of any
655 allocation of liability between the department and the freight
656 rail operator only, but only if the department and the freight
657 rail operator share responsibility equally as to third parties
658 outside the rail corridor who incur loss, injury, or damage as a
659 result of any incident involving both a department train and a
660 freight rail operator train, and the allocation as between the
661 department and the freight rail operator, regardless of whether
662 the other train is treated as a department train, shall remain
663 one-half each as to third parties outside the rail corridor who
664 incur loss, injury, or damage as a result of the incident. The
665 involvement of any other train shall not alter the sharing of
666 equal responsibility as to third parties outside the rail
667 corridor who incur loss, injury, or damage as a result of the
668 incident; or

669 b. Any train involved in an incident that is neither the
670 department's train nor the National Railroad Passenger
671 Corporation's train, hereinafter referred to in this subsection
672 as an "other train," may be treated as a department train,
673 solely for purposes of any allocation of liability between the
674 department and National Railroad Passenger Corporation only, but
675 only if the department and National Railroad Passenger

676 Corporation share responsibility equally as to third parties
677 outside the rail corridor who incur loss, injury, or damage as a
678 result of any incident involving both a department train and a
679 National Railroad Passenger Corporation train, and the
680 allocation as between the department and National Railroad
681 Passenger Corporation, regardless of whether the other train is
682 treated as a department train, shall remain one-half each as to
683 third parties outside the rail corridor who incur loss, injury,
684 or damage as a result of the incident. The involvement of any
685 other train shall not alter the sharing of equal responsibility
686 as to third parties outside the rail corridor who incur loss,
687 injury, or damage as a result of the incident.

688 5. When more than one train is involved in an incident:

689 a.(I) If only a department train and freight rail
690 operator's train, or only an other train as described in sub-
691 subparagraph 4.a. and a freight rail operator's train, are
692 involved in an incident, the department may be responsible for
693 its property and all of its people, all commuter rail
694 passengers, and rail corridor invitees, but only if the freight
695 rail operator is responsible for its property and all of its
696 people, and the department and the freight rail operator each
697 share one-half responsibility as to trespassers or third parties
698 outside the rail corridor who incur loss, injury, or damage as a
699 result of the incident; or

700 (II) If only a department train and a National Railroad

701 Passenger Corporation train, or only an other train as described
702 in sub-subparagraph 4.b. and a National Railroad Passenger
703 Corporation train, are involved in an incident, the department
704 may be responsible for its property and all of its people, all
705 commuter rail passengers, and rail corridor invitees, but only
706 if National Railroad Passenger Corporation is responsible for
707 its property and all of its people, all National Railroad
708 Passenger Corporation's rail passengers, and the department and
709 National Railroad Passenger Corporation each share one-half
710 responsibility as to trespassers or third parties outside the
711 rail corridor who incur loss, injury, or damage as a result of
712 the incident.

713 b.(I) If a department train, a freight rail operator
714 train, and any other train are involved in an incident, the
715 allocation of liability between the department and the freight
716 rail operator, regardless of whether the other train is treated
717 as a department train, shall remain one-half each as to third
718 parties outside the rail corridor who incur loss, injury, or
719 damage as a result of the incident; the involvement of any other
720 train shall not alter the sharing of equal responsibility as to
721 third parties outside the rail corridor who incur loss, injury,
722 or damage as a result of the incident; and, if the owner,
723 operator, or insurer of the other train makes any payment to
724 injured third parties outside the rail corridor who incur loss,
725 injury, or damage as a result of the incident, the allocation of

726 credit between the department and the freight rail operator as
727 to such payment shall not in any case reduce the freight rail
728 operator's third-party-sharing allocation of one-half under this
729 paragraph to less than one-third of the total third party
730 liability; or

731 (II) If a department train, a National Railroad Passenger
732 Corporation train, and any other train are involved in an
733 incident, the allocation of liability between the department and
734 National Railroad Passenger Corporation, regardless of whether
735 the other train is treated as a department train, shall remain
736 one-half each as to third parties outside the rail corridor who
737 incur loss, injury, or damage as a result of the incident; the
738 involvement of any other train shall not alter the sharing of
739 equal responsibility as to third parties outside the rail
740 corridor who incur loss, injury, or damage as a result of the
741 incident; and, if the owner, operator, or insurer of the other
742 train makes any payment to injured third parties outside the
743 rail corridor who incur loss, injury, or damage as a result of
744 the incident, the allocation of credit between the department
745 and National Railroad Passenger Corporation as to such payment
746 shall not in any case reduce National Railroad Passenger
747 Corporation's third-party-sharing allocation of one-half under
748 this sub-subparagraph to less than one-third of the total third
749 party liability.

