The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1718

INTRODUCER: Senator Ring

SUBJECT: Infrastructure Investment

DATE: March 20, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	**Pre-meeting**
2.			CM	
3.			EP	
4.			BC	
5.				
6.				

I. Summary:

SB 1718 makes substantial changes to the way transportation projects are currently selected. The bill modifies the selection criteria and creates three new committees to select projects for the state funded State Infrastructure Bank Program, and for Strategic Intermodal System projects included in the Florida Department of Transportation's Five-Year Work Program. The bill requires at least $20 million to be deposited annually into the State Infrastructure Bank from the State Transportation Trust Fund (STTF) and diverts $300,000 annually from the STTF to the newly created Trade Infrastructure Investment Steering Committee. Additionally, the bill revises certain environmental permitting provisions pertaining to seaports.

This bill substantially amends the following sections of the Florida Statutes: 20.23, 163.3180, 311.09, 339.55, 339.64, 373.406, 373.4133, and 403.813,

This bill creates ch. 340 of the Florida Statutes consisting of ss. 340.101 and 340.102, and an undesignated section.

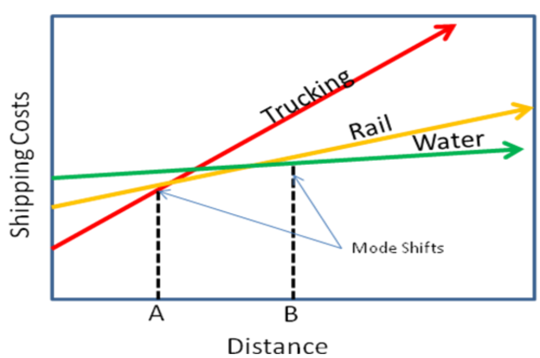
II. Present Situation:

Panama Canal Expansion: Effect on Florida Ports

The Panama Canal Authority has begun an expansion project to increase the capacity of the canal to accommodate the increasing size of containerships. The number of shipments made using Panamax ships (the maximum size of vessels able to transit the current dimensions of the Panama Canal) are expected to decline as shippers shift to post-Panamax containerships which offer scale economies reducing shippers' operational cost per container. Transcontinental routes where shippers may use post-Panamax vessels may hold an advantage over routes where these ships may not be used. Recognizing the advantages offered by even larger ships, shipping lines have placed orders for mega-containerships, many of which will not be able to enter Florida ports due to physical limitations such as the existing draft (depth) of current ship channels or substandard cranes, instead berthing at deeper-draft ports such as the Hampton Roads, Virginia facilities.

The following passage taken from a Senate Interim Report[1] may be useful in assessing the state's position to compete among other Southeastern states for the movement of additional goods into and through the state in association with the widening of the Panama Canal.

> Each mode of freight transport provides certain benefits when compared to the other; however, those benefits typically entail a trade-off for some other cost. The movement of goods by road capitalizes on geographical flexibility factors not available in other modes. Significant energy costs and impacts from non-freight traffic, (*i.e.*, roadway congestion), reduce trucking's advantage. The movement of goods by rail, which enjoys safety and energy efficiency advantages, holds a much larger modal share in the United States (U.S.) compared to the European Union or Japan where coastal (or short sea) shipping supplants rail in many freight transfers. While trucking moves more freight in the U.S. as measured in total weight, railroads win out when measured in ton-miles, (*i.e.*, the cargo weight multiplied by the mileage traveled by the shipment). Waterborne freight has the lowest energy costs, but is hamstrung by geographical restrictions and slow speed. Air freight employs the value of tremendous speed and geographical flexibility, but at great energy costs.



> The different cost functions of shipping usually determine which mode is chosen for a given shipment. The graph shows trucking costs are lower than both rail and waterborne freight up to the theoretical distance of A (usually between 300 to 450 miles). Shipments in the range between A and B (B is usually around 1000 miles) would generally be more profitably served by rail. Beyond that (1000+ miles), the waterborne mode would generally be more advantageous provided waterway access is available.

