



182372

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/28/2012	.	
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The Committee on Budget (Bogdanoff) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 4612 - 4645  
and insert:

Section 99. It is the intent of the Legislature to encourage and facilitate the merger of the governance, staff, operations, funding and facilities of the Pinellas Suncoast Transit Authority (PSTA) and the Hillsborough Area Regional Transit Authority (HART) in order to enhance the local and regional transit service and connectivity in the Tampa Bay area. Further, the Legislature finds that the merger of PSTA and HART will result in operational efficiencies, reduced administrative costs, and further the regional approach to transit identified



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14 in the Tampa Bay Area Regional Transportation Authority's  
15 (TBARTA's) Regional Transportation Master Plan (Master Plan).

16 (1) The governing bodies of the PSTA and HART are  
17 authorized to enter into an interlocal agreement that merges  
18 their agencies, and provides for each of the following elements  
19 concerning the merged agency:

20 a) Governance structure, including governing board  
21 membership, terms, responsibilities, officers, powers, duties,  
22 and responsibilities of the merged agency;

23 (b) Staff reorganization;

24 (c) Funding options and implementation;

25 (d) Facilities ownership and management;

26 (e) Financing of current and future facilities and  
27 operations;

28 (f) Current financial obligations and resources; and

29 (g) Timetable for actions to be taken consistent with  
30 TBARTA's Master Plan.

31 (2) The governing bodies of PSTA and HART shall hold a  
32 joint meeting within thirty (30) days of the effective date of  
33 this act, and thereafter no less frequently than every forty-  
34 five (45) days, in order to prepare, approve and adopt the  
35 interlocal agreement merging their agencies by no later than  
36 February 1, 2013. If the governing bodies of PSTA and HART are  
37 not able to approve and adopt an interlocal agreement that  
38 complies with this act by providing for the elements set forth  
39 in subsection (1) by February 1, 2013, they shall on February 1,  
40 2013, submit a joint report to the President of the Florida  
41 Senate and Speaker of the Florida House of Representatives which  
42 explains the efforts they have made to comply with this act,



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43 sets forth the specific reasons they have not been able to carry  
44 out the intent of the Legislature as set forth in this act,  
45 includes minutes of all meetings held by the governing bodies in  
46 their effort to comply with this act, and provides the most  
47 recent organizational structure, budget and audit for each  
48 agency.

49 (3) TBARTA shall assist and facilitate PSTA and HART in  
50 carrying out the intent and purposes of this act. TBARTA shall  
51 provide technical assistance and information regarding its  
52 Master Plan, shall make recommendations for achieving  
53 consistency and improved regional connectivity, and shall  
54 provide support to PSTA and HART in the preparation of their  
55 interlocal agreement, or joint report to the Legislature. For  
56 this purpose, PSTA and HART shall reimburse TBARTA for necessary  
57 and reasonable expense in a total amount not to exceed \$100,000.

58 Between lines 4673 and 4674  
59 insert:

60 Section 101. There is established a pilot program for the  
61 Palm Beach County school district to recognize its business  
62 partners. The district may recognize its business partners by  
63 publicly displaying such business partners' names on school  
64 district property in the unincorporated areas of the county.  
65 Project graduation and athletic sponsorships are examples of  
66 appropriate recognition. The district shall make every effort to  
67 display its business partners' names in a manner that is  
68 consistent with the county standards for uniformity in size,  
69 color, and placement of signs. If the provisions of this section  
70 are inconsistent with county ordinances or regulations relating  
71 to signs in the unincorporated areas of the county or



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72 inconsistent with chapter 125 or chapter 166, Florida Statutes,  
73 the provisions of this section prevail. The pilot program  
74 expires June 30, 2014.

75 Section 102. The provisions contained in ss. 5 and 6, ch.  
76 2010-225, Laws of Florida, shall be effected through a type two  
77 transfer of the relevant administrative rules, pursuant to s.  
78 20.06(2), Florida Statutes.

