

1 A bill to be entitled
 2 An act relating to infrastructure investment; amending s.
 3 20.23, F.S.; requiring the Secretary of Transportation to
 4 designate duties relating to certain investment
 5 opportunities and transportation projects to an assistant
 6 secretary; amending s. 311.09, F.S.; revising requirements
 7 for the inclusion of certain goals and objectives in the
 8 Florida Seaport Mission Plan; requiring the Florida
 9 Seaport Transportation and Economic Development Council to
 10 develop a priority list of projects and submit the list to
 11 the Department of Transportation; amending s. 311.14,
 12 F.S.; requiring certain ports to develop master plans;
 13 providing criteria for such plans; requiring such plans to
 14 be consistent with local government comprehensive plans;
 15 requiring such plans to be submitted to the Florida
 16 Seaport Transportation and Economic Development Council;
 17 requiring the Florida Seaport Transportation and Economic
 18 Development Council to review such plans and include
 19 related information in the Florida Seaport Mission Plan;
 20 amending s. 339.155, F.S.; clarifying and revising the
 21 principles on which the Florida Transportation Plan is
 22 based; amending s. 339.63, F.S.; adding certain existing
 23 and planned facilities to the list of facilities included
 24 in the Strategic Intermodal System and the Emerging
 25 Strategic Intermodal System; amending s. 373.406, F.S.;
 26 exempting overwater piers, docks, and structures located
 27 in deepwater ports from stormwater management system
 28 requirements under specified conditions; amending s.

29 | 373.4133, F.S.; requiring the Department of Environmental
 30 | Protection to issue a notice of intent for a port
 31 | conceptual permit within a specified time; providing that
 32 | a notice of intent to issue such permit creates a
 33 | rebuttable presumption of compliance with specified
 34 | standards and authorization; providing a standard for
 35 | overcoming such a presumption; requiring the department to
 36 | issue certain permits within a specified time and to
 37 | notify specified entities of certain compliance; amending
 38 | s. 403.813, F.S.; exempting specified seaports and inland
 39 | navigation districts from requirements to conduct
 40 | maintenance dredging under certain conditions; excluding
 41 | ditches, pipes, and similar linear conveyances from
 42 | consideration as receiving waters for the disposal of
 43 | dredged materials; authorizing public ports and inland
 44 | navigation districts to use sovereignty submerged lands in
 45 | connection with maintenance dredging; authorizing the
 46 | disposal of spoil material on specified sites; providing
 47 | an effective date.

48 |
 49 | Be It Enacted by the Legislature of the State of Florida:
 50 |

51 | Section 1. Paragraph (d) of subsection (1) of section
 52 | 20.23, Florida Statutes, is amended to read:

53 | 20.23 Department of Transportation.—There is created a
 54 | Department of Transportation which shall be a decentralized
 55 | agency.

56 | (1)

57 (d) The secretary may appoint up to three assistant
58 secretaries who shall be directly responsible to the secretary
59 and who shall perform such duties as are assigned by the
60 secretary. The secretary shall designate to an assistant
61 secretary the duties related to enhancing economic prosperity,
62 including, but not limited to, the responsibility of liaison
63 with the head of economic development in the Executive Office of
64 the Governor. Such assistant secretary shall be directly
65 responsible for providing the Executive Office of the Governor
66 with investment opportunities and transportation projects that
67 expand the state's role as a global hub for trade and investment
68 and enhance the supply chain system in the state to process,
69 assemble, and ship goods to markets throughout the eastern
70 United States, Canada, the Caribbean, and Latin America. The
71 secretary may delegate to any assistant secretary the authority
72 to act in the absence of the secretary.

73 Section 2. Subsection (3) of section 311.09, Florida
74 Statutes, is amended to read:

75 311.09 Florida Seaport Transportation and Economic
76 Development Council.—

77 (3) The council shall prepare a 5-year Florida Seaport
78 Mission Plan defining the goals and objectives of the council
79 concerning the development of port facilities and an intermodal
80 transportation system consistent with the goals of the Florida
81 Transportation Plan developed pursuant to s. 339.155. The
82 Florida Seaport Mission Plan shall include specific
83 recommendations for the construction of transportation
84 facilities connecting any port to another transportation mode