750 6. Any such contractual duty to protect, defend,

751 indemnify, and hold harmless such a freight rail operator or
752 National Railroad Passenger Corporation shall expressly include
753 a specific cap on the amount of the contractual duty, which
754 amount shall not exceed \$200 million without prior legislative
755 approval, and the department to purchase liability insurance and
756 establish a self-insurance retention fund in the amount of the
757 specific cap established under this subparagraph, provided that:

758 a. No such contractual duty shall in any case be effective
759 nor otherwise extend the department's liability in scope and
760 effect beyond the contractual liability insurance and self-
761 insurance retention fund required pursuant to this paragraph;
762 and

763 b.(I) The freight rail operator's compensation to the
764 department for future use of the department's rail corridor
765 shall include a monetary contribution to the cost of such
766 liability coverage for the sole benefit of the freight rail
767 operator.

768 (II) National Railroad Passenger Corporation's
769 compensation to the department for future use of the
770 department's rail corridor shall include a monetary contribution
771 to the cost of such liability coverage for the sole benefit of
772 National Railroad Passenger Corporation.

773 (b) Purchase liability insurance, which amount shall not
774 exceed \$295 ~~\$200~~ million, and establish a self-insurance
775 retention fund for the purpose of paying the deductible limit

776 established in the insurance policies it may obtain, including
777 coverage for the department, any freight rail operator as
778 described in paragraph (a), National Railroad Passenger
779 Corporation, commuter rail service providers, governmental
780 entities, or any ancillary development, which self-insurance
781 retention fund or deductible shall not exceed \$10 million. The
782 insureds shall pay a reasonable monetary contribution to the
783 cost of such liability coverage for the sole benefit of the
784 insured. Such insurance and self-insurance retention fund may
785 provide coverage for all damages, including, but not limited to,
786 compensatory, special, and exemplary, and be maintained to
787 provide an adequate fund to cover claims and liabilities for
788 loss, injury, or damage arising out of or connected with the
789 ownership, operation, maintenance, and management of a rail
790 corridor.

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

793 (d) Without altering any of the rights granted to the
794 department under this section, agree to assume the obligations
795 to indemnify and insure, pursuant to s. 343.545, freight rail
796 service, intercity passenger rail service, and commuter rail
797 service on a department-owned rail corridor, whether ownership
798 is in fee or by easement, or on a rail corridor where the
799 department has the right to operate.

800

801 Neither the assumption by contract to protect, defend,
802 indemnify, and hold harmless; the purchase of insurance; nor the
803 establishment of a self-insurance retention fund shall be deemed
804 to be a waiver of any defense of sovereign immunity for torts
805 nor deemed to increase the limits of the department's or the
806 governmental entity's liability for torts as provided in s.
807 768.28. The requirements of s. 287.022(1) shall not apply to the
808 purchase of any insurance under this subsection. ~~The provisions~~
809 ~~of~~ This subsection shall apply and inure fully as to any other
810 governmental entity providing commuter rail service and
811 constructing, operating, maintaining, or managing a rail
812 corridor on publicly owned right-of-way under contract by the
813 governmental entity with the department or a governmental entity
814 designated by the department. Notwithstanding any law to the
815 contrary, procurement for the construction, operation,
816 maintenance, and management of any rail corridor described in
817 this subsection, whether by the department, a governmental
818 entity under contract with the department, or a governmental
819 entity designated by the department, shall be pursuant to s.
820 287.057 and shall include, but not be limited to, criteria for
821 the consideration of qualifications, technical aspects of the
822 proposal, and price. Further, any such contract for design-build
823 shall be procured pursuant to the criteria in s. 337.11(7).

824 (18) Exercise such other functions, powers, and duties in
825 connection with the rail system plan as are necessary to develop

826 | a safe, efficient, and effective statewide transportation
 827 | system.

