

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 916

INTRODUCER: Transportation Committee and Senator Rodriguez

SUBJECT: Indemnification of Commuter Rail Transportation Providers

DATE: March 20, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	Fav/CS
2.			JU	
3.			FP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 916 provides for the indemnification of commuter rail transportation providers on the Coastal Link Corridor. The bill creates the Coastal Link Commuter Rail Service Act and establishes parameters related to the indemnification of and insurance related to an agency providing commuter rail service on the corridor. The bill:

- Defines the terms: agency, authority, Brightline, Brightline station, coastal link corridor, coastal link corridor invitee, coastal link corridor limited covered accident, commuter rail service, Florida East Coast Railway, intercity passenger rail service, joint infrastructure, operator, passenger, proportionate share, and self-insurance retention amount.
- Names Brightline, Florida East Coast Railway (FECR), South Florida Regional Transportation Authority (SFRTA), and an agency as parties operating rail service the coastal link corridor.
- Authorizes an agency to assume certain obligations regarding rail liability on the coastal link corridor, subject to specified limitations.
- Provides parameters for which an agency's assumption of liability may not exceed.
- Provides an insurance coverage limit of \$323 million per occurrence, to be adjusted, without prior legislative approval, to changes in federal law.
- Requires an agency to establish a self-insurance retention amount of \$5 million.
- Provides for the allocation of liability on the rail corridor under various scenarios.
- Provides that the assumption of liability, the purchase of insurance, or the establishment of a self-insurance retention fund is not a waiver of sovereign immunity, nor does it increase an agency's limits on liability under sovereign immunity.

- Provides that FECR and Brightline are not entitled to sovereign immunity.

An agency associated with the Coastal Link Commuter Rail Corridor may incur costs associated with the purchase of liability insurance and the establishment of a self-insurance retention fund. See Section V., Fiscal Impact Statement for details.

This bill takes effect July 1, 2025.

## II. Present Situation:

### Rail Service in Florida

The Florida Department of Transportation (FDOT) is required to develop and implement a rail program designed to ensure its proper maintenance, safety, revitalization, and expansion to assure its continued and increased availability, and to respond to statewide mobility needs. DOT's statutory rail requirements include:

- Providing the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to mobility needs.
- Promoting and facilitating the implementation of advanced rail systems.
- Developing and administering state standards concerning the safety and performance of rail systems.<sup>1</sup>

Most of Florida's rail mileage is owned by private freight railroad companies. Roughly 60 percent of this rail mileage is owned by CSX Transportation, Inc. (CSX), and Florida East Coast Railway (FECR). The remaining rail mileage is owned by Norfolk Southern Railway, short lines railroads, and the state of Florida.<sup>2</sup>

In 1988, FDOT and CSX entered into an agreement whereby FDOT purchased approximately 81 miles of CSX track and right-of-way<sup>3</sup> in order to operate commuter rail in South Florida.<sup>4</sup> The commuter rail system, known as Tri-Rail, operates in Miami-Dade, Broward, and Palm Beach counties.<sup>5</sup>

In November 2011, FDOT acquired the Central Florida Rail Corridor from CSX in order to provide commuter rail service on that corridor, known as SunRail. SunRail operates in Volusia, Seminole, Orange, and Osceola counties.<sup>6</sup>

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<sup>1</sup> Section 341.302, F.S.

<sup>2</sup> Florida Department of Transportation (FDOT), *Florida Rail System Plan, Executive Summary*, November 2023 at 3. Available at: [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/rail/rail-system-plan-2023/rsp-october-version/fdot\\_rsp\\_ch-1\\_ada-\(nov\).pdf?sfvrsn=606135b\\_4](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/rail/rail-system-plan-2023/rsp-october-version/fdot_rsp_ch-1_ada-(nov).pdf?sfvrsn=606135b_4) (last visited March 12, 2025)

<sup>3</sup> This is commonly known as the South Florida Rail Corridor. FDOT *Florida Freight & Passenger Rail Plan*, 2-1 n. 1. Available at: [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/publications/plans/rail/06visionplan/flrail06.pdf?sfvrsn=ce111160\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/publications/plans/rail/06visionplan/flrail06.pdf?sfvrsn=ce111160_0) (last visited March 12, 2025).

<sup>4</sup> *Id.* at 5-34.