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85 and for the efficient, cost-effective development of
86 transportation facilities or port facilities for the purpose of
87 enhancing ~~international~~ trade, promoting cargo flow, increasing
88 cruise passenger movements, increasing port revenues, and
89 providing economic benefits to the state. The council shall
90 develop a priority list of projects based on these
91 recommendations annually and submit the list to the Department
92 of Transportation. The council shall update the 5-year Florida
93 Seaport Mission Plan annually and shall submit the plan no later
94 than February 1 of each year to the President of the Senate; the
95 Speaker of the House of Representatives; the Office of Tourism,
96 Trade, and Economic Development; the Department of
97 Transportation; and the Department of Community Affairs. The
98 council shall develop programs, based on an examination of
99 existing programs in Florida and other states, for the training
100 of minorities and secondary school students in job skills
101 associated with employment opportunities in the maritime
102 industry, and report on progress and recommendations for further
103 action to the President of the Senate and the Speaker of the
104 House of Representatives annually.

105 Section 3. Section 311.14, Florida Statutes, is amended to
106 read:

107 311.14 Seaport ~~freight-mobility~~ planning.-

108 (1) The Florida Seaport Transportation and Economic
109 Development Council, in cooperation with the Office of the State
110 Public Transportation Administrator within the Department of
111 Transportation, shall develop freight-mobility and trade-
112 corridor plans to assist in making freight-mobility investments

113 that contribute to the economic growth of the state. Such plans
114 should enhance the integration and connectivity of the
115 transportation system across and between transportation modes
116 throughout Florida for people and freight.

117 (2) The Office of the State Public Transportation
118 Administrator shall act to integrate freight-mobility and trade-
119 corridor plans into the Florida Transportation Plan developed
120 pursuant to s. 339.155 and into the plans and programs of
121 metropolitan planning organizations as provided in s. 339.175.
122 The office may also provide assistance in expediting the
123 transportation permitting process relating to the construction
124 of seaport freight-mobility projects located outside the
125 physical borders of seaports. The Department of Transportation
126 may contract, as provided in s. 334.044, with any port listed in
127 s. 311.09(1) or any such other statutorily authorized seaport
128 entity to act as an agent in the construction of seaport
129 freight-mobility projects.

130 (3) Each port shall develop a master plan with a 10-year
131 horizon. Each plan must include the following:

132 (a) An economic development component that identifies
133 targeted business opportunities for increasing business and
134 attracting new business for which a particular facility has a
135 strategic advantage over its competitors, identifies financial
136 resources and other inducements to encourage growth of existing
137 business and acquisition of new business, and provides a
138 projected schedule for attainment of the plan's goals.

139 (b) An infrastructure development and improvement
140 component that identifies all projected infrastructure

141 improvements within the plan area which require improvement,
 142 expansion, or development in order for a port to attain a
 143 strategic advantage for competition with national and
 144 international competitors.

145 (c) A component that identifies all intermodal
 146 transportation facilities, including sea, air, rail, or road
 147 facilities, which are available or have potential, with
 148 improvements, to be available for necessary national and
 149 international commercial linkages and provides a plan for the
 150 integration of port, airport, and railroad activities with
 151 existing and planned transportation infrastructure.

152 (d) A component that identifies physical, environmental,
 153 and regulatory barriers to achievement of the plan's goals and
 154 provides recommendations for overcoming those barriers.

155 (e) An intergovernmental coordination component that
 156 specifies modes and methods to coordinate plan goals and
 157 missions with the missions of the Department of Transportation,
 158 other state agencies, and affected local, general-purpose
 159 governments.

160
 161 To the extent feasible, the port master plan must be consistent
 162 with the local government comprehensive plans of the units of
 163 local government in which the port is located. Upon approval of
 164 a plan by the port's board, the plan shall be submitted to the
 165 Florida Seaport Transportation and Economic Development Council.

166 (4) The Florida Seaport Transportation and Economic
 167 Development Council shall review the master plans submitted by
 168 each port and prioritize strategic needs for inclusion in the

169 Florida Seaport Mission Plan prepared pursuant to s. 311.09(3).

170 Section 4. Subsection (1) of section 339.155, Florida
 171 Statutes, is amended to read:

172 339.155 Transportation planning.—

173 (1) THE FLORIDA TRANSPORTATION PLAN.—The department shall
 174 develop and annually update a statewide transportation plan, to
 175 be known as the Florida Transportation Plan. The plan shall be
 176 designed so as to be easily read and understood by the general
 177 public. The plan shall consider the needs of the entire state
 178 transportation system and examine the use of all modes of
 179 transportation to effectively and efficiently meet such needs.

