

By the Committee on Transportation and Senator Sebesta

306-1976-00

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A bill to be entitled
An act relating to seaports; creating s.
215.617, F.S.; providing for the issuance of
bonds by the Division of Bond Finance; amending
s. 311.07, F.S.; providing for a final audit of
funds; amending s. 311.09, F.S.; providing
overrule authority to certain state agencies;
providing voting membership to certain state
agencies; providing requirements for the
procurement of professional services; amending
s. 320.20, F.S.; providing certain projects are
fixed capital outlay projects; providing
bonding authority; providing a timeframe for
bond maturity; providing an effective date.

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

Section 1. Section 215.617, Florida Statutes, is
created to read:

215.617 Bonds for the Florida Seaport Transportation
and Economic Development Program.--

(1) The Division of Bond Finance, on behalf of the
Florida Seaport Transportation and Economic Development
Council, is authorized to issue revenue bonds pursuant to s.
11, Art. VII of the State Constitution and the State Bond Act
for the purposes of financing or refinancing fixed capital
requirements of the Florida Seaport Transportation and
Economic Development Program as provided in chapter 311 and s.
320.20(3) and (4) and funding seaport access projects of
statewide significance as provided in s. 341.053.

1 (2) The revenue bonds issued pursuant to this section
2 shall not constitute a general obligation of or a pledge of
3 the full faith and credit of the state or any of its agencies.

4 (3) Bonds issued pursuant to this section shall be
5 payable solely from funds pledged pursuant to s. 320.20(3) and
6 (4). Such funds shall be assigned and pledged as security and
7 deposited in trust with the State Board of Administration
8 pursuant to the terms of an agreement entered into among the
9 ports and the State Board of Administration.

10 Section 2. Subsection (6) of section 311.07, Florida
11 Statutes, is amended to read:

12 311.07 Florida seaport transportation and economic
13 development funding.--

14 (6) The Department of Transportation shall subject any
15 project that receives funds pursuant to this section and s.
16 320.20 to a final audit. The department may adopt rules and
17 perform such other acts as are necessary or convenient to
18 ensure that the final audits are conducted and that any
19 deficiency or questioned costs noted by the audit are
20 resolved.

21 Section 3. Subsection (1), (4), (6), (7), (8), (11)
22 and (12) of section 311.09, Florida Statutes, are amended to
23 read:

24 311.09 Florida Seaport Transportation and Economic
25 Development Council.--

26 (1) The Florida Seaport Transportation and Economic
27 Development Council is created within the Department of
28 Transportation. The council consists of the following 17
29 members: the port director, or the port director's designee,
30 of each of the ports of Jacksonville, Port Canaveral, Fort
31 Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St.

1 Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
2 West, and Fernandina; the secretary of the Department of
3 Transportation or his or her designee ~~as an ex officio~~
4 ~~nonvoting member~~; the director of the Office of Tourism,
5 Trade, and Economic Development or his or her designee ~~as an~~
6 ~~ex officio nonvoting member~~; and the secretary of the
7 Department of Community Affairs or his or her designee ~~as an~~
8 ~~ex officio nonvoting member~~.

9 (4) The council shall adopt rules for evaluating
10 projects which may be funded under ~~ss.~~s.311.07 and 320.20.
11 The rules shall provide criteria for evaluating the economic
12 benefit of the project, measured by the potential for the
13 proposed project to increase cargo flow, cruise passenger
14 movement, international commerce, port revenues, and the
15 number of jobs for the port's local community.

16 (6) The Department of Community Affairs shall review
17 the list of projects approved by the council to determine
18 consistency with approved local government comprehensive plans
19 of the units of local government in which the port is located
20 and consistency with the port master plan. The Department of
21 Community Affairs shall identify and notify the council of
22 those projects which are not consistent, to the maximum extent
23 feasible, with such comprehensive plans and port master plans.
24 The Department of Community Affairs may overrule any action of
25 the council approving a project.

