

1                                   A bill to be entitled  
 2       An act relating to Florida ports investments; creating s.  
 3       311.23, F.S.; providing a short title; providing a  
 4       purpose; providing definitions; requiring the Office of  
 5       Tourism, Trade, and Economic Development to establish the  
 6       Florida Ports Investment Corporation; providing authority  
 7       and requirements for the corporation; providing for a  
 8       board of directors; providing for appointment of board  
 9       members; providing for investments by the corporation in  
 10      certain port projects; specifying allocations of certain  
 11      funds for certain port activities, investments, and  
 12      education; providing requirements for capital allocation  
 13      and investments; providing requirements for certain  
 14      uninvested capital; providing requirements for  
 15      investments; providing for a premium tax credit; providing  
 16      for carryforward of the credit; providing limitations on  
 17      the credit; providing limitations on the amount of tax  
 18      credits; providing investment requirements; providing for  
 19      transferability of unused credits; authorizing the  
 20      corporation and the office to charge certain fees;  
 21      providing reporting requirements; authorizing the  
 22      Department of Revenue and the office to adopt rules;  
 23      providing an effective date.

24  
 25   Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1.   Section 311.23, Florida Statutes, is created to  
 28   read:

29 311.23 Florida Ports Investment Act.-

30 (1) SHORT TITLE.-This section may be cited as the "Florida  
 31 Ports Investment Act."

32 (2) PURPOSE.-The primary purpose of this section is to  
 33 stimulate a substantial increase in the state's port  
 34 infrastructure by providing an incentive for insurance companies  
 35 to invest in port activities in this state which, in turn, will  
 36 generate investments in new port projects or in expanding port  
 37 projects. The increase in investment capital flowing into new or  
 38 expanding port activities and businesses is intended to  
 39 contribute to employment growth, create jobs that exceed the  
 40 average wage for the county in which the jobs are created, and  
 41 expand or diversify the economic base of this state.

42 (3) DEFINITIONS.-As used in this section, the term:

43 (a) "Corporation" means the Florida Ports Investment  
 44 Corporation established by the office under subsection (4).

45 (b) "Department" means the Department of Financial  
 46 Services.

47 (c) "Investment capital" means an investment of cash by a  
 48 participating investor in the corporation in exchange for the  
 49 tax credits provided in this section.

50 (d) "Office" means the Office of Tourism, Trade, and  
 51 Economic Development.

52 (e) "Participating investor" means any insurance company  
 53 subject to premium tax liability under s. 624.509 that  
 54 contributes investment capital pursuant to this section.

55 (f) "Premium tax liability" means any liability incurred  
 56 by an insurance company under s. 624.509.

57 (g) "Qualified port project" means the ports listed in s.  
 58 403.021(9) (b) or any associated business or project that uses  
 59 those ports for the movement of goods and people, as determined  
 60 by the corporation.

61 (4) FLORIDA PORTS INVESTMENT CORPORATION; CREATION;  
 62 AUTHORITY; BOARD OF DIRECTORS.-

63 (a) The office, in cooperation with the department, shall  
 64 establish the Florida Ports Investment Corporation as a  
 65 corporation not for profit, to be incorporated under the  
 66 provisions of chapter 617 and approved by the Department of  
 67 State. The corporation:

68 1. May receive, hold, invest, and administer funds and  
 69 make expenditures consistent with the purposes of this section.

70 2. May make purchases, sales, exchanges, investments, and  
 71 reinvestments for and on behalf of the funds received pursuant  
 72 to this section.

73 3. Shall retain at least one investment advisory company  
 74 to assist the corporation in carrying out the provisions of this  
 75 section. Any such company must be retained pursuant to the  
 76 provisions of s. 287.055 and must have a minimum of 5 years'  
 77 experience raising investment capital from similar investors,  
 78 with not less than \$100 million actually raised from insurance  
 79 companies seeking a tax credit similar to that provided by this  
 80 section.

