

STORAGE NAME: h2193a.bdt

DATE: April 15, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 2193 (PCB BDIT 99-05)

RELATING TO: Maritime & International Trade

SPONSOR(S): Committee on Business Development & International Trade and Representative Bradley

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 6 NAYS 0

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I. SUMMARY:

The bill contains a number of clarifying changes to port facility development laws. It provides that ports cannot be charged lease fees for the use of state sovereign lands, revises projects eligible for funding, removes a cap on the amount of funds a port could receive in any calendar year; and revises criteria for measuring the economic benefit of port projects.

The bill states that the Department of Environmental Protection is the exclusive agency responsible for permitting and enforcement of dredged material management and other activities with respect to deepwater ports. Provides that the department's permitting and enforcement activities with respect to such ports govern in the event of conflicting actions by other agencies.

This bill creates a Florida Trade Council within the Executive Office of the Governor responsible for developing a statewide strategic plan relating to international trade and infrastructure programs and provides for membership and authority of the council. The council would allocate appropriate resources to the activities and programs that incorporated with the strategies outlined in the strategic plan, would act as a wholesale agent for its activities and programs, and would create a transportation plan for economic development projects outlined in the Florida Economic Infrastructure Program created in this bill.

The bill creates the Florida Economic Infrastructure Program (FEIP) to be developed by the Florida Trade Council. The Florida Department of Transportation would be responsible for the program which would be part of the FDOT Work Plan.

The bill revises the organization of the International Trade Data Resource and Research Center (Florida Trade Data Center - FTDC) to establish it as a private, nonprofit corporation and not a unit or entity of state government and provides for membership of the board of directors.

The bill requires the Florida Seaport Transportation and Economic Development Council (FSTED), rather than OTTED, to develop and implement the Seaport Training and Employment Program

The bill creates the Northwest Florida Seaport Transportation and Economic Development Council to enhance economic development in northwest Florida.

The fiscal impact of the bill is indeterminate. The bill provides funding from the State Transportation Trust Fund. Deposits to the International Trade and Promotion Trust Fund would be increased by approximately \$14m annually. The trust fund is split between the council (70%) and EFI (30%). Additionally, the bill provides a \$12.8m appropriation from the International Trade and Promotion Trust Fund to OTTED for funding of the Florida Trade Council for FY 1999-00.

The bill would take effect on October 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Port Development

There are 14 deep-water ports located in Florida: Port Canaveral, Port Everglades, Port of Fernandina, Port of Fort Pierce, Port of Jacksonville, Port of Key West, Port Manatee, Port of Miami, Port of Palm Beach, Port of Panama City, Port of Pensacola, Port St. Joe, Port of St. Petersburg, and Port of Tampa. According to the Florida Seaport Transportation and Economic Development Council, these ports account for nearly 250,000 seaport-related jobs and \$600 million in governmental revenues statewide.

Section 163.3178, F.S., provides that certain ports and port transportation facilities and other types of port projects are not subject to developments of regional impact review where they are consistent with comprehensive master plans. This section requires ports controlled by local governments to identify spoil disposal sites in their local comprehensive plans. Section 163.3187, F.S., limits the number of amendments to the local comprehensive plan for port projects to two per year.

Section 380.06, F.S., provides guidelines and standards for developing areas that, because of their character, magnitude, location, and potential to effect the health, safety, or welfare of citizens are considered to have a "regional impact." Such developments must be approved and monitored, and they are referred to as "developments of regional impact." Exemptions from the guidelines and standards provided for "developments of regional impact" are found in s. 380.06(24), F.S.

Florida Trade Data Center

The Legislature created the Florida Trade Data Center in 1992 as a comprehensive trade data resource and research center. The purpose of the Center is to create a trade information system that provides timely import and export information, trade opportunities, intermodal transportation information that measures cargo flow by transportation mode, commodity trends, trade activity between Florida and specific countries, and other relevant information.

Enterprise Florida, Inc.