26 (7) The Department of Transportation shall review the
27 list of projects approved by the council for consistency with
28 the Florida Transportation Plan and the department's adopted
29 work program. In evaluating the consistency of a project, the
30 department shall determine whether the transportation impact
31 of the proposed project is adequately handled by existing

1 state-owned transportation facilities or by the construction
2 of additional state-owned transportation facilities as
3 identified in the Florida Transportation Plan and the
4 department's adopted work program. In reviewing for
5 consistency a transportation facility project as defined in s.
6 334.03(31) which is not otherwise part of the department's
7 work program, the department shall evaluate whether the
8 project is needed to provide for projected movement of cargo
9 or passengers from the port to a state transportation facility
10 or local road. If the project is needed to provide for
11 projected movement of cargo or passengers, the project shall
12 be approved for consistency as a consideration to facilitate
13 the economic development and growth of the state in a timely
14 manner. The Department of Transportation shall identify those
15 projects which are inconsistent with the Florida
16 Transportation Plan and the adopted work program and shall
17 notify the council of projects found to be inconsistent. The
18 Department of Transportation may overrule any action of the
19 council approving a project.

20 (8) The Office of Tourism, Trade, and Economic
21 Development, in consultation with Enterprise Florida, Inc.,
22 shall review the list of projects approved by the council to
23 evaluate the economic benefit of the project and to determine
24 whether the project is consistent with the Florida Seaport
25 Mission Plan. The Office of Tourism, Trade, and Economic
26 Development shall review the economic benefits of each project
27 based upon the rules adopted pursuant to subsection (4). The
28 Office of Tourism, Trade, and Economic Development shall
29 identify those projects which it has determined do not offer
30 an economic benefit to the state or are not consistent with
31 the Florida Seaport Mission Plan and shall notify the council

1 of its findings. The Office of Tourism, Trade, and Economic
2 Development may overrule any action of the council approving a
3 project.

4 (11) The council shall meet at the call of its
5 chairperson, at the request of a majority of its membership,
6 or at such times as may be prescribed in its bylaws. However,
7 the council must meet at least semiannually. A majority of
8 voting members of the council constitutes a quorum for the
9 purpose of transacting the business of the council. All
10 members of the council are voting members ~~except for members~~
11 ~~representing the Department of Transportation; the Department~~
12 ~~of Community Affairs; and the Office of Tourism, Trade, and~~
13 ~~Economic Development.~~ A vote of the majority of the voting
14 members present is sufficient for any action of the council,
15 except that a member representing the Department of
16 Transportation, the Department of Community Affairs, or the
17 Office of Tourism, Trade, and Economic Development may
18 overrule any action of the council approving a project. The
19 ~~unless the~~ bylaws of the council may require a greater vote
20 for a particular action. However, such bylaws may not affect
21 the overrule authority of the Department of Transportation,
22 the Department of Community Affairs, and the Office of
23 Tourism, Trade, and Economic Development.

24 (12) Members of the council shall serve without
25 compensation but are entitled to receive reimbursement for per
26 diem and travel expenses as provided in s. 112.061. The
27 council may elect to provide an administrative staff to
28 provide services to the council on matters relating to the
29 Florida Seaport Transportation and Economic Development
30 Program and the council. The cost for such administrative
31 services shall be paid by all ports that receive funding from

1 the Florida Seaport Transportation and Economic Development
2 Program, based upon a pro rata formula measured by each
3 recipient's share of the funds as compared to the total funds
4 disbursed to all recipients during the year. The share of
5 costs for administrative services shall be paid in its total
6 amount by the recipient port upon execution by the port and
7 the Department of Transportation of a joint participation
8 agreement for each council-approved project, and such payment
9 is in addition to the matching funds required to be paid by
10 the recipient port. The procurement of outside professional
11 services by the council is subject to s. 287.057 and any
12 written agreements and documentation supporting payments for
13 professional services must be retained by the council.

