





**CITY OF PALM BEACH GARDENS  
CITY COUNCIL  
Agenda Cover Memorandum**

**Meeting Date: February 9, 2017  
Resolution 26, 2017**

**Subject/Agenda Item:** A Resolution in support of SB 386 (2017) and HB 269 (2017), the "Florida High-Speed Passenger Rail Safety Act".

**Recommendation to APPROVE**  
 **Recommendation to DENY**

<p><b>Reviewed by:</b></p> <p>City Attorney    R. Max Lohman, Esq.</p> <p>Finance Administrator    Allan Owens</p>	<p><b>Originating Dept.:</b> Administration</p> <p>  Elicia K. Sanders  Assistant to the City Manager</p>	<p><b>Costs:</b> \$ <u>  N/A  </u> (Total)</p> <p>\$ <u>  N/A  </u> Current FY</p>	<p><b>Council Action:</b></p> <p><input type="checkbox"/> Approved  <input type="checkbox"/> Approved w/ Conditions  <input type="checkbox"/> Denied  <input type="checkbox"/> Continued to:</p>
	<p><b>Advertised: NA</b></p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p><b>Funding Source:</b></p> <p><input type="checkbox"/> Operating  <input checked="" type="checkbox"/> Other</p> <p>_____</p> <p><b>Contract/Agreement:</b></p> <p>Effective Date:</p> <p><u>  N/A  </u></p> <p>Expiration Date:</p> <p><u>  N/A  </u></p>	<p><b>Attachments:</b></p> <ul style="list-style-type: none"> <li>• Resolution 26, 2017</li> <li>• SB 386 (2017) High-Speed Passenger Rail</li> <li>• HB 269 (2017) High-Speed Passenger Rail</li> </ul>
<p><b>Approved by:</b></p> <p>City Manager    Ronald M. Ferris</p>	<p><b>Affected parties</b></p> <p><input type="checkbox"/> Notified  <input checked="" type="checkbox"/> Not required</p>	<p><b>Budget Acct.#:</b></p>	

**BACKGROUND:** The public purpose and intent of the “Florida High-Speed Passenger Rail Safety Act”, SB 386 (2017) filed by Senator Debbie Mayfield (R-Melbourne) and HB 269 (2017) filed by Representative MaryLynn Magar (R-Hobe Sound), is to give the State of Florida and local governments some regulatory control over high-speed passenger rail systems insofar as such authority is not preempted by federal laws or regulations.

If enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would:

- Authorize the Florida Department of Transportation (FDOT) to regulate railroad companies in Florida insofar as such authority is not preempted by federal laws or regulations.
- Authorize FDOT to collect all necessary information from relevant parties to perform its duties and carry out the requirements set forth in the Florida High-Speed Passenger Rail Safety Act.
- Require FDOT to offer certain response training for accidents involving passengers or hazardous materials under certain circumstances.
- Establish minimum safety standards for high-speed passenger rail, including the installation of approved safety technology that, at a minimum, must include Positive Train Control and Remote Health Monitoring.
- Place the responsibility on the rail company for any costs associated with the construction and maintenance of the improvements necessary to operate a high-speed passenger rail system, unless a local government or the State expressly consents to the responsibility for the cost in writing.
- Require a railroad company operating a high-speed passenger rail system to construct and maintain a fence on both sides of its railroad tracks if FDOT determines that a fence is necessary to protect the health, safety, and welfare of the surrounding community.
- Grant FDOT the authority to impose a fine, which may not exceed \$10,000, for a violation of this act or for a violation of any rule adopted pursuant to this act.
- Create Section 341.615, Florida Statutes, which establishes “that this act does not prevent a local government from enacting ordinances regulating the speed limits of railroad traffic due to local safety hazards not statewide in nature and not capable of being adequately encompassed within the national uniform standards.”
- Provide an effective date of July 1, 2017.

**STAFF RECOMMENDATION:** Staff recommends approval of Resolution 26, 2017 as presented.



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**RESOLUTION 26, 2017**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA EXPRESSING SUPPORT FOR FLORIDA SENATE BILL SB 386 (2017) AND FLORIDA HOUSE BILL HB 269 (2017), KNOWN AS THE FLORIDA HIGH-SPEED PASSENGER RAIL SAFETY ACT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the public purpose and intent of the "Florida High-Speed Passenger Rail Safety Act", SB 386 (2017) filed by Senator Debbie Mayfield (R-Melbourne) and HB 269 (2017) filed by Representative MaryLynn Magar (R-Hobe Sound), is to give the State of Florida and local governments some regulatory control over high-speed passenger rail systems insofar as such authority is not preempted by federal laws or regulations; and

**WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would authorize the Florida Department of Transportation (FDOT) to regulate railroad companies in Florida insofar as such authority is not preempted by federal laws or regulations; and

**WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would authorize FDOT to collect all necessary information from relevant parties to perform its duties and carry out the requirements set forth in the Florida High-Speed Passenger Rail Safety; and

**WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would require FDOT to offer certain response training for accidents involving passengers or hazardous materials under certain circumstances; and

**WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would establish minimum safety standards for high-speed passenger rail, including the installation of approved safety technology that, at a minimum, must include Positive Train Control and Remote Health Monitoring; and

**WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386 (2017) and HB 269 (2017), as originally filed, would place the responsibility on the rail company for any costs associated with the construction and maintenance of the improvements necessary to operate a high-speed passenger rail system, unless a local government or the State expressly consents to the responsibility for the cost in writing; and