79 Section 103. Section 311.106, Florida Statutes, is created  
80 to read:

81 311.106 Seaport stormwater permitting and mitigation.—A  
82 seaport listed in s. 403.021(9)(b) is authorized to provide for  
83 onsite or offsite stormwater treatment for water quality impacts  
84 caused by a proposed port activity that requires a permit and  
85 that causes or contributes to pollution from stormwater runoff.  
86 Offsite stormwater treatment may occur outside of the  
87 established boundaries of the port, but must be within the same  
88 drainage basin in which the port activity occurs. A port offsite  
89 stormwater treatment project must be constructed and maintained  
90 by the seaport or by the seaport in conjunction with an adjacent  
91 local government. In order to limit stormwater treatment from  
92 individual parcels within a port, a seaport may provide for a  
93 regional stormwater treatment facility that must be constructed  
94 and maintained by the seaport or by the seaport in conjunction  
95 with an adjacent local government.

96 Section 104. Subsection (7) of section 341.301, Florida  
97 Statutes, is amended to read:

98 341.301 Definitions; ss. 341.302-341.303.—As used in ss.  
99 341.302-341.303, the term:

100 (7) "Limited covered accident" means:



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101        (a) A collision directly between the trains, locomotives,  
102 rail cars, or rail equipment of the department and the freight  
103 rail operator only, where the collision is caused by or arising  
104 from the willful misconduct of the freight rail operator or its  
105 subsidiaries, agents, licensees, employees, officers, or  
106 directors or where punitive damages or exemplary damages are  
107 awarded due to the conduct of the freight rail operator or its  
108 subsidiaries, agents, licensees, employees, officers, or  
109 directors; or

110        (b) A collision directly between the trains, locomotives,  
111 rail cars, or rail equipment of the department and National  
112 Railroad Passenger Corporation only, where the collision is  
113 caused by or arising from the willful misconduct of National  
114 Railroad Passenger Corporation or its subsidiaries, agents,  
115 licensees, employees, officers, or directors or where punitive  
116 damages or exemplary damages are awarded due to the conduct of  
117 National Railroad Passenger Corporation or its subsidiaries,  
118 agents, licensees, employees, officers, or directors.

119        Section 105. Subsection (17) of section 341.302, Florida  
120 Statutes, is amended to read:

121        341.302 Rail program; duties and responsibilities of the  
122 department.—The department, in conjunction with other  
123 governmental entities, including the rail enterprise and the  
124 private sector, shall develop and implement a rail program of  
125 statewide application designed to ensure the proper maintenance,  
126 safety, revitalization, and expansion of the rail system to  
127 assure its continued and increased availability to respond to  
128 statewide mobility needs. Within the resources provided pursuant  
129 to chapter 216, and as authorized under federal law, the



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130 department shall:

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

134 (a) Assume obligations pursuant to the following:

135 1.a. The department may assume the obligation by contract  
136 to forever protect, defend, indemnify, and hold harmless the  
137 freight rail operator, or its successors, from whom the  
138 department has acquired a real property interest in the rail  
139 corridor, and that freight rail operator's officers, agents, and  
140 employees, from and against any liability, cost, and expense,  
141 including, but not limited to, commuter rail passengers and rail  
142 corridor invitees in the rail corridor, regardless of whether  
143 the loss, damage, destruction, injury, or death giving rise to  
144 any such liability, cost, or expense is caused in whole or in  
145 part, and to whatever nature or degree, by the fault, failure,  
146 negligence, misconduct, nonfeasance, or misfeasance of such  
147 freight rail operator, its successors, or its officers, agents,  
148 and employees, or any other person or persons whomsoever; or

149 b. The department may assume the obligation by contract to  
150 forever protect, defend, indemnify, and hold harmless National  
151 Railroad Passenger Corporation, or its successors, and National  
152 Railroad Passenger Corporation's officers, agents, and  
153 employees, from and against any liability, cost, and expense,  
154 including, but not limited to, commuter rail passengers and rail  
155 corridor invitees in the rail corridor, regardless of whether  
156 the loss, damage, destruction, injury, or death giving rise to  
157 any such liability, cost, or expense is caused in whole or in  
158 part, and to whatever nature or degree, by the fault, failure,



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159 negligence, misconduct, nonfeasance, or misfeasance of National  
160 Railroad Passenger Corporation, its successors, or its officers,  
161 agents, and employees, or any other person or persons  
162 whomsoever.

