



# Journal of the Senate

Number 3—Special Session B

Tuesday, December 8, 2009

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## CALL TO ORDER

The Senate was called to order by President Atwater at 1:50 p.m. A quorum present—38:

Mr. President	Gaetz	Peaden
Alexander	Garcia	Rich
Altman	Gardiner	Richter
Aronberg	Gelber	Ring
Baker	Haridopolos	Siplin
Bennett	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Thrasher
Detert	Lawson	Villalobos
Diaz de la Portilla	Lynn	Wilson
Dockery	Negron	Wise
Fasano	Oelrich	

Excused: Senators Bullard and Deutch

## PRAYER

The following prayer was offered by Senator Wise:

Heavenly Father, the great I Am, also called Emmanuel, which is interpreted "God who is with us."

How grateful we are to have your "sonshine" in our lives, knowing that you are with us. We are humbled by your majesty and your mercy. We are blessed by a God who not only hears our prayers, but also answers our prayers. We are appreciative of the knowledge you give us and are grateful for the wisdom to use that knowledge to benefit this great state.

Today, Holy Father, we prayerfully seek your guidance with addressing the challenges facing us and the people of Florida. We know that there are families suffering hardships, elderly who need care, and young persons who seek understanding. These are difficult times that require tough decisions. As we make choices to our communities, we call upon you to guide us with your spiritual leadership.

Let us be men and women of courage. As Legislators, we need to be circumspect in our pronouncements. Our choices need to be embraced with compassion, with an understanding that we must serve all of our citizens. People who come from all walks of life, from varied beliefs, whose backgrounds can be as different as left and right.

Lord, today we also beseech you to bless and protect our military men and women who serve our country with honor and distinction at home and in foreign lands. It wasn't but a recent moment in time, 68 years ago yesterday, December 7, 1941, our country came under attack at Pearl Harbor, and on September 11, 2001, when America once again came

under attack. It is by learning from the past that we move constructively to the future to ensure our well-being.

Lastly, each of us needs to thank you for our many blessings, for flowers that bloom, for children that laugh, and for Florida's blue sky. For if Emmanuel is with us, who can be against us. Amen.

## PLEDGE

Senator Fasano led the Senate in the pledge of allegiance to the flag of the United States of America.

## SPECIAL ORDER CALENDAR

**HB 1-B**—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; creating the Florida Statewide Passenger Rail Commission to monitor passenger rail systems and associated operations, advise the Department of Transportation concerning a statewide system of passenger rail service, evaluate passenger rail policies, and provide advice and recommendations to the Legislature on passenger rail operations in the state; providing for membership and organization of the commission; authorizing reimbursement for travel and other expenses of members; prohibiting the commission and its members from taking part in operations of the department or a monitored authority; assigning the commission to the Office of the Secretary of the department for administrative purposes; providing that expenses of the commission shall be approved by the secretary; directing the department to provide administrative support and services to the commission; providing for a rail enterprise in the department to be headed by an executive director and headquartered in Leon County; providing that the executive director shall be appointed by the Secretary of Transportation; directing the secretary to assign to the executive director the responsibility for funding, developing, and operating high-speed and passenger rail systems under specified provisions and coordinating publicly funded passenger rail operations; exempting the enterprise from department policies, procedures, and standards; providing exceptions; amending s. 201.15, F.S.; revising allocation of certain moneys in the State Transportation Trust Fund by increasing the percentage to be allocated for purposes of the Small County Outreach Program and providing for an annual allocation to the Florida Rail Enterprise; amending s. 339.135, F.S.; providing a funding source for allocations to the South Florida Regional Transportation Authority under specified provisions; amending s. 343.58, F.S., relating to the South Florida Regional Transportation Authority; providing that funds dedicated by county governments may be used for certain purposes; providing for allocation of funds from the State Transportation Trust Fund to the authority; providing for cessation of the allocation under certain circumstances; amending s. 341.301, F.S.; revising the definition of "railroad" or "rail system" to include a high-speed rail system and providing definitions for purposes of provisions for rail programs; amending s. 341.302, F.S.; revising duties and responsibilities of the department to develop and implement a rail program; authorizing the department's rail system plan to include regional components for certain purposes; revising requirements for the plan to be updated; requiring a plan status report to the Legislature; directing the department to work with local communities to address impacts of passenger rail implementation, finalize alternative routes for through freight rail traffic in Central Florida, and provide technical assistance to a coalition of municipalities and counties in Central Florida for development of a regional rail system plan; providing parameters within which the department may by contract indemnify against loss a freight rail operator from whom it has acquired interest in a rail corridor; au-