14 Section 4. Subsections (3) and (4) of section 320.20,
15 Florida Statutes, are amended to read:

16 320.20 Disposition of license tax moneys.--The revenue
17 derived from the registration of motor vehicles, including any
18 delinquent fees and excluding those revenues collected and
19 distributed under the provisions of s. 320.081, must be
20 distributed monthly, as collected, as follows:

21 (3) Notwithstanding any other provision of law except
22 subsections (1) and (2), on July 1, 1996, and annually
23 thereafter, \$15 million shall be deposited in the State
24 Transportation Trust Fund solely for the purposes of funding
25 the Florida Seaport Transportation and Economic Development
26 Program as provided for in chapter 311. Such revenues shall
27 be distributed on a 50-50 matching basis to any port listed in
28 s. 311.09(1) to be used for funding projects as described in
29 s. 311.07(3)(b). Projects that are funded under this
30 subsection shall be considered state fixed capital outlay
31 projects for bonding purposes.Such revenues may be assigned,

1 pledged, or set aside as a trust for the payment of principal
2 or interest on bonds, tax anticipation certificates, or any
3 other form of indebtedness issued by the State Board of
4 Administration, Division of Bond Finance, on behalf of any
5 ports that form a collective interlocal agreement ~~an~~
6 ~~individual port or appropriate local government having~~
7 ~~jurisdiction thereof, or collectively by interlocal agreement~~
8 ~~among any of the ports, or used to purchase credit support to~~
9 permit such borrowings. However, such debt shall not
10 constitute a general obligation of the State of Florida. Such
11 bonds in issue and series must mature 30 years from their date
12 of issuance.The state does hereby covenant with holders of
13 such revenue bonds or other instruments of indebtedness issued
14 hereunder that it will not repeal or impair or amend in any
15 manner which will materially and adversely affect the rights
16 of such holders so long as bonds authorized by this section
17 are outstanding. Any revenues which are not pledged to the
18 repayment of bonds as authorized by this section may be
19 utilized for purposes authorized under the Florida Seaport
20 Transportation and Economic Development Program. This revenue
21 source is in addition to any amounts provided for and
22 appropriated in accordance with s. 311.07. The Florida
23 Seaport Transportation and Economic Development Council shall
24 approve distribution of funds to ports for projects which have
25 been approved pursuant to s. 311.09(5)-(9). The council and
26 the Department of Transportation are authorized to perform
27 such acts as are required to facilitate and implement the
28 provisions of this subsection. To better enable the ports to
29 cooperate to their mutual advantage, the governing body of
30 each port may exercise powers provided to municipalities or
31 counties in s. 163.01(7)(d) subject to the provisions of

1 chapter 311 and special acts, if any, pertaining to a port.
2 The use of funds provided pursuant to this subsection are
3 limited to eligible projects listed in this subsection.
4 Income derived from a project completed with the use of
5 program funds, beyond operating costs and debt service, shall
6 be restricted to further port capital improvements consistent
7 with maritime purposes and for no other purpose. Use of such
8 income for nonmaritime purposes is prohibited. The provisions
9 of s. 311.07(4) do not apply to any funds received pursuant to
10 this subsection.

11 (4) Notwithstanding any other provision of law except
12 subsections (1), (2), and (3), on July 1, 1999, and annually
13 thereafter, \$10 million shall be deposited in the State
14 Transportation Trust Fund solely for the purposes of funding
15 the Florida Seaport Transportation and Economic Development
16 Program as provided in chapter 311 and for funding seaport
17 intermodal access projects of statewide significance as
18 provided in s. 341.053. Projects that are funded under this
19 subsection shall be considered state fixed capital outlay
20 projects for bonding purposes.Such revenues shall be
21 distributed to any port listed in s. 311.09(1), to be used for
22 funding projects as follows:

23 (a) For any seaport intermodal access projects that
24 are identified in the 1997-1998 Tentative Work Program of the
25 Department of Transportation, up to the amounts needed to
26 offset the funding requirements of this section; and

27 (b) For seaport intermodal access projects as
28 described in s. 341.053(5) that are identified in the 5-year
29 Florida Seaport Mission Plan as provided in s. 311.09(3).
30 Funding for such projects shall be on a matching basis as
31 mutually determined by the Florida Seaport Transportation and

1 Economic Development Council and the Department of
2 Transportation, provided a minimum of 25 percent of total
3 project funds shall come from any port funds, local funds,
4 private funds, or specifically earmarked federal funds; or

5 (c) On a 50-50 matching basis for projects as
6 described in s. 311.07(3)(b).