1           **WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386  
2 (2017) and HB 269 (2017), as originally filed, would require a railroad company operating  
3 a high-speed passenger rail system to construct and maintain a fence on both sides of its  
4 railroad tracks if FDOT determines that a fence is necessary to protect the health, safety,  
5 and welfare of the surrounding community; and  
6

7           **WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386  
8 (2017) and HB 269 (2017), as originally filed, would grant FDOT the authority to impose  
9 a fine, which may not exceed \$10,000, for a violation of this act or for a violation of any  
10 rule adopted pursuant to this act; and  
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12           **WHEREAS**, if enacted, the Florida High-Speed Passenger Rail Safety Act, SB 386  
13 (2017) and HB 269 (2017), as originally filed, would create Section 341.615, Florida  
14 Statutes, which establishes “that this act does not prevent a local government from  
15 enacting ordinances regulating the speed limits of railroad traffic due to local safety  
16 hazards not statewide in nature and not capable of being adequately encompassed within  
17 the national uniform standards”; and  
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19           **WHEREAS**, the City Council deems approval of this Resolution to be in the best  
20 interest of the health, safety, and welfare of the residents and citizens of the City of Palm  
21 Beach Gardens and the public at large.  
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24           **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**  
25 **OF PALM BEACH GARDENS, FLORIDA** that:  
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27           **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.  
28

29           **SECTION 2.** The City Council of the City of Palm Beach Gardens supports the  
30 public purpose and intent of the “Florida High-Speed Passenger Rail Safety Act”, SB 386  
31 (2017) filed by Senator Debbie Mayfield (R-Melbourne) and HB 269 (2017) filed by  
32 Representative MaryLynn Magar (R-Hobe Sound), to give the State of Florida and local  
33 governments some regulatory control over high-speed passenger rail systems insofar as  
34 such authority is not preempted by federal laws or regulations.  
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36           **SECTION 3.** The City Clerk is hereby authorized to forward a copy of this  
37 Resolution to Senator Debbie Mayfield (R-Melbourne), Representative MaryLynn Magar  
38 (R-Hobe Sound), and the Palm Beach County Legislative Delegation.  
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40           **SECTION 4.** This Resolution shall become effective immediately upon adoption.  
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**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF PALM BEACH GARDENS, FLORIDA**

BY: \_\_\_\_\_  
Marcie Tinsley, Mayor

**ATTEST:**

BY: \_\_\_\_\_  
Patricia Snider, CMC, City Clerk

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
R. Max Lohman, City Attorney

**VOTE:**

**AYE   NAY   ABSENT**

MAYOR TINSLEY	_____	_____	_____
VICE MAYOR JABLIN	_____	_____	_____
COUNCILMEMBER PREMURROSO	_____	_____	_____
COUNCILMEMBER MARINO	_____	_____	_____
COUNCILMEMBER WOODS	_____	_____	_____



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By Senator Mayfield

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1                   A bill to be entitled  
2       An act relating to high-speed passenger rail; creating  
3       s. 341.601, F.S.; providing a short title; creating s.  
4       341.602, F.S.; providing definitions; creating s.  
5       341.603, F.S.; providing legislative intent; creating  
6       s. 341.604, F.S.; providing applicability; creating s.  
7       341.605, F.S.; providing powers and duties of the  
8       Florida Department of Transportation; authorizing the  
9       department to regulate railroads where not federally  
10      preempted; authorizing the department to collect  
11      information from relevant parties; requiring the  
12      department to keep certain records; requiring the  
13      department to offer certain response training for  
14      accidents involving passengers or hazardous materials  
15      under certain circumstances; requiring the department  
16      to adopt rules; creating s. 341.606, F.S.; providing  
17      reporting requirements for certain railroad companies;  
18      requiring the department to publish certain  
19      information on its website; requiring the department,  
20      in coordination with the Federal Railroad  
21      Administration and other entities as necessary, to  
22      develop certain rules; specifying that reporting  
23      requirements are for informational purposes only and  
24      not to be used to economically regulate the railroad  
25      company; creating s. 341.607, F.S.; providing minimum  
26      safety standards for high-speed passenger rail;  
27      requiring certain railroad companies to comply with  
28      certain federal laws and regulations; providing safety  
29      technology requirements for certain railroad  
30      companies; specifying that such railroad companies may  
31      be subject to civil or criminal penalties for an  
32      incident caused by the use of an unapproved safety

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33 technology; providing certain requirements for  
34 railroad companies before operating a high-speed  
35 passenger rail system; creating s. 341.608, F.S.;  
36 requiring construction, maintenance, and repair of  
37 certain infrastructure by certain railroad companies;  
38 specifying requirements for certain roadbed  
39 modifications; requiring certain contractual  
40 agreements to adhere to the department's requisition  
41 and procurement procedures; providing for  
42 construction; creating s. 341.609, F.S.; requiring the  
43 department's railroad inspectors, in accordance with a  
44 specified program, to meet certain certification  
45 requirements and to coordinate their activities with  
46 those of federal inspectors in the state in compliance  
47 with certain federal regulations; requiring the  
48 inspectors to report the results of their inspections,  
49 subject to certain requirements; requiring the reports  
50 to be made available on the department's website;  
51 creating s. 341.611, F.S.; requiring the department to  
52 adopt rules that identify standards for conducting  
53 field surveys of certain rail corridors; providing  
54 requirements for the field survey; requiring the  
55 department to hold certain public meetings; requiring  
56 certain railroad companies to construct and maintain  
57 fences under certain circumstances; providing fencing  
58 requirements; requiring a railroad company to be  
59 liable for all damages arising from its failure to  
60 construct or maintain the fence under certain  
61 circumstances; creating s. 341.612, F.S.; requiring a



