SENATE

TRANSPORTATION WORKSHOP

Thursday, December 3, 2009
10:00 AM --- 1:00 PM
Pat Thomas Committee Room, 412 Knott Building

Senate Bill 2-B
Summary

Generally, this bill provides a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network. Essentially, the bill:

- creates a Florida Rail Enterprise (enterprise), modeled after the Florida Turnpike Enterprise, to develop and operate high-speed rail, and to coordinate passenger rail services statewide;
- establishes a Statewide Passenger Rail Commission to monitor and advise publicly-funded passenger rail systems;
- creates dedicated funding sources for the South Florida Regional Transportation Authority (SFRTA) and for future passenger rail development and operations, and revises funding levels and duration for operating costs;
- requires the Florida Department of Transportation (DOT) to identify and address the impacts of freight rail traffic changes resulting from passenger rail activities;
- grants DOT the authority to contractually indemnify freight rail operators from whom DOT acquires a real property interest in a rail corridor in certain circumstances;
- authorizes DOT to purchase insurance and establish a self-retention fund to insure against liability risks;
- allows for an escrowed closing of the Central Florida Rail Corridor contingent upon the receipt of certain federal funds; and
- revises definitions and deletes obsolete provisions relating to DOT's rail system program.

Florida Rail Enterprise

The bill revises s. 20.23, F.S., to create the enterprise, as well as numerous sections of ch. 341, including those previously cited as the "Florida High Speed Rail Authority Act". The bill authorizes the enterprise to develop a high speed rail system in Florida, and reassigns many of the High Speed Rail Authority's (authority) powers and duties to the enterprise, and repeals obsolete provisions.

The enterprise, which is generally modeled after the Florida Turnpike Enterprise, is to be headed by an executive director who is appointed by the Secretary of DOT and who must meet the qualifications established for DOT district secretaries and the turnpike executive director. The enterprise is to be headquartered in Leon County and is given the responsibility for developing and operating the state owned passenger rail systems in Florida including high speed rail, funding passenger rail systems, and coordinating publicly-funded passenger rail operations, including interoperability issues with freight rail. More specifically:

- Section 341.303, F.S. is amended to provide that the enterprise will be a single budget entity within DOT. The bill establishes that unexpended funds appropriated to the enterprise are carried forward from year to year.

- Section 341.822, F.S., is amended to

- authorize the enterprise to locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the state's high-speed rail system. These powers include, but are not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system and to coordinate the development and operation of a publicly-funded passenger rail system in the state.

- provide the legislative intent of the Florida Rail Enterprise Act that the enterprise be authorized to plan, develop, own, purchase, lease, or otherwise, acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the high-speed rail system; to expend funds to publicize, advertise, and promote the advantages of using the high-speed rail system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private.

- authorize the enterprise to employ procurement methods available to the DOT under chs. 255, 287, 334, and 337, F.S., or otherwise allowed by law. The enterprise may also solicit proposals and, with legislative approval as evidenced by approval of the project in DOT's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of the high-speed rail system.

- require the executive director of the enterprise to appoint a staff, who will be exempt from the career service system.

- provide that the powers conferred upon the enterprise under this act are in addition to and supplemental to the existing powers of DOT and the rail enterprise, and these powers are not to be construed as repealing any other law, but supersede other laws that are inconsistent with this act and provide a complete method for the exercise of such powers.

- require any rail enterprise project or improvement to be developed in accordance with the Florida Transportation Plan and be included in DOT's work program.

- Section 341.8225, F.S, is created providing that DOT is the only governmental entity that may acquire, construct, maintain, or operate the high-speed rail system, except upon specific authorization from the Legislature. The bill also provides that local governmental entities may negotiate with DOT for the design, right-of-way acquisition, and construction of any component of the high-speed rail system within areas of their respective jurisdictions or within counties with which they have interlocal agreements.

- Section 341.836, F.S., which relates to development associated with the high-speed rail system, is amended to remove the requirement that the associated development have pedestrian ingress and egress from the rail station.

- Section 341.838, F.S. which authorized the authority to set various rents, fees, and charges, is revised to authorize the enterprise to establish fares, rates, rents, fees, and

other charges. The bill removes the ability to pay administrative expenses of the enterprise from these revenues and clarifies that revenues received are not subject to the supervision or regulation of another department.

- Additionally, s. 20.23, F.S., is amended to direct the Secretary of DOT to delegate the responsibility for developing and operating the high-speed and passenger rail systems to the executive director of the enterprise, who serves under and reports directly to the secretary. Like the Florida turnpike enterprise, the rail enterprise, although a part of DOT, is exempt from DOT policies, procedures, and standards to "facilitate the most efficient and effective management of the rail enterprise, including the use of the best business practices employed by the private sector."

The bill repeals the following sections, which are obsolete under the new enterprise framework:

- s. 341.8202, F.S., relating to legislative intent for the Florida High-Speed Rail Authority.
- s. 341.821, F.S., creating the high-speed rail authority and providing for the membership of the authority, terms of office, and assigning the authority to DOT for administrative purposes.
- s. 341.823, F.S., providing criteria for assessment and recommendations for the high-speed rail system.
- s. 341.824, F.S., relating to technical, scientific, or other assistance.
- s. 341.827, F.S., relating to service areas and segment designations.
- s. 341.828, F.S., relating to permitting.
- s. 341.829, F.S., relating to conflict prevention, mitigation, and resolution
- s. 341.830, F.S., relating to procurement.
- s. 341.831, F.S., relating to prequalification.
- s. 341.832, F.S., relating to request for qualifications.
- s. 341.823, F.S., relating to request for proposals.
- s. 341.834, F.S., relating to award of contract.
- s. 341.835, F.S., relating to the acquisition of property, rights-of-way, and the disposal of land.
- s. 341.837, F.S., relating the payment of expenses by the authority.
- s. 341.841, F.S., relating to a report and financial audit by the authority.

Statewide Passenger Rail Commission

The bill amends s. 20.23, F.S., creating the Florida Statewide Passenger Rail Commission (commission) to:

- Monitor the efficiency, productivity, and management of all publicly-funded passenger rail systems in the state. The commission is required to advise the authorities operating passenger rail systems of its findings and recommendations. The commission is also required to conduct a periodic review of the authorities' passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General to conduct these reviews. The commission must also report to the Legislature findings from these

reviews. This does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.;
- Advise DOT on policies and strategies used in the planning, design, building, operating, financing, and maintaining of a coordinated passenger rail system; and
- Evaluate passenger rail policies and provide advice and recommendations to the Legislature.

The commission will consist of nine members:
- Three members appointed by the Governor - one with a background addressing environmental issues, one with a legislative background, and one with a general business background.
- Three members appointed by the President of the Senate – one with a background in civil engineering, one with a background in transportation construction, and one with a general business background.
- Three members appointed by the Speaker of the House of Representatives – one with a legal affairs background, one with a financial background, and one with a general business background.

Board members are appointed to four year terms. However, the legislative appointees' initial terms are staggered to ensure continuity of experience. Board members are not eligible for compensation but may be reimbursed for travel and other expenses. Administrative support and services will be provided by DOT.

The bill eliminates the Florida Transportation Commission's oversight of any regional transportation authority operating under the oversight of the newly created Florida Statewide Passenger Rail Commission.

Rail Funding Provisions

Dedicated Funding for State Owned Passenger Rail Systems

The bill establishes a dedicated funding source for state owned passenger rail systems by reallocating a portion of the documentary stamp tax proceeds currently distributed to the State Transportation Trust Fund. The bill also establishes the uses of these funds for rail projects. Finally, the bill provides additional funding to the SFRTA for operations.

Documentary Stamp Taxes

Currently, the allocation of doc stamp revenues to the State Transportation Trust Fund (STTF) is as follows:

- Off the top:
  - 10 percent for capital funding for the New Starts Transit Program
  - 5 percent for the Small County Outreach Program[1] (SCOP).

[1] Section 339.2818, F.S., creates Small County Outreach Program (SCOP) within DOT to assist small county governments in resurfacing or reconstructing county roads, or in capacity or safety improvements to county roads. Counties with a population of 150,000 or less are eligible to compete for funds designated for this program. For projects on county roads funded by the SCOP program, DOT funds 75 percent of the cost and the county funds the

- The remainder:
    - 75 percent of the remaining funds after the New Starts and Small County allocations for the Strategic Intermodal System
    - 25 percent remaining funds after the New Starts and Small County allocations to the Transportation Regional Incentive Program[2] (TRIP).

The bill amends provisions of s. 201.15(1)(c), F.S., relating to the distribution of Documentary Stamp taxes allocated to the State Transportation Trust Fund (STTF). Specifically, the bill redistributes the allocation of SCOP and TRIP funds beginning in fiscal year 2014-2015 as described below:

- Effective July 1, 2014, the bill increases the funds allocated to (SCOP) from 5 percent to 10 percent of these revenues.