<sup>5</sup> Tri-Rail System Map; available at: <https://www.tri-rail.com/> (last visited March 12, 2025)

<sup>6</sup> SunRail, Transit Asset Management Plan, May 2023, section 1.1. SunRail History, [https://www.r2ctpo.org/wp-content/uploads/SunRail-TAM-Plan-R2\\_2023.pdf](https://www.r2ctpo.org/wp-content/uploads/SunRail-TAM-Plan-R2_2023.pdf) (last visited March 12, 2025) SunRail, *About SunRail*, <https://sunrail.com/agency-information/about-sunrail/>, (last visited March 12, 2025).

## Brightline

Brightline Trains Florida (Brightline) is the only privately owned and operated intercity railroad in the United States.<sup>7</sup> Brightline operates intercity passenger rail service on a 235-mile corridor between Miami and Orlando.<sup>8</sup> Brightline is planning a further extension from Orlando to Tampa.<sup>9</sup> As of July 2024, Brightline offers 16 daily round trips between Miami and the Orlando International Airport, with stops in West Palm Beach, Boca Raton, Fort Lauderdale, and Aventura.<sup>10</sup>

## Florida East Coast Railway

Florida East Coast Railway (FECR) is a regional railroad owning the 351-mile mainline track between Jacksonville and Miami. In Jacksonville, the railway connects to the national railway system, allowing FECR to provide rail service to and from Georgia, Tennessee, South Carolina, and North Carolina. FECR is the exclusive rail provider for PortMiami, Port Everglades, and Port of Palm Beach.<sup>11</sup>

## Florida Rail Liability Provisions

Florida law authorizes FDOT to implement a statewide rail program.<sup>12</sup> In the event of an accident in a FDOT-owned rail corridor, FDOT may assume detailed obligations to specific parties who may be involved.<sup>13</sup> These provisions relate to FDOT trains, the National Railroad Passenger Corporation (AMTRAK) trains, and freight trains. FDOT may agree to assume the obligations to indemnify and insure, pursuant to s. 343.545, F.S.,<sup>14</sup> freight rail service, intercity passenger rail service, and commuter rail service on a FDOT-owned rail corridor, whether the ownership is in fee or by easement, or on a rail corridor where FDOT has the right to operate.<sup>15</sup>

Florida law caps FDOT's duty to indemnify a freight rail operator or Amtrak at \$200 million.<sup>16</sup> FDOT is required to purchase up to \$200 million in liability insurance and establish a self-insurance retention fund to cover any deductible, provided that any parties covered under the insurance must pay a reasonable monetary contribution to cover the cost of the insurance.<sup>17</sup> The self-insurance retention fund or insurance deductible is capped at \$10 million.<sup>18</sup> Neither the purchase of insurance nor the establishment of a self-insurance retention fund constitutes a waiver of sovereign immunity.<sup>19</sup>

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<sup>7</sup> Brightline, *About Us*, <https://www.gobrightline.com/about> (last visited March 12, 2025).

<sup>8</sup> *Supra* note 2 at 5.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> Megan Dubois, *Taking the Brightline Train from Orlando to Boca Raton: Here's What It's Like*, Condé Nast Traveler (July 18, 2024), available at <https://www.cntraveler.com/story/brightline-train-orlando-to-boca-raton> (last visited March 12, 2025).

<sup>11</sup> Florida East Coast Railway, *Who We Are*, available at: <https://fecrwy.com/> (last visited March 12, 2025).

<sup>12</sup> Section 341.302, F.S.

<sup>13</sup> Section 341.302(17), F.S.

<sup>14</sup> Section 343.545, F.S., is the indemnification statute for the South Florida Regional Transportation Authority.

<sup>15</sup> Section 341.302(17)(d), F.S.

<sup>16</sup> Section 341.302(17)(a)6., F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 341.302(17)(b), F.S.

<sup>19</sup> Section 341.302(17), F.S.

This indemnification relates to FDOT's acquisition of the Central Florida Rail Corridor from CSX for the purpose of SunRail operations.<sup>20</sup> In 2017, the South Florida Regional Transportation Authority (SFRTA) received similar indemnification for Tri-Rail, with a railroad liability insurance with a limit of \$295 million per occurrence, which amount is adjusted in accordance with applicable law, and a self-insurance retention fund of \$5 million.<sup>21</sup>

### **Sovereign Immunity**

Sovereign immunity is a principle under which a government cannot be sued without its consent.<sup>22</sup> Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In accordance with Article X, section 13 of the Florida Constitution, Florida law allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment.<sup>23</sup> This liability exists only where a private person would be liable for the same conduct. The waiver of sovereign immunity provided under s. 768.28, F.S., applies only to "injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment."<sup>24</sup>