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62 railroad company operating a high-speed passenger rail  
 63 system to be solely responsible for all rail corridor  
 64 improvements or upgrades relating to its operation and  
 65 safety; prohibiting a local government or the state  
 66 from being responsible for certain costs unless it  
 67 expressly consents in writing; creating s. 341.613,  
 68 F.S.; providing administrative fines for certain  
 69 violations, subject to certain requirements; providing  
 70 certain factors to consider in determining the amount  
 71 of the fine to be imposed; requiring all fines  
 72 collected to be deposited into the State  
 73 Transportation Trust Fund; creating s. 341.614, F.S.;  
 74 authorizing certain suits to be brought in any court  
 75 of this state having jurisdiction; providing for  
 76 attorney fees and costs; creating s. 341.615, F.S.;  
 77 authorizing local governments to enact ordinances  
 78 regulating the speed limits of railroad traffic under  
 79 certain circumstances; providing an effective date.

80

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

82

83 Section 1. Section 341.601, Florida Statutes, is created to  
 84 read:

85 341.601 Short title.—Sections 341.601-341.615 shall be  
 86 known as the "Florida High-Speed Passenger Rail Safety Act."

87 Section 2. Section 341.602, Florida Statutes, is created to  
 88 read:

89 341.602 Definitions.—As used in ss. 341.601-341.615, the  
 90 term:



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91 (1) "Department" means the Florida Department of  
92 Transportation.

93 (2) "Freight railroad carrier" means any person, railroad  
94 corporation, or other legal entity in the business of providing  
95 freight rail transportation.

96 (3) "Governmental entity" means the state, any of its  
97 agencies, or any of its political subdivisions.

98 (4) "High-speed passenger rail system" means any new  
99 intrastate passenger rail system that operates or proposes to  
100 operate its passenger trains at a maximum speed in excess of 80  
101 miles per hour on or after July 1, 2017.

102 (5) "Pedestrian grade crossing" means a separate sidewalk  
103 or pathway where pedestrians, but not vehicles, cross railroad  
104 tracks.

105 (6) "Public railroad-highway grade crossing" means a  
106 location at which a railroad track is crossed at grade by a  
107 public road.

108 (7) "Rail corridor" means a linear, continuous strip of  
109 real property that is used for rail service. The term includes  
110 the corridor and structures essential to railroad operations,  
111 including the land, buildings, improvements, rights-of-way,  
112 easements, rail lines, rail beds, guideway structures, switches,  
113 yards, parking facilities, power relays, switching houses, rail  
114 stations, any ancillary development, and any other facilities or  
115 equipment used for the purposes of construction, operation, or  
116 maintenance of a railroad that provides rail service.

117 (8) "Railroad company" means any individual, partnership,  
118 association, corporation, or company and its respective lessees,  
119 trustees, or receivers, appointed by a court, that develops or



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120 provides ground transportation that runs on rails, including,  
121 but not limited to:

122 (a) A high-speed passenger rail system;

123 (b) A freight railroad carrier; or

124 (c) A company that owns a rail corridor.

125 Section 3. Section 341.603, Florida Statutes, is created to  
126 read:

127 341.603 Public purpose and intent.—It is the intent of the  
128 Legislature to:

129 (1) Encourage the creation of safe and cost-effective  
130 transportation options for this state's residents and visitors,  
131 including high-speed passenger rail systems.

132 (2) Promote and enhance the safety of high-speed passenger  
133 rail systems operating within the state to protect the health,  
134 safety, and welfare of the public.

135 Section 4. Section 341.604, Florida Statutes, is created to  
136 read:

137 341.604 Applicability.—This act applies to any railroad  
138 company operating a high-speed passenger rail system, or any  
139 railroad company that allows a high-speed passenger rail system  
140 to operate on or within its rail corridor.

141 Section 5. Section 341.605, Florida Statutes, is created to  
142 read:

143 341.605 Powers and duties of the department; rules.—

144 (1) The department shall have the authority to regulate  
145 railroad companies in this state insofar as such authority is  
146 not preempted by federal laws or regulations.

147 (2) The department may obtain from any party all necessary  
148 information to enable it to perform its duties and carry out the



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149 requirements set forth in this act.

150 (3) The department shall keep a record of all its findings,  
151 decisions, determinations, and investigations carried out under  
152 this act.

153 (4) If a high-speed passenger rail system operates within  
154 the same rail corridor or on the same set of tracks as another  
155 railroad company that transports hazardous materials, the  
156 department shall offer the local communities and local emergency  
157 services located along the rail corridor training specifically  
158 designed to help them respond to an accident involving rail  
159 passengers or hazardous materials.

160 (5) The department shall adopt rules, pursuant to the  
161 requirements of chapter 120, relating to this act.

162 Section 6. Section 341.606, Florida Statutes, is created to  
163 read:

164 341.606 Reporting requirements.-

165 (1) A railroad company operating a high-speed passenger  
166 rail system shall furnish to the department a copy of the  
167 accident reports filed with the Federal Railroad Administration  
168 for each train accident that occurs within the rail corridor.

169 (2) The department shall annually publish on its official  
170 website a report that discloses all of the fatalities, injuries,  
171 and accidents during the reporting timeframe which have occurred  
172 within a rail corridor where a high-speed passenger rail system  
173 operates.