- Effective on July 1, 2014, the bill provides that the first $60 million of documentary stamp tax revenues allocated to the Transportation Regional Incentive Program is allocated to the Florida Rail Enterprise for certain rail funding.

Use of State Funds for Rail Projects

Currently, s. 341.303(4)(a), F.S., authorizes DOT to fund up to 50 percent of the net operating costs of any eligible intercity or commuter rail service development project that is local in scope, not to exceed the local match.

The bill substantially revises this section to authorize DOT to fund up to 100 percent of the net operating costs[3] for any intercity or commuter rail system, for up to seven years, beginning when the system is open to service. The bill authorizes DOT through the Florida Rail Enterprise to use the allocation of documentary stamp revenues dedicated to rail through the TRIP program, up to $60 million per year, to fund the following:

- Up to 50 percent of the nonfederal share of the costs of any eligible passenger rail capital improvement project.
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system.
- The high-speed rail system.
- Projects necessary to identify or address anticipated impacts of increased freight rail traffic resulting from the implementation of state owned passenger rail.

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remaining 25 percent. In order to receive funds, the project must be on a county road, and the county must attempt to keep county roads in satisfactory condition.

[2] The Transportation Regional Incentive Program (TRIP) was created in 2005 as part of major Growth Management legislation. The purpose of the program is to encourage regional planning by providing state matching funds for improvements to regionally significant transportation facilities identified and prioritized by regional partners. TRIP funds are to be used to match local or regional funds on a 50 percent/50 percent basis or to match up to 50 percent of the total project costs for public transportation projects. TRIP funds are distributed to the FDOT Districts based on a statutory formula of equal parts population and fuel tax collections.

[3] The statutory meaning of "net operating costs" is "all operating costs of the project less any federal funds, fares, or other sources of income for the project."

Funding for South Florida Regional Transportation Authority

Current law requires each of the three counties in Tri-Rail's service area to contribute $2.67 million every year to fund Tri-Rail,[4] plus an additional $1.565 million for operating expenses. The bill continues to require these local revenues, and clarifies that the $2.67 million annually provided by the counties may be used for capital, operations, and maintenance.

In its negotiations with CSX, DOT renegotiated the terms of the South Florida Operating & Maintenance Agreement (SFOMA) to establish full operations control of the South Florida Rail Corridor by SFRTA. This agreement increases the charges assessed to CSX for freight use within the corridor, while giving control of all the operations, maintenance, and dispatch of the corridor to SFRTA.[5]

The bill requires DOT, effective July 1, 2010, to transfer from the STTF, the following amounts to SFRTA.

- If SFRTA becomes responsible for operating, maintaining, and dispatching the rail corridor, $15 million for operations, maintenance, and dispatch and an amount no less than DOT's commitments for fiscal year 2010-2011, as of July 1, 2009, for operating assistance, corridor track maintenance, and contract maintenance.
- If SFRTA does not become responsible for operating, maintaining, and dispatching the rail corridor, $13.3 million for operations, maintenance, and dispatch and an amount no less than DOT's commitments for fiscal year 2010-2011, as of July 1, 2009, for operating assistance, corridor track maintenance, and contract maintenance.

The bill requires the additional funds provided to the SFRTA be allocated from the first proceeds of the increased revenues to be deposited into the State Transportation Trust Fund estimated by the November 2009 Transportation Revenue Estimating Conference. Specifically, the bill notwithstands the following statutory distributions to ensure that the transfer of such funds shall not negatively impact projects included in the fiscal years 2009-2010 through 2013-2014 transportation work program:

- Minimum 15 percent to Public Transportation Projects (s. 206.46(3), F.S.)
- Minimum 1.5 percent for Highway Beautification Projects (s. 334.044(26), F.S.)

Further, the bill provides that these dedicated funds to the SFRTA may not be provided from the documentary stamp tax distribution to the Florida Rail Enterprise for rail programs.

Rail Liability Provisions

Section 341.302, F.S., is amended to provide DOT the statutory authority to indemnify a freight operator for any loss, injury, or damage to commuter rail passengers or rail corridor invitees, regardless of circumstances or cause, including negligence, misconduct, nonfeasance, or misfeasance. The contractual indemnification, however, is subject to the following parameters and exceptions:

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[4] While this has historically been used for capital expenses, the statute is silent as to what it may be used for.

[5] Under the original agreement for Tri-Rail, CSX retained maintenance and dispatch control of the corridor.

- If only a freight train is involved in an accident, then the freight operator is solely responsible (pays 100 percent) for any loss, injury, or damage to its property and people, as well as for losses related to incidents involving trespassers and grade crossings. DOT pays for loss, injury, or damage to any commuter rail passengers or invitees.

- If only a DOT train (or "other train," as explained below) is involved in an accident, DOT is solely responsible (pays 100 percent) for any loss, injury, or damage to its property and people, as well as for losses related to commuter rail passengers, rail corridor invitees, trespassers, and grade crossings.

    - Any train that is neither DOT's train nor the freight rail operator's train is considered an "other train." An "other" train is treated as a DOT train solely for purposes of allocation of liability between DOT and the freight rail operator, as long as DOT and the freight rail operator share responsibility equally as to third parties injured outside the rail corridor.

- If both a freight train and a DOT train, or a freight train and an "other train," are involved in an accident, the freight operator is solely responsible (pays 100 percent) for its property and all of its people. The freight operator and DOT share responsibility one-half each (pays 50 percent) for any third-party damage resulting outside the corridor or for damage relating to trespassers. DOT is solely responsible (pays 100 percent) for its property and all of its people, including commuter rail passengers and invitees, except in certain cases involving willful misconduct or the award of punitive or exemplary damages, as explained below.

    - When there is a collision between a DOT train and a freight train and the freight rail operator's conduct amounts to willful misconduct or results in the award of punitive or exemplary damages, DOT pays amounts in excess of its insurance deductible or self-insurance fund only if the freight operator pays DOT for the amount of the insurance deductible or self-insurance fund (which is capped at $10 million).
    - If a DOT train, a freight train, and any other train are involved in an accident, the allocation of liability remains one-half each between DOT and the freight operator for any loss, injury, or damage to third parties outside the rail corridor. If the "other train" makes any payment to third parties injured outside the corridor, the allocation of credit shall not reduce the freight operator's allocation to less than one-third of the total third-party liability.

DOT's duty to indemnify a freight rail operator is capped at $200 million. DOT 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. The self-insurance fund or deductible shall not exceed $10 million.

None of the provisions of the bill are deemed to be a waiver of any defense of sovereign immunity.

Major Differences from 2009 Proposal

- In a freight-train-only accident, the freight operator pays damages relating to trespassers and for incidents involving grade crossings. In the 2009 proposal, DOT have paid such damages.

- In an incident involving a DOT train and a freight train, DOT and the freight operator will split (50 percent each) damages relating to trespassers. In the 2009 proposal, DOT would have paid 100 percent of such damages.

- When there is a collision involving a DOT train and a freight train, and the freight operator's conduct amounts to willful misconduct or results in the award of punitive or exemplary damages, DOT is only required to pay amounts in excess of its insurance deductible or self-insurance fund if the freight operator agrees to pay DOT for the amount of the deductible or self-insurance fund. In the 2009 proposal, under such circumstances, DOT would not have received a contribution or reimbursement from the freight operator based on the behavior. (The state would have been solely responsible for its property and all of its people, including commuter rail passengers, invitees, trespassers, and grade crossing incidents, and would have shared in responsibility for damages awarded to third parties outside the rail corridor.)

In the 2010 bill, the self-insurance retention fund or deductible shall not exceed $10 million. In the 2009 bill, there was no such cap.

Purchase of the Central Florida Rail Corridor
The bill allows DOT to complete an escrowed closing on the pending Central Florida Rail Corridor acquisition. However, the drawing of the escrowed closing shall not occur unless and until Federal Transit Administration full-funding grant agreement approval is obtained for the proposed Central Florida Commuter Rail Transit Project Initial Operating Segment.

Impacts of Additional Freight on Local Communities
The bill addresses rail planning and impacts to local communities of additional freight traffic due to implementation of passenger rail. Specifically, the bill:

- Provides that the rail system plan may contain detailed regional components, consistent with the regional transportation plans, as needed to ensure connectivity within the state's regions, and include regional needs in the plan.
- Revises the updating requirement for the rail plan from at least every two years to at least every five years, beginning with an update by January 1, 2011. The rail plan must be accompanied by a status report to the Legislature.

- Recognizes DOT's role in the enhancement of the state's rail system to improve freight and passenger mobility, and requires DOT to:

    - Work closely with all affected communities along an impacted freight rail corridor to identify and address anticipated impacts of increased freight rail traffic due to the implementation of passenger rail.

    - Work with the impacted local governments and CSX Transportation Company to finalize all viable alternatives from DOT's Rail Traffic Evaluation Study to identify and develop an alternative route for through-freight rail traffic moving through Central Florida, including Polk and Hillsborough counties that would address, to the extent practicable, the effects of commuter rail.