828 | Section 14. Subsection (5) of section 341.303, Florida
 829 | Statutes, is amended to read:

830 | 341.303 Funding authorization and appropriations;
 831 | eligibility and participation.—

832 | (5) ~~FUND PARTICIPATION; FLORIDA RAIL ENTERPRISE.~~—The
 833 | department may, ~~through the Florida Rail Enterprise, is~~
 834 | ~~authorized to~~ use funds provided pursuant to s. 201.15(4)(a)4.
 835 | to fund:

836 | (a) Up to 50 percent of the nonfederal share of the costs
 837 | of any eligible passenger rail capital improvement project.

838 | (b) Up to 100 percent of planning and development costs
 839 | related to the provision of a passenger rail system, including,
 840 | but not limited to, preliminary engineering, revenue studies,
 841 | environmental impact studies, financial advisory services,
 842 | engineering design, and other appropriate professional services.

843 | (c) The high-speed rail system.

844 | (d) Projects necessary to identify or address anticipated
 845 | impacts of increased freight rail traffic resulting from the
 846 | implementation of passenger rail systems as provided in s.
 847 | 341.302(3)(b).

848 | (e) Projects necessary to identify or address needed or
 849 | desirable safety improvements to passenger rail systems in this
 850 | state.

851 Section 15. Section 339.2821, Florida Statutes, is
 852 repealed.

853 Section 16. Paragraph (a) of subsection (7) of section
 854 288.0656, Florida Statutes, is amended to read:

855 288.0656 Rural Economic Development Initiative.—

856 (7) (a) REDI may recommend to the Governor up to three
 857 rural areas of opportunity. The Governor may by executive order
 858 designate up to three rural areas of opportunity which will
 859 establish these areas as priority assignments for REDI as well
 860 as to allow the Governor, acting through REDI, to waive
 861 criteria, requirements, or similar provisions of any economic
 862 development incentive. Such incentives shall include, but are
 863 not limited to, the Qualified Target Industry Tax Refund Program
 864 under s. 288.106, the Quick Response Training Program under s.
 865 288.047, the Quick Response Training Program for participants in
 866 the welfare transition program under s. 288.047(8),
 867 ~~transportation projects under s. 339.2821,~~ the brownfield
 868 redevelopment bonus refund under s. 288.107, and the rural job
 869 tax credit program under ss. 212.098 and 220.1895.

870 Section 17. Paragraph (f) of subsection (1) of section
 871 339.08, Florida Statutes, is amended to read:

872 339.08 Use of moneys in State Transportation Trust Fund.—

873 (1) The department shall expend moneys in the State
 874 Transportation Trust Fund accruing to the department, in
 875 accordance with its annual budget. The use of such moneys shall

876 be restricted to the following purposes:

877 ~~(f) To pay the cost of economic development transportation~~
878 ~~projects in accordance with s. 339.2821.~~

879 Section 18. Paragraph (a) of subsection (4) of section
880 377.809, Florida Statutes, is amended to read:

881 377.809 Energy Economic Zone Pilot Program.—

882 (4)(a) Beginning July 1, 2012, all the incentives and
883 benefits provided for enterprise zones pursuant to state law
884 shall be available to the energy economic zones designated
885 pursuant to this section on or before July 1, 2010. In order to
886 provide incentives, by March 1, 2012, each local governing body
887 that has jurisdiction over an energy economic zone must, by
888 local ordinance, establish the boundary of the energy economic
889 zone, specify applicable energy-efficiency standards, and
890 determine eligibility criteria for the application of state and
891 local incentives and benefits in the energy economic zone.
892 However, in order to receive benefits provided under s. 288.106,
893 a business must be a qualified target industry business under s.
894 288.106 for state purposes. An energy economic zone's boundary
895 may be revised by local ordinance. Such incentives and benefits
896 include those in ss. 212.08, 212.096, 220.181, 220.182, 220.183,
897 288.106, and 624.5105 and the public utility discounts provided
898 in s. 290.007(8). The exemption provided in s. 212.08(5)(c)
899 shall be for renewable energy as defined in s. 377.803. For
900 purposes of this section, any applicable requirements for

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901 employee residency for higher refund or credit thresholds must
902 be based on employee residency in the energy economic zone or an
903 enterprise zone. A business in an energy economic zone may also
904 be eligible for funding under ss. 288.047 and 445.003, ~~and a~~
905 ~~transportation project in an energy economic zone shall be~~
906 ~~provided priority in funding under s. 339.2821.~~ Other projects
907 shall be given priority ranking to the extent practicable for
908 grants administered under state energy programs.

909 Section 19. This act shall take effect upon becoming a
910 law.