174 (3) A railroad company that transports liquefied natural  
175 gas on the same tracks or within the same rail corridor as a  
176 high-speed passenger rail system within the state must submit an  
177 annual report to the department containing:



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178 (a) All insurance carried by the railroad company that  
179 covers any losses resulting from a reasonable worst-case  
180 unplanned release of liquefied natural gas.

181 (b) Coverage amounts, limitations, and other conditions of  
182 the insurance identified in paragraph (a).

183 (c) The average and largest liquefied natural gas train, as  
184 measured in metric tons, operated in the state by the railroad  
185 company in the previous calendar year.

186 (d) Information sufficient to demonstrate the railroad  
187 company's ability to pay the costs of remediating a reasonable  
188 worst-case unplanned release of liquefied natural gas,  
189 including, but not limited to, insurance, reserve accounts,  
190 letters of credit, or other financial instruments or resources  
191 on which the company can rely to pay all such costs. The  
192 department, in coordination with the Federal Railroad  
193 Administration and other public and private entities as  
194 necessary, shall develop rules to determine applicable criteria  
195 for a reasonable worst-case unplanned release of liquefied  
196 natural gas.

197 (4) All reporting requirements are for informational  
198 purposes only and may not be used to economically regulate the  
199 railroad company.

200 Section 7. Section 341.607, Florida Statutes, is created to  
201 read:

202 341.607 Minimum safety standards for high-speed passenger  
203 rail.-

204 (1) A railroad company operating a high-speed passenger  
205 rail system shall comply with all of the federal laws and  
206 regulations administered by the Federal Railroad Administration.



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207       (2) A railroad company operating a high-speed passenger  
 208 rail system must install safety technology that has been  
 209 approved by the Federal Railroad Administration or the  
 210 department as applicable. Safety technology at a minimum shall  
 211 include positive train control and remote health monitoring. The  
 212 railroad company may be subject to civil or criminal penalties  
 213 for an incident caused by the use of an unapproved safety  
 214 technology.

215       (3) Before operating a high-speed passenger rail system, a  
 216 railroad company shall also:

217       (a) Install or realign crossing gates, including those at  
 218 severely skewed acute-angled locations as identified by either  
 219 the department or the Federal Railroad Administration, so the  
 220 gates are parallel to the tracks and in accordance with the most  
 221 recent edition of the Manual on Uniform Traffic Control Devices  
 222 published by the Federal Highway Administration and adopted by  
 223 the state pursuant to s. 316.0745.

224       (b) Equip all automatic public railroad-highway grade  
 225 crossing warning systems with remote health monitoring  
 226 technology capable of:

- 227       1. Detecting false activations;
- 228       2. Detecting other crossing signal malfunctions; and
- 229       3. Notifying the train dispatcher and crossing signal  
 230 maintenance personnel whenever such a malfunction is detected.

231       (c) Construct and maintain fencing in accordance with s.  
 232 341.611.

233       Section 8. Section 341.608, Florida Statutes, is created to  
 234 read:

235       341.608 Maintenance and repair of roadbeds, tracks,



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236 culverts, and certain streets and sidewalks.-

237 (1) A railroad company that constructs or operates a high-  
238 speed passenger rail system on tracks that intersect with a  
239 public street or highway at grade shall, at its sole cost and  
240 expense, construct and thereafter maintain, renew, and repair  
241 all railroad roadbed, track, and railroad culverts within the  
242 confines of the public street or highway, and the streets or  
243 pedestrian grade crossings lying between the rails and for a  
244 distance outside the rails of 1 foot beyond the end of the  
245 railroad ties.

246 (2) If the railroad company that constructs or operates a  
247 high-speed passenger rail system is required to install safety  
248 improvements that modify the width of a roadbed, it shall be  
249 responsible for ensuring that the impacted roadbed meets the  
250 department's transition requirements as set forth in the most  
251 recent edition of the department's Design Standards and the  
252 Manual of Uniform Minimum Standards for Design, Construction and  
253 Maintenance for Streets and Highways.

254 (3) If a railroad company that constructs or operates a  
255 high-speed passenger rail system enters into a contractual  
256 agreement with a governmental entity that requires the  
257 governmental entity to reimburse a private entity for the  
258 installation or maintenance of the track improvements or  
259 crossing safety improvements necessary to operate a high-speed  
260 passenger rail system, the work to be performed must adhere to  
261 the department's applicable requisition and procurement  
262 procedures.

263 (4) This section does not impair any existing contractual  
264 agreements between the railroad company operating the high-speed



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265 passenger rail system and a governmental entity within the  
266 state.

267 Section 9. Section 341.609, Florida Statutes, is created to  
268 read:

269 341.609 Safety inspections and inspectors.-

270 (1) In accordance with the State Rail Safety Participation  
271 Program, which is designed to promote safety in all areas of  
272 railroad operations to reduce deaths, injuries, and damage to  
273 railroad property, the department's railroad inspectors shall be  
274 certified by the Federal Railroad Administration and shall  
275 coordinate their activities with those of federal inspectors in  
276 the state in compliance with 49 C.F.R. part 212 and any other  
277 federal regulations governing state safety participation.

278 (2) The department's railroad inspectors shall report in  
279 writing the results of their inspections in the manner and on  
280 forms prescribed by the department. These reports shall be made  
281 available on the department's website for the public to access.