    - Requires DOT to provide technical assistance to a coalition of local governments in Central Florida, to develop a regional rail system plan that addresses passenger and freight opportunities in the region. This plan is to be consistent with the Florida Rail System Plan and the Long Range Transportation Plans of the impacted counties, incorporates appropriate elements of the Tampa Bay Area Regional Authority Master Plan, the Metroplan Orlando Regional Transit System Concept Plan, including the SunRail project, and the Florida Department of Transportation Alternate Rail Traffic Evaluation. The coalition includes Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole, Sumter, and Volusia counties and the municipalities within those counties. The regional rail system plan may include the design and implementation of a multi-use corridor.

By Senators Ring, Constantine, Fasano, Gaetz, Gardiner, Lawson, and Negron

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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

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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

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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; authorizing 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.

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

Section 1. Paragraph (b) of subsection (2) and present subsection (4) of section 20.23, Florida Statutes, are amended, present subsections (3) through (6) are renumbered as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

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

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system including highway, transit, rail, seaport, intermodal development, and aviation components of the system and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically

provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

5. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission pursuant to s. 334.045.

6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

7. Recommend to the Governor and the Legislature improvements to the department's organization in order to streamline and optimize the efficiency of the department. In reviewing the department's organization, the commission shall determine if the current district organizational structure is responsive to Florida's changing economic and demographic development patterns. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The commission may retain such experts as are reasonably necessary to effectuate this subparagraph, and the department shall pay the expenses of such experts.

8. Monitor the efficiency, productivity, and management of

The initial term of each member appointed by the Speaker of the House of Representatives shall be for 2 years. Succeeding terms for all members shall be for 4 years.

3. A vacancy occurring during a term shall be filled by the respective appointing authority in the same manner as the original appointment and only for the balance of the unexpired term. An appointment to fill a vacancy shall be made within 60 days after the occurrence of the vacancy.

4. The commission shall elect one of its members as chair of the commission. The chair shall hold office at the will of the commission. Five members of the commission shall constitute a quorum, and the vote of five members shall be necessary for any action taken by the commission. The commission may meet upon the constitution of a quorum. A vacancy in the commission does not impair the right of a quorum to exercise all rights and perform all duties of the commission.

5. The members of the commission are not entitled to compensation but are entitled to reimbursement for travel and other necessary expenses as provided in s. 112.061.

(b) The commission shall have the primary functions of:

1. Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition

the authorities created under chapters ~~343,~~ 348~~,~~ and 349, including any authority formed using the provisions of part I of chapter 348 and any authority formed under chapter 343 which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

(3) There is created the Florida Statewide Passenger Rail Commission.

(a)1. The commission shall consist of nine voting members appointed as follows:

a. Three members shall be appointed by the Governor, one of whom must have a background in the area of environmental concerns, one of whom must have a legislative background, and one of whom must have a general business background.

b. Three members shall be appointed by the President of the Senate, one of whom must have a background in civil engineering, one of whom must have a background in transportation construction, and one of whom must have a general business background.

c. Three members shall be appointed by the Speaker of the House of Representatives, one of whom must have a legal background, one of whom must have a background in financial matters, and one of whom must have a general business background.

2. The initial term of each member appointed by the Governor shall be for 4 years. The initial term of each member appointed by the President of the Senate shall be for 3 years.

of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

2. Advising the department on policies and strategies used in planning, designing, building, operating, financing, and maintaining a coordinated statewide system of passenger rail services.

3. Evaluating passenger rail policies and providing advice and recommendations to the Legislature on passenger rail operations in the state.

(c) The commission or a member of the commission may not enter into the day-to-day operation of the department or a monitored authority and is specifically prohibited from taking part in:

1. The awarding of contracts.

2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the commission may recommend to the secretary standards and policies governing the procedure for selection and prequalification of consultants and contractors.

3. The selection of a route for a specific project.

4. The specific location of a transportation facility.

5. The acquisition of rights-of-way.

6. The employment, promotion, demotion, suspension,

transfer, or discharge of any department personnel.

7. The granting, denial, suspension, or revocation of any license or permit issued by the department.

(d) The commission is assigned to the Office of the Secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department except that reasonable expenses of the commission shall be subject to approval by the Secretary of Transportation. The department shall provide administrative support and service to the commission.

(5) ~~(4)~~ (a) The operations of the department shall be organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each enterprise headed by an executive director. The district secretaries and the ~~turnpike~~ executive directors ~~director~~ shall be registered professional engineers in accordance with the provisions of chapter 471 or, in lieu of professional engineer registration, a district secretary or ~~turnpike~~ executive director may hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Miami-Dade, and Hillsborough Counties. The headquarters of the turnpike enterprise shall be located in Orange County. The headquarters of the rail enterprise shall be located in Leon County. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts.

(b) Each district secretary may appoint up to three district directors or, until July 1, 2005, each district secretary may appoint up to four district directors. These positions are exempt from part II of chapter 110.

(c) Within each district, offices shall be established for managing major functional responsibilities of the department. The heads of these offices shall be exempt from part II of chapter 110.

(d) The district director for the Fort Myers Urban Office of the Department of Transportation is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

(e)1. The responsibility for the turnpike system shall be delegated by the secretary to the executive director of the turnpike enterprise, who shall serve at the pleasure of the secretary. The executive director shall report directly to the secretary, and the turnpike enterprise shall operate pursuant to ss. 338.22-338.241.

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

(f)1. The responsibility for developing and operating the high-speed and passenger rail systems established in chapter 341, directing funding for passenger rail systems under s. 341.303, and coordinating publicly funded passenger rail operations in the state, including freight rail interoperability issues, shall be delegated by the secretary to the executive director of the rail enterprise, who shall serve at the pleasure of the secretary. The executive director shall report directly to the secretary, and the rail enterprise shall operate pursuant to ss. 341.8201-341.842.

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

Section 2. Paragraph (c) of subsection (1) of section 201.15, Florida Statutes, as amended by chapters 2009-21 and 2009-68, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are subject to the service charge imposed in s. 215.20(1). Prior to distribution under this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. Such costs and the service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are

required to pay any amounts relating to the bonds. After distributions are made pursuant to subsection (1), all of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2010, secured by revenues distributed pursuant to subsection (1). All taxes remaining after deduction of costs and the service charge shall be distributed as follows:

(1) Sixty-three and thirty-one hundredths percent of the remaining taxes shall be used for the following purposes:

(c) After the required payments under paragraphs (a) and (b), the remainder shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of the lesser of 38.2 percent of the remainder or $541.75 million in each fiscal year, to be used for the following specified purposes, notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, 10 percent of these funds;

b. For the purposes of the Small County Outreach Program specified in s. 339.2818, 5 percent of these funds. Effective July 1, 2014, the percentage allocated under this sub-subparagraph shall be increased to 10 percent;

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent of these funds after allocating for the New Starts Transit

Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.; and

d. For the purposes of the Transportation Regional Incentive Program specified in s. 339.2819, 25 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b. Effective July 1, 2014, the first $60 million of the funds allocated pursuant to this sub-subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

2. The Grants and Donations Trust Fund in the Department of Community Affairs in the amount of the lesser of .23 percent of the remainder or $3.25 million in each fiscal year, with 92 percent to be used to fund technical assistance to local governments and school boards on the requirements and implementation of this act and the remaining amount to be used to fund the Century Commission established in s. 163.3247.

3. The Ecosystem Management and Restoration Trust Fund in the amount of the lesser of 2.12 percent of the remainder or $30 million in each fiscal year, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212.

4. General Inspection Trust Fund in the amount of the lesser of .02 percent of the remainder or $300,000 in each fiscal year to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

Moneys distributed pursuant to this paragraph may not be pledged for debt service unless such pledge is approved by referendum of

the voters.

Section 3. Paragraph (a) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

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

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

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike enterprise, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052. Funds for the intercity bus program provided for under s. 5311(f) of the federal nonurbanized area formula program shall be administered and allocated directly to eligible bus carriers as defined in s. 341.031(12) at the state level rather than the district. In order to provide state funding to support the intercity bus program provided for under provisions of the federal 5311(f) program, the department shall allocate an amount equal to the federal share of the 5311(f) program from amounts calculated

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pursuant to s. 206.46(3).

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Strategic Intermodal System created pursuant to s. 339.61. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

3. Notwithstanding subparagraph 1. and ss. 206.46(3), 334.044(26), and 339.2819(3), and for the 2009-2010 fiscal year only, the department shall reduce work program levels to balance the finance plan to the revised funding levels resulting from any reduction in the 2009-2010 General Appropriations Act. This subparagraph expires July 1, 2010.

4. For the 2009-2010 fiscal year only, prior to any project or phase thereof being deferred, the department's cash balances shall be as provided in paragraph (6)(b), and the reductions in subparagraph 3. shall be made to financial projects not programmed for contract letting as identified with a work program contract class code 8 and the box code RV. These reductions shall not negatively impact safety or maintenance or project contingency percentage levels as of April 21, 2009. This subparagraph expires July 1, 2010.