180 The purpose of the Florida Transportation Plan is to establish
 181 and define the state's long-range transportation goals and
 182 objectives to be accomplished over a period of at least 20 years
 183 within the context of the State Comprehensive Plan, and any
 184 other statutory mandates and authorizations and based upon the
 185 prevailing principles of:

186 (a) Preserving the existing transportation
 187 infrastructure.†

188 (b) Enhancing Florida's economic competitiveness.† and

189 (c) Improving travel choices to ensure mobility.

190 (d) Expanding the state's role as a hub for trade and
 191 investment. ~~The Florida Transportation Plan shall consider the~~
 192 ~~needs of the entire state transportation system and examine the~~
 193 ~~use of all modes of transportation to effectively and~~
 194 ~~efficiently meet such needs.~~

195 Section 5. Subsection (2) of section 339.63, Florida
 196 Statutes, is amended to read:

197 339.63 System facilities designated; additions and
 198 deletions.—

199 (2) The Strategic Intermodal System and the Emerging
 200 Strategic Intermodal System include four ~~three~~ different types
 201 of facilities that each form one component of an interconnected
 202 transportation system which types include:

203 (a) Existing or planned hubs that are ports and terminals
 204 including airports, seaports, spaceports, passenger terminals,
 205 and rail terminals serving to move goods or people between
 206 Florida regions or between Florida and other markets in the
 207 United States and the rest of the world.~~;~~

208 (b) Existing or planned corridors that are highways, rail
 209 lines, waterways, and other exclusive-use facilities connecting
 210 major markets within Florida or between Florida and other states
 211 or nations.~~;~~~~and~~

212 (c) Existing or planned intermodal connectors that are
 213 highways, rail lines, waterways or local public transit systems
 214 serving as connectors between the components listed in
 215 paragraphs (a) and (b).

216 (d) Existing or planned facilities that significantly
 217 improve the state's competitive position to compete for the
 218 movement of additional goods into and through this state.

219 Section 6. Subsection (12) is added to section 373.406,
 220 Florida Statutes, to read:

221 373.406 Exemptions.—The following exemptions shall apply:

222 (12) All overwater piers, docks, and similar structures
 223 located in a deepwater port listed in s. 311.09 may not be
 224 considered part of a stormwater management system for which

225 stormwater treatment from impervious surfaces is required under
 226 this chapter or chapter 403 if the port has a Stormwater
 227 Pollution Prevention Plan pursuant to the National Pollutant
 228 Discharge Elimination System Program, which addresses the
 229 industrial activities conducted on all impervious overwater
 230 piers, docks, and similar structures located in the port.

231 Section 7. Subsection (8) of section 373.4133, Florida
 232 Statutes, is amended to read:

233 373.4133 Port conceptual permits.—

234 (8) Except as otherwise provided in this section, the
 235 following procedures apply to the approval or denial of an
 236 application for a port conceptual permit or a final permit or
 237 authorization:

238 (a) Applications for a port conceptual permit, including
 239 any request for the conceptual approval of the use of
 240 sovereignty submerged lands, shall be processed in accordance
 241 with the provisions of ss. 373.427 and 120.60. However, if the
 242 applicant believes that any request for additional information
 243 is not authorized by law or agency rule, the applicant may
 244 request an informal hearing pursuant to s. 120.57(2) before the
 245 Secretary of Environmental Protection to determine whether the
 246 application is complete.

247 (b) Notwithstanding any other provision of law, the
 248 department shall issue a notice of intent within 30 days after
 249 receipt of an application for a port conceptual permit. Upon
 250 issuance of the department's notice of intent to issue or deny a
 251 port conceptual permit, the applicant shall publish a one-time
 252 notice of such intent, prepared by the department, in the

253 newspaper with the largest general circulation in the county or
 254 counties where the port is located.

255 (c) A notice of intent to issue a port conceptual permit
 256 creates a rebuttable presumption that development of the port or
 257 private facilities consistent with the approved port master plan
 258 complies with all applicable standards for issuance of a
 259 conceptual permit, an environmental resource permit, and
 260 sovereign lands authorization pursuant to chapters 161, 253,
 261 373, and 403. The presumption may be overcome only by clear and
 262 convincing evidence.