282 Section 10. Section 341.611, Florida Statutes, is created  
283 to read:

284 341.611 Fencing and separation requirements to protect the  
285 public.-

286 (1) The department shall adopt rules that identify  
287 standards for conducting field surveys of the rail corridor  
288 being used by a high-speed passenger rail system. The field  
289 surveys must indicate areas where fencing is necessary for the  
290 health, safety, and welfare of the public.

291 (2) At a minimum, the field survey should identify  
292 pedestrian traffic generators, such as nearby schools and parks,  
293 and signs of current pedestrian traffic that crosses the



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294 railroad tracks. The department must hold at least one public  
295 meeting in each community where new or substantially modified  
296 fencing is proposed before designs and plans for such fencing  
297 are finalized.

298 (3) Once it has been determined that a fence is necessary  
299 to protect the health, safety, and welfare of the surrounding  
300 community, the railroad company operating a high-speed passenger  
301 rail system shall construct and maintain the fence on both sides  
302 of its railroad tracks sufficient to prevent intrusion.

303 (4) The fencing must be placed 1 foot inside the edge of  
304 the railroad company's right-of-way, except in locations where  
305 the railroad intersects with a highway or road.

306 (5) The fencing must be maintained by the railroad company  
307 operating a high-speed passenger rail system, unless maintenance  
308 is specifically addressed in a separate contract with a property  
309 owner or local government.

310 (6) The fence must be at least 4 1/2 feet in height.  
311 Ornamental fencing must be used within urban areas. Chain-link  
312 fencing may be used in locations outside of urban areas.

313 (7) If a railroad company neglects to construct or maintain  
314 a required fence, the railroad company is liable for all damages  
315 arising from its failure to construct or maintain such fence  
316 unless another entity is responsible for maintenance under  
317 subsection (5).

318 Section 11. Section 341.612, Florida Statutes, is created  
319 to read:

320 341.612 Operation of a high-speed passenger rail system  
321 over the tracks of another railroad company.—A railroad company  
322 operating a high-speed passenger rail system shall be solely



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323 responsible for all rail corridor improvements or upgrades  
324 relating to the system's operation and safety. A local  
325 government or the state shall not be responsible for any costs  
326 associated with the construction and maintenance of the  
327 improvements necessary to operate a high-speed passenger rail  
328 system unless it expressly consents in writing.

329 Section 12. Section 341.613, Florida Statutes, is created  
330 to read:

331 341.613 Administrative fines.-

332 (1) In addition to any administrative action authorized by  
333 chapter 120 or by other law, the department may impose a fine,  
334 which may not exceed \$10,000 for each violation, for a violation  
335 of this act or for a violation of any rule adopted pursuant to  
336 this act. Notice of intent to impose such fine shall be given by  
337 the department to the alleged violator. Each day that a  
338 violation continues constitutes a separate violation.

339 (2) In determining the amount of the fine, if any, to be  
340 imposed for a violation, the following factors shall be  
341 considered:

342 (a) The gravity of the violation, including the probability  
343 that death or serious physical or emotional harm to any person  
344 will result or has resulted, the severity of the actual or  
345 potential harm, and the extent to which this act or department  
346 rules were violated;

347 (b) Actions taken by the owner or operator to correct  
348 violations; and

349 (c) Any previous violations.

350 (3) All fines collected under this section shall be  
351 deposited into the State Transportation Trust Fund.



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352 Section 13. Section 341.614, Florida Statutes, is created  
353 to read:

354 341.614 Action to enforce penalties; attorney fees.—A suit  
355 to collect any of the damages, penalties, forfeitures,  
356 demurrage, or storage charges provided for in this act may be  
357 brought in any court of this state having jurisdiction of the  
358 subject matter and parties. If a suit is adjudicated in favor of  
359 a plaintiff, the plaintiff shall be permitted to recover  
360 reasonable attorney fees and costs.

361 Section 14. Section 341.615, Florida Statutes, is created  
362 to read:

363 341.615 Ordinances; speed limits.—This act does not prevent  
364 a local government from enacting ordinances regulating the speed  
365 limits of railroad traffic due to local safety hazards not  
366 statewide in nature and not capable of being adequately  
367 encompassed within the national uniform standards.

368 Section 15. This act shall take effect July 1, 2017.



1                   A bill to be entitled  
2           An act relating to high-speed passenger rail; creating  
3           s. 341.601, F.S.; providing a short title; creating s.  
4           341.602, F.S.; providing definitions; creating s.  
5           341.603, F.S.; providing legislative intent; creating  
6           s. 341.604, F.S.; providing applicability; creating s.  
7           341.605, F.S.; providing powers and duties of the  
8           Department of Transportation; authorizing the  
9           department to regulate railroads where not federally  
10          preempted; authorizing the department to collect  
11          information from relevant parties; requiring the  
12          department to keep certain records; requiring the  
13          department to offer certain response training for  
14          accidents involving passengers or hazardous materials  
15          under certain circumstances; requiring the department  
16          to adopt rules; creating s. 341.606, F.S.; providing  
17          reporting requirements for certain railroad companies;  
18          requiring the department to publish certain  
19          information on its website; requiring the department,  
20          in coordination with the Federal Railroad  
21          Administration and other entities as necessary, to  
22          develop certain rules; specifying that reporting  
23          requirements are for informational purposes only and  
24          not to be used to economically regulate the railroad  
25          company; creating s. 341.607, F.S.; providing minimum