5. Notwithstanding subparagraphs 1. and 2. and ss. 206.46(3) and 334.044(26), and for fiscal years 2009-2010

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through 2013-2014 only, the department shall allocate the first proceeds of the increased revenues to be deposited into the State Transportation Trust Fund estimated by the November 2009 Revenue Estimating Conference to provide for the transfer of funds included in s. 343.58(4). The transfer of funds included in s. 343.58(4) may not negatively impact projects included in fiscal years 2009-2010 through 2013-2014 of the work program as of July 1, 2009, as amended pursuant to subsection (7). This subparagraph expires July 1, 2014.

Section 4. Section 343.58, Florida Statutes, is amended to read:

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

(1) Each county served by the South Florida Regional Transportation Authority must dedicate and transfer not less than $2.67 million to the authority annually. The recurring annual $2.67 million must be dedicated by the governing body of each county before October 31 of each fiscal year. These funds may be used for capital, operations, and maintenance.

(2) At least $45 million of a state-authorized, local option recurring funding source available to Broward, Miami-Dade, and Palm Beach counties is directed to the authority to fund its capital, operating, and maintenance expenses. The funding source shall be dedicated to the authority only if Broward, Miami-Dade, and Palm Beach counties impose the local option funding source.

(3) In addition, each county shall continue to annually fund the operations of the South Florida Regional Transportation Authority in an amount not less than $1.565 million. Revenue

raised pursuant to this subsection shall also be considered a dedicated funding source.

(4) Notwithstanding any other provision of law to the contrary and effective July 1, 2010, the department shall transfer annually from the State Transportation Trust Fund to the South Florida Regional Transportation Authority the following:

(a)1. If the authority becomes responsible for operating, maintaining, and dispatching the South Florida Rail Corridor, $15 million from the State Transportation Trust Fund to the South Florida Regional Transportation Authority for operations, maintenance, and dispatch and an amount no less than the work program commitments for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority and corridor track maintenance and contract maintenance for the South Florida Rail Corridor; or

2. If the authority does not become responsible for operating, maintaining, and dispatching the South Florida Rail Corridor, $13.3 million from the State Transportation Trust Fund to the South Florida Regional Transportation Authority for operations and maintenance, and an amount no less than the work program commitments for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority.

(b) Funding required by this subsection may not be provided from the funds dedicated to the Florida Rail Enterprise under s. 201.15(1)(c)1.d.

(5) ~~(4)~~ The current funding obligations under subsections (1), ~~and~~ (3), and (4) shall cease upon commencement of the collection of funding from the funding source under subsection

(2). If the funding under subsection (2) is discontinued for any reason, the funding obligations under subsections (1) and (3) shall resume when collection from the funding source under subsection (2) ceases. Payment by the counties shall be on a pro rata basis the first year following cessation of the funding under subsection (2). The authority shall refund a pro rata share of the payments for the current fiscal year made pursuant to the current funding obligations under subsections (1) and (3) as soon as reasonably practicable after it begins to receive funds under subsection (2). If, by December 31, 2015, the South Florida Regional Transportation Authority has not received federal matching funds based upon the dedication of funds under subsection (1), subsection (1) shall be repealed.

Section 5. Section 341.301, Florida Statutes, is amended to read:

341.301 Definitions; ss. 341.302-341.303 ~~ss. 341.302 and 341.303~~.—As used in ss. 341.302-341.303 ~~ss. 341.302 and 341.303~~, the term:

(1) "Ancillary development" includes any lessee or licensee of the department, including other governmental entities, vendors, retailers, restaurateurs, or contract service providers, within a department-owned rail corridor, except for providers of commuter rail service, intercity rail passenger service, or freight rail service. The term includes air and subsurface rights, services that provide a local area network for devices for transmitting data over wireless networks, and advertising.

(2) ~~(1)~~ "Branch line continuance project" means a project that involves branch line rehabilitation, new connecting track,

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rail banking, and other similar types of projects, including those specifically identified in the federal Railroad Revitalization and Regulatory Reform Act of 1976, and subsequent amendments to that act.

(3) "Commuter rail passenger" or "passengers" means all persons, ticketed or unticketed, using the commuter rail service on a department-owned rail corridor:

(a) On board trains, locomotives, rail cars, or rail equipment employed in commuter rail service or entraining thereon and detraining therefrom;

(b) On or about the rail corridor for any purpose related to the commuter rail service, including parking, inquiring about commuter rail service, or purchasing tickets therefor, and coming to, waiting for, leaving from, or observing trains, locomotives, rail cars, or rail equipment; or

(c) Meeting, assisting, or in the company of any person described in paragraph (a) or paragraph (b).

(4) "Commuter rail service" means the transportation of commuter rail passengers and other passengers by rail pursuant to a rail program provided by the department or any other governmental entity.

(5) "Governmental entity" or "entities" has the same meaning as provided in s. 11.45, including a "public agency" as defined in s. 163.01.

(6) ~~(2)~~ "Intercity rail transportation system" means the network of railroad facilities used or available for interstate and intrastate passenger and freight operations by railroads, whether or not on a schedule or whether or not restricted.

(7) "Limited covered accident" means a collision directly

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between the trains, locomotives, rail cars, or rail equipment of the department and the freight rail operator only, where the collision is caused by or arising from the willful misconduct of the freight rail operator or its subsidiaries, agents, licensees, employees, officers, or directors or where punitive damages or exemplary damages are awarded due to the conduct of the freight rail operator or its subsidiaries, agents, licensees, employees, officers, or directors.

(8) "Rail corridor" means a linear contiguous strip of real property that is used for rail service. The term includes the corridor and 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, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

(9) "Rail corridor invitee" means all persons who are on or about a department-owned rail corridor:

(a) For any purpose related to any ancillary development thereon; or

(b) Meeting, assisting, or in the company of any person described in paragraph (a).

(10) ~~(3)~~ "Rail programs" means those programs administered by the state or other governmental entities which involve projects affecting the movement of people or goods by rail lines that have been or will be constructed to serve freight or passenger markets within a city or between cities.

(11) ~~(4)~~ "Rail service development project" means a project

undertaken by a public agency to determine whether a new or innovative technique or measure can be utilized to improve or expand rail service. The duration of the project funding shall be limited according to the type of project and in no case shall exceed 3 years. Rail service development projects include those projects and other actions undertaken to enhance railroad operating efficiency or increased rail service, including measures that result in improved speed profiles, operations, or technological applications that lead to reductions in operating costs and increases in productivity or service.

(12) ~~(5)~~ "Railroad" or "rail system" means any common carrier fixed-guideway transportation system such as the conventional steel rail-supported, steel-wheeled system as well as the high-speed rail system defined in s. 341.8203. ~~The term does not include a high-speed rail line developed by the Department of Transportation pursuant to ss. 341.8201-341.842.~~

(13) ~~(6)~~ "Railroad capital improvement project" means a project identified by the rail component of the Florida Transportation Plan, which project involves the leasing, acquisition, design, construction, reconstruction, or improvement to the existing intercity rail transportation system or future segments thereof, including such items as locomotives and other rolling stock, tracks, terminals, and rights-of-way for the continuance or expansion of rail service as necessary to ensure the continued effectiveness of the state's rail facilities and systems in meeting mobility and industrial development needs.

(14) "Railroad operations" means the use of the rail corridor to conduct commuter rail service, intercity rail

passenger service, or freight rail service.

(15)~~(7)~~ "Train" means any locomotive engine that is powered by diesel fuel, electricity, or other means, with or without cars coupled thereto, and operated upon a railroad track or any other form of fixed guideway, except that the term does not include a light rail vehicle such as a streetcar or people mover.

Section 6. Section 341.302, Florida Statutes, is amended to read:

341.302 Rail program;~~,~~ duties and responsibilities of the department.~~—~~The department, in conjunction with other governmental entities, including the rail enterprise ~~units~~ and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under federal law ~~Title 49 C.F.R. part 212~~, the department shall:

(1) Provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs.

(2) Promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems.

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

(a) The plan may contain detailed regional components,

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consistent with regional transportation plans, as needed to ensure connectivity within the state's regions, and it shall be consistent with the Florida Transportation Plan developed pursuant to s. 339.155. The rail system plan shall include an identification of priorities, programs, and funding levels required to meet statewide and regional needs. The rail system plan shall be developed in a manner that will assure the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. The rail system plan shall be updated no later than January 1, 2011, and at least every 5 ~~2~~ years thereafter, and include plans for both passenger rail service and freight rail service, accompanied by a report to the Legislature regarding the status of the plan.

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

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

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

3. Provide technical assistance to a coalition of local

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governments in Central Florida, including the counties of Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole, Sumter, and Volusia, and the municipalities within those counties, to develop a regional rail system plan that addresses passenger and freight opportunities in the region, is consistent with the Florida Rail System Plan, and incorporates appropriate elements of the Tampa Bay Area Regional Authority Master Plan, the Metroplan Orlando Regional Transit System Concept Plan, including the SunRail project, and the Florida Department of Transportation Alternate Rail Traffic Evaluation.

