

1 A bill to be entitled
2 An act relating to infrastructure investment; amending s.
3 20.23, F.S.; requiring the Secretary of Transportation to
4 designate duties relating to certain investment
5 opportunities and transportation projects to an assistant
6 secretary; amending s. 311.09, F.S.; revising requirements
7 for the inclusion of certain goals and objectives in the
8 Florida Seaport Mission Plan; requiring the Florida
9 Seaport Transportation and Economic Development Council to
10 develop a priority list of projects and submit the list to
11 the Department of Transportation; amending s. 311.14,
12 F.S.; requiring certain ports to develop master plans;
13 providing criteria for such plans; requiring such plans to
14 be consistent with local government comprehensive plans;
15 requiring such plans to be submitted to the Florida
16 Seaport Transportation and Economic Development Council;
17 requiring the Florida Seaport Transportation and Economic
18 Development Council to review such plans and include
19 related information in the Florida Seaport Mission Plan;
20 amending s. 339.155, F.S.; clarifying and revising the
21 principles on which the Florida Transportation Plan is
22 based; amending s. 339.63, F.S.; adding certain existing
23 and planned facilities to the list of facilities included
24 in the Strategic Intermodal System and the Emerging
25 Strategic Intermodal System; amending s. 373.406, F.S.;
26 exempting overwater piers, docks, and structures located
27 in deepwater ports from stormwater management system
28 requirements under specified conditions; amending s.

29 373.4133, F.S.; requiring the Department of Environmental
30 Protection to approve or deny an application for a port
31 conceptual permit within a specified time; providing a
32 limitation for the request of additional information from
33 an applicant by the department; providing that failure of
34 an applicant to respond to such a request within a
35 specified time constitutes withdrawal of the application;
36 providing that a third party who challenge the issuance of
37 a port conceptual permit has the burden of ultimate
38 persuasion and the burden of going forward with evidence;
39 amending s. 403.813, F.S.; exempting specified seaports
40 and inland navigation districts from requirements to
41 conduct maintenance dredging under certain conditions;
42 excluding ditches, pipes, and similar linear conveyances
43 from consideration as receiving waters for the disposal of
44 dredged materials; authorizing public ports and inland
45 navigation districts to use sovereignty submerged lands in
46 connection with maintenance dredging; authorizing the
47 disposal of spoil material on specified sites; providing
48 an exemption from permitting requirements for sites that
49 meet specified criteria; requiring notice to the
50 Department of Environmental Protection of intent to use
51 the exemption; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

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55 Section 1. Paragraph (d) of subsection (1) of section
56 20.23, Florida Statutes, is amended to read:

57 20.23 Department of Transportation.—There is created a
 58 Department of Transportation which shall be a decentralized
 59 agency.

60 (1)

61 (d) The secretary may appoint up to three assistant
 62 secretaries who shall be directly responsible to the secretary
 63 and who shall perform such duties as are assigned by the
 64 secretary. The secretary shall designate to an assistant
 65 secretary the duties related to enhancing economic prosperity,
 66 including, but not limited to, the responsibility of liaison
 67 with the head of economic development in the Executive Office of
 68 the Governor. Such assistant secretary shall be directly
 69 responsible for providing the Executive Office of the Governor
 70 with investment opportunities and transportation projects that
 71 expand the state's role as a global hub for trade and investment
 72 and enhance the supply chain system in the state to process,
 73 assemble, and ship goods to markets throughout the eastern
 74 United States, Canada, the Caribbean, and Latin America. The
 75 secretary may delegate to any assistant secretary the authority
 76 to act in the absence of the secretary.