163 2. However, ~~Provided that~~ such assumption of liability of  
164 the department by contract as to either sub-subparagraph 1.a. or  
165 sub-subparagraph 1.b. may ~~shall~~ not in any instance exceed the  
166 following parameters of allocation of risk:

167 a.1. The department may be solely responsible for any loss,  
168 injury, or damage to commuter rail passengers, or rail corridor  
169 invitees, or trespassers, regardless of circumstances or cause,  
170 subject to sub-subparagraph b. and subparagraphs ~~2.~~ 3., 4., 5.,  
171 and 6.

172 b.(I)~~2.~~ In the event of a limited covered accident, the  
173 authority of the department to protect, defend, and indemnify  
174 the freight operator for all liability, cost, and expense,  
175 including punitive or exemplary damages, in excess of the  
176 deductible or self-insurance retention fund established under  
177 paragraph (b) and actually in force at the time of the limited  
178 covered accident exists only if the freight operator agrees,  
179 with respect to the limited covered accident, to protect,  
180 defend, and indemnify the department for the amount of the  
181 deductible or self-insurance retention fund established under  
182 paragraph (b) and actually in force at the time of the limited  
183 covered accident.

184 (II) In the event of a limited covered accident, the  
185 authority of the department to protect, defend, and indemnify  
186 National Railroad Passenger Corporation for all liability, cost,  
187 and expense, including punitive or exemplary damages, in excess



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188 of the deductible or self-insurance retention fund established  
189 under paragraph (b) and actually in force at the time of the  
190 limited covered accident exists only if National Railroad  
191 Passenger Corporation agrees, with respect to the limited  
192 covered accident, to protect, defend, and indemnify the  
193 department for the amount of the deductible or self-insurance  
194 retention fund established under paragraph (b) and actually in  
195 force at the time of the limited covered accident.

196 3. When only one train is involved in an incident, the  
197 department may be solely responsible for any loss, injury, or  
198 damage if the train is a department train or other train  
199 pursuant to subparagraph 4., but only if;

200 a. When an incident occurs with only a freight train  
201 involved, including incidents with trespassers or at grade  
202 crossings, the freight rail operator is solely responsible for  
203 any loss, injury, or damage, except for commuter rail passengers  
204 and rail corridor invitees; or

205 b. When an incident occurs with only a National Railroad  
206 Passenger Corporation train involved, including incidents with  
207 trespassers or at grade crossings, National Railroad Passenger  
208 Corporation is solely responsible for any loss, injury, or  
209 damage, except for commuter rail passengers and rail corridor  
210 invitees.

211 4. For the purposes of this subsection:

212 a. Any train involved in an incident that is neither the  
213 department's train nor the freight rail operator's train,  
214 hereinafter referred to in this subsection as an "other train,"  
215 may be treated as a department train, solely for purposes of any  
216 allocation of liability between the department and the freight



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217 rail operator only, but only if the department and the freight  
218 rail operator share responsibility equally as to third parties  
219 outside the rail corridor who incur loss, injury, or damage as a  
220 result of any incident involving both a department train and a  
221 freight rail operator train, and the allocation as between the  
222 department and the freight rail operator, regardless of whether  
223 the other train is treated as a department train, shall remain  
224 one-half each as to third parties outside the rail corridor who  
225 incur loss, injury, or damage as a result of the incident. The  
226 involvement of any other train shall not alter the sharing of  
227 equal responsibility as to third parties outside the rail  
228 corridor who incur loss, injury, or damage as a result of the  
229 incident; or

230 b. Any train involved in an incident that is neither the  
231 department's train nor the National Railroad Passenger  
232 Corporation's train, hereinafter referred to in this subsection  
233 as an "other train," may be treated as a department train,  
234 solely for purposes of any allocation of liability between the  
235 department and National Railroad Passenger Corporation only, but  
236 only if the department and National Railroad Passenger  
237 Corporation share responsibility equally as to third parties  
238 outside the rail corridor who incur loss, injury, or damage as a  
239 result of any incident involving both a department train and a  
240 National Railroad Passenger Corporation train, and the  
241 allocation as between the department and National Railroad  
242 Passenger Corporation, regardless of whether the other train is  
243 treated as a department train, shall remain one-half each as to  
244 third parties outside the rail corridor who incur loss, injury,  
245 or damage as a result of the incident. The involvement of any



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246 other train shall not alter the sharing of equal responsibility  
247 as to third parties outside the rail corridor who incur loss,  
248 injury, or damage as a result of the incident.