(4) As part of the work program of the department, formulate a specific program of projects and financing to respond to identified railroad needs.

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

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

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

(8) Conduct, at a minimum, inspections of track and rolling stock; train signals and related equipment; hazardous materials

transportation, including the loading, unloading, and labeling of hazardous materials at shippers', receivers', and transfer points; and train operating practices to determine adherence to state and federal standards. Department personnel may enforce any safety regulation issued under the Federal Government's preemptive authority over interstate commerce.

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

(10) Administer rail operating and construction programs, which programs shall include the regulation of maximum train operating speeds, the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, the administering of the programs by the department including participation in the cost of the programs.

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

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

(13) Provide new rail service and equipment when:

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

(b) The cost of providing such service does not exceed the sum of revenues from fares charged to users, services purchased

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

The department may own, lease, and otherwise encumber facilities, equipment, and appurtenances thereto, as necessary to provide new rail services; or the department may provide such service by contracts with privately owned service providers.

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

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

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

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

(a) Assume the obligation by contract to forever protect, defend, indemnify, and hold harmless the freight rail operator, or its successors, from whom the department has acquired a real

property interest in the rail corridor, and that freight rail operator's officers, agents, and employees, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers and rail corridor invitees in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of such freight rail operator, its successors, or its officers, agents, and employees, or any other person or persons whomsoever, provided that such assumption of liability of the department by contract shall not in any instance exceed the following parameters of allocation of risk:

1. The department may be solely responsible for any loss, injury, or damage to commuter rail passengers, or rail corridor invitees, or trespassers, regardless of circumstances or cause, subject to subparagraphs 2., 3., 4., 5., and 6.

2. In the event of a limited covered accident, the authority of the department to protect, defend and indemnify the freight operator for all liability, cost and expense, including punitive or exemplary damages, in excess of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident exists only if the freight operator agrees, with respect to the limited covered accident, to protect, defend, and indemnify the department for the amount of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident.

3. When only one train is involved in an incident, the department may be solely responsible for any loss, injury, or damage if the train is a department train or other train pursuant to subparagraph 4., but only if when an incident occurs with only a freight train involved, including incidents with trespassers or at grade crossings, the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees.

4. For the purposes of this subsection, any train involved in an incident that is neither the department's train nor the freight rail operator's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and the freight rail operator only, but only if the department and the freight rail operator share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a freight rail operator train, and the allocation as between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

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

a. If only a department train and freight rail operator's train, or only an other train as described in subparagraph 4.

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and a freight rail operator's train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, rail corridor invitees, but only if the freight rail operator is responsible for its property and all of its people, and the department and the freight rail operator each share one-half responsibility as to trespassers or third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

b. If a department train, a freight rail operator train, and any other train are involved in an incident, the allocation of liability between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; the involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; and, if the owner, operator, or insurer of the other train makes any payment to injured third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, the allocation of credit between the department and the freight rail operator as to such payment shall not in any case reduce the freight rail operator's third-party-sharing allocation of one-half under this paragraph to less than one-third of the total third party liability.

6. Any such contractual duty to protect, defend, indemnify, and hold harmless such a freight rail operator shall expressly include a specific cap on the amount of the contractual duty, which amount shall not exceed $200 million without prior

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929 legislative approval, and the department to purchase liability
930 insurance and establish a self-insurance retention fund in the
931 amount of the specific cap established under this subparagraph,
932 provided that:
933 a. No such contractual duty shall in any case be effective
934 nor otherwise extend the department's liability in scope and
935 effect beyond the contractual liability insurance and self-
936 insurance retention fund required pursuant to this paragraph;
937 and
938 b. The freight rail operator's compensation to the
939 department for future use of the department's rail corridor
940 shall include a monetary contribution to the cost of such
941 liability coverage for the sole benefit of the freight rail
942 operator.
943 (b) Purchase liability insurance, which amount shall not
944 exceed $200 million, and establish a self-insurance retention
945 fund for the purpose of paying the deductible limit established
946 in the insurance policies it may obtain, including coverage for
947 the department, any freight rail operator as described in
948 paragraph (a), commuter rail service providers, governmental
949 entities, or any ancillary development, which self-insurance
950 retention fund or deductible shall not exceed $10 million. The
951 insureds shall pay a reasonable monetary contribution to the
952 cost of such liability coverage for the sole benefit of the
953 insured. Such insurance and self-insurance retention fund may
954 provide coverage for all damages, including, but not limited to,
955 compensatory, special, and exemplary, and be maintained to
956 provide an adequate fund to cover claims and liabilities for
957 loss, injury, or damage arising out of or connected with the

958 ownership, operation, maintenance, and management of a rail
959 corridor.
960 (c) Incur expenses for the purchase of advertisements,
961 marketing, and promotional items.
962
963 Neither the assumption by contract to protect, defend,
964 indemnify, and hold harmless; the purchase of insurance; nor the
965 establishment of a self-insurance retention fund shall be deemed
966 to be a waiver of any defense of sovereign immunity for torts
967 nor deemed to increase the limits of the department's or the
968 governmental entity's liability for torts as provided in s.
969 768.28. The requirements of s. 287.022(1) shall not apply to the
970 purchase of any insurance under this subsection. The provisions
971 of this subsection shall apply and inure fully as to any other
972 governmental entity providing commuter rail service and
973 constructing, operating, maintaining, or managing a rail
974 corridor on publicly owned right-of-way under contract by the
975 governmental entity with the department or a governmental entity
976 designated by the department. Notwithstanding any law to the
977 contrary, procurement for the construction, operation,
978 maintenance, and management of any rail corridor described in
979 this subsection, whether by the department, a governmental
980 entity under contract with the department, or a governmental
981 entity designated by the department, shall be pursuant to s.
982 287.057 and shall include, but not be limited to, criteria for
983 the consideration of qualifications, technical aspects of the
984 proposal, and price. Further, any such contract for design-build
985 shall be procured pursuant to the criteria in s. 337.11(7).
986 (18) ~~(17)~~ Exercise such other functions, powers, and duties

~~of the service.~~

~~(c) Each such local or statewide service development project shall be identified in the appropriation request of the department in a manner that defines project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the service, and the criteria by which the success of the project can be judged.~~

~~(d) Any service development project funded under this section shall continue to be eligible for such funds only if the project reaches a systemwide operating ratio of 25 percent or more during the 5th year.~~

(b) ~~(c)~~ The term "net operating costs" means all operating costs of the project less any federal funds, fares, or other sources of income to the project.

(5) FUND PARTICIPATION; FLORIDA RAIL ENTERPRISE.—

(a) The department, through the Florida Rail Enterprise, is authorized to use funds provided under s. 201.15(1)(c)1.d. to fund up to 50 percent of the nonfederal share of the costs of any eligible passenger rail capital improvement project.

(b) The department, through the Florida Rail Enterprise, is authorized to use funds provided under s. 201.15(1)(c)1.d. to fund up to 100 percent of planning and development costs related to the provision of a passenger rail system, including, but not limited to, preliminary engineering, revenue studies, environmental impact studies, financial advisory services, engineering design, and other appropriate professional services.

(c) The department, through the Florida Rail Enterprise, is authorized to use funds provided under s. 201.15(1)(c)1.d. to fund the high-speed rail system.

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in connection with the rail system plan as are necessary to develop a safe, efficient, and effective statewide transportation system.

Section 7. The Department of Transportation may complete an escrowed closing on the pending Central Florida Rail Corridor acquisition; however, the drawdown of such escrowed closing shall not occur unless and until final Federal Transit Administration full-funding grant agreement approval is obtained for the proposed Central Florida Commuter Rail Transit Project Initial Operating Segment.

Section 8. Effective July 1, 2010, subsection (4) of section 341.303, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

341.303 Funding authorization and appropriations; eligibility and participation.—

(4) FUND PARTICIPATION; OPERATING COSTS ~~SERVICE DEVELOPMENT~~.—

(a) The department is authorized to fund up to 100 ~~50~~ percent of the net operating costs of any eligible intercity or commuter rail system for up to 7 years, beginning from the open-to-service date ~~service development project that is local in scope, not to exceed the local match~~.

~~(b) The department is authorized to fund up to 100 percent of the net operating costs of any eligible intercity or commuter rail service development project that is statewide in scope or involves more than one county if no other governmental unit of appropriate jurisdiction exists. For commuter rail service, after the 5th year of operation, the department's participation is limited to a maximum of 50 percent of the net operating costs~~

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(d) The department, through the Florida Rail Enterprise, is authorized to use funds provided under s. 201.15(1)(c)1.d. to fund projects necessary to identify or address anticipated impacts of increased freight rail traffic resulting from the implementation of passenger rail systems as provided in s. 341.302(3)(b).

(6) FLORIDA RAIL ENTERPRISE; BUDGET.—

(a) The Florida Rail Enterprise shall be a single budget entity and shall develop a budget pursuant to chapter 216. The enterprise's budget shall be submitted to the Legislature along with the department's budget. All passenger rail funding by the department shall be included in this budget entity.