77 Section 2. Subsection (3) of section 311.09, Florida
 78 Statutes, is amended to read:

79 311.09 Florida Seaport Transportation and Economic
 80 Development Council.—

81 (3) The council shall prepare a 5-year Florida Seaport
 82 Mission Plan defining the goals and objectives of the council
 83 concerning the development of port facilities and an intermodal
 84 transportation system consistent with the goals of the Florida

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85 Transportation Plan developed pursuant to s. 339.155. The
86 Florida Seaport Mission Plan shall include specific
87 recommendations for the construction of transportation
88 facilities connecting any port to another transportation mode
89 and for the efficient, cost-effective development of
90 transportation facilities or port facilities for the purpose of
91 enhancing ~~international~~ trade, promoting cargo flow, increasing
92 cruise passenger movements, increasing port revenues, and
93 providing economic benefits to the state. The council shall
94 develop a priority list of projects based on these
95 recommendations annually and submit the list to the Department
96 of Transportation. The council shall update the 5-year Florida
97 Seaport Mission Plan annually and shall submit the plan no later
98 than February 1 of each year to the President of the Senate; the
99 Speaker of the House of Representatives; the Office of Tourism,
100 Trade, and Economic Development; the Department of
101 Transportation; and the Department of Community Affairs. The
102 council shall develop programs, based on an examination of
103 existing programs in Florida and other states, for the training
104 of minorities and secondary school students in job skills
105 associated with employment opportunities in the maritime
106 industry, and report on progress and recommendations for further
107 action to the President of the Senate and the Speaker of the
108 House of Representatives annually.

109 Section 3. Section 311.14, Florida Statutes, is amended to
110 read:

111 311.14 Seaport ~~freight-mobility~~ planning.—

112 (1) The Florida Seaport Transportation and Economic

113 Development Council, in cooperation with the Office of the State
114 Public Transportation Administrator within the Department of
115 Transportation, shall develop freight-mobility and trade-
116 corridor plans to assist in making freight-mobility investments
117 that contribute to the economic growth of the state. Such plans
118 should enhance the integration and connectivity of the
119 transportation system across and between transportation modes
120 throughout Florida for people and freight.

121 (2) The Office of the State Public Transportation
122 Administrator shall act to integrate freight-mobility and trade-
123 corridor plans into the Florida Transportation Plan developed
124 pursuant to s. 339.155 and into the plans and programs of
125 metropolitan planning organizations as provided in s. 339.175.
126 The office may also provide assistance in expediting the
127 transportation permitting process relating to the construction
128 of seaport freight-mobility projects located outside the
129 physical borders of seaports. The Department of Transportation
130 may contract, as provided in s. 334.044, with any port listed in
131 s. 311.09(1) or any such other statutorily authorized seaport
132 entity to act as an agent in the construction of seaport
133 freight-mobility projects.

134 (3) Each port shall develop a master plan with a 10-year
135 horizon. Each plan must include the following:

136 (a) An economic development component that identifies
137 targeted business opportunities for increasing business and
138 attracting new business for which a particular facility has a
139 strategic advantage over its competitors, identifies financial
140 resources and other inducements to encourage growth of existing

141 business and acquisition of new business, and provides a
142 projected schedule for attainment of the plan's goals.

143 (b) An infrastructure development and improvement
144 component that identifies all projected infrastructure
145 improvements within the plan area which require improvement,
146 expansion, or development in order for a port to attain a
147 strategic advantage for competition with national and
148 international competitors.

149 (c) A component that identifies all intermodal
150 transportation facilities, including sea, air, rail, or road
151 facilities, which are available or have potential, with
152 improvements, to be available for necessary national and
153 international commercial linkages and provides a plan for the
154 integration of port, airport, and railroad activities with
155 existing and planned transportation infrastructure.

156 (d) A component that identifies physical, environmental,
157 and regulatory barriers to achievement of the plan's goals and
158 provides recommendations for overcoming those barriers.

159 (e) An intergovernmental coordination component that
160 specifies modes and methods to coordinate plan goals and
161 missions with the missions of the Department of Transportation,
162 other state agencies, and affected local, general-purpose
163 governments.

164
165 To the extent feasible, the port master plan must be consistent
166 with the local government comprehensive plans of the units of
167 local government in which the port is located. Upon approval of
168 a plan by the port's board, the plan shall be submitted to the

169 Florida Seaport Transportation and Economic Development Council.

170 (4) The Florida Seaport Transportation and Economic
 171 Development Council shall review the master plans submitted by
 172 each port and prioritize strategic needs for inclusion in the
 173 Florida Seaport Mission Plan prepared pursuant to s. 311.09(3).

