

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/CS/SB 1168

INTRODUCER: Commerce and Tourism Committee, Transportation Committee, and Senator Ring

SUBJECT: Freight Mobility Development

DATE: February 16, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Fav/CS
2.	Philo	Hrdlicka	CM	Fav/CS
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1168 requests that the Division of Statutory Revision redesignate the title of ch. 311, F.S., as “Seaport Programs and Facilities.”

The bill increases from \$8 million to \$15 million the annual amount that shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development (FSTED) program; requires the FSTED council to develop guidelines for project funding; directs that it work with the Department of Transportation (DOT) and Department of Economic Opportunity (DEO) to review port projects and allocate funds in accordance with applicable specifications; and makes several associated changes.

The bill revises the criteria for evaluating port projects, and alters the roles and responsibilities of the Department of Community Affairs (which no longer exists), the FSTED council, DOT, and DEO in terms of port project oversight, evaluation, and funding.

The bill creates the Strategic Port Investment Initiative; allocates \$35 million from the State Transportation Trust Fund to fund the initiative; directs DOT to work with deepwater ports to annually develop, update, and maintain a prioritized list of strategic investment projects based on

specified criteria; provides for a public hearing before finalizing that list; and requires DOT to include projects on the list in its tentative work program, to the extent feasible.

The bill requires that DOT, along with the deepwater ports and other partners, develop a Statewide Seaport and Waterways System Plan; deletes the requirement that DOT and the FSTED council develop freight-mobility and trade-corridor plans; and corrects internal cross-references.

The bill creates s. 311.10, F.S., and substantially amends ss. 311.07, 311.09, 311.14, 311.22, 320.20, and 339.63, F.S.

II. Present Situation:

Chapter 311, F.S., is entitled “Florida Seaport Transportation and Economic Development.”

Section 311.07(2), F.S., currently requires that a minimum of \$8 million per year be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development (FSTED) program. These funds are used to fund eligible and approved port projects as provided in s. 311.07(3), F.S. The allocation and programming of funds is determined by the Department of Transportation (DOT). Additionally, there generally has been an annual appropriation of \$15 million from license tag fees to the FSTED program required under s. 320.20, F.S.

The FSTED program has been consistently funded at \$15 million annually since 2004. Other seaport-related DOT funding is currently limited to bond repayment, the Strategic Intermodal System program, and district discretionary funds.

Eligible projects may be funded on a 50/50 basis by the FSTED program and the deepwater ports. However, projects involving the rehabilitation of wharves, docks, berths, bulkheads, or similar structures require only a 25 percent match.

Program funds may also be used by the FSTED council to develop trade data information products which will assist Florida’s seaports and international trade.

III. Effect of Proposed Changes:

Section 1 of this bill requests the Division of Statutory Revision to redesignate the title of ch. 311, F.S., as “Seaport Programs and Facilities.”

Section 2 amends s. 311.07, F.S., to:

- Increase the funding for the Florida Seaport Transportation and Economic Development (FSTED) program from \$8 million to \$15 million;
- Require that the FSTED council develop guidelines for project funding and work with the Department of Transportation (DOT) and Department of Economic Opportunity (DEO) to review projects and allocate funds as required to include them in DOT’s tentative work program;

- Allow funding for updates to seaport master plans or strategic development plans, including the purchase of data;
- Remove caps on funding for each port of \$7 million per year and \$30 million over 5 years; and
- Make permissible, rather than require, that DOT conduct a mandatory audit of any project which receives funds under this section and any project which receives funds under s. 320.20, F.S.

Section 3 amends s. 311.09, F.S., to:

- Revise the criteria for evaluating port projects;
- Eliminate the requirement that the Department of Community Affairs review the list of approved projects;
- Reduce DOT oversight and evaluation of FSTED funded projects;
- Add additional oversight to DEO to determine that projects are consistent with state economic development goals and state, regional, and local plans. If DEO determines they are not, it must notify the FSTED council;
- Restrict the FSTED council from including projects found to be inconsistent by both DOT and DEO; and
- Require DOT to request \$15 million for the FSTED program in its annual budget.

Section 4 creates s. 311.10, F.S., entitled the “Strategic Port Investment Initiative,” which:

- Allocates \$35 million annually from the State Transportation Trust Fund to fund the initiative;
- Requires DOT and the ports on the FSTED council to annually develop, update and maintain a list of strategic investment projects;
- Creates several criteria for inclusion on the list of projects;
- Requires DOT to hold a public workshop with DEO to take comments and review the proposed projects before finalizing the list; and
- Requires DOT to include the projects on the list in its tentative work program, to the extent feasible.

Section 5 amends s. 311.14, F.S., to:

- Require that DOT, along with the ports on the FSTED council and other partners, develop a Statewide Seaport and Waterways System Plan; and
- Repeal the requirement for DOT and the FSTED council to develop freight-mobility and trade-corridor plans.

Sections 6 and 7 correct cross-references and make technical changes.

Section 8 amends s. 339.63, F.S., to:

- Mandate that the secretary of DOT designate a facility that meets the definition of an intermodal logistics center and has been designated as such in the local comprehensive plan as part of the Strategic Intermodal System, upon the facility’s request; and
- Waive concurrency standards for such a facility for building permits issued on or before December 31, 2017, if the facility meets certain criteria.

Section 9 establishes an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the impact of this bill.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill increases from \$8 million to \$15 million the minimum yearly amount that shall be made available from the State Transportation Trust Fund to fund the FSTED program—a face-value cost of \$7 million. But DOT advises that it has funded the program at \$15 million for the past several years, and is continuing that level of funding in the current tentative work program.¹ Based on existing practice, this does not present any additional actual cost.

The bill creates the Strategic Port Investment Initiative within DOT and establishes a minimum annual funding threshold of \$35 million. Total funding for port projects currently proposed in the 5-year work program meet this requirement, with the exception of projects in FY 2015-16. DOT anticipates identifying additional projects for that fiscal year during its annual development of the tentative work program. Should the bill become law, DOT will reevaluate and reprioritize projects to meet the objectives of the initiative. The impact of the work program is indeterminate, but DOT will be better able to assess impacts at the time of development.²

¹ DOT, *Bill Analysis on SB 1168—Freight Mobility Development* (Jan. 17, 2012), at 2 (on file with the Senate Committee on Commerce and Tourism).

² *Id.*

The bill also establishes selection criteria for funding in the work program. It may be the case that some of the existing port projects meet the criteria and others may not. However, DOT will review the projects and provide an opportunity for existing project stakeholders to submit additional information which may be needed to support the review process.³

DOT anticipates preparing the Statewide Seaport and Waterways System within existing resources.⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 16, 2012:

The CS deletes the creation of the freight and logistics facility credit; adds provisions regarding DOT's designation of a planned facility as part of the Strategic Intermodal System; and makes several technical/stylistic changes.

CS by Transportation on January 19, 2012:

The CS corrects two technical deficiencies by:

- Amending line 350 so the sentence reads “strategic plan development” instead of “strategic development plan”; and
- Correcting the statutory citation in line 512 to “s. 311.07” instead of “s. 377.07.”

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³ *Id.*

⁴ *Id.* at 2-3.