(b) Notwithstanding the provisions of s. 216.301 to the contrary and in accordance with s. 216.351, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated or provided pursuant to this section for the enterprise. Of the unexpended funds certified forward, any unencumbered amounts shall be carried forward. Such funds carried forward shall not exceed 5 percent of the original approved operating budget of the enterprise pursuant to s. 216.181(1). Funds carried forward pursuant to this section may be used for any lawful purpose, including, but not limited to, promotional and market activities, technology, and training. Any certified-forward funds remaining undisbursed on September 30 of each year shall be carried forward.

Section 9. Section 341.8201, Florida Statutes, is amended to read:

341.8201 Short title.—Sections 341.8201-341.842 may be cited as the "Florida ~~High-Speed~~ Rail Enterprise ~~Authority~~ Act."

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Section 10. Section 341.8202, Florida Statutes, is repealed.

Section 11. Section 341.8203, Florida Statutes, is amended to read:

341.8203 Definitions.—As used in ss. 341.8201-341.842 ~~this act~~, unless the context clearly indicates otherwise, the term:

(1) "Associated development" means property, equipment, buildings, or other related ~~ancillary~~ facilities which are built, installed, used, or established to provide financing, funding, or revenues for the planning, building, managing, and operation of a high-speed rail system and which are associated with or part of the rail stations. The term includes air and subsurface rights, services that provide local area network devices for transmitting data over wireless networks, ~~property, including air rights, necessary for joint development, such as~~ parking facilities, retail establishments, restaurants, hotels, offices, advertising, or other commercial, civic, residential, or support facilities~~, and may also include property necessary to protect or preserve the rail station area by reducing urban blight or traffic congestion or property necessary to accomplish any of the purposes set forth in this subsection which are reasonably anticipated or necessary~~.

(2) "Enterprise" means the Florida Rail Enterprise. ~~"Authority" means the Florida High-Speed Rail Authority and its agents. However, for purposes of s. 341.840, the term does not include any agent of the authority except as provided in that section.~~

~~(3) "Central Florida" means the counties of Lake, Seminole, Orange, Osceola, Citrus, Sumter, Volusia, Brevard, Hernando,~~

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pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public or private.

~~(8) "Northeast Florida" means the counties of Nassau, Duval, Clay, St. Johns, Putnam, Alachua, Marion, and Flagler.~~

~~(9) "Northwest Florida" means the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Jackson, Gadsden, Bay, Calhoun, Liberty, Gulf, Franklin, Leon, Jefferson, Madison, Wakulla, Taylor, Hamilton, Suwannee, Columbia, Baker, Union, Lafayette, Gilchrist, Dixie, Bradford, and Levy.~~

(5) ~~(10)~~ "Rail station," "station," or "high-speed rail station" means any structure or transportation facility that is part of a high-speed rail system designed to accommodate the movement of passengers from one mode of transportation to another at which passengers board or disembark from transportation conveyances and transfer from one mode of transportation to another.

(6) ~~(11)~~ "Selected person or entity" means the person or entity to whom the enterprise ~~authority~~ awards a contract ~~under s. 341.834~~ to establish a high-speed rail system pursuant to ss. 341.8201-341.842 ~~this act~~.

~~(12) "Southeast Florida" means the counties of Broward, Monroe, Miami-Dade, Indian River, St. Lucie, Martin, Okeechobee, and Palm Beach.~~

~~(13) "Southwest Florida" means the counties of Manatee, Hardee, DeSoto, Sarasota, Highlands, Charlotte, Glades, Lee, Hendry, and Collier.~~

~~(14) "Urban areas" means Central Florida, Northeast Florida, Northwest Florida, Southeast Florida, and Southwest~~

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~~Pasco, Hillsborough, Pinellas, and Polk.~~

~~(4) "DBOM contract" means the document and all concomitant rights approved by the authority providing the selected person or entity the exclusive right to design, build, operate, and maintain a high-speed rail system.~~

~~(5) "DBOM & F contract" means the document and all concomitant rights approved by the authority providing the selected person or entity the exclusive right to design, build, operate, maintain, and finance a high-speed rail system.~~

(3) ~~(6)~~ "High-speed rail system" means any high-speed fixed guideway system for transporting people or goods, which system is, by definition of the United States Department of Transportation, reasonably expected to reach speeds of at least 110 ~~capable of operating at speeds in excess of 120~~ miles per hour, including, but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic levitation system, pneumatic repulsion system, or other system approved by the enterprise ~~authority~~. The term includes a corridor, associated intermodal connectors, and structures essential to the operation of the line, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, and rail stations and also includes facilities or equipment used exclusively for the purposes of design, construction, operation, maintenance, or the financing of the high-speed rail system.

(4) ~~(7)~~ "Joint development" means the planning, managing, financing, or constructing of projects adjacent to, functionally related to, or otherwise related to a high-speed rail system

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~~(3) The authority shall have perpetual succession as a body politic and corporate~~.

(3)~~(4)~~ The enterprise shall have the authority to employ procurement methods available to the department under chapters 255, 287, 334, and 337, or otherwise in accordance with law. The enterprise may also solicit proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of the high-speed rail system ~~authority is authorized to seek and obtain federal matching funds or any other funds to fulfill the requirements of this act either directly or through the Department of Transportation~~.

(4)~~(5)~~ The ~~authority may employ an~~ executive director of the enterprise shall appoint staff, who shall be exempt from part II of chapter 110 ~~as it may require and shall determine the qualifications and fix the compensation. The authority may delegate to one or more of its agents or employees such of its power as it deems necessary to carry out the purposes of this act, subject always to the supervision and control of the authority~~.

(5) The powers conferred upon the enterprise under ss. 341.8201-341.842 shall be in addition and supplemental to the existing powers of the department, and these powers shall not be construed as repealing any provision of any other law, general or local, but shall supersede such other laws that are inconsistent with the exercise of the powers provided under ss. 341.8201-341.842 and provide a complete method for the exercise of such powers granted.

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~~Florida.~~

Section 12. Section 341.821, Florida Statutes, is repealed.

Section 13. Section 341.822, Florida Statutes, is amended to read:

341.822 Powers and duties.—

(1) The enterprise ~~authority created and established by this act~~ shall locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the high-speed rail system in the state.

(2)(a) In addition to the powers granted to the department, the enterprise has full authority to exercise all powers granted to it under this chapter. Powers shall include, but are not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems in the state. ~~The authority may exercise all powers granted to corporations under the Florida Business Corporation Act, chapter 607, except the authority may only incur debt in accordance with levels authorized by the Legislature.~~

(b) It is the express intention of ss. 341.8201-341.842 that the enterprise be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the high-speed rail system; to expend funds to publicize, advertise, and promote the advantages of using the high-speed rail system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private, to accomplish these purposes.

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~~rail station; be~~ consistent, to the extent feasible, with applicable local government comprehensive plans and local land development regulations~~,~~ and otherwise be in compliance with ss. 341.8201-341.842 ~~the provisions of this act~~.

(2) Sections 341.8201-341.842 do ~~This act does~~ not prohibit the enterprise ~~authority~~, the selected person or entity, or a party to a joint venture with the enterprise ~~authority~~ or its selected person or entity from obtaining approval, pursuant to any other law, for any associated development that is reasonably related to the high-speed rail system.

Section 17. Section 341.837, Florida Statutes, is repealed.

Section 18. Section 341.838, Florida Statutes, is amended to read:

341.838 Fares, rates, rents, fees, and charges.—

(1) The enterprise may establish ~~authority is authorized to fix~~, revise, charge, and collect fares, rates, rents, fees, charges, and revenues for the use of and for the services furnished, or to be furnished, by the system and to contract with any person, partnership, association, corporation, or other body, public or private, in respect thereof. Such fares, rates, rents, fees, and charges shall be reviewed annually by the enterprise ~~authority~~ and may be adjusted as set forth in the contract setting such fares, rates, rents, fees, or charges. The funds collected pursuant to this section ~~hereunder~~ shall, with any other funds available, be used to pay the cost of ~~all administrative expenses of the authority, and the cost of~~ designing, building, operating, financing, and maintaining the system and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately

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(6) Any proposed rail enterprise project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program under s. 339.135.

Section 14. Section 341.8225, Florida Statutes, is created to read:

341.8225 Department of Transportation sole governmental entity to acquire, construct, or operate high-speed rail projects; exception.—

(1) No governmental entity other than the department may acquire, construct, maintain, or operate the high-speed rail system except upon specific authorization of the Legislature.

(2) Local governmental entities, as defined in s. 334.03(14), may negotiate with the department for the design, right-of-way acquisition, and construction of any component of the high-speed rail system within areas of their respective jurisdictions or within counties with which they have interlocal agreements.

Section 15. Sections 341.823, 341.824, 341.827, 341.828, 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, and 341.835, Florida Statutes, are repealed.

