

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: HB 1029 creates a new program within the FSTED Council to fund, on a 50-50 basis with local port authorities, dredging projects in counties of less than 300,000 population. The source of funding is not specified, but the bill's supporters say state funds are anticipated.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The state of Florida has 1,197 statute miles of coastline, and relies on a combination of federal, state, and local funds to dredge its harbors and channels to keep them open for commercial and recreational purposes.

On the federal level, the U.S. Army Corps of Engineers works with communities large and small to evaluate, plan, permit, and seek Congressional funding for channel-dredging projects. The Corps coordinates with state environmental agencies on necessary permits and, if necessary, activities to mitigate any adverse environmental impacts the dredging may cause.

Florida has 14 publicly owned, deepwater ports that routinely need some type of dredging. Assisting the ports and their tenants is the Florida Seaport Transportation and Economic Development (FSTED) Council. The council is a public entity created in 1990 pursuant to s. 311.09, F.S. Administratively housed within the Florida Department of Transportation, the council consists of the port directors of the 14 seaports and a representative of the Florida Department of Transportation, the Florida Department of Community Affairs, and the Governor's Office of Tourism, Trade and Economic Development.

The FSTED Council's primary responsibility is to finance port transportation projects on a 50-50 matching basis. The FSTED Program requires consistency with local plans and matching funds from each seaport, ensuring that seaport investments are initiated at the local level and driven by a local commitment to meet the seaport's strategic objectives.

Section 311.07(3)(a), Florida Statutes, provides that program funds will be used to fund approved projects on a 50-50 matching basis with any of the deepwater ports that is governed by a public body. Grant funding under the program is limited to specific types of port facilities or port transportation projects, including channel dredging.

FSTED's activities are funded by an annual \$10 million appropriation from the State Transportation Trust Fund; beginning in fiscal year 2005-2006, another \$5 million will be made available to pay for port-related intermodal transportation projects that are part of the state's Strategic Intermodal System. The Legislature also annually appropriates another \$25 million to repay debt service on bonds issued in 1996 and 1999 by the Florida Ports Financing Commission for major port projects selected by FSTED.

But Florida has other communities with harbors and channels, some managed by local port authorities, that are not represented by the FSTED Council. For example, the Hernando County Port Authority has been attempting since 1996 to obtain permits and funding to dredge the Hernando Beach Channel. The channel has become too shallow in many places for the area's economically significant bait-shrimp fishery to operate, county officials say. In recent months, county and port officials decided to scale back the project in order to reduce environmental mitigation concerns and costs, and has gained the support of the state Department of Environmental Protection. The downsized maintenance dredging project, which also will include removing some rocks and straightening some bends in the channel, is estimated to cost \$5 million. The county has \$1.5 million set aside to help pay for the dredging project.

Effect of Proposed Changes

HB 1029 would create within the FSTED Council a program to help fund dredging projects in counties that meet the following criteria:

- The counties must have a population of less than 300,000 based on the last official U.S. Census.
- The counties must be able to provide a 50-50 match for the funds.
- The counties must have a port authority as defined in s. 315.02(02), F.S. which is in compliance with financial management and reporting procedures pursuant to Part III of chapter 218, F.S.
- The project must be in compliance with water-quality provisions in s. 403.061, F.S.

The grants would be used only to fund projects for dredging or deepening channels, turning basins, or harbors.

The FSTED Council is directed to develop by rule procedures and criteria for evaluating project applications submitted for funding under the new program. Among the criteria will be the project's economic benefit. HB 1029 specifies that this review process shall be similar to that currently in place for FSTED projects, which are reviewed by Florida Department of Transportation, the Florida Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development.

There are at least seven legislatively created port authorities in counties with less than 300,000 population: the Calhoun County Port Authority, the Carrabelle Port District, the Hernando County Port Authority, the Levy County Port Authority, the Manatee Port Authority, the Putnam County Port Authority, and the St. Lucie Port and Airport Authority.

HB 1029 would take effect July 1, 2005.

C. SECTION DIRECTORY:

Section 1: Creates s. 311.115, F.S., to direct the Florida Seaport Transportation and Economic Development Council to develop rules to evaluate applications from eligible county port authorities for dredging projects. Requires a 50-50 match of local funds. Establishes administrative review of applications by the Department of Community Affairs, the Department of Transportation, and the Office of Tourism, Trade, and Economic Development. Specifies use of funds made available for this program.

Section 2: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. HB 1029 does not designate a state funding source for the grants to be distributed by the FSTED Council to eligible local port authorities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate. Only those eligible counties could apply for the dredging grants, and its 50-50 share depends on the project costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, but likely positive. Deeper, wider channels benefit commercial fishing interests, as well as recreational fishing enthusiasts and private property owners along the shore.

D. FISCAL COMMENTS:

A representative of the Florida Ports Council, Inc., which staffs the FSTED Council, said the group could charge an administrative fee of 2 percent to 3 percent to manage the new program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to HB 1029 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FSTED is given specific authority to adopt rules on evaluating the projects submitted for the new grant program; establishing criteria to evaluate the economic benefit of these projects; and establishing a process whereby the Department of Transportation, the Department of Community Affairs, and the Governor's Office of Tourism, Trade, and Economic Development will review the projects approved by FSTED for funding.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting issues

The reference in HB 1029 to "water quality provisions of s. 403.061," F.S., may need to be clarified. Section 403.061, F.S., actually expresses the general powers and duties of the Florida Department of Environmental Protection. Subsection (37) does reference the agency's ability to enter into a memorandum of agreement with the Florida Ports Council for a supplemental permitting process for issuing long-term joint coastal permits for dredging activities of the 14 deepwater ports. Whether this supplemental permitting process also should be applicable for the small ports that are the subject of this bill may need to be considered.

One option is to require the small-port projects to be in compliance with the water-quality provisions, in general, of chapter 403, F.S.

Other agencies' comments

Staff of the Department of Transportation and of the Department of Environmental Protection said their agencies have no concerns with HB 1029.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES