

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; creating the Florida Ports  
5 Investment Corporation; subjecting the corporation to  
6 certain public meetings and public records requirements;  
7 providing authority and requirements for the corporation;  
8 providing for a board of directors; providing for  
9 appointment of board members; providing for investments by  
10 the corporation in certain port projects; providing port  
11 project funding criteria; providing requirements for  
12 capital allocation and investments; providing requirements  
13 for certain uninvested capital; providing requirements for  
14 investments; providing for a premium tax credit; providing  
15 for carryforward of the credit; providing limitations on  
16 the credit; providing limitations on the amount of tax  
17 credits; providing investment requirements; providing  
18 procedures, requirements, and limitations for transfers of  
19 unused credits; authorizing the corporation and the office  
20 to charge certain fees; providing reporting requirements;  
21 authorizing the Department of Revenue and the office to  
22 adopt rules; amending s. 213.053, F.S.; authorizing the  
23 Department of Revenue to provide certain information to  
24 the office; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
27

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

30 311.23 Florida Ports Investment Act.-

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

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

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

44 (a) "Corporation" means the Florida Ports Investment  
 45 Corporation created under subsection (4).

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

49 (c) "Office" means the Office of Tourism, Trade, and  
 50 Economic Development.

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

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

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

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

62 (a) The Florida Ports Investment Corporation is created as  
 63 a corporation not for profit, to be incorporated under the  
 64 provisions of chapter 617 and approved by the Department of  
 65 State, and is not a unit or entity of state government. However,  
 66 the Legislature determines that public policy dictates that the  
 67 corporation operate in the most open and accessible manner  
 68 consistent with its public purpose. Therefore, the Legislature  
 69 specifically declares that the corporation and its advisory  
 70 company are subject to the public records and meetings  
 71 requirements of chapters 119 and 286. The corporation:

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

74 2. May make purchases, sales, exchanges, investments, and  
 75 reinvestments for and on behalf of the funds received pursuant  
 76 to this section.

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

84 section.

85 (b) The corporation shall be governed by a board of  
86 directors comprised of:

87 1. The director of the office.

88 2. Two members appointed by the Governor, two members  
89 appointed by the President of the Senate, and two members  
90 appointed by the Speaker of the House of Representatives.

91 Appointed members must have significant experience in  
92 international business, transportation, law, or logistics.

93 Appointed members are subject to any restrictions on conflicts  
94 of interest specified in the organizational documents of the

95 corporation and may not have any interest in any investments  
96 made by the corporation pursuant to subsection (5). Each

97 appointed member shall be appointed for a term of 4 years. A  
98 vacancy on the board shall be filled by the appointing official

99 for the member whose vacancy is to be filled or whose term has  
100 expired. An appointed member may be removed by the appointing

101 official for that member, for cause. Absence from three  
102 consecutive meetings shall result in automatic removal. Any

103 member is eligible for reappointment.

104 3. The chair of the Florida Seaport Transportation and  
105 Economic Development Council shall serve as an ex officio co-  
106 director of the board.

107 4. The Secretary of Transportation or his or her designee  
108 shall serve as an ex officio, nonvoting co-director of the  
109 board.

110 5. Members of the board shall serve without compensation,  
111 but may be reimbursed for all reasonable, necessary, and actual

112 expenses as determined and approved by the board pursuant to s.  
113 112.061.

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

116 (a)1. The corporation shall seek to maintain the state's  
117 advantage in ports and related industries. In order to maintain  
118 that advantage, the corporation shall fund freight mobility  
119 projects that improve throughput or provide long-term congestion  
120 relief for freight movement for a part of the state's  
121 transportation network and improve economic productivity for the  
122 state or the region in which projects are located. Freight  
123 mobility projects include on-port projects that meet the  
124 Department of Transportation's Strategic Intermodal System  
125 criteria and regionally significant freight projects that are  
126 eligible for federal financial assistance consistent with  
127 criteria developed for federal freight transportation grant  
128 programs, including, but not limited to, the Transportation  
129 Investment Generating Economic Recovery (TIGER), Projects of  
130 National and Regional Significance (PNRS), National  
131 Infrastructure Investment (NII), and the National Corridor  
132 Infrastructure Improvement (NCII) program.

133 2. The capital received under this section shall be  
134 allocated to eligible projects by July 1, 2012, or held in  
135 accordance with paragraph (b).

136 3. Funding for such projects shall be on a matching basis  
137 as determined by the corporation, except that at least 25  
138 percent of total project funds must come from port funds, local  
139 funds, private funds, or federal funds.

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

143       1. Must be held in a financial institution as defined by  
144 s. 655.005(1)(h) or held by a broker-dealer registered under s.  
145 517.12.

146       2. Must be invested only in:

147       a. United States Treasury obligations;

148       b. Certificates of deposit or other obligations, maturing  
149 within 3 years after acquisition of such certificates or  
150 obligations, issued by any financial institution or trust  
151 company incorporated under the laws of the United States;

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

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

158       (c) All investment decisions shall be made by the  
159 corporation, which must certify that each project is of a  
160 beneficial nature to a port listed in s. 403.021(9)(b), is ready  
161 to proceed within 60 days for design, construction, and  
162 permitting, and will create a lasting economic impact as  
163 determined by the board. Applications for funding by qualified  
164 port projects must be made to the corporation. The board may  
165 establish procedural rules for the application form, application  
166 procedures, and criteria for making investment decisions based  
167 upon the requirements established in this paragraph.