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

250 a. (I) If only a department train and freight rail  
251 operator's train, or only an other train as described in sub-  
252 subparagraph 4.a. ~~subparagraph 4.~~ and a freight rail operator's  
253 train, are involved in an incident, the department may be  
254 responsible for its property and all of its people, all commuter  
255 rail passengers, and rail corridor invitees, but only if the  
256 freight rail operator is responsible for its property and all of  
257 its people, and the department and the freight rail operator  
258 each share one-half responsibility as to trespassers or third  
259 parties outside the rail corridor who incur loss, injury, or  
260 damage as a result of the incident; or

261 (II) If only a department train and a National Railroad  
262 Passenger Corporation train, or only an other train as described  
263 in sub-subparagraph 4.b. and a National Railroad Passenger  
264 Corporation train, are involved in an incident, the department  
265 may be responsible for its property and all of its people, all  
266 commuter rail passengers, and rail corridor invitees, but only  
267 if National Railroad Passenger Corporation is responsible for  
268 its property and all of its people, all National Railroad  
269 Passenger Corporation's rail passengers, and the department and  
270 National Railroad Passenger Corporation each share one-half  
271 responsibility as to trespassers or third parties outside the  
272 rail corridor who incur loss, injury, or damage as a result of  
273 the incident.

274 b. (I) If a department train, a freight rail operator train,



275 and any other train are involved in an incident, the allocation  
276 of liability between the department and the freight rail  
277 operator, regardless of whether the other train is treated as a  
278 department train, shall remain one-half each as to third parties  
279 outside the rail corridor who incur loss, injury, or damage as a  
280 result of the incident; the involvement of any other train shall  
281 not alter the sharing of equal responsibility as to third  
282 parties outside the rail corridor who incur loss, injury, or  
283 damage as a result of the incident; and, if the owner, operator,  
284 or insurer of the other train makes any payment to injured third  
285 parties outside the rail corridor who incur loss, injury, or  
286 damage as a result of the incident, the allocation of credit  
287 between the department and the freight rail operator as to such  
288 payment shall not in any case reduce the freight rail operator's  
289 third-party-sharing allocation of one-half under this paragraph  
290 to less than one-third of the total third party liability; or  
291 (II) If a department train, a National Railroad Passenger  
292 Corporation train, and any other train are involved in an  
293 incident, the allocation of liability between the department and  
294 National Railroad Passenger Corporation, regardless of whether  
295 the other train is treated as a department train, shall remain  
296 one-half each as to third parties outside the rail corridor who  
297 incur loss, injury, or damage as a result of the incident; the  
298 involvement of any other train shall not alter the sharing of  
299 equal responsibility as to third parties outside the rail  
300 corridor who incur loss, injury, or damage as a result of the  
301 incident; and, if the owner, operator, or insurer of the other  
302 train makes any payment to injured third parties outside the  
303 rail corridor who incur loss, injury, or damage as a result of



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304 the incident, the allocation of credit between the department  
305 and National Railroad Passenger Corporation as to such payment  
306 shall not in any case reduce National Railroad Passenger  
307 Corporation's third-party-sharing allocation of one-half under  
308 this sub-subparagraph to less than one-third of the total third  
309 party liability.

310         6. Any such contractual duty to protect, defend, indemnify,  
311 and hold harmless such a freight rail operator or National  
312 Railroad Passenger Corporation shall expressly include a  
313 specific cap on the amount of the contractual duty, which amount  
314 shall not exceed \$200 million without prior legislative  
315 approval, and the department to purchase liability insurance and  
316 establish a self-insurance retention fund in the amount of the  
317 specific cap established under this subparagraph, provided that:

318         a. No such contractual duty shall in any case be effective  
319 nor otherwise extend the department's liability in scope and  
320 effect beyond the contractual liability insurance and self-  
321 insurance retention fund required pursuant to this paragraph;  
322 and

323         b. The freight rail operator's compensation to the  
324 department for future use of the department's rail corridor  
325 shall include a monetary contribution to the cost of such  
326 liability coverage for the sole benefit of the freight rail  
327 operator. National Railroad Passenger Corporation's compensation  
328 to the department for future use of the department's rail  
329 corridor shall include a monetary contribution to the cost of  
330 such liability coverage for the sole benefit of National  
331 Railroad Passenger Corporation.