26 safety standards for high-speed passenger rail;  
27 requiring certain railroad companies to comply with  
28 certain federal laws and regulations; providing safety  
29 technology requirements for certain railroad  
30 companies; specifying that such railroad companies may  
31 be subject to civil or criminal penalties for an  
32 incident caused by the use of an unapproved safety  
33 technology; providing certain requirements for  
34 railroad companies before operating a high-speed  
35 passenger rail system; creating s. 341.608, F.S.;  
36 requiring construction, maintenance, and repair of  
37 certain infrastructure by certain railroad companies;  
38 specifying requirements for certain roadbed  
39 modifications; requiring certain contractual  
40 agreements to adhere to the department's requisition  
41 and procurement procedures; providing for  
42 construction; creating s. 341.609, F.S.; requiring the  
43 department's railroad inspectors, in accordance with a  
44 specified program, to meet certain certification  
45 requirements and to coordinate their activities with  
46 those of federal inspectors in the state in compliance  
47 with certain federal regulations; requiring the  
48 inspectors to report the results of their inspections,  
49 subject to certain requirements; requiring the reports  
50 to be made available on the department's website;



51 creating s. 341.611, F.S.; requiring the department to  
52 adopt rules that identify standards for conducting  
53 field surveys of certain rail corridors; providing  
54 requirements for the field survey; requiring the  
55 department to hold certain public meetings; requiring  
56 certain railroad companies to construct and maintain  
57 fences under certain circumstances; providing fencing  
58 requirements; requiring a railroad company to be  
59 liable for all damages arising from its failure to  
60 construct or maintain the fence under certain  
61 circumstances; creating s. 341.612, F.S.; requiring a  
62 railroad company operating a high-speed passenger rail  
63 system to be solely responsible for all rail corridor  
64 improvements or upgrades relating to its operation and  
65 safety; prohibiting a local government or the state  
66 from being responsible for certain costs unless it  
67 expressly consents in writing; creating s. 341.613,  
68 F.S.; providing administrative fines for certain  
69 violations, subject to certain requirements; providing  
70 certain factors to consider in determining the amount  
71 of the fine to be imposed; requiring all fines  
72 collected to be deposited into the State  
73 Transportation Trust Fund; creating s. 341.614, F.S.;  
74 authorizing certain suits to be brought in any court  
75 of this state having jurisdiction; providing for

76 attorney fees and costs; creating s. 341.615, F.S.;

77 authorizing local governments to enact ordinances

78 regulating the speed limits of railroad traffic under

79 certain circumstances; providing an effective date.

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

82

83 Section 1. Section 341.601, Florida Statutes, is created

84 to read:

85 341.601 Short title.—Sections 341.601-341.615 shall be

86 known as the "Florida High-Speed Passenger Rail Safety Act."

87 Section 2. Section 341.602, Florida Statutes, is created

88 to read:

89 341.602 Definitions.—As used in ss. 341.601-341.615, the

90 term:

91 (1) "Department" means the Department of Transportation.

92 (2) "Freight railroad carrier" means any person, railroad

93 corporation, or other legal entity in the business of providing

94 freight rail transportation.

95 (3) "Governmental entity" means the state, any of its

96 agencies, or any of its political subdivisions.

97 (4) "High-speed passenger rail system" means any new

98 intrastate passenger rail system that operates or proposes to

99 operate its passenger trains at a maximum speed in excess of 80

100 miles per hour on or after July 1, 2017.



101       (5) "Pedestrian grade crossing" means a separate sidewalk  
 102 or pathway where pedestrians, but not vehicles, cross railroad  
 103 tracks.

104       (6) "Public railroad-highway grade crossing" means a  
 105 location at which a railroad track is crossed at grade by a  
 106 public road.

107       (7) "Rail corridor" means a linear, continuous strip of  
 108 real property that is used for rail service. The term includes  
 109 the corridor and structures essential to railroad operations,  
 110 including the land, buildings, improvements, rights-of-way,  
 111 easements, rail lines, rail beds, guideway structures, switches,  
 112 yards, parking facilities, power relays, switching houses, rail  
 113 stations, any ancillary development, and any other facilities or  
 114 equipment used for the purposes of construction, operation, or  
 115 maintenance of a railroad that provides rail service.

116       (8) "Railroad company" means any individual, partnership,  
 117 association, corporation, or company and its respective lessees,  
 118 trustees, or receivers, appointed by a court, that develops or  
 119 provides ground transportation that runs on rails, including,  
 120 but not limited to:

- 121       (a) A high-speed passenger rail system;
- 122       (b) A freight railroad carrier; or
- 123       (c) A company that owns a rail corridor.

124       Section 3. Section 341.603, Florida Statutes, is created  
 125 to read:

126        341.603 Public purpose and intent.—It is the intent of the  
127 Legislature to:

128        (1) Encourage the creation of safe and cost-effective  
129 transportation options for this state's residents and visitors,  
130 including high-speed passenger rail systems.

131        (2) Promote and enhance the safety of high-speed passenger  
132 rail systems operating within the state to protect the health,  
133 safety, and welfare of the public.

134        Section 4. Section 341.604, Florida Statutes, is created  
135 to read:

136        341.604 Applicability.—This act applies to any railroad  
137 company operating a high-speed passenger rail system, or any  
138 railroad company that allows a high-speed passenger rail system  
139 to operate on or within its rail corridor.

140        Section 5. Section 341.605, Florida Statutes, is created  
141 to read:

142        341.605 Powers and duties of the department; rules.—

143        (1) The department shall have the authority to regulate  
144 railroad companies in this state insofar as such authority is  
145 not preempted by federal laws or regulations.