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

169 (a) Any participating investor who makes an investment of  
170 investment capital shall earn a vested credit against premium  
171 tax liability equal to 100 percent of the face amount of the  
172 credits purchased by the participating investor and such  
173 investments may not be subject to recapture, disallowance,  
174 forfeiture, or reduction. Participating investors shall be  
175 entitled to use no more than 10 percentage points of the vested  
176 premium tax credit, including any carryforward credits under  
177 this section, per year beginning with premium tax filings for  
178 calendar year 2012. Any premium tax credits not used by  
179 participating investors in any single year may be carried  
180 forward and applied against the premium tax liabilities of such  
181 investors for subsequent calendar years. The carryforward credit  
182 may be applied against subsequent premium tax filings through  
183 calendar year 2029.

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

187 (c) A participating investor claiming a credit against  
188 premium tax liability earned through an investment in the  
189 corporation is not required to pay any additional retaliatory  
190 tax levied pursuant to s. 624.5091 as a result of claiming such  
191 credit. Because credits under this section are available to a  
192 participating investor, s. 624.5091 does not limit such credit  
193 in any manner.

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

195 (a) The total amount of tax credits which may be allocated

196 by the office may not exceed \$100 million. The total amount of  
 197 tax credits which may be used by participating investors under  
 198 this section may not exceed \$10 million annually.

199 (b) The office shall be responsible for allocating premium  
 200 tax credits as provided for in this section to participating  
 201 investors. A participating investor must submit an application  
 202 to the office for the tax credit authorized in this section.

203 (8) TRANSFER OF TAX CREDITS.—

204 (a) Upon application to and approval by the office, a  
 205 participating investor may elect to transfer, in whole or in  
 206 part, any unused credit amount granted under this section. The  
 207 office shall notify the Department of Revenue of the election  
 208 and transfer.

209 (b) A participating investor that elects to apply a credit  
 210 amount against taxes remitted under s. 624.509 is permitted a  
 211 one-time transfer of unused credits to one transferee, and such  
 212 transfer must occur in the same taxable year.

213 (c) The transferee is subject to the same rights and  
 214 limitations as the participating investor awarded the tax  
 215 credit, except that the transferee may not sell or otherwise  
 216 transfer the tax credit.

217 (9) FEES.—The corporation may charge reasonable fees for  
 218 administering and processing applications by qualified port  
 219 projects for funding pursuant to paragraph (5)(c), and the  
 220 office may charge reasonable fees for administering and  
 221 processing applications by participating investors for tax  
 222 credits pursuant to subsection (7). Any fee charged by the  
 223 corporation or office under this subsection for an application



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224 may not exceed the actual cost incurred by the corporation or  
225 office in administering and processing any application for  
226 funding or a tax credit.

227 (10) REPORTING REQUIREMENTS.—The office shall report on an  
228 annual basis to the Governor, the President of the Senate, and  
229 the Speaker of the House of Representatives on or before  
230 February 1:

231 (a) The total dollar amount received by the corporation  
232 from all participating investors and any other investor, the  
233 identity of the participating investors, and the total amount of  
234 premium tax credit used by each participating investor for the  
235 previous calendar year.

236 (b) The total dollar amount invested by the corporation in  
237 qualified port projects, the identity and location of those  
238 projects, the amount invested in each qualified port project,  
239 and the total number of permanent, full-time jobs created or  
240 retained by each qualified port project.

241 (c) The return for the state as a result of the  
242 investments in qualified port projects, including the extent to  
243 which:

244 1. Investments have contributed to employment growth.

245 2. The wage level of businesses in which the corporation  
246 has invested exceeds the average wage for the county in which  
247 the jobs are located.

248 3. The investments of the corporation in qualified port  
249 projects have contributed to expanding or diversifying the  
250 economic base of the state.

251 (11) RULEMAKING AUTHORITY.—

252        (a) The Department of Revenue may adopt rules pursuant to  
 253 ss. 120.536(1) and 120.54 to administer this section, including,  
 254 but not limited to, rules governing the examination and audit  
 255 procedures required to administer this section and the manner  
 256 and form of documentation required to claim tax credits awarded  
 257 or transferred under this section.

258        (b) The office may adopt rules pursuant to ss. 120.536(1)  
 259 and 120.54 and develop procedures to administer this section,  
 260 including, but not limited to, rules specifying requirements for  
 261 the application and approval process, records required for  
 262 substantiation for tax credits, and the manner and form of  
 263 documentation required to claim tax credits awarded or  
 264 transferred under this section.

265        Section 2. Paragraph (z) is added to subsection (8) of  
 266 section 213.053, Florida Statutes, to read:

267        213.053 Confidentiality and information sharing.—

268        (8) Notwithstanding any other provision of this section,  
 269 the department may provide:

270        (z) Information relating to tax credits taken under s.  
 271 624.509 to the Office of Tourism, Trade, and Economic  
 272 Development.

273  
 274 Disclosure of information under this subsection shall be  
 275 pursuant to a written agreement between the executive director  
 276 and the agency. Such agencies, governmental or nongovernmental,  
 277 shall be bound by the same requirements of confidentiality as  
 278 the Department of Revenue. Breach of confidentiality is a  
 279 misdemeanor of the first degree, punishable as provided by s.

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280 | 775.082 or s. 775.083.

281 |       Section 3. This act shall take effect July 1, 2010.