Also playing into shippers' decision-making is the cost of time. An all-water route from an Asian port to an East Coast Port transiting the Panama Canal can add significant time penalties to shipments to inland markets. According to recent estimates, a haul shipped on the Pacific Ocean (to a West Coast Port) and railed to Chicago would take roughly 14-15 days, while the same haul routed through the Port of New York would take closer to 25-28 days.[2]

Theoretically, shippers will choose to use the least expensive mode for the longest haul possible. Thus, with the cost of time and all other costs, e.g., drayage, stevedoring, dockage, etc., being

[1] Senate Interim Report 2009-126 "Freight Transportation Infrastructure: Assessing the Need for Statewide Coordination"
[2] "Speed in Key for Railroads, Ports in 'Post-Panamax' Era", CNBC Article, February 25,2011
http://www.cnbc.com/id/41785168/Speed_Is_Key_for_Railroads_Ports_in_Post_Panamax_Era

equal, import cargo destined for inland markets in other states would likely enter the U.S. at a port nearest that destination in order to minimize the costs associated with the more expensive modes.

Transportation Concurrency

The Growth Management Act (Ch. 163 Part II, F.S.) requires local government to use a systematic process to ensure new development does not occur unless adequate transportation infrastructure is in place to support the development. The requirement for public facilities and infrastructure to be available concurrent with new development is known as concurrency. To implement concurrency, local governments must define what constitutes an adequate level of service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for this period. The Florida Department of Transportation (FDOT) is responsible for establishing LOS on Strategic Intermodal System highways, which must be used by local governments except in transportation concurrency exemption areas (TCEAs).

Florida Seaport Transportation and Economic Development Council (FSTED)

Section 311.09, F.S., establishes the FSTED Council within FDOT. The FSTED Council must develop a 5-Year Florida Seaport Mission Plan defining the goals and objectives concerning the development of port facilities and an intermodal transportation system. The Council also must annually submit a list of projects approved by the Council to be funded by the Florida Seaport Transportation and Economic Development Program for review by the Department of Community Affairs (DCA), FDOT, and the Office of Tourism, Trade, and Economic Development (OTTED) for consistency with local comprehensive plans and certain statewide plans. Approved, consistent projects are included in the FDOT Work Program.

Strategic Intermodal System (SIS)

The Strategic Intermodal System Plan (SIS) was established by the Florida Legislature in 2003 to enhance Florida's economic prosperity and competitiveness. FDOT works with its partners to determine investment needs based on the performance of the transportation system relative to the goals and objectives of the SIS. Chapter 339, F.S., includes provisions for developing and updating the SIS. The system encompasses transportation facilities of statewide and interregional significance and is focused on the efficient movement of passengers and freight. The SIS Highway Component was designated using the SIS/Emerging SIS criteria and thresholds and comprises:

- Interstate Highways
- Florida's Turnpike
- Selected urban expressways
- Major arterial highways
- Intermodal connectors between SIS and
- Emerging SIS hubs and SIS corridors

The SIS Highway Component consists of 3,531 miles of SIS Highways and 761 miles of Emerging SIS Highways. In total, the SIS Highway Component is less than 4% of Florida's roads, yet carries almost 30% of all traffic. It carries more than two-thirds of all truck traffic using the State Highway System.

The Transportation Work Program

Section 339.135, F.S., authorizes and establishes guidelines for the FDOT to develop a State Transportation Five-Year Work Program. The Work Program, which comprises a list of transportation projects scheduled for implementation during the ensuing five year period, is based on a complete financial plan for the State Transportation Trust Fund (STTF) and other funds managed by FDOT. In developing the Work Program, FDOT coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations (MPOs), and local governments. Essentially, the FDOT Work Program reflects the priorities of MPOs, counties, and FDOT in one program of scheduled activities and improvements.

The Work Program includes all proposed project commitments and is classified by major program and appropriation category. To prevent large amounts of dollars from being tied up unnecessarily for long periods of time, large transportation development projects are typically scheduled in five phases:

1. Planning,
2. Project Development and Environmental review (PD&E),
3. Design,
4. Right-of-way acquisition (ROW), and
5. Construction.