thorizing the department to purchase liability insurance including coverage for the department, any freight rail operator, commuter rail service providers, governmental entities, or any ancillary development and establish a self-insurance retention fund; limiting the amount of the insurance and self-insurance retention fund; providing that the insureds must make payments for the coverage; providing that the insurance may provide coverage for all damages and be maintained to provide a fund to cover liabilities arising from rail corridor ownership and operations; authorizing the department to incur certain marketing expenses relating to rail corridor acquisition, ownership, construction, and operation; providing that indemnification by contract, the purchase of insurance, or establishment of a self-insurance retention fund does not waive sovereign immunity or increase liability limits provided under specified provisions; providing that specified provisions apply to the purchase of insurance; providing that specified provisions relating to rail service apply to other governmental entities under contract with the department or designated by the department; providing for application of specified provisions to procurement contracts for the construction, operation, maintenance, and management of a rail corridor by the department, a governmental entity under contract with the department, or a governmental entity designated by the department; authorizing the department to complete an escrowed closing on the Central Florida Rail Corridor acquisition if Federal Transit Administration full-funding grant agreement approval is obtained for the proposed Central Florida Commuter Rail Transit Project Initial Operating Segment; amending s. 341.303, F.S.; revising provisions for distribution of rail funds; removing provisions for funding service development projects; authorizing the department to fund net operating costs of eligible intercity or commuter rail systems for a certain time period; authorizing the department, through the Florida Rail Enterprise, to use specified funds to fund certain costs of passenger rail capital improvement projects, passenger rail planning and development, the high-speed rail system, and projects necessary to identify or address anticipated impacts of increased freight rail traffic due to implementing passenger rail systems; providing that the enterprise shall be a single budget entity; providing that the enterprise's budget include all passenger rail funding and be submitted to the Legislature along with the department's budget; directing the Governor to certify forward unexpended funds of the enterprise; providing for use of unencumbered funds certified forward; amending s. 341.8201, F.S.; revising a short title; providing that specified provisions may be cited as the "Florida Rail Enterprise Act"; amending s. 341.8203, F.S.; providing definitions for purposes of such act; amending s. 341.822, F.S.; providing powers and duties of the enterprise in addition to the powers and duties of the department; authorizing the enterprise to plan, construct, maintain, repair, operate, and promote a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems; providing intent; authorizing the enterprise to cooperate, coordinate, partner, and contract with other entities to accomplish its purposes; authorizing the enterprise to employ certain procurement methods; authorizing the executive director to employ staff; providing that such staff are exempt from specified Career Service System provisions; providing for construction; providing that provisions for powers of the enterprise supersede other laws that are inconsistent; requiring rail enterprise projects or improvements to be developed in accordance with the Florida Transportation Plan and the department's work program; creating s. 341.8225, F.S.; providing that only the department may acquire, construct, maintain, or operate the high-speed rail system; providing for an exception with legislative authorization; authorizing local governmental entities to negotiate with the department for the design, right-of-way acquisition, and construction of components of the system; amending s. 341.836, F.S.; providing for the enterprise to undertake associated developments for certain purposes; amending s. 341.838, F.S.; authorizing the enterprise to establish and collect fares, rates, and other charges for services provided by the system; authorizing the enterprise to contract with other entities; directing the enterprise to review the fares, rates, and other charges annually; providing for use of moneys collected; providing that such fares, rates, and other charges are not subject to supervision or regulation by other entities; amending s. 341.839, F.S.; providing for construction of provisions granting powers to the enterprise; removing provisions relating to the Florida High-Speed Rail Authority; repealing ss. 341.8202, 341.821, 341.823, 341.824, 341.827, 341.828, 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, 341.835, 341.837, and 341.841, F.S., relating to the

Florida High-Speed Rail Authority, legislative findings and intent, criteria for assessment and recommendations, technical, scientific, or other assistance, service areas, segment designation, permitting, conflict prevention, mitigation, and resolution, procurement, prequalification, request for qualifications, request for proposals, award of contract, acquisition of property, rights-of-way, and disposal of land, payment of expenses, and reports and audits; amending s. 110.205, F.S.; conforming cross-references; providing effective dates.

—was read the second time by title.