263 (d) Upon issuance and finalization of a port conceptual
 264 permit, and, if necessary, an environmental resource permit or
 265 sovereign lands authorization pursuant to this section, the
 266 department shall notify the United States Army Corps of
 267 Engineers that the applicant is in compliance with all state
 268 water quality and regulatory requirements and shall issue any
 269 requested construction permit within 30 days after receipt of
 270 the request.

271 (e)~~(e)~~ Final agency action on a port conceptual permit is
 272 subject to challenge pursuant to ss. 120.569 and 120.57.
 273 However, final agency action to authorize subsequent
 274 construction of facilities contained in a port conceptual permit
 275 may only be challenged by a third party for consistency with the
 276 port conceptual permit.

277 (f)~~(d)~~ A person who will be substantially affected by a
 278 final agency action described in paragraph (e) ~~(e)~~ must initiate
 279 administrative proceedings pursuant to ss. 120.569 and 120.57
 280 within 21 days after the publication of the notice of the

281 proposed action. If administrative proceedings are requested,
 282 the proceedings are subject to the summary hearing provisions of
 283 s. 120.574. However, if the decision of the administrative law
 284 judge will be a recommended order rather than a final order, a
 285 summary proceeding must be conducted within 90 days after a
 286 party files a motion for summary hearing, regardless of whether
 287 the parties agree to the summary proceeding.

288 Section 8. Subsection (3) of section 403.813, Florida
 289 Statutes, is amended to read:

290 403.813 Permits issued at district centers; exceptions.—

291 (3) A permit is not required under this chapter, chapter
 292 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 293 chapter 25270, 1949, Laws of Florida, for maintenance dredging
 294 conducted under this section by the seaports of Jacksonville,
 295 Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami,
 296 Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City,
 297 Pensacola, Key West, and Fernandina or by inland navigation
 298 districts if the dredging to be performed is no more than is
 299 necessary to meet the original design specifications or
 300 configurations, the work is conducted in compliance with s.
 301 379.2431(2)(d), and previously undisturbed natural areas are not
 302 significantly impacted. In addition:

303 (a) A mixing zone for turbidity is granted within a 150-
 304 meter radius from the point of dredging while dredging is
 305 ongoing, except that the mixing zone may not extend into areas
 306 supporting wetland communities, submerged aquatic vegetation, or
 307 hardbottom communities.

308 (b) The discharge of the return water from the site used

309 for the disposal of dredged material shall be allowed only if
310 such discharge does not result in a violation of water quality
311 standards in the receiving waters. The return-water discharge
312 into receiving waters shall be granted a mixing zone for
313 turbidity within a 150-meter radius from the point of discharge
314 into the receiving waters during and immediately after the
315 dredging, except that the mixing zone may not extend into areas
316 supporting wetland communities, submerged aquatic vegetation, or
317 hardbottom communities. Ditches, pipes, and similar types of
318 linear conveyances may not be considered receiving waters for
319 the purposes of this paragraph.

320 (c) The state may not exact a charge for material that
321 this subsection allows a public port or an inland navigation
322 district to remove. In addition, consent to use any sovereignty
323 submerged lands pursuant to this section is hereby granted.

324 (d) The use of flocculants at the site used for disposal
325 of the dredged material is allowed if the use, including
326 supporting documentation, is coordinated in advance with the
327 department and the department has determined that the use is not
328 harmful to water resources.

329 (e) If all requirements of the permit are satisfied, the
330 spoil material may be deposited on a permitted disposal site or
331 on a self-contained, upland spoil site that will prevent the
332 escape of the spoil material into the waters of the state.

333 (f)~~(e)~~ This subsection does not prohibit maintenance
334 dredging of areas where the loss of original design function and
335 constructed configuration has been caused by a storm event,
336 provided that the dredging is performed as soon as practical

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337 after the storm event. Maintenance dredging that commences
338 within 3 years after the storm event shall be presumed to
339 satisfy this provision. If more than 3 years are needed to
340 commence the maintenance dredging after the storm event, a
341 request for a specific time extension to perform the maintenance
342 dredging shall be submitted to the department, prior to the end
343 of the 3-year period, accompanied by a statement, including
344 supporting documentation, demonstrating that contractors are not
345 available or that additional time is needed to obtain
346 authorization for the maintenance dredging from the United
347 States Army Corps of Engineers.

348 Section 9. This act shall take effect July 1, 2011.