In 1992, the Legislature created Enterprise Florida, Inc., (EFI) to assist in the coordination of the state's economic development efforts and to develop a strategic plan for economic development for Florida. In 1993, the Legislature created two additional Enterprise Florida Partnerships -- The Enterprise Florida Innovation Partnership, and the Enterprise Florida Capital Partnership. The partnerships were established to foster the growth of high technology and value-added industries, assist in the commercialization of technological products, and foster access to capital for Florida firms. In 1994, the Legislature created the Enterprise Florida Jobs and Education Partnership to coordinate the state training programs to promote the availability of a skilled work force. The Legislature created all of these entities as separate corporations with EFI serving as the "umbrella" organization.

In 1996, the Legislature restructured the management and control over most state domestic and international economic development operations from two state entities -- the Florida Department of Commerce (FDC) and the Florida International Affairs Commission (FIAC) -- into two public/private entities -- EFI and the Florida Tourism Commission (FTC). The partnerships were redesignated as boards, and the Enterprise Florida International Trade and Economic Development Board was created. Administrative oversight over these entities and other fundamentally public-sector programs and responsibilities are placed within the Office of Tourism, Trade, and Economic Development (OTTED) of the Executive Office of the Governor. The FDC and FIAC were dissolved effective December 31, 1996.

OTTED is required to submit a unified legislative budget request for economic development and trade for the FTC, EFI, and other public-private partnerships.

B. EFFECT OF PROPOSED CHANGES:

Maritime & International Trade Infrastructure

The bill contains a number of clarifying changes to port facility development laws. The bill specifies that all ports not controlled by local governments that have spoil disposal responsibilities must identify disposal sites in their comprehensive master plans, and must be integrated with local comprehensive plans through existing processes. Amendments to the local comprehensive plan process for port transportation facilities and projects that are eligible for funding under the Florida Seaport Transportation and Economic Development Program are exempted from the two-per-year amendment limitation for local comprehensive plan modifications. Projects eligible for funding under the Program are also declared to be in the "public interest." The bill provides cross-references for the "developments of regional impacts" review and exemptions currently contained in ss. 163.3178, 311.07 and 380.06, F.S.

The bill provides that ports cannot be charged lease fees for the use of state sovereign lands.

This bill includes trade market and shipping information products as eligible for funding and provides that port projects include transportation and other projects. It provides that funds can be used for construction or rehabilitation at smaller ports with operating revenues of \$5m or less (Fernandina, Ft. Pierce, Key West, Panama City, Pensacola, St. Joe, and St. Petersburg) and that funds may be used to finance trade corridor or system-wide freight mobility plans. The bill removes a cap on the amount of funds a port can receive in any calendar year.

The bill provides criteria for measuring the economic benefit of a port project to include the maintenance of cargo flow, passenger movement, international commerce, port revenues, and the number of jobs at a port.

The bill states that the Department of Environmental Protection is the exclusive agency responsible for permitting and enforcement of dredged material management and other activities with respect to deepwater ports. It provides that the department's permitting and enforcement activities with respect to such ports govern in the event of conflicting actions by other agencies.

Florida Trade Council

This bill creates the Florida Trade Council within the Executive Office of the Governor responsible for developing a statewide strategic plan relating to international trade and infrastructure programs and it provides for membership and authority of the council. The council consists of the following 11 members: the director of OTTED, the Commissioner of Agriculture or designee, the Secretary of State or designee, a representative from EFI, a representative from the Florida Seaport Transportation and Economic Development Council, four private-sector members nominated by the preceding five members and appointed by the Governor, a private-sector representative to be designated by the President of the Senate, and one designated by the Speaker of the House of Representatives. The OTTED director serves as chair of the council. Terms are for four years except that two of the initial appointments by the Governor shall serve for two years. Council members serve without compensation but are entitled to reimbursement for per diem and travel expenses.

The council's strategic plan is required to include:

- * the international programs of the entities represented on the council;
- * the international and cultural relations plans of the Secretary of State;
- * the strategic development plan of Enterprise Florida;
- * the 5-year Florida Seaport Mission Plan; and
- * seaport intermodal plans developed by FSTED.