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident.<sup>25</sup> Although a court may enter an excess judgment, a claimant may not collect more than the caps provide, absent a claim bill passed by the Legislature.<sup>26</sup>

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee's acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>27</sup> A government entity is not liable for any damages resulting from actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>28</sup>

### **Federal Limitation on Rail Passenger Transportation Liability**

In the event of conduct giving rise to a claim for damages or liability arising from or in connection with the provision of rail passenger transportation, federal law provides a monetary cap on awards to all rail passengers. Under federal law, the aggregate allowable award to all rail

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<sup>20</sup> SunRail, *Transit Asset Management Plan*, May 2023, section 1.1 SunRail History, [https://www.r2ctpo.org/wp-content/uploads/SunRail-TAM-Plan-R2\\_2023.pdf](https://www.r2ctpo.org/wp-content/uploads/SunRail-TAM-Plan-R2_2023.pdf) (last visited March 3, 2025)

<sup>21</sup> Chapter 2007-138, Laws of Fla. Section 343.545, F.S.

<sup>22</sup> Cornell Law School, Legal Information Institute, *Sovereign immunity*. available at: [https://www.law.cornell.edu/wex/sovereign\\_immunity](https://www.law.cornell.edu/wex/sovereign_immunity) (last visited March 12, 2025).

<sup>23</sup> Section 768.28(1), F.S.

<sup>24</sup> *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.) (internal punctuation omitted).

<sup>25</sup> Section 768.28(5), F.S.+

<sup>26</sup> *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

<sup>27</sup> Section 768.28(9), F.S.

<sup>28</sup> *Id.*

passengers, against all defendants, for all claims, including punitive damages, arising from a single accident or incident may not exceed \$200,000,00.<sup>29</sup> In 2021, this cap was adjusted in accordance with inflation to \$322,864,228.<sup>30</sup>

### **Coastal Link Commuter Rail Service**

Since 2021, FDOT and Broward County Transit have been evaluating the implementation of commuter rail along the FECR corridor from Aventura in Miami-Dade County into Broward County. This evaluation is a direct result of a previous study known as the “Coastal Link” that evaluated 85 miles of commuter rail in Miami-Dade, Broward, and Palm Beach counties.<sup>31</sup>

In August 2022, the Broward County Commission adopted a Locally Preferred Alternative for Broward Commuter Rail South (BCR South) to extend commuter rail service on the FECR corridor from Aventura north to Fort Lauderdale. The Broward County Commission directed its staff to pursue federal and state grant funding to support the project, and to coordinate, as appropriate, with other organizations in seeking grant funding.<sup>32</sup>

In December 2022, the Federal Transit Administration (FTA) announced that the BCR South project was accepted into the Project Development phase, making it eligible for federal funding and allows funds expended by Broward County Transit to be used towards local match requirements.<sup>33</sup>

In February 2023, the Broward Metropolitan Planning Organization voted to amend its Metropolitan Transportation Plan to include BCR South as a Priority I project within the fiscally constrained portion of the plan, with project development funding programmed and approved by both Broward County and FDOT in 2022.<sup>34</sup>

Miami-Dade County is also studying the implementation of commuter rail service in the FECR corridor from Downtown Miami to Aventura, known as the Northeast Corridor. The Northeast Corridor is in the Project Development phase with the FTA, which makes it eligible to compete for federal funding.<sup>35</sup>

The Northeast Corridor will establish a new rapid transit route from Miami Central Station in downtown Miami to West Aventura Station, utilizing the existing railroad corridor shared with Brightline and freight rail services. This project will utilize Brightline’s existing stations and add five additional stations.<sup>36</sup>

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<sup>29</sup> 49 U.S.C. § 28103 (1997).

<sup>30</sup> Adjustment to Rail Passenger Transportation Liability Cap, 86 Fed. Reg. 11571 (Feb. 22, 2021) (amending 49 U.S.C. § 28103). available at <https://www.federalregister.gov/documents/2021/02/25/2021-03886/adjustment-to-rail-passenger-transportation-liability-cap> (last visited March 5, 2025)

<sup>31</sup> Florida Department of Transportation, *Broward Commuter Rail South*, available at: <https://www.fdot.gov/projects/broward-commuter-rail-south/home> (last visited March 11, 2025)

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Miami-Dade County, Northeast Corridor, available at: <https://www.miamidade.gov/global/transportation/smart-plan-northeast-corridor.page> (last visited March 11, 2025).