146        (2) The department may obtain from any party all necessary  
147 information to enable it to perform its duties and carry out the  
148 requirements set forth in this act.

149        (3) The department shall keep a record of all its  
150 findings, decisions, determinations, and investigations carried



151 out under this act.

152 (4) If a high-speed passenger rail system operates within  
153 the same rail corridor or on the same set of tracks as another  
154 railroad company that transports hazardous materials, the  
155 department shall offer the local communities and local emergency  
156 services located along the rail corridor training specifically  
157 designed to help them respond to an accident involving rail  
158 passengers or hazardous materials.

159 (5) The department shall adopt rules, pursuant to the  
160 requirements of chapter 120, relating to this act.

161 Section 6. Section 341.606, Florida Statutes, is created  
162 to read:

163 341.606 Reporting requirements.-

164 (1) A railroad company operating a high-speed passenger  
165 rail system shall furnish to the department a copy of the  
166 accident reports filed with the Federal Railroad Administration  
167 for each train accident that occurs within the rail corridor.

168 (2) The department shall annually publish on its official  
169 website a report that discloses all of the fatalities, injuries,  
170 and accidents during the reporting timeframe which have occurred  
171 within a rail corridor where a high-speed passenger rail system  
172 operates.

173 (3) A railroad company that transports liquefied natural  
174 gas on the same tracks or within the same rail corridor as a  
175 high-speed passenger rail system within the state must submit an

176 annual report to the department containing:

177 (a) All insurance carried by the railroad company that  
178 covers any losses resulting from a reasonable worst-case  
179 unplanned release of liquefied natural gas.

180 (b) Coverage amounts, limitations, and other conditions of  
181 the insurance identified in paragraph (a).

182 (c) The average and largest liquefied natural gas train,  
183 as measured in metric tons, operated in the state by the  
184 railroad company in the previous calendar year.

185 (d) Information sufficient to demonstrate the railroad  
186 company's ability to pay the costs of remediating a reasonable  
187 worst-case unplanned release of liquefied natural gas,  
188 including, but not limited to, insurance, reserve accounts,  
189 letters of credit, or other financial instruments or resources  
190 on which the company can rely to pay all such costs. The  
191 department, in coordination with the Federal Railroad  
192 Administration and other public and private entities as  
193 necessary, shall develop rules to determine applicable criteria  
194 for a reasonable worst-case unplanned release of liquefied  
195 natural gas.

196 (4) All reporting requirements are for informational  
197 purposes only and may not be used to economically regulate the  
198 railroad company.

199 Section 7. Section 341.607, Florida Statutes, is created  
200 to read:



201 341.607 Minimum safety standards for high-speed passenger  
 202 rail.-

203 (1) A railroad company operating a high-speed passenger  
 204 rail system shall comply with all of the federal laws and  
 205 regulations administered by the Federal Railroad Administration.

206 (2) A railroad company operating a high-speed passenger  
 207 rail system must install safety technology that has been  
 208 approved by the Federal Railroad Administration or the  
 209 department as applicable. Safety technology at a minimum shall  
 210 include positive train control and remote health monitoring. The  
 211 railroad company may be subject to civil or criminal penalties  
 212 for an incident caused by the use of an unapproved safety  
 213 technology.

214 (3) Before operating a high-speed passenger rail system, a  
 215 railroad company shall also:

216 (a) Install or realign crossing gates, including those at  
 217 severely skewed acute-angled locations as identified by either  
 218 the department or the Federal Railroad Administration, so the  
 219 gates are parallel to the tracks and in accordance with the most  
 220 recent edition of the Manual on Uniform Traffic Control Devices  
 221 published by the Federal Highway Administration and adopted by  
 222 the state pursuant to s. 316.0745.

223 (b) Equip all automatic public railroad-highway grade  
 224 crossing warning systems with remote health monitoring  
 225 technology capable of:

226       1. Detecting false activations;  
227       2. Detecting other crossing signal malfunctions; and  
228       3. Notifying the train dispatcher and crossing signal  
229 maintenance personnel whenever such a malfunction is detected.

230       (c) Construct and maintain fencing in accordance with s.  
231 341.611.

232       Section 8. Section 341.608, Florida Statutes, is created  
233 to read:

234       341.608 Maintenance and repair of roadbeds, tracks,  
235 culverts, and certain streets and sidewalks.-

236       (1) A railroad company that constructs or operates a high-  
237 speed passenger rail system on tracks that intersect with a  
238 public street or highway at grade shall, at its sole cost and  
239 expense, construct and thereafter maintain, renew, and repair  
240 all railroad roadbed, track, and railroad culverts within the  
241 confines of the public street or highway, and the streets or  
242 pedestrian grade crossings lying between the rails and for a  
243 distance outside the rails of 1 foot beyond the end of the  
244 railroad ties.

245       (2) If the railroad company that constructs or operates a  
246 high-speed passenger rail system is required to install safety  
247 improvements that modify the width of a roadbed, it shall be  
248 responsible for ensuring that the impacted roadbed meets the  
249 department's transition requirements as set forth in the most  
250 recent edition of the department's Design Standards and the



251 Manual of Uniform Minimum Standards for Design, Construction and  
252 Maintenance for Streets and Highways.

253 (3) If a railroad company that constructs or operates a  
254 high-speed passenger rail system enters into a contractual  
255 agreement with a governmental entity that requires the  
256 governmental entity to reimburse a private entity for the  
257 installation or maintenance of the track improvements or  
258 crossing safety improvements necessary to operate a high-speed  
259 passenger rail system, the work to be performed must adhere to  
260 the department's applicable requisition and procurement  
261 procedures.