174 Section 4. Subsection (1) of section 339.155, Florida
 175 Statutes, is amended to read:

176 339.155 Transportation planning.—

177 (1) THE FLORIDA TRANSPORTATION PLAN.—The department shall
 178 develop and annually update a statewide transportation plan, to
 179 be known as the Florida Transportation Plan. The plan shall be
 180 designed so as to be easily read and understood by the general
 181 public. The plan shall consider the needs of the entire state
 182 transportation system and examine the use of all modes of
 183 transportation to effectively and efficiently meet such needs.
 184 The purpose of the Florida Transportation Plan is to establish
 185 and define the state's long-range transportation goals and
 186 objectives to be accomplished over a period of at least 20 years
 187 within the context of the State Comprehensive Plan, and any
 188 other statutory mandates and authorizations and based upon the
 189 prevailing principles of:

190 (a) Preserving the existing transportation
 191 infrastructure.†

192 (b) Enhancing Florida's economic competitiveness.† ~~and~~

193 (c) Improving travel choices to ensure mobility.

194 (d) Expanding the state's role as a hub for trade and
 195 investment. ~~The Florida Transportation Plan shall consider the~~
 196 ~~needs of the entire state transportation system and examine the~~

197 ~~use of all modes of transportation to effectively and~~
 198 ~~efficiently meet such needs.~~

199 Section 5. Subsection (2) of section 339.63, Florida
 200 Statutes, is amended to read:

201 339.63 System facilities designated; additions and
 202 deletions.—

203 (2) The Strategic Intermodal System and the Emerging
 204 Strategic Intermodal System include four ~~three~~ different types
 205 of facilities that each form one component of an interconnected
 206 transportation system which types include:

207 (a) Existing or planned hubs that are ports and terminals
 208 including airports, seaports, spaceports, passenger terminals,
 209 and rail terminals serving to move goods or people between
 210 Florida regions or between Florida and other markets in the
 211 United States and the rest of the world.†

212 (b) Existing or planned corridors that are highways, rail
 213 lines, waterways, and other exclusive-use facilities connecting
 214 major markets within Florida or between Florida and other states
 215 or nations.† ~~and~~

216 (c) Existing or planned intermodal connectors that are
 217 highways, rail lines, waterways or local public transit systems
 218 serving as connectors between the components listed in
 219 paragraphs (a) and (b).

220 (d) Existing or planned facilities that significantly
 221 improve the state's competitive position to compete for the
 222 movement of additional goods into and through this state.

223 Section 6. Subsection (12) is added to section 373.406,
 224 Florida Statutes, to read:

225 373.406 Exemptions.—The following exemptions shall apply:

226 (12) An overwater pier, dock, or a similar structure
 227 located in a deepwater port listed in s. 311.09 is not
 228 considered to be part of a stormwater management system for
 229 which this chapter or chapter 403 requires stormwater from
 230 impervious surfaces to be treated if:

231 (a) The port has a stormwater pollution prevention plan
 232 for industrial activities pursuant to the National Pollutant
 233 Discharge Elimination System Program; and

234 (b) The stormwater pollution prevention plan also provides
 235 similar pollution prevention measures for other activities that
 236 are not subject to the National Pollutant Discharge Elimination
 237 System Program and that occur on the port's overwater piers,
 238 docks, and similar structures.

239 Section 7. Paragraph (a) of subsection (8) of section
 240 373.4133, Florida Statutes, is amended to read:

241 373.4133 Port conceptual permits.—

242 (8) Except as otherwise provided in this section, the
 243 following procedures apply to the approval or denial of an
 244 application for a port conceptual permit or a final permit or
 245 authorization:

246 (a) Applications for a port conceptual permit, including
 247 any request for the conceptual approval of the use of
 248 sovereignty submerged lands, shall be processed in accordance
 249 with the provisions of ss. 373.427 and 120.60, with the
 250 following exceptions:—

251 1. An application for a port conceptual permit, and any
 252 applications for subsequent construction contained in a port

253 conceptual permit, must be approved or denied within 60 days
 254 after receipt of a completed application.

255 2. The department may request additional information no
 256 more than twice, unless the applicant waives this limitation in
 257 writing. If the applicant does not provide a response to the
 258 second request for additional information within 90 days or
 259 another time period mutually agreed upon between the applicant
 260 and department, the application shall be considered withdrawn.