Senator Storms moved the following amendment which failed:

**Amendment 1 (534612) (with title amendment)**—Delete lines 827-977 and insert:

(17) Exercise such other functions, powers, and duties

And the title is amended as follows:

Delete lines 58-88 and insert: development of a regional rail system plan; authorizing the department to complete

The vote was:

Yeas—15

Bennett	Gelber	Peaden
Dean	Hill	Rich
Detert	Joyner	Siplin
Dockery	Justice	Storms
Garcia	Oelrich	Villalobos

Nays—23

Mr. President	Fasano	Richter
Alexander	Gaetz	Ring
Altman	Gardiner	Smith
Aronberg	Haridopolos	Sobel
Baker	Jones	Thrasher
Constantine	Lawson	Wilson
Crist	Lynn	Wise
Diaz de la Portilla	Negron	

Senator Dockery moved the following amendment which failed:

**Amendment 2 (768628)**—Delete lines 984-987 and insert: *shall not occur unless and until each of the following has occurred:*

(a) *Final Federal Transit Administration full-funding grant agreement approval is obtained for the proposed Central Florida Commuter Rail Transit Project Initial Operating Segment; and*

(b) *The Federal Railroad Administration has granted Florida's High Speed Intercity Passenger Rail Program Track 2 Corridor Program grant application for the Tampa to Orlando corridor for funding under the American Recovery and Reinvestment Act of 2009.*

The vote was:

Yeas—13

Dean	Joyner	Siplin
Detert	Justice	Storms
Dockery	Oelrich	Villalobos
Garcia	Peaden	
Jones	Rich	

Nays—25

Mr. President	Constantine	Gelber
Alexander	Crist	Haridopolos
Altman	Diaz de la Portilla	Hill
Aronberg	Fasano	Lawson
Baker	Gaetz	Lynn
Bennett	Gardiner	Negron

Richter	Sobel	Wise
Ring	Thrasher	
Smith	Wilson	

**ANNOUNCEMENTS**

Senator Diaz de la Portilla announced that the Republican Caucus will meet this day at 5:00 p.m. in the Senate chamber.

On motion by Senator Lawson, by two-thirds vote **HB 1-B** was read the third time by title, passed and certified to the House. The vote on passage was:

**MOTIONS RELATING TO COMMITTEE MEETINGS**

Yeas—27

On motion by Senator Villalobos, the rules were waived and the Committee on Reapportionment was granted permission to meet December 9 from 8:30 a.m. until 11:30 a.m. in lieu of December 10 from 9:00 a.m. until 12:00 p.m.

Mr. President	Fasano	Lynn
Alexander	Gaetz	Negron
Altman	Garcia	Richter
Aronberg	Gardiner	Ring
Bennett	Gelber	Smith
Constantine	Haridopoulos	Sobel
Crist	Hill	Thrasher
Detert	Jones	Wilson
Diaz de la Portilla	Lawson	Wise

**REPORTS OF COMMITTEES**

Pursuant to the motion made on Thursday, December 3, 2009, the following bill was submitted as the Special Order Calendar for Tuesday, December 8, 2009: HB 1-B.

Nays—10

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The Committee on Transportation recommends the following pass: HB 1-B

Baker	Oelrich	Storms
Dean	Peaden	Villalobos
Dockery	Rich	
Joyner	Siplin	

**The bill was referred to the Committee on Judiciary under the original reference.**

**PAIR**

The following pair was announced by the Secretary in accordance with Senate Rule 5.4:

I am paired with Senator Deutch on **HB 1-B**. If he were present he would vote “yea” and I would vote “nay.”

*Senator Charlie Justice, 16th District*

**DISCLOSURE**

On December 8, 2009, **HB 1-B** came before the Senate. I have an interest in a company called Phoenix Industries, Inc., which operates distribution centers and warehouses with facilities in Winter Haven and Miami. Phoenix Industries may be affected by **HB 1-B**.

Therefore, I believe that, in an abundance of caution and because I have an interest in a company that could fall within the class of affected properties, I should disclose the above facts pursuant to Senate Rule 1.39.

*Senator JD Alexander, 17th District*

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The Committee on Judiciary recommends the following pass: HB 1-B

**The bill was referred to the Committee on Transportation and Economic Development Appropriations under the original reference.**

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The Committee on Transportation and Economic Development Appropriations recommends the following pass: HB 1-B

**The bill was placed on the Calendar.**

**CORRECTION AND APPROVAL OF JOURNAL**

The Journals of December 3 and December 7 were corrected and approved.

**ADJOURNMENT**

On motion by Senator Villalobos, the Senate in Special Session adjourned sine die at 4:24 p.m.