262 (4) This section does not impair any existing contractual  
263 agreements between the railroad company operating the high-speed  
264 passenger rail system and a governmental entity within the  
265 state.

266 Section 9. Section 341.609, Florida Statutes, is created  
267 to read:

268 341.609 Safety inspections and inspectors.—

269 (1) In accordance with the State Rail Safety Participation  
270 Program, which is designed to promote safety in all areas of  
271 railroad operations to reduce deaths, injuries, and damage to  
272 railroad property, the department's railroad inspectors shall be  
273 certified by the Federal Railroad Administration and shall  
274 coordinate their activities with those of federal inspectors in  
275 the state in compliance with 49 C.F.R. part 212 and any other

276 federal regulations governing state safety participation.

277 (2) The department's railroad inspectors shall report in  
278 writing the results of their inspections in the manner and on  
279 forms prescribed by the department. These reports shall be made  
280 available on the department's website for the public to access.

281 Section 10. Section 341.611, Florida Statutes, is created  
282 to read:

283 341.611 Fencing and separation requirements to protect the  
284 public.—

285 (1) The department shall adopt rules that identify  
286 standards for conducting field surveys of the rail corridor  
287 being used by a high-speed passenger rail system. The field  
288 surveys must indicate areas where fencing is necessary for the  
289 health, safety, and welfare of the public.

290 (2) At a minimum, the field survey should identify  
291 pedestrian traffic generators, such as nearby schools and parks,  
292 and signs of current pedestrian traffic that crosses the  
293 railroad tracks. The department must hold at least one public  
294 meeting in each community where new or substantially modified  
295 fencing is proposed before designs and plans for such fencing  
296 are finalized.

297 (3) Once it has been determined that a fence is necessary  
298 to protect the health, safety, and welfare of the surrounding  
299 community, the railroad company operating a high-speed passenger  
300 rail system shall construct and maintain the fence on both sides



301 of its railroad tracks sufficient to prevent intrusion.

302 (4) The fencing must be placed 1 foot inside the edge of  
303 the railroad company's right-of-way, except in locations where  
304 the railroad intersects with a highway or road.

305 (5) The fencing must be maintained by the railroad company  
306 operating a high-speed passenger rail system, unless maintenance  
307 is specifically addressed in a separate contract with a property  
308 owner or local government.

309 (6) The fence must be at least 4 1/2 feet in height.  
310 Ornamental fencing must be used within urban areas. Chain-link  
311 fencing may be used in locations outside of urban areas.

312 (7) If a railroad company neglects to construct or  
313 maintain a required fence, the railroad company is liable for  
314 all damages arising from its failure to construct or maintain  
315 such fence unless another entity is responsible for maintenance  
316 under subsection (5).

317 Section 11. Section 341.612, Florida Statutes, is created  
318 to read:

319 341.612 Operation of a high-speed passenger rail system  
320 over the tracks of another railroad company.—A railroad company  
321 operating a high-speed passenger rail system shall be solely  
322 responsible for all rail corridor improvements or upgrades  
323 relating to the system's operation and safety. A local  
324 government or the state shall not be responsible for any costs  
325 associated with the construction and maintenance of the

326 improvements necessary to operate a high-speed passenger rail  
327 system unless it expressly consents in writing.

328 Section 12. Section 341.613, Florida Statutes, is created  
329 to read:

330 341.613 Administrative fines.—

331 (1) In addition to any administrative action authorized by  
332 chapter 120 or by other law, the department may impose a fine,  
333 which may not exceed \$10,000 for each violation, for a violation  
334 of this act or for a violation of any rule adopted pursuant to  
335 this act. Notice of intent to impose such fine shall be given by  
336 the department to the alleged violator. Each day that a  
337 violation continues constitutes a separate violation.

338 (2) In determining the amount of the fine, if any, to be  
339 imposed for a violation, the following factors shall be  
340 considered:

341 (a) The gravity of the violation, including the  
342 probability that death or serious physical or emotional harm to  
343 any person will result or has resulted, the severity of the  
344 actual or potential harm, and the extent to which this act or  
345 department rules were violated;

346 (b) Actions taken by the owner or operator to correct  
347 violations; and

348 (c) Any previous violations.

349 (3) All fines collected under this section shall be  
350 deposited into the State Transportation Trust Fund.



351 Section 13. Section 341.614, Florida Statutes, is created  
 352 to read:

353 341.614 Action to enforce penalties; attorney fees.—A suit  
 354 to collect any of the damages, penalties, forfeitures,  
 355 demurrage, or storage charges provided for in this act may be  
 356 brought in any court of this state having jurisdiction of the  
 357 subject matter and parties. If a suit is adjudicated in favor of  
 358 a plaintiff, the plaintiff shall be permitted to recover  
 359 reasonable attorney fees and costs.

360 Section 14. Section 341.615, Florida Statutes, is created  
 361 to read:

362 341.615 Ordinances; speed limits.—This act does not  
 363 prevent a local government from enacting ordinances regulating  
 364 the speed limits of railroad traffic due to local safety hazards  
 365 not statewide in nature and not capable of being adequately  
 366 encompassed within the national uniform standards.

367 Section 15. This act shall take effect July 1, 2017.