332         (b) Purchase liability insurance, which amount shall not



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333 exceed \$200 million, and establish a self-insurance retention  
334 fund for the purpose of paying the deductible limit established  
335 in the insurance policies it may obtain, including coverage for  
336 the department, any freight rail operator as described in  
337 paragraph (a), National Railroad Passenger Corporation, commuter  
338 rail service providers, governmental entities, or any ancillary  
339 development, which self-insurance retention fund or deductible  
340 shall not exceed \$10 million. The insureds shall pay a  
341 reasonable monetary contribution to the cost of such liability  
342 coverage for the sole benefit of the insured. Such insurance and  
343 self-insurance retention fund may provide coverage for all  
344 damages, including, but not limited to, compensatory, special,  
345 and exemplary, and be maintained to provide an adequate fund to  
346 cover claims and liabilities for loss, injury, or damage arising  
347 out of or connected with the ownership, operation, maintenance,  
348 and management of a rail corridor.

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

351 Neither the assumption by contract to protect, defend,  
352 indemnify, and hold harmless; the purchase of insurance; nor the  
353 establishment of a self-insurance retention fund shall be deemed  
354 to be a waiver of any defense of sovereign immunity for torts  
355 nor deemed to increase the limits of the department's or the  
356 governmental entity's liability for torts as provided in s.  
357 768.28. The requirements of s. 287.022(1) shall not apply to the  
358 purchase of any insurance under this subsection. The provisions  
359 of this subsection shall apply and inure fully as to any other  
360 governmental entity providing commuter rail service and  
361 constructing, operating, maintaining, or managing a rail



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362 corridor on publicly owned right-of-way under contract by the  
363 governmental entity with the department or a governmental entity  
364 designated by the department. Notwithstanding any law to the  
365 contrary, procurement for the construction, operation,  
366 maintenance, and management of any rail corridor described in  
367 this subsection, whether by the department, a governmental  
368 entity under contract with the department, or a governmental  
369 entity designated by the department, shall be pursuant to s.  
370 287.057 and shall include, but not be limited to, criteria for  
371 the consideration of qualifications, technical aspects of the  
372 proposal, and price. Further, any such contract for design-build  
373 shall be procured pursuant to the criteria in s. 337.11(7).

374 Section 106. Section 347.215, Florida Statutes, is created  
375 to read:

376 347.215 Operation of ferries by joint agreement between  
377 public and private entities.—The county commission of any county  
378 that has granted a license to operate a ferry in the county may  
379 authorize the operation of such ferry by a single party or  
380 multiple parties under a joint agreement between public entities  
381 and one or more private corporations conducting business in the  
382 state.

383 Section 107. Subsection (6) is added to section 373.118,  
384 Florida Statutes, to read:

385 373.118 General permits; delegation.—

386 (6) By July 1, 2012, the department shall initiate  
387 rulemaking to adopt a general permit for stormwater management  
388 systems serving airside activities at airports. The general  
389 permit applies statewide and shall be administered by any water  
390 management district or any delegated local government pursuant



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391 to the operating agreements applicable to part IV of this  
392 chapter, with no additional rulemaking required. These rules are  
393 not subject to any special rulemaking requirements related to  
394 small business.

395 Section 108. Paragraph (d) of subsection (6) of section  
396 373.4136, Florida Statutes, is amended to read:

397 373.4136 Establishment and operation of mitigation banks.—

398 (6) MITIGATION SERVICE AREA.—The department or water  
399 management district shall establish a mitigation service area  
400 for each mitigation bank permit. The department or water  
401 management district shall notify and consider comments received  
402 on the proposed mitigation service area from each local  
403 government within the proposed mitigation service area. Except  
404 as provided herein, mitigation credits may be withdrawn and used  
405 only to offset adverse impacts in the mitigation service area.  
406 The boundaries of the mitigation service area shall depend upon  
407 the geographic area where the mitigation bank could reasonably  
408 be expected to offset adverse impacts. Mitigation service areas  
409 may overlap, and mitigation service areas for two or more  
410 mitigation banks may be approved for a regional watershed.