81 (b) The corporation shall be governed by a board of  
 82 directors comprised of:

83 1. The director of the office.

84 2. Two members appointed by the Governor, two members

85 appointed by the President of the Senate, and two members  
 86 appointed by the Speaker of the House of Representatives.  
 87 Appointed members must have significant experience in  
 88 international business, transportation, law, or logistics.  
 89 Appointed members are subject to any restrictions on conflicts  
 90 of interest specified in the organizational documents of the  
 91 corporation and may not have any interest in any investments  
 92 made by the corporation pursuant to subsection (5). Each  
 93 appointed member shall be appointed for a term of 4 years. A  
 94 vacancy on the board shall be filled by the appointing official  
 95 for the member whose vacancy is to be filled or whose term has  
 96 expired. An appointed member may be removed by the appointing  
 97 official for that member, for cause. Absence from three  
 98 consecutive meetings shall result in automatic removal. Any  
 99 member is eligible for reappointment.

100 3. The chair of the Florida Seaport Transportation and  
 101 Economic Development Council shall serve as an ex officio  
 102 director of the board.

103 4. Members of the board shall serve without compensation,  
 104 but may be reimbursed for all reasonable, necessary, and actual  
 105 expenses as determined and approved by the board pursuant to s.  
 106 112.061.

107 (5) INVESTMENTS BY THE CORPORATION IN PORT PROJECTS AND  
 108 PORT-RELATED ACTIVITIES.—

109 (a)1. The corporation shall seek to maintain the state's  
 110 advantage in ports and related industries. In order to maintain  
 111 that advantage, the corporation shall:

112 a. Allocate at least 65 percent of the capital received

113 under this section to on-port activities or infrastructure as  
 114 described in s. 315.02(6).

115 b. Allocate at least 25 percent of the capital received  
 116 under this section to off-port activities or infrastructure that  
 117 improve the movement and intermodal transportation of cargo or  
 118 passengers in commerce and trade and that will support the  
 119 interests, purposes, and requirements of ports specified in s.  
 120 403.021(9).

121 c. Allocate at least 5 percent of the remaining capital  
 122 received under this section to education related to ports and  
 123 port-related studies under the New Florida Initiative developed  
 124 by the Florida Board of Governors of the State University  
 125 System.

126 2. The capital received under this section shall be  
 127 allocated by July 1, 2012, or held in accordance with paragraph  
 128 (b).

129 3. An individual port project may not consume more than 15  
 130 percent of the total revenues of the corporation's intake.

131 (b) The corporation shall hold all capital received under  
 132 this section that is not invested in qualified port projects and  
 133 such capital:

134 1. Must be held in a financial institution as defined by  
 135 s. 655.005(1)(h) or held by a broker-dealer registered under s.  
 136 517.12.

137 2. Must be invested only in:

138 a. United States Treasury obligations;

139 b. Certificates of deposit or other obligations, maturing  
 140 within 3 years after acquisition of such certificates or

141 obligations, issued by any financial institution or trust  
 142 company incorporated under the laws of the United States;

143 c. Marketable obligations, maturing within 5 years or less  
 144 after the acquisition of such obligations, which are rated "A"  
 145 or better by any nationally recognized credit rating agency; or

146 d. Interests in money market funds, the portfolio of which  
 147 is limited to cash and obligations described in sub-  
 148 subparagraphs a.-c.

149 (c) All investment decisions shall be made by the  
 150 corporation which must certify that each project is of a  
 151 beneficial nature to a port listed in s. 403.021(9)(b), is ready  
 152 to proceed within 60 days for design, construction, and  
 153 permitting, and will create a lasting economic impact as defined  
 154 by the office by rule. Applications for funding by qualified  
 155 port projects must be made to the corporation under rules  
 156 adopted by the office.