Programming by phase allows greater flexibility and liquidity of funds. A project’s life cycle of phases can run seven or more years from “concept to concrete,” thus, a given project’s lifespan can extend beyond the timeframe of the Work Program.

The allocation of funds for new construction to the districts is based on a statutory formula using equal parts of population and motor fuel tax collections. However, the funding for programs with quantitative needs assessment (e.g., resurfacing, bridge repair, the SIS, etc,) is allocated to the districts based on the results of those assessments. Thus, for example, the funding of SIS projects and projects from other centrally-managed programs are not subject to population/fuel tax collection distribution formula.

Developing and Adopting the Work Program

Development of the Work Program is guided by the Florida Transportation Plan (FTP) and the Program and Resource Plan (PRP). The FTP (part of the State Comprehensive Plan) is a statewide transportation plan that documents FDOT’s long and short range goals and objectives. The FTP long range component identifies goals and objectives to be achieved with available resources for the next 20-25 years. The annual short range component identifies objectives and strategies to be implemented over the next five to ten years in moving toward the long range goals and objectives. At the local level, the program must be consistent to the maximum extent feasible with the capital improvement elements of the local government comprehensive plans.

Although the Work Program contains a five-year schedule of programmed transportation improvements, it is updated annually by revising the previous year’s Work Program. This “Tentative Work Program” results from rolling the projects in the previous Work Program’s last four years’ forward (i.e., Years 2, 3, 4, and 5 become Years 1, 2, 3, and 4 in the Tentative Work

Program), and adding a new fifth year of projects. Section 339.135(4), F.S., requires FDOT to "minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years." Any rescheduling or deletion of a project must be determined to be necessary for specific reasons by the Secretary of Transportation. All changes must be clearly identified.

The Tentative Work Program must be submitted to the Governor, legislative appropriations committees, the Florida Transportation Commission (FTC) and the DCA at least 14 days prior to the convening of the regular legislative session. After DCA reviews the Tentative Work Program for consistency with local comprehensive plans, the FTC conducts a statewide public hearing to evaluate the program for compliance with laws and FDOT policies. Following the FTC's evaluation the Legislature, through the General Appropriations Act and any other appropriation, provides the budget for the Work Program which is adopted by FDOT prior to the beginning of the next fiscal year.

Work Program Amendments

Section 339.135, F.S., requires FDOT to submit the following proposed work program amendments to the Governor for approval:

- Any amendment that deletes any project or phase
- Any amendment that adds a project estimated to cost over $150,000 in funds appropriated by the Legislature; and
- Any amendment that advances or defers to another fiscal year a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over $500,000, in funds appropriated by the Legislature, except an amendment advancing or deferring a phase for a period of 90 days or less.

FDOT is required to immediately notify the chairs of the legislative appropriations committees, each member of the Legislature who represents a district affected by the proposed amendment, each MPO affected by the proposed amendment, and each unit of local government affected by the proposed amendment. The Governor may not approve a proposed amendment until 14 days following the notification and must disapprove the amendment if either of the chairs of the legislative appropriations committee or the President of the Senate or the Speaker of the House of Representatives objects in writing within 14 days following notification.

State Infrastructure Bank

The State Infrastructure Bank (SIB) is a revolving loan and credit enhancement program consisting of two separate accounts and is used to leverage funds to improve project feasibility. The SIB can provide loans and other assistance to public or private entities carrying out or proposing to carry out projects eligible for assistance under federal and state law. The SIB cannot provide assistance in the form of a grant.

The federally-funded account is capitalized by federal money matched with state money as required by law under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU). All repayments are repaid to the federally-funded SIB account and revolved for future loans. Projects must be eligible for assistance under title 23, United States Code (USC) or capital projects as defined in Section 5302 or title 49 USC. Projects must be included in the adopted comprehensive plans of the applicable MPO and must conform to all federal and state laws, rules and standards.