### III. Effect of Proposed Changes:

#### Short Title (Sections 1 and 2)

The bill creates part III of ch. 343, F.S., entitled “Coastal Link Commuter Rail Service” as authorizing indemnification and insurance for the Coastal Link Commuter Rail Corridor.

The bill creates s. 343.711, F.S., providing the short title of the “Coastal Link Commuter Rail Service Act.”

#### Powers to Assume Indemnification and Insurance Obligations (Section 3)

The bill creates s. 343.712, F.S., which authorizes the indemnification and insurance obligations on the Coastal Link Corridor. These obligations are similar to what is currently in place for SunRail and Tri-Rail.

#### Definitions

For purposes of this act, the bill defines the following terms:

- Agency - any state agency, county, municipality, district, authority, or other separate unit of government created or established by law which has entered into an agreement with Brightline which authorizes the agency, or a third party selected by the agency, to operate commuter rail service on the coastal link corridor.
- Authority - the South Florida Regional Transportation Authority.
- Brightline - Brightline Trains Florida LLC, or its successors or assigns, or any affiliate that is a party to an agreement with an agency in connection with the coastal link corridor.<sup>37</sup>
- Brightline station - any intercity passenger rail service station owned and operated by Brightline in the cities of Miami, Fort Lauderdale, Boca Raton, or West Palm Beach or near Aventura, as well as any future station developed by Brightline in connection with its intercity passenger rail service.
- Coastal link corridor - the rail transit system, including the intercity passenger rail service stations and vehicle maintenance facilities, located on or adjacent to a Brightline or Florida East Coast Railway corridor in Miami-Dade County, Broward County, or Palm Beach County<sup>38</sup>.
- Coastal link corridor invitee - any person who is on or about the coastal link corridor and who is a passenger or is otherwise present on the coastal link corridor at the request of, pursuant to a contract with, or otherwise for the purpose of doing business with or at the behest of, an operator.<sup>39</sup>

<sup>37</sup> For purposes of its Brightline’s as indemnitee, the term “Brightline” includes Florida East Coast Dispatch, LLC, or its successors or assigns.

<sup>38</sup> The term “coastal link corridor” includes structures essential to railroad operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, ancillary developments, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service

<sup>39</sup> The term “coastal link corridor invitee” does not include patrons at any station, except those patrons who are also the operator’s passengers; commercial or residential tenants at any station or the developments in and around the stations, or their invitees; or third parties performing work at a station or in the coastal link corridor, including any utilities or fiber optic companies.

- Coastal link corridor limited covered accident - a collision directly between the trains, locomotives, rail cars, or rail equipment of more than one operator on the coastal link corridor, where the collision is caused by or arising from the willful misconduct of one of the operators, as adjudicated pursuant to a final and unappealable court order, or, if punitive damages or exemplary damages are awarded due to the conduct of such operator, as adjudicated pursuant to a final and unappealable court order.
- Commuter rail service - the operation of an agency's trains transporting passengers and making frequent stops within urban areas and their immediate suburbs along the coastal link corridor for the purpose of passenger boarding and alighting, and the nonrevenue movement of passenger trains for storage, maintenance, or repairs.<sup>40</sup>
- Florida East Coast Railway or FECR - Florida East Coast Railway, LLC, or its successors and assigns.<sup>41</sup>
- Intercity passenger rail service - all passenger service on the rail corridor or coastal link corridor, as applicable, other than commuter rail service which is characterized by trains making less frequent stops along the rail corridor than are made by the commuter rail service.
- Joint infrastructure - any portion or segment of the coastal link corridor, except that the term does not include tracks or infrastructure designated for the exclusive use of an agency, the authority, Brightline, or FECR or portions of any Brightline station used by Brightline, the authority, or an agency, as applicable, including, but not limited to, pedestrian bridges, stairs, elevators, and escalators.
- Operator - Brightline, including any passenger rail operators that access the coastal link corridor pursuant to a contract with Brightline, other than an agency; FECR, including Amtrak or any freight rail operators that access the coastal link corridor pursuant to a contract with FECR; the authority, with respect to its operations contemplated under s. 343.545, F.S.; or an agency.
- Passenger - with respect to intercity passenger rail service or commuter rail service, any person, ticketed or unticketed, using the intercity passenger rail service or commuter rail service on the coastal link corridor:
  - On board trains, locomotives, rail cars, or rail equipment employed in such intercity passenger rail service or commuter rail service, or boarding or alighting therefrom;
  - On or about the coastal link corridor for any purpose related to such intercity passenger rail service or commuter rail service, including parking or purchasing tickets therefore and coming to, waiting for, and leaving from locomotives, rail cars, or rail equipment; or
  - Meeting, assisting, or in the company of any person described above.
- Proportionate share - with respect to any loss, injury, or damage for which operators share responsibility, a percentage in proportion to the number of operators involved in the relevant incident. When one or more agencies are jointly operating a commuter rail service, such agencies are considered a single operator for purposes of computing and assessing the proportionate share of such loss, injury, or damage.
- Self-insurance retention amount - an amount equal to \$5 million.