157 (6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.—

158 (a) Any participating investor who makes an investment of  
 159 investment capital shall earn a vested credit against premium  
 160 tax liability equal to 100 percent of the investment capital  
 161 invested by the participating investor and such investments may  
 162 not be subject to recapture, disallowance, forfeiture, or  
 163 reduction. Participating investors shall be entitled to use no  
 164 more than 10 percentage points of the vested premium tax credit,  
 165 including any carryforward credits under this section, per year  
 166 beginning with premium tax filings for calendar year 2012. Any  
 167 premium tax credits not used by participating investors in any  
 168 single year may be carried forward and applied against the

169 premium tax liabilities of such investors for subsequent  
 170 calendar years. The carryforward credit may be applied against  
 171 subsequent premium tax filings through calendar year 2029.

172 (b) The credit to be applied against premium tax liability  
 173 in any single year may not exceed the premium tax liability of  
 174 the participating investor for that taxable year.

175 (c) A participating investor claiming a credit against  
 176 premium tax liability earned through an investment in the  
 177 corporation is not required to pay any additional retaliatory  
 178 tax levied pursuant to s. 624.5091 as a result of claiming such  
 179 credit. Because credits under this section are available to a  
 180 participating investor, s. 624.5091 does not limit such credit  
 181 in any manner.

182 (d) The amount of tax credits vested under this section  
 183 may not be considered in ratemaking proceedings involving a  
 184 participating investor.

185 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT.—

186 (a) The total amount of tax credits which may be allocated  
 187 by the office may not exceed \$500 million. The total amount of  
 188 tax credits which may be used by participating investors under  
 189 this section may not exceed \$50 million annually.

190 (b) The office shall be responsible for allocating premium  
 191 tax credits as provided for in this section to participating  
 192 investors. A participating investor must submit an application  
 193 to the office for the tax credit authorized in this section.

194 (8) TRANSFERABILITY.—Tax credits may be freely transferred  
 195 by a participating investor to an affiliate or non-affiliate of  
 196 the investor, and all such transfers shall be subject to rules

197 adopted by the department.

198 (9) FEES.—The corporation may charge reasonable fees for  
 199 administering and processing applications by qualified port  
 200 projects for funding pursuant to paragraph (5)(c), and the  
 201 office may charge reasonable fees for administering and  
 202 processing applications by participating investors for tax  
 203 credits pursuant to subsection (7). Any fee charged by the  
 204 corporation or office under this subsection for an application  
 205 may not exceed the actual cost incurred by the corporation or  
 206 office in administering and processing any application for  
 207 funding or a tax credit.

208 (10) REPORTING REQUIREMENTS.—The office shall report on an  
 209 annual basis to the Governor, the President of the Senate, and  
 210 the Speaker of the House of Representatives on or before April  
 211 1:

212 (a) The total dollar amount received by the corporation  
 213 from all participating investors and any other investor, the  
 214 identity of the participating investors, and the total amount of  
 215 premium tax credit used by each participating investor for the  
 216 previous calendar year.

217 (b) The total dollar amount invested by the corporation in  
 218 qualified port projects, the identity and location of those  
 219 projects, the amount invested in each qualified port project,  
 220 and the total number of permanent, full-time jobs created or  
 221 retained by each qualified port project.

222 (c) The return for the state as a result of the  
 223 investments in qualified port projects, including the extent to  
 224 which:



225 1. Investments have contributed to employment growth.

226 2. The wage level of businesses in which the corporation  
 227 has invested exceeds the average wage for the county in which  
 228 the jobs are located.

229 3. The investments of the corporation in qualified port  
 230 projects have contributed to expanding or diversifying the  
 231 economic base of the state.

232 (11) RULEMAKING AUTHORITY.—

233 (a) The Department of Revenue may by rule prescribe forms  
 234 and procedures for the tax credit filings and audits.

235 (b) The office may adopt any rules necessary to carry out  
 236 its respective duties, obligations, and powers related to the  
 237 administration, review, and reporting provisions of this section  
 238 and may perform any other acts necessary for the proper  
 239 administration and enforcement of such duties, obligations, and  
 240 powers.

241 Section 2. This act shall take effect July 1, 2010.