The state-funded account is capitalized by state money and bond proceeds per ss. 339.55, F.S. and 215.617, F.S. All repayments are repaid to the State Board of Administration where debt service is paid on any outstanding bonds with the remainder returned to the state-funded account and revolved for future loans. Projects must be on the State Highway System or provide increased mobility on the State's transportation system, or provide intermodal connectivity with airports, seaports, rail facilities and other transportation terminals. Also eligible are projects of the Transportation Regional Incentive Program (TRIP) per s. 339.2819(4), F.S. Projects must be consistent, to the maximum extent feasible, with local MPO and local government comprehensive plans and must conform to policies and procedures within applicable Florida Statutes and other appropriate state standards for the transportation system. The state-funded account also allows for the lending of capital costs or to provide credit enhancements for emergency loans for damages incurred on public-use commercial deepwater seaports, public-use airports, and other public-use transit and intermodal facilities that are within an area that is part of an official state declaration of emergency per ch. 252, F.S., and other applicable laws.

III. Effect of Proposed Changes:

Section 1 amends s. 20.23, F.S., directing the Secretary of FDOT to designate, to one of three assistant secretaries, duties related to enhancing economic prosperity, including the responsibility of liaison with the Governor's head of economic development. The assistant secretary so designated will be responsible for providing the Office of the Governor with investment opportunities and projects that:

- expand the state's role as a global hub for trade and investment, and
- enhance the state's supply chain used in processing, assembling, and shipping goods to western hemisphere markets.

Section 2 amends 163.3180, F.S., providing an exemption from level-of-service standards used in measuring transportation concurrency on SIS facilities. The exemption would apply to new or redevelopment projects which are inland multimodal facilities providing:

- receiving or shipping services for the distribution of cargo;
- storage of cargo; and
- consolidation, repackaging, and transfer of goods.

To be eligible the project must be consistent with applicable local comprehensive plans. Eligible projects may include:

- other intermodal terminals;
- related transportation facilities;
- warehousing and distribution;
- associated office space; and
- light industrial, manufacturing, and assembly land uses

In order to receive the exemption the project must:

- not cause the adopted level-of-service standard on affected SIS facilities to be exceeded by more than 150% in the first five years;
- create at least 50 full time-jobs when completed;
- be compatible with existing and planned adjacent land uses;
- be consistent with local and regional economic development goals or plans; and
- be located near:
  - regionally-significant roads and rail facilities; and
  - a community with an unemployment rate at least 10% higher than the statewide average.

<u>Section 3</u> creates an unnumbered section of statute establishing priority funding for SIS facility segments that are expected to fail to meet adopted LOS standards within five years due to projects developed or redeveloped under the provisions of s. 163.3180(10)(b), F.S. (Created under Section 2 of the bill.)

<u>Section 4</u> amends s. 311.09, F.S., to require the FSTED Council to include the modal integration and economic competitiveness plan for applicable LGCP. The Council is also required to develop a priority list of projects and submit the list to the Trade Infrastructure Investment Steering Committee created under Section 7 of the bill.

<u>Section 5</u> amends s. 339.55, F.S., relating to the SIB. The bill revises the type of projects currently eligible for funding by the SIB by removing intermodal projects from eligibility.

The bill further revises the SIB program by requiring the final selection of projects receiving loans to be made by a newly-created State Infrastructure Bank Selection Committee (SIBSC) composed of:

- the Secretary of FDOT;
- the director of OTTED; and
- a designate of the Trade Infrastructure Investment Steering Committee (TIISC) created under Section 8 of the bill.

However, both the FDOT Secretary and the OTTED Director can be replaced by appointees of the TIISC at the election of the TIISC.

FDOT's authority to select projects for funding is removed, vesting that power in the SIBSC which is directed to give top priority to projects promoting economic development and creating new permanents jobs.