411 (d) If the requirements in s. 373.414(1)(b) and (8) are  
412 met, the following projects or activities regulated under this  
413 part shall be eligible to use a mitigation bank, regardless of  
414 whether they are located within the mitigation service area:

415 1. Projects with adverse impacts partially located within  
416 the mitigation service area.

417 2. Linear projects, such as roadways, transmission lines,  
418 distribution lines, pipelines, or railways, or seaports listed  
419 in s. 403.021(9)(b).



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420           3. Projects with total adverse impacts of less than 1 acre  
421 in size.

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424 ===== T I T L E   A M E N D M E N T =====

425 And the title is amended as follows:

426           Delete lines 447 - 454

427 and insert:

428           providing intent for and findings related to the  
429 merger of the Pinellas Suncoast Transit Authority and  
430 the Hillsborough Area Regional Transit Authority;  
431 authorizing the authorities to enter an interlocal  
432 agreement to effect a merger; directing the  
433 authorities to enter the agreement by a certain date  
434 or submit a report identifying opportunities and  
435 greater efficiency and service improvements for  
436 increasing connectivity between each authority to the  
437 Legislature by the same date; requiring the Tampa Bay  
438 Area Regional Transportation Authority to provide  
439 assistance; authorizing

440           Between lines 462 and 463

441 insert:

442           establishing a pilot program for the Palm Beach County  
443 school district to recognize its business partners;  
444 providing for expiration of the program; providing for  
445 a type two transfer of relevant administrative rules  
446 relating to the redesignation of the Pilotage Rate  
447 Review Board as the Pilotage Rate Review Committee  
448 within the Board of Pilot Commissioners and the



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449 transfer of matters pending before the board at the  
450 time of the redesignation and the Governor's  
451 appointment of the board pursuant to ss. 5 and 6, ch.  
452 2010-225, Laws of Florida; creating s. 311.106, F.S.,  
453 relating to seaport stormwater permitting and  
454 mitigation; authorizing a seaport to provide for  
455 onsite and offsite stormwater treatment to mitigate  
456 impact of port activities; requiring offsite treatment  
457 to be within the same drainage basin and constructed  
458 and maintained by the seaport or in conjunction with a  
459 local government; authorizing the port to provide a  
460 regional treatment facility constructed and maintained  
461 by the seaport or in conjunction with a local  
462 government; amending s. 341.301, F.S.; revising the  
463 definition of "limited coverage accident"; amending s.  
464 341.302, F.S.; providing parameters within which the  
465 department may by contract indemnify against loss by  
466 National Railroad Passenger Corporation; authorizing  
467 the department to purchase liability insurance  
468 including coverage for the department, National  
469 Railroad Passenger Corporation, commuter rail service  
470 providers, governmental entities, or any ancillary  
471 development and establish a self-insurance retention  
472 fund; limiting the amount of the insurance and self-  
473 insurance retention fund; providing that the insureds  
474 must make payments for the coverage; providing that  
475 the insurance may provide coverage for all damages and  
476 be maintained to provide a fund to cover liabilities  
477 arising from rail corridor ownership and operations;



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478 creating s. 347.215, F.S.; providing for the operation  
479 of ferries by joint agreement between public and  
480 private entities; providing for payment for the cost  
481 of the sign; amending s. 373.118, F.S.; requiring that  
482 the Department of Environmental Protection initiate  
483 rulemaking to adopt a general permit for stormwater  
484 management systems serving airside activities at  
485 airports; providing for statewide application of the  
486 general permit; providing for any water management  
487 district or delegated local government to administer  
488 the general permit; providing that the rules are not  
489 subject to any special rulemaking requirements  
490 relating to small business; amending s. 373.4136,  
491 F.S.; providing that specified seaports are eligible  
492 to use mitigation banks;