Section 16. Section 341.836, Florida Statutes, is amended to read:

341.836 Associated development.—

(1) The enterprise ~~authority~~, alone or as part of a joint development, may undertake ~~development of~~ associated developments to be a source of revenue for the establishment, construction, operation, or maintenance of the high-speed rail system. Such associated developments must be ~~associated with a rail station and have pedestrian ingress to and egress from the~~

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directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, the State Transportation Development Administrator, State Public Transportation and Modal Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices specified in s. 20.23(4)~~(3)~~(b), of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service; and the county health department directors and county health department administrators of the Department of Health.

(m) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to:

1. Positions in the Department of Health and the Department of Children and Family Services that are assigned primary duties of serving as the superintendent or assistant superintendent of an institution.

2. Positions in the Department of Corrections that are

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provided for.

(2) Fares, rates, rents, fees, and charges established ~~fixed~~, revised, charged, and collected by the enterprise pursuant to this section shall not be subject to supervision or regulation by any other department, commission, board, body, bureau, or agency of this state other than the enterprise ~~authority~~.

Section 19. Section 341.839, Florida Statutes, is amended to read:

341.839 Alternate means.—Sections 341.8201-341.842 ~~The foregoing sections of this act shall be deemed to~~ provide an additional and alternative method for accomplishing the purposes authorized therein~~,~~ and are ~~shall be regarded as~~ supplemental and additional to powers conferred by other laws. Except as otherwise expressly provided in ss. 341.8201-341.842 ~~this act~~, none of the powers granted to the enterprise ~~authority~~ under ss. 341.8201-341.842 are ~~the provisions of this act shall be~~ subject to the supervision or require the approval or consent of any municipality or political subdivision or any commission, board, body, bureau, or official.

Section 20. Section 341.841, Florida Statutes, is repealed.

Section 21. Paragraphs (j) and (m) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(j) The appointed secretaries and the State Surgeon General, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive

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assigned primary duties of serving as the warden, assistant warden, colonel, or major of an institution or that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator.

3. Positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices, as defined in s. 20.23(4)~~(3)~~(b) and (5)~~(4)~~(c), and captains and majors of the Office of Motor Carrier Compliance.

4. Positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator.

5. Positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator.

Unless otherwise fixed by law, the department shall set the salary and benefits of the positions listed in this paragraph in accordance with the rules established for the Selected Exempt Service.

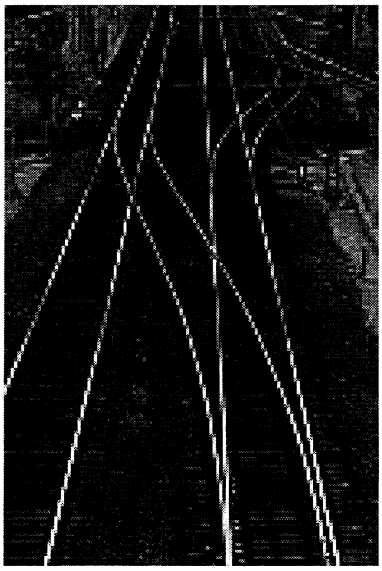
Section 22. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

SENATE

TRANSPORTATION WORKSHOP

Supplemental Information

Thursday, December 3, 2009
10:00 AM -- 1:00 PM
Pat Thomas Committee Room, 412 Knott Building

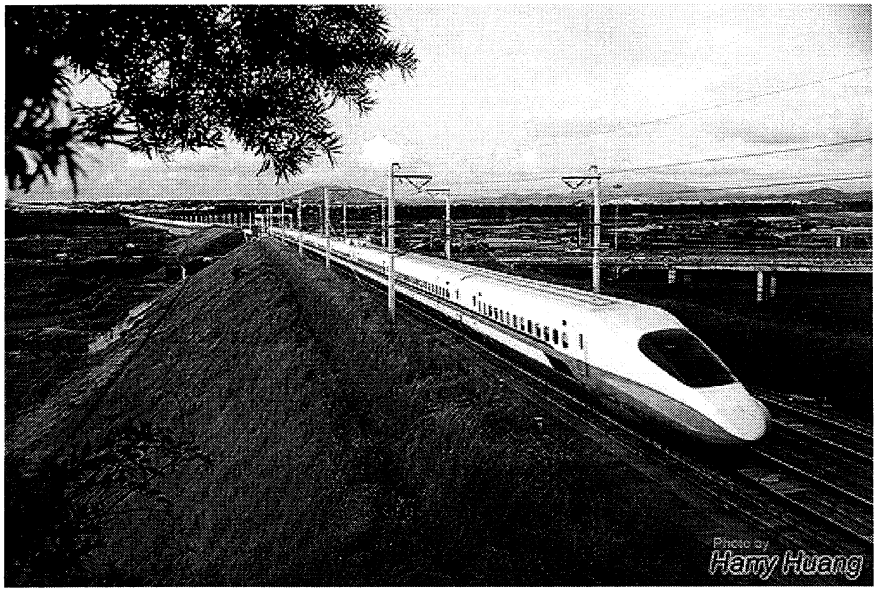


Statewide Passenger Rail Legislation

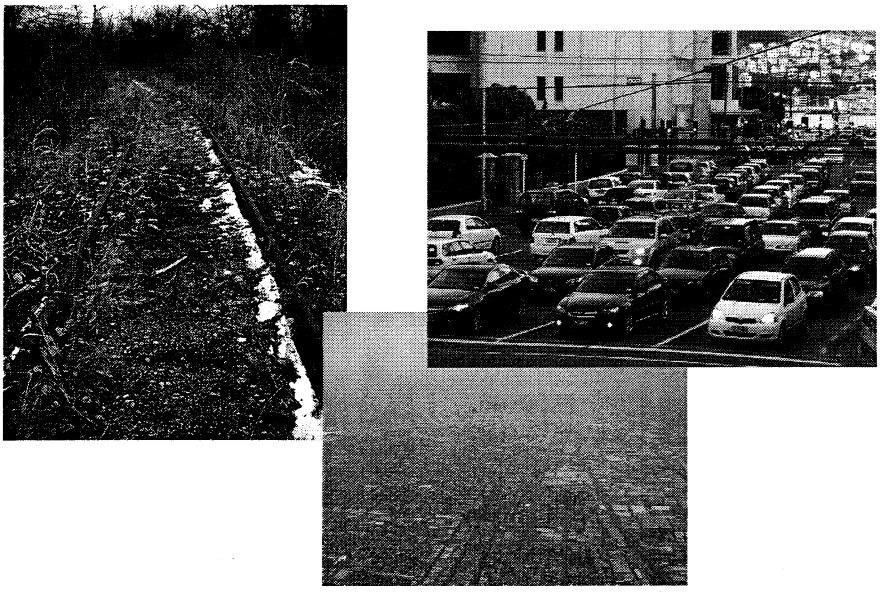
Senate Workshop

What we've been

What we'll be if rail passes



What we'll be if rail fails



Country	Miles of HSR (120+ mph)
Belgium	202
China	3,721
Finland	37
France	1,054
Germany	800
Italy	504
Japan	1,525
Portugal	195
South Korea	150
Spain	789
Turkey	152
USA	**0**

Rail 2009
This is Different!!!!!

- Rail 2009 is no longer just about commuter rail:
  - Offers the state the best opportunity to secure federal funding for high-speed rail which would:
    - Create tens of thousands of new jobs
    - Help catapult Florida as a global economic leader
    - Provide statewide interconnectivity
    - Plan for the next 50 years of Florida's future and beyond

High-Speed Rail

Why we feel good about our chances of receiving federal high-speed rail funding:

- Commitment to commuter rail
- Shovel-ready projects
- Further along than any other project nationally
- 92% of the Right-of-Way is owned by FDOT
- Washington commitment to fund high-speed rail

Statewide Passenger Rail

- Statewide passenger rail allows us to Help Florida emerge from this economic challenge with an economy and government that is:
  - Focused on long-term solutions
  - Prepared for the 21st century
  - Provides an environment for job creation and retention

South Florida Impacts

- Real People, Real Riders, Real Jobs
  - 15,000 riders per day
    - 2/3 are going to/from jobs
- 330 current workers (109 union workers)
- Tri-Rail provides access to more than 60,000 jobs located within ½ mile of stations

(South Florida Regional Transportation Authority, SFRTA)

Central Florida Impacts

- Development of commuter rail in Central Florida will immediately bring:
  - 5,300 construction jobs in four counties
  - 1,300 additional jobs throughout the state
- Over 30 years, hundreds of thousands of jobs and billions of dollars in economic impact from associated development

(2009 Bureau of Economic Analysis Statistics)