The bill inserts an additional criterion to be used in the evaluation of projects. The bill directs the SIB Selection Committee to consider the extent to which a project improves the state's position to compete for the movement of additional goods into and through the state in association with the widening of the Panama Canal.

A new paragraph (11) is added to s. 339.55, F.S., requiring FDOT to transfer no less than $20 million annually from the STTF into the SIB beginning in FY 2013/2014. The bill directs the transfer to occur in FY 2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

Section 6 amends s. 339.64, F.S., to revise the process employed by FDOT for prioritizing SIS development projects. The revisions would remove the prioritization process from FDOT and give it to the newly-created Strategic Intermodal System Project Selection Committee (SISPSC)by this section. The SISPSC would be composed of:

- the Secretary of FDOT;
- the director of OTTED; and
- a designate of the TIISC.

However, both the FDOT Secretary and the OTTED Director can be replaced by appointees of the TIISC at the election of the TIISC.

The SISPSC is directed to give top priority to SIS projects that promote economic development and create new permanent jobs. Other criteria the SISPSC is directed to use include the following:

- whether the project will encourage, enhance, or create economic benefits.
- the extent to which the project would foster innovative public-private partnerships and attract private debt or equity investment.
- the extent to which the project would use new technologies, including intelligent transportation systems, which would enhance the efficient operation of the project.
- the extent to which the project would maintain or protect the environment.
- whether the project includes transportation benefits for improving intermodalism, cargo and freight movement, and safety.
- the extent to which the project significantly improves the state’s competitive position to compete for the movement of additional goods into and through this state in association with the widening of the Panama Canal.
- the extent to which the project can generate revenue or matching funds provided by other project partners as a percentage of the overall project costs with emphasis on local and private participation.
- the extent to which the project can relieve major congestion to promote the more efficient movement of people and goods.
- the extent to which the project provides efficient choices for the public and private sector in the movement of people and goods such as express and truck-only lanes where high-occupancy-vehicle (HOV) lanes are converted or new lanes are added that are tolled for a premium level of service.
- the extent to which the project will provide for connectivity between the State Highway System and airports, seaports, rail facilities, and other transportation terminals and intermodal options pursuant to s. 341.053,F.S., for the increased accessibility and movement of people and goods.

- the extent to which damage from a disaster that results in a declaration of emergency has impacted a Strategic Intermodal System facility's ability to maintain its previous level of service and remain accessible to the public or has had a major impact on the cash flow or revenue-generation ability of the public-use facility.

The SISPSC is required to use these criteria and policies to add, advance, and delete SIS projects beginning with FDOT's current Tentative Five-Year Work Program.

Section 7 creates a new ch. 340, F.S., "Trade Infrastructure Development" consisting of ss. 340.101 and 340.102, F.S. The "Florida Trade Infrastructure Investment Act" (act) as s. 340.101, F.S., may be cited, establishes its purpose to be stimulating substantial increases in trade activities and opportunities in the state by identifying investment opportunities and incentives for projects that:

- capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers;
- expand export markets for Florida businesses;
- create more efficient logistics patterns that attract advanced manufacturing and other export-related industries to the state;
- expand the state's role as a hub for trade and investment;
- enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America; and
- create new permanent jobs in the state.

The Trade Infrastructure Investment Steering Committee (TIISC) is created within the Office of the Governor consisting of the following five members:

- the director of OTTED (or designee);
- the Secretary of FDOT (or designee);
- a member appointed by the Governor who must have significant experience in international business, transportation, law, or logistics;
- a member appointed by the President of the Senate who is a private citizen with significant experience in international business, transportation, law, or logistics; and
- a member appointed by the Speaker of the House of Representatives who is a private citizen with significant experience in international business, transportation, law, or logistics;

The chair of the committee is chosen by the Governor. The initial term for appointed members is two years. Subsequent terms are four years and member may be reappointed. More than three absences results in the automatic removal of appointees who serve without compensation.