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<sup>40</sup> The term "commuter rail service" does not include the operation of trains by Brightline at Brightline stations in connection with Brightline's intercity passenger rail service.

<sup>41</sup> For purposes of its status as indemnitee, the term "FECR" includes Florida East Coast Dispatch, LLC, or its successors or assigns.

### *Assumption of Obligations*

The bill authorizes any agency, in conjunction with the development or operation of a commuter rail service on the coastal link corridor, to assume the obligation by contract to protect, defend, indemnify, and hold harmless, FECR, Brightline, and either entity's officers, agents, employees, and successors and assigns from and against:

- Any liability, cost, and expense, regardless of whether the loss, damage, destruction, injury, or death giving rise to such liability, cost, or expense is caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of FECR or Brightline, its successors and assigns, or its officers, agents, and employees, or any other person; and
- Any loss, injury, or damage incurred by FECR or Brightline, or allocated to FECR or Brightline, up to \$5 million with respect to coastal link corridor limited covered accidents caused by an agency.

The bill provides that an agency's assumption of liability by contract, as provided above, may not exceed the following parameters regarding its allocation of risk:

- An agency may assume sole responsibility for any liability, loss, or expense to its passengers, or rail corridor invitees, third parties, or trespassers, regardless of circumstance or cause.
- If FECR or Brightline, including either of their officers, agents, employees, or successors and assigns, causes a limited covered accident, an agency may not protect, defend, and indemnify FECR or Brightline for any liability, cost, or expense, including punitive or exemplary damages, in excess of the \$5 million self-insurance retention amount unless FECR or Brightline, agrees, with respect to the limited covered accident, to protect, defend, and indemnify an agency for the self-insurance retention amount.

When an incident occurs and only an agency train is involved, including an incident with a trespasser or an at-grade crossing, an agency may agree to be solely responsible for any loss, injury, or damage.

When an incident occurs with only an authority train involved, including an incident with a trespasser or an at-grade crossing, an agency is solely responsible for any loss of, or injury or damage to, the agency's property, passengers, and coastal link corridor invitees.

When an incident occurs and only an FECR train or a Brightline train is involved, including an incident with a trespasser or an at-grade crossing, FECR or Brightline, whichever train is involved, is solely responsible for any loss, injury, or damage, except that:

- An agency is responsible for any loss of, or injury or damage to, the agency's passengers and coastal link corridor invitees; and
- FECR or Brightline, whichever entity's train is not involved, is responsible for any loss of, or injury or damage to, Brightline's passengers and coastal link corridor invitees.

When an incident occurs involving two or more operators, the bill provides that each operator is responsible for all of the following, subject to the limits provided above:

- Its own property;
- Its own passengers, employees, excluding employees who are, at the time of the incident, coastal link corridor invitees of another operator; and other coastal link corridor invitees.
- Its proportionate share of any loss or damage to joint infrastructure; and



- Its proportionate share of any loss of, or injury or damage to, coastal link corridor invitees who are not coastal link corridor invitees of such operator and trespassers or third parties outside the coastal link corridor as a result of the incident, provided that an agency is responsible for its passengers and its coastal link corridor invitees regardless of whether the agency was involved in the incident.

The contractual duty, individually or jointly with another agency to the extent such agencies are jointly operating a commuter rail service, to protect, defend, indemnify, and hold harmless Brightline or FECR with respect to claims by rail passengers must expressly include a limitation on the amount of the contractual duty, which may not exceed \$323 million per occurrence.

However, this \$323 million limitation on liability must be adjusted so that the per occurrence insurance requirement is equal to the aggregate allowable awards in accordance with federal regulations,<sup>42</sup> without the agency receiving prior legislative approval.

The bill provides that an operator's employee is not considered to be an operator's coastal link corridor invitee when the employee is a passenger or is otherwise present on the coastal link corridor at the request of, or pursuant to a contract with, or otherwise for the purpose of doing business with or at the behest of, another operator. A passenger transferring from one operator's service (original operator), to another operator's service (connecting operator), is the original operator's coastal link corridor invitee until the passenger has left the original operator's platform. Once the passenger leaves the original operator's platform, the passenger is the connecting operator's coastal link corridor invitee.

However, any allocation of liability between an agency and any other agency of the state must be allocated as is agreed to by such agencies and limited by s. 768.28(19), F.S.<sup>43</sup> This does not limit an agency's authority to indemnify FECR or Brightline.

### ***Purchase of Insurance***

The bill authorizes an agency to purchase, either individually or jointly when operating with another agency, liability insurance in an amount of up to \$323 million per occurrence. However, this amount must be adjusted so that the per occurrence insurance requirement is equal to the aggregate allowable awards arising from a single accident or incident in accordance with federal regulations.

The bill authorizes an agency to establish a self-insurance retention fund to pay the deductible limits established in its insurance policies, including coverage for an agency, a freight rail operator, Brightline, commuter rail service providers, governmental entities, or any ancillary development. This self-insurance retention fund or deductible may not exceed \$5 million.

The bill authorizes the agency's insurance and self-insurance retention fund cover all damages, including, but not limited to, compensatory, special, and exemplary, and be maintained to

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<sup>42</sup> 49 U.S.C. s. 28103, or any successor provision.

<sup>43</sup> Section 768.28(19), F.S., provides that neither the state nor any agency or subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into a contractual relationship with another agency or subdivision of the state and provides requirements for certain contracts.

provide an adequate fund to cover claims and liabilities for loss, injury, or damage arising out of or connected with the ownership, operation, maintenance, and management of the coastal link corridor. Any self-insurance retention fund must be held in a segregated account and is subject to the same conditions, restrictions, exclusions, obligations, and duties included in any of the railroad liability insurance policies.

### ***Sovereign Immunity***

The bill provides that the assumption by contract to protect, defend, indemnify, and hold harmless; the purchase of insurance; or the establishment of a self-insurance retention fund is not a waiver of any defense of sovereign immunity for tort claims and does not increase an agency's limits of liability for tort claims under sovereign immunity.<sup>44</sup>

The bill provides that unless otherwise specifically provided by law, FECR and Brightline and their respective officers, agents, and employees may not be construed to be officers, agents, employees, or subdivisions of the state and are not entitled to sovereign immunity.

### **Effective Date (Section 4)**

The bill takes effect July 1, 2025.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

### D. State Tax or Fee Increases:

None.

### E. Other Constitutional Issues:

None.

## **V. Fiscal Impact Statement:**

### A. Tax/Fee Issues:

None.

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<sup>44</sup> Sovereign immunity is codified in s. 768.28, F.S.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill authorizes an agency to purchase liability insurance and establish a self-insurance retention fund of \$5 million. The agency will incur costs associated with the purchase of such insurance and establish a self-insurance retention fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill creates the “Coastal Link Commuter Rail Service Act” as part III of ch. 343, F.S. Chapter 343, F.S., relates to regional transportation.<sup>45</sup> Various other Florida Statutes include references to authorities created in s. 343, F.S. Based on these provisions, the agency may be:

- Subject to performance monitoring by the Florida Transportation Commission;<sup>46</sup>
- Required to have members of its governing body file Form 6 financial disclosures;<sup>47</sup>
- Required to provide fare discounts for disabled veterans;<sup>48</sup>
- Eligible for state funding for public transportation projects;<sup>49</sup>
- Eligible for certain fixed-guideway transportation funding;<sup>50</sup> and
- Considered a public transit provider for purposes of the Florida Public Transit Act.<sup>51</sup>

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 343.711 and 343.712.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 19, 2025:**

- Removes the word “Act” from the name of the part of the statute chapter created in the bill.
- Removes the word “county” and changes a reference from “self-insured” to “self-insurance.”

<sup>45</sup> Entities created in ch. 343, F.S., are the South Florida Regional Transportation Authority (part I) and the Center Florida Regional Transportation Authority (part II).

<sup>46</sup> Section 20.23(2)(b)8., F.S.

<sup>47</sup> Section 112.3144(1)(b), F.S. These are the more detailed financial disclosures filed by certain elected officials.

<sup>48</sup> Section 163.58, F.S.

<sup>49</sup> Section 206.46(3), F.S.

<sup>50</sup> Section 215.615, F.S.

<sup>51</sup> Section 341.031(1), F.S. The Florida Public Transit Act is codified in ss. 341.011-341.061, F.S.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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