7 (d) For seaport intermodal access projects that
8 involve the dredging or deepening of channels, turning basins,
9 or harbors; or the rehabilitation of wharves, docks, or
10 similar structures. Funding for such projects shall require a
11 25 percent match of the funds received pursuant to this
12 subsection. Matching funds shall come from any port funds,
13 federal funds, local funds, or private funds.

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15 Such revenues may be assigned, pledged, or set aside as a
16 trust for the payment of principal or interest on bonds, tax
17 anticipation certificates, or any other form of indebtedness
18 issued by the State Board of Administration, Division of Bond
19 Finance, on behalf of any ports that form a collective
20 interlocal agreement ~~an individual port or appropriate local~~
21 ~~government having jurisdiction thereof, or collectively by~~
22 ~~interlocal agreement among any of the ports, or used to~~
23 purchase credit support to permit such borrowings. However,
24 such debt shall not constitute a general obligation of the
25 state. Such bonds in issue and series must mature at such time
26 not exceeding 30 years from their date of issuance. This state
27 does hereby covenant with holders of such revenue bonds or
28 other instruments of indebtedness issued hereunder that it
29 will not repeal or impair or amend this subsection in any
30 manner which will materially and adversely affect the rights
31 of holders so long as bonds authorized by this subsection are

1 outstanding. Any revenues that are not pledged to the
2 repayment of bonds as authorized by this section may be
3 utilized for purposes authorized under the Florida Seaport
4 Transportation and Economic Development Program. This revenue
5 source is in addition to any amounts provided for and
6 appropriated in accordance with s. 311.07 and subsection (3).
7 The Florida Seaport Transportation and Economic Development
8 Council shall approve distribution of funds to ports for
9 projects that have been approved pursuant to s. 311.09(5)-(9),
10 or for seaport intermodal access projects identified in the
11 5-year Florida Seaport Mission Plan as provided in s.
12 311.09(3) and mutually agreed upon by the FSTED Council and
13 the Department of Transportation. All contracts for actual
14 construction of projects authorized by this subsection must
15 include a provision encouraging employment of WAGES
16 participants. The goal for employment of WAGES participants
17 is 25 percent of all new employees employed specifically for
18 the project, unless the Department of Transportation and the
19 Florida Seaport Transportation and Economic Development
20 Council can demonstrate to the satisfaction of the Secretary
21 of Labor and Employment Security that such a requirement would
22 severely hamper the successful completion of the project. In
23 such an instance, the Secretary of Labor and Employment
24 Security shall establish an appropriate percentage of
25 employees that must be WAGES participants. The council and the
26 Department of Transportation are authorized to perform such
27 acts as are required to facilitate and implement the
28 provisions of this subsection. To better enable the ports to
29 cooperate to their mutual advantage, the governing body of
30 each port may exercise powers provided to municipalities or
31 counties in s. 163.01(7)(d) subject to the provisions of

1 chapter 311 and special acts, if any, pertaining to a port.
2 The use of funds provided pursuant to this subsection is
3 limited to eligible projects listed in this subsection. The
4 provisions of s. 311.07(4) do not apply to any funds received
5 pursuant to this subsection.

6 Section 5. This act shall take effect upon becoming a
7 law.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 SB 776

12 The CS authorizes the Division of Bond Finance to issue
13 revenue bonds on behalf of the Florida Seaport Transportation
14 and Economic Development (FSTED) Program, and clarifies
15 projects which receive funds through s. 320.20, F.S., are
16 subject to a Florida Department of Transportation (FDOT) final
17 audit.

18 The CS requires the FSTED Council to adopt rules for
19 evaluating projects which may be funded under s. 320.20, F.S.,
20 and authorizes the FDOT, the Department of Community Affairs,
21 and the Office of Tourism, Transportation, and Economic
22 Development, to overrule any action of the FSTED Council
23 approving a project, and gives those agencies a vote on the
24 council. The CS requires the FSTED Council be subject to s.
25 287.057 (competitive bidding) when procuring outside
26 professional services and must document all written agreements
27 and supporting payments for such professional services.
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