The TIISC, which must meet at least quarterly, may:

- receive, hold, invest, and administer funds and make expenditures consistent with the purposes and provisions of s. 340.101, F.S.;

- make purchases, sales, exchanges, investment, and reinvestments for and on behalf of the funds received pursuant to s. 340.101, F.S.; and must
- maintain all official records related to its activities.

The TIISC has the following duties and responsibilities:

1. Advise the Governor and Legislature on programs, policies, investments, and other opportunities to transform the state's economy by becoming a hub for trade, logistics, and export-oriented activities.

2. Identify strategic investments in priority seaport trade infrastructure projects. The FSTED Council, under s. 311.09(3), shall provide the committee with a list of seaport projects that respond to business opportunities and contribute to the state's job growth and economic stability.

3. Identify strategic investments in priority airport trade infrastructure projects. The FDOT and the Florida Airports Council shall provide the committee with a list of airport projects that respond to business opportunities and contribute to the state's job growth and economic stability.

4. Identify strategic investments in priority road and rail trade infrastructure projects. FDOT and the Florida Railroad Association shall provide the committee with a list of road and rail projects that respond to business opportunities and contribute to the state's job growth and economic stability.

5. Identify marketing tools, incentives, and support services to meet trade and logistics industry needs. Enterprise Florida, Inc., shall provide the committee with a list of marketing tools, incentives, and support services that respond to industry needs.

6. Review current state planning and funding programs, such as the SIS, to ensure that sufficient and reliable funding for future strategic investments in the state's trade and economic development systems is available, including, but not limited to, a review of whether these programs have the ability to respond to and leverage the maximum amount of available federal dollars and provide significant incentives for investment by private sector businesses.

7. Designate a member other than the Secretary of FDOT or the director of OTTED to serve on the State Infrastructure Bank Selection Committee as provided in s. 339.55.

8. Designate a member other than the Secretary of FDOT or the OTTED director to serve on the Strategic Intermodal System Project Selection Committee as provided in s. 339.64.

9. Select projects from the lists provided under paragraphs (b), (c), and (d), which shall be included by the Secretary of FDOT in FDOT's Work Program as part

of the work program developed and managed in accordance with s. 339.135, F.S.

The bill authorizes one full-time-equivalent (FTE) position as staff to the TIISC to be provided by OTTED and transfers $300,000 annually from the STTF to the TIISC to employ consultants and experts, and to pay travel expenses of the committee members.

The act requires the TIISC to annually submit a report to the Governor, President of the Senate, and the Speaker of the House of Representatives completely detailing programs, policies, investments, and other opportunities identified through the performance of the committee's duties and responsibilities. The report must include methods for implementing and funding the findings of the report.

The bill creates. s. 340.102, F.S., to address port, airport, and intermodal planning. The bill authorizes each local government with comprehensive planning jurisdiction for deepwater ports, airports, railroad facilities, or intermodal transportation projects to prepare a 10-year economic development and intermodal transportation plan for inclusion as an element in their respective comprehensive plan. Each plan must include:

- An economic development element that identifies targeted business opportunities for increasing business and attracting new business for which a particular facility has a strategic advantage over its competitors, identifies financial resources and other inducements to encourage growth of existing business and acquisition of new business, and provides a projected schedule for attainment of the plan's goals.
- An infrastructure development and improvement element identifying all projected infrastructure improvements within the plan area which require improvement, expansion, or development in order for a port, airport, or railroad to attain a strategic advantage for competition with national and international competitors.
- An element that identifies all intermodal transportation facilities, including sea, air, rail, or road facilities, which are available or have potential, with improvements, to be available for necessary national and international commercial linkages and provides a plan for the integration of port, airport, and railroad activities with existing and planned transportation infrastructure.
- An element that identifies physical, environmental, and regulatory barriers to achievement of the plan goals and provides recommendations for overcoming those barriers.
- An intergovernmental coordination element that specifies modes and methods to coordinate plan goals and missions with the missions of FDOT, other state agencies, and affected local general-purpose governments.