The plan must also include a commercial strategy for existing as well as potential trading partners and would use information from EFI, the Florida Trade Data Center, local economic development organizations, and federal sources. It would identify international policy issues and trade development programs.

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The council would allocate appropriate resources to the activities and programs that incorporate with the strategies outlined in the strategic plan. The plan would include performance measures to ensure the appropriate and efficient appropriation of state funds.

The council would act as a wholesale agent for the activities and programs and should leverage resources, when possible, by funding programs, activities, and services of existing state and local service providers that facilitate the plan's strategies.

The council would create a transportation plan for economic development projects outlined in the Florida Economic Infrastructure Program created in this bill.

Dedicated, recurring funding is provided from the State Transportation Trust Fund. Deposits to the International Trade and Promotion Trust Fund would be increased by approximately \$14m annually. The trust fund is split between the council (70%) and EFI (30%). For the first year, FY 1999-2000, there is a \$12.8m appropriation from the trust fund to OTTED for the Florida Trade Council.

Florida Economic Infrastructure Program

The bill creates the Florida Economic Infrastructure Program (FEIP) to be developed by the Florida Trade Council. The plan would be developed in a manner similar to that which the Metropolitan Planning Organizations (MPOs) use to develop Transportation Improvement Plans (TIPs). Florida's various economic development entities would identify infrastructure priorities through a series of public hearings and would be consistent, to the maximum extent feasible, with local comprehensive plans.

Funding for the FEIP would be through the State Transportation Trust Fund. The Florida Department of Transportation (FDOT, department) would be responsible for the program and the program would become part of the FDOT Work Plan and it would maximize and manage funds allocated for the program.

The bill specifies the authority, powers, and duties of the FTC with regard to the FEIP. In conjunction with the department, the council would develop a long-range transportation plan; an annually updated transportation improvement program; and an annual unified planning work program. In developing a transportation plan, the council must consider:

- * the enhancement of existing transportation facilities;
- * the consistency of the plan with applicable federal, state, and local energy conservation programs;
- * federal requirements for the programming of transportation enhancement activities;
- * the provision of access to seaports, airports, intermodal transportation facilities, major freight distribution routes, national and state parks, recreation areas, monuments and historic sites, and military installations;
- * any available methods to enhance the efficient movement of freight; and
- * the overall social, economic, energy, and environmental effects of transportation decisions.

The long range plan must identify transportation facilities including major roadways, airports, seaports, commuter rail systems, transit systems, and intermodal or multi modal terminals that will function as an integrated metropolitan transportation system; it must give emphasis to those transportation facilities that serve national, statewide, or regional functions; and it must consider the goals and objectives of the Florida Transportation Plan. The plan must provide reasonable opportunity for comment by the public and affected parties and must be approved by the council.

The financial plan must demonstrate implementation of the plan, indicating the expected availability of public and private sources, and innovative financing techniques that may be used to fund projects and programs.

This bill authorizes the council to execute an agreement with the department establishing the cooperative relationship necessary to accomplish the transportation planning requirements of state and federal law; an agreement with operators of public transportation systems describing the means by which activities would be coordinated; and other agreements required by law or necessary to accomplish its functions.

Florida Trade Data Center

The bill revises the organization of the International Trade Data Resource and Research Center (Florida Trade Data Center - FTDC). It establishes the FTDC as a private, nonprofit corporation and not a unit or entity of state government and provides for membership of the board of directors.

This bill requires the center to make information available to EFI, OTTED and state agencies pursuant to a policy by the board and authorizes the center to:

- * Develop a state-wide trade information system that may include import & export information; trade opportunities; intermodal transportation information; commodity trends; trade activity between the state and specific countries; and other information as determined by the board.
- * Develop an Internet based electronic commerce system designed to facilitate international trade in the Americas.
- * Provide research on trade opportunities in specific countries.
- * Provide any other terms and conditions required to effect the intent of the Legislature to ensure the availability of trade data research to Florida users and to promote the development of a center for such purposes.
- * Contract with public or private entities, domestic or foreign, necessary to perform its functions.
- * Secure public and private funding for the programs and activities of the center.
- * Charge fees for services and materials.
- * Solicit and use funds or property.
- * Acquire and use patents, copyrights, and trademarks.