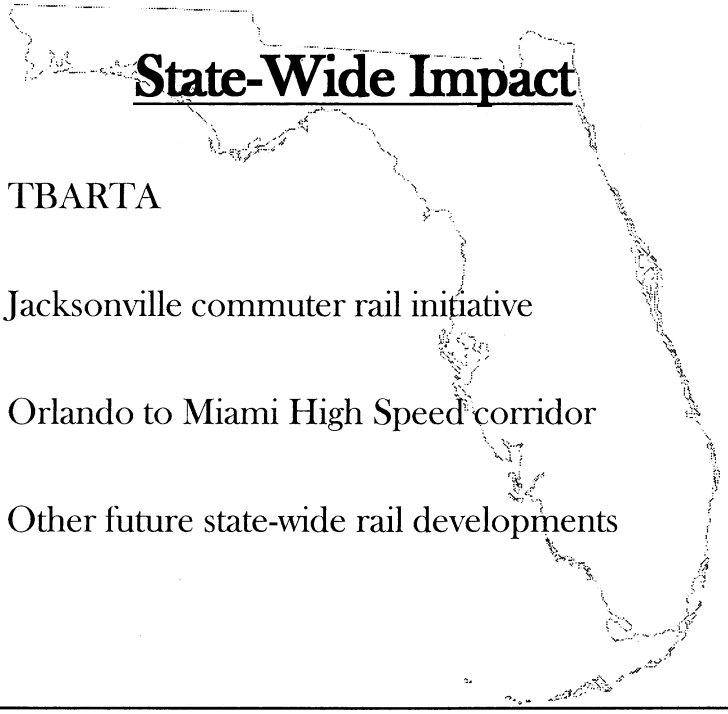
High-Speed Rail Impact

- 48,000 construction, design, and engineering jobs statewide
- 1,100 permanent operating and maintenance jobs along the corridor.

- Associated development will bring:
  - 1,700 jobs and almost $1B in economic benefits in Tampa
  - More than 1,000 jobs and over $500M in economic benefits in Lakeland

(2009 Bureau of Economic Analysis Statistics)
(2002 FHSR Economic Benefit & Cost Impact Study)

State-Wide Impact



- TBARTA
- Jacksonville commuter rail initiative
- Orlando to Miami High Speed corridor
- Other future state-wide rail developments

Downside

- SFRTA service is endangered
  - 15,000 riders per day (and growing)
    - 2/3 are commuters going to and from jobs.
  - Hundreds of Tri-Rail workers (including union jobs)
- Tens of thousands of potential jobs lost due to losing high-speed rail funds
- Florida remains a road-building state
- Washington demanding return of $256 million of federal funds
- Billions in federal funds
- Billions in future economic impact
- Florida remains a 20th century economy

- USDOT Secretary Ray LaHood: Commuter rail investment is crucial to high-speed rail - "You've got to get your act together."

- US Senator Bill Nelson: "If we have any chance of winning funds from the Recovery Act, the state legislature must demonstrate its commitment to high-speed rail in Florida."

- US Senator George LeMieux: "Florida has an historic opportunity to develop its passenger rail system, and all that's needed is a commitment from our state Legislature."

Rail 2008	Rail 2009 Spring	Rail 2009 Winter
CSX	SunRail	Statewide rail system
Sovereign Immunity	Sovereign immunity language removed	Sovereign immunity language removed
Weak Liability provisions	Weak liability provisions	Fault system for rail crossings, trespassers and commitment from freight to pay insurance deductible for willful acts
SFRTA not included in legislation	SFRTA dedicated funding included a $2 rental car surcharge, which offered no permanent dedicated funding source	Permanent dedicated funding source for SFRTA and future passenger rail systems
		Florida Passenger Rail Commission and Florida Rail Enterprise
		Potential for High-speed Rail

Dedicated Funding Source

- Current and future passenger rail funded from incremental transportation revenue sources
- Dedicates $60 million to passenger rail development
- Invests in transportation projects within Florida's small counties.
- No impact to current work program

Liability

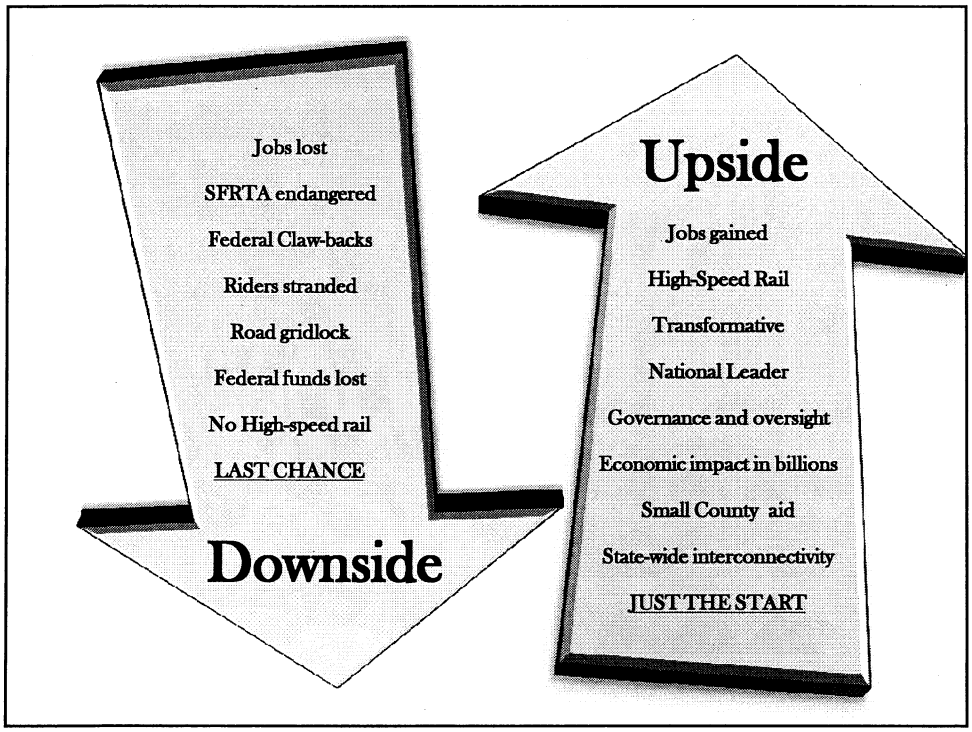
- Indemnification and liability provisions greatly improved from last year
- Applies to all future commuter rail systems
- Freight operators assume larger share of liability.

Statewide Passenger Rail Commission

- Enhanced governance structure
- Advisory and monitoring body to cover all aspects of passenger rail
- Membership comprises representatives of transportation, business, finance, environment, engineering, and legal industries
- Appointed by the Governor, the President, and the Speaker.

Florida Rail Enterprise

- Elevate and restructure FDOT's passenger rail development efforts
- Modeled after the Turnpike Enterprise
- Guide and coordinate future development of passenger rail in Florida
- Utilizing existing resources, no new appropriations necessary



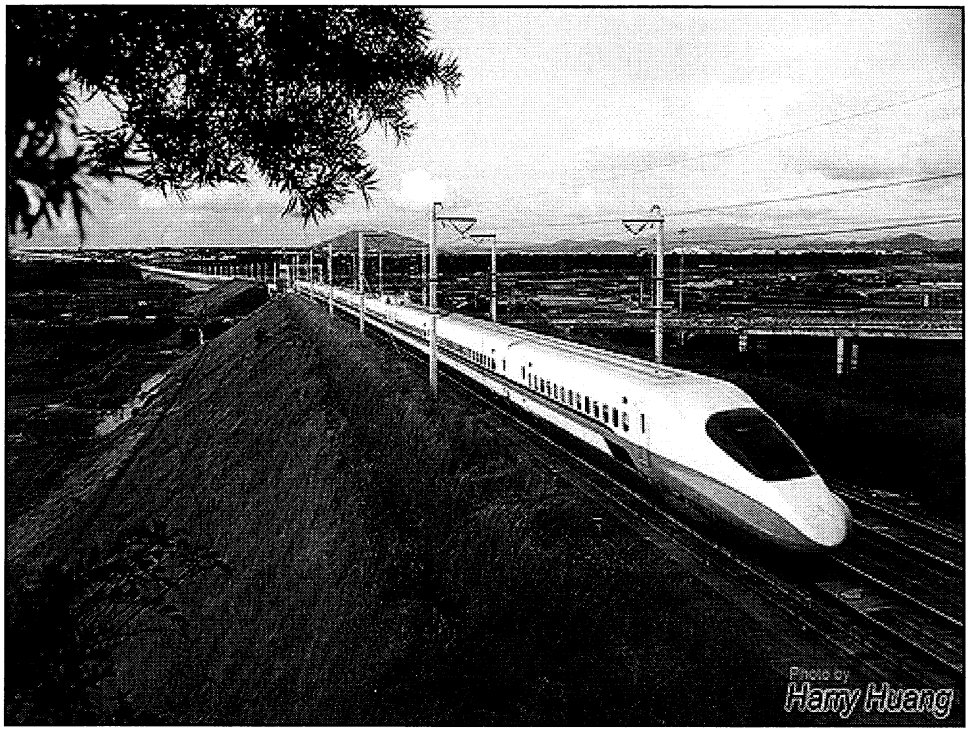


Photo by
Harry Huang