Section 8 amends s. 373.406, F.S., to provide an exception to provisions of Part IV of ch. 373, F.S., "Management and Storage of Surface Waters". The bill declares that overwater piers, docks, and similar structures in a deepwater port, are not part of a stormwater management system and are not to be considered impervious for the purposes of chs. 373 or 403, F.S., if the port has a Stormwater Pollution Prevention Plan developed under the National Pollution Discharge Elimination Program.

Section 9 amends s. 373.4133, F.S., to require the Department of Environmental Protection (FDEP) to issue a notice of intent within 30 days of receiving an application for a port conceptual permit which would create a rebuttable presumption that the port development activities included in the permit comply with all applicable standards. The presumption may only be overcome with clear and convincing evidence. Upon finalization of a port conceptual permit, FDEP must notify the U.S. Army Corps of Engineers that the applicant is in compliance with all state water quality and regulatory requirements. FDEP must also issue any requested construction permit within 30 days of the request.

Section 10 amends s. 403.813, F.S., to exempt maintenance dredging at deepwater ports from the permitting requirements of several sections of statute and general bills, if the dredging:

- is no more than necessary to meet the original design;
- is conducted in compliance with manatee protections provided in s. 379.2431(2)(d), F.S.; and
- previously undisturbed natural areas are not significantly impacted.

The revisions address other conditions upon which dredging permits are predicated including granting consent to use any sovereignty submerged lands.

Section 11 establishes an effective date of July 1, 2011.

Other Potential Implications:

Statewide and metropolitan transportation planning processes are governed by Federal law (23 USC 134 and 135) and federal planning regulations are codified in 23 CFR 450. Applicable state and local laws are required if federal highway or transit funds are used for transportation investments. Several provisions of the bill appear to circumvent MPOs' required role in the prioritization of transportation projects. Thus, the bill appears to be in conflict with the federal transportation planning requirements and would likely result in significant financial penalties.

With the provisions allowing the TIISC to appoint members to both the SIBSC and SISPC in lieu of the Secretary of FDOT, the potential exists for a sizable portion of STTF resources to be prioritized without any departmental guidance or input.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to FDOT:

> The requirement for the SIS Project Selection Committee to review and change SIS projects will delay the adoption of the current Work Program currently being developed. This will delay the execution of contracts with private consulting and construction firms to implement projects in the Adopted Work Program.
>
> Businesses located near, or using SIS highways near, segments of the SIS granted temporary exemptions from level of service standards may experience higher levels of congestion and delays for their customers and goods movement, including the inland multimodal facility granted the exemption. The level of congestion on these roadways will depend on various factors, such as the size and location of the inland multimodal facilities.
>
> Florida Airports Council and Florida Rail Association are required to assemble and provide project lists to Trade Infrastructure Investment Steering Committee.

C. Government Sector Impact:

According to FDOT:

> The bill requires the FDOT to deposit no less than $20 million annually from the State Transportation Trust Fund into the State Infrastructure Bank beginning in FY 2013-2014, or sooner if Consensus Revenue Estimating Conference increases the estimate for the State Transportation Trust Fund. If the revenue estimate increases prior to FY 2013-2014 are less than $20 million, then some projects in the Work Program for FYs 2011-2012 and 2102-2013 will need to be deferred. In addition, projects in the Five-year Work Program adopted by July 1, 2011 for FYs 2013-2014 through 2015-2016 may need to be deferred.
>
> The bill also reduces funds available for transportation projects funded by the State Transportation Trust Fund by allocating $300,000 annually to the Trade Infrastructure Investment Steering Committee.

(The bill would also increase) costs to local governments who choose to develop port, airport and railroad intermodal plans and amend their comprehensive plans to include these plans.

The addition, advancement, and deletion of SIS projects in the Five-year Work Program by the Strategic Intermodal System Project Selection Committee may conflict with the transportation priorities submitted by MPOs and counties pursuant to s. 339.135, F.S. Any changes made in the first three years of the Work Program may be inconsistent with provisions in s. 339.135, F.S. stating such projects will stand as a commitment of the state that local governments may rely upon for transportation concurrency purposes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.