Seaport Training and Employment Program

The bill requires the Florida Seaport Transportation and Economic Development Council (FSTED), rather than OTTED, to develop and implement the Seaport Training and Employment Program. The program is to stimulate and support seaport training and employment opportunities in the port, maritime, and transportation industries and such other training, educational, and informational services that would stimulate jobs in these industries.

Funds could be used for the purchase of training equipment, hiring instructors, and other purposes associated with the training program. Appropriated funding for the program could not exceed 50 percent of the total cost of any training program.

Northwest Florida Seaport Transportation and Economic Development Council

The bill creates the Northwest Florida Seaport Transportation and Economic Development Council. This not for profit corporation would enhance economic development in the northwest Florida region by creating jobs, increasing cargo flow, and port revenues at the three regional ports and the communities where the ports are located. The council consists of the following members: the port directors or designees of the ports of Panama City, Pensacola, and Port St. Joe, the director of OTTED or designee, and a representative from EFI. Up to four ex-officio, nonvoting members may be added to the council by the membership. Council members serve without compensation but are entitled to reimbursement for per diem and travel expenses.

The council would develop a comprehensive regional development plan that includes:

- * A marketing strategy for development at the three ports and their communities.
- * A review of multi-modal transportation requirements for the region.
- * Identification of specific transportation and economic development projects that create jobs and increase cargo flow and port revenues at the three ports and their communities.

The council may grant funds for these projects, subject to a specific appropriation. The council would be granted the powers necessary to carry out the provisions of this act including the authority to raise and use funds and gifts; to acquire and dispose of property; and to enter into contracts.

The council would set the compensation of the executive director and staff.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. All permitting and enforcement of dredged-material management and other activities subject to permit under chapters 161, 253, and 403, F.S., and part IV of ch. 373, F.S., for deepwater ports shall be done *exclusively* by the Department of Environmental Protection. Further, the actions take by DEP relating to permitting and enforcement govern when in conflict with any action taken by any other agency.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The Florida Trade Council would assume responsibility for the state's international trade operations and programs. The Department of Transportation would be responsible for the Florida Economic Infrastructure Program plan.

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 163.3178, 163.3187, 212.0606, 253.77, 288.826, 288.8155, 311.07, 311.09, 311.11, 380.06, and 380.24, F.S. Creates ss. 14.2019, 288.064, and 311.20, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 Specifies that all ports not controlled by local governments that have spoil disposal responsibilities must identify disposal sites in their comprehensive master plans, and must be integrated with local comprehensive plans through existing processes. Amends s. 163.3178(7), F.S.

Section 2 Specifies that amendments to the local comprehensive plan process for port transportation facilities and projects that are eligible for funding under the Florida Seaport Transportation and Economic Development Program are exempted from the two-per-year amendment limitation for local comprehensive plan modifications. Creates s. 163.3187(1)(h), and amends s. 163.3187(6)(a), F.S.

Section 3 Provides that ports can not be charged lease fees for the use of state sovereign lands. Creates subsection (4) of s. 253.77, F.S.

Section 4 The bill revises the organization of the International Trade Data Resource and Research Center (Florida Trade Data Center - FTDC). Establishes the FTDC as a private, nonprofit corporation and not a unit or entity of state government and provides for membership of the board of directors. Requires the center to make information available to Enterprise Florida, OTTED and state agencies pursuant to a policy by the board and provides authorization for certain activities by the center. Amends s. 288.8155, F.S.

Section 5 Provides cross-references for the "developments of regional impacts" review. Includes trade market and shipping information products as eligible for funding and provides that port projects include transportation and other projects. Provides that funds can be used for construction or rehabilitation at smaller ports with operating revenues of \$5m or less (Fernandina, Ft. Pierce, Key West, Panama City, Pensacola, St. Joe, and St. Petersburg) and that funds may be used to finance trade corridor or system-wide freight mobility plans. Removes a cap on the amount of funds a port could receive in any calendar year. Amends s. 311.07(1),(3), (4), and (6), F.S.