261 ~~However,~~

262 3. If the applicant believes that any request for
 263 additional information is not authorized by law or agency rule,
 264 the applicant may request an informal hearing pursuant to s.
 265 120.57(2) before the Secretary of Environmental Protection to
 266 determine whether the application is complete.

267 4. If a third party petitions to challenge the issuance of
 268 a port conceptual permit by the department, the petitioner
 269 initiating the action has the burden of ultimate persuasion and,
 270 in the first instance, has the burden of going forward with the
 271 evidence.

272 Section 8. Subsection (3) of section 403.813, Florida
 273 Statutes, is amended to read:

274 403.813 Permits issued at district centers; exceptions.—

275 (3) A permit is not required under this chapter, chapter
 276 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 277 chapter 25270, 1949, Laws of Florida, for maintenance dredging
 278 conducted under this section by the seaports of Jacksonville,
 279 Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami,
 280 Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City,

281 Pensacola, Key West, and Fernandina or by inland navigation
 282 districts if the dredging to be performed is no more than is
 283 necessary to restore previously dredged areas to original design
 284 specifications or configurations, previously undisturbed natural
 285 areas are not significantly impacted, and the work conducted
 286 does not violate the protections for manatees under s.
 287 379.2431(2) (d). In addition:

288 (a) A mixing zone for turbidity is granted within a 150-
 289 meter radius from the point of dredging while dredging is
 290 ongoing, except that the mixing zone may not extend into areas
 291 supporting wetland communities, submerged aquatic vegetation, or
 292 hardbottom communities.

293 (b) The discharge of the return water from the site used
 294 for the disposal of dredged material shall be allowed only if
 295 such discharge does not result in a violation of water quality
 296 standards in the receiving waters. The return-water discharge
 297 into receiving waters shall be granted a mixing zone for
 298 turbidity within a 150-meter radius from the point of discharge
 299 into the receiving waters during and immediately after the
 300 dredging, except that the mixing zone may not extend into areas
 301 supporting wetland communities, submerged aquatic vegetation, or
 302 hardbottom communities. Ditches, pipes, and similar types of
 303 linear conveyances may not be considered receiving waters for
 304 the purposes of this paragraph.

305 (c) The state may not exact a charge for material that
 306 this subsection allows a public port or an inland navigation
 307 district to remove. In addition, consent to use any sovereignty
 308 submerged lands pursuant to this section is hereby granted.

309 (d) The use of flocculants at the site used for disposal
310 of the dredged material is allowed if the use, including
311 supporting documentation, is coordinated in advance with the
312 department and the department has determined that the use is not
313 harmful to water resources.

314 (e) The spoil material from maintenance dredging may be
315 deposited in a self-contained, upland disposal site. The site is
316 not required to be permitted if:

317 1. The site exists as of January 1, 2011;

318 2. A professional engineer certifies that the site has
319 been designed in accordance with generally accepted engineering
320 standards for such disposal sites;

321 3. The site has adequate capacity to receive and retain
322 the dredged material; and

323 4. The site has operating and maintenance procedures
324 established that allow for discharge of return flow of water and
325 to prevent the escape of the spoil material into the waters of
326 the state.

327 (f) The department must be notified at least 30 days
328 before the commencement of maintenance dredging. The notice
329 shall include, if applicable, the professional engineer
330 certification required by paragraph (e).

331 (g)-(e) This subsection does not prohibit maintenance
332 dredging of areas where the loss of original design function and
333 constructed configuration has been caused by a storm event,
334 provided that the dredging is performed as soon as practical
335 after the storm event. Maintenance dredging that commences
336 within 3 years after the storm event shall be presumed to

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337 satisfy this provision. If more than 3 years are needed to
338 commence the maintenance dredging after the storm event, a
339 request for a specific time extension to perform the maintenance
340 dredging shall be submitted to the department, prior to the end
341 of the 3-year period, accompanied by a statement, including
342 supporting documentation, demonstrating that contractors are not
343 available or that additional time is needed to obtain
344 authorization for the maintenance dredging from the United
345 States Army Corps of Engineers.

346 Section 9. This act shall take effect July 1, 2011.