Section 6 Provides criteria for measuring the economic benefit of a port project to include the maintenance of cargo flow to the current list of: increased cargo, cruise passenger movement, international commerce, port revenues, and the number of jobs at a port. Projects eligible for funding under the Program are also declared to be in the "public interest." Amends s. 311.09(4) and (9), F.S.

Section 7 Requires the Florida Seaport Transportation and Economic Development Council (FSTED), rather than OTTED, to develop and implement the Seaport Training and Employment Program. The program is to stimulate and support seaport training and employment opportunities in the port, maritime, and transportation industries and such other training, educational, and informational services that would stimulate jobs in these industries.

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Funds could be used for the purchase of training equipment, hiring instructors, and other purposes associated with the training program. Appropriated funding for the program can not exceed 50 percent of the total cost of any training program. Amends 311.11, F.S.

Section 8 Provides specified port projects an exemption from the “developments of regional impacts” review. Creates s. 380.06(24)(h), F.S.

Section 9 States that the Department of Environmental Protection is the exclusive agency responsible for permitting and enforcement of dredged material management and other activities with respect to deepwater ports. Provides that the department’s permitting and enforcement activities with respect to such ports govern in the event of conflicting actions by other agencies. Amends s. 380.24, F.S.

Section 10 Creates the Florida Trade Council within the Executive Office of the Governor responsible for developing a statewide strategic plan relating to international trade and infrastructure programs. It provides for membership and authority of the council and it provides requirements and criteria for a strategic plan; authorizes the council to allocate appropriate resources to the activities and programs that incorporate with the strategies outlined in the strategic plan; provides that the council would act as a wholesale agent for the activities and programs; and requires the council to create a transportation plan for economic development projects outlined in the Florida Economic Infrastructure Program created in section 14 of this bill. Creates s. 14.2019, F.S.

Section 11 Provides dedicated, recurring funding from the State Transportation Trust Fund (STTF). Deposits to the International Trade and Promotion Trust Fund would be increased by approximately \$14m annually by reducing deposits to the STTF. Amends s. 212.0606, F.S.

Section 12 Provides for the distribution of International Trade and Promotion Trust Fund moneys. The council would receive 70 percent and EFI would receive 30 percent. Amends s. 288.826, F.S.

Section 13 Provides a \$12.8m appropriation from the International Trade and Promotion Trust Fund to OTTED for funding the operations and activities of the Florida Trade Council for FY 1999-00.

Section 14 Creates the Florida Economic Infrastructure Program (FEIP) to be managed by the Florida Trade Council (FTC); provides criteria for the development of a transportation improvement plan; provides funding for the program; places responsibility for the program’s plan with the Florida Department of Transportation; makes the plan a part of the FDOT Work Plan; specifies the authority, powers, and duties of the FTC with regard to the FEIP. Creates s. 288.064, F.S.

Section 15 Creates the Northwest Florida Seaport Transportation and Economic Development Council as a non-profit corporation to enhance economic development in the northwest Florida region. Requires the council to develop a comprehensive regional development plan and provides criteria. Authorizes the council to grant funds for projects, subject to a specific appropriation. Grants the council the powers necessary to carry out the provisions of this act including the authority to raise and use funds and gifts; to acquire and dispose of property; and to enter into contracts. Authorizes the council to set the compensation of the executive director and staff and provides the membership of the council. Creates s. 311.20, F.S.

Section 16 Effective date - upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

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V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 1999, the Committee on Business Development and International Trade unanimously approved HB 2193 (PCB BDIT 99-05) with five amendments. The first added the creation of the Northwest Florida Seaport Transportation and Economic Development Council to the PCB. Amendments 2 - 5 were approved to address concerns raised by metropolitan planning organizations relating to the involvement of MPOs in planning required by the Florida Economic Infrastructure Program created by this PCB.

See Effect of Proposed Changes (section II.B.) and Section by Section Analysis (section II.E.) for more detail.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

J. Paul Whitfield, Jr.

J. Paul Whitfield, Jr.