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2011 Legislature

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 strategic 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.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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:

54
55 Section 1. Paragraph (d) of subsection (1) of section
56 20.23, Florida Statutes, is amended to read:

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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

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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 strategic plan with a 10-
135 year 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

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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 strategic plan must be
166 consistent with the local government comprehensive plans of the
167 units of local government in which the port is located. Upon
168 approval of a plan by the port's board, the plan shall be

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169 submitted to the Florida Seaport Transportation and Economic
170 Development Council.

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

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

177 339.155 Transportation planning.—

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

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

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

194 (c) Improving travel choices to ensure mobility.

195 (d) Expanding the state's role as a hub for trade and
196 investment. ~~The Florida Transportation Plan shall consider the~~

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197 ~~needs of the entire state transportation system and examine the~~
198 ~~use of all modes of transportation to effectively and~~
199 ~~efficiently meet such needs.~~

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

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

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

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

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

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

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

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

226 373.406 Exemptions.—The following exemptions shall apply:

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

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

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

240 Section 7. Paragraph (a) of subsection (8) of section
241 373.4133, Florida Statutes, is amended to read:

242 373.4133 Port conceptual permits.—

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

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

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252 1. An application for a port conceptual permit, and any
 253 applications for subsequent construction contained in a port
 254 conceptual permit, must be approved or denied within 60 days
 255 after receipt of a completed application.

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

262 ~~However,~~

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

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

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

275 403.813 Permits issued at district centers; exceptions.—

276 (3) A permit is not required under this chapter, chapter
 277 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 278 chapter 25270, 1949, Laws of Florida, for maintenance dredging
 279 conducted under this section by the seaports of Jacksonville,

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280 Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami,
281 Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City,
282 Pensacola, Key West, and Fernandina or by inland navigation
283 districts if the dredging to be performed is no more than is
284 necessary to restore previously dredged areas to original design
285 specifications or configurations, previously undisturbed natural
286 areas are not significantly impacted, and the work conducted
287 does not violate the protections for manatees under s.
288 379.2431(2)(d). In addition:

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

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

306 (c) The state may not exact a charge for material that
307 this subsection allows a public port or an inland navigation

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308 district to remove. In addition, consent to use any sovereignty
309 submerged lands pursuant to this section is hereby granted.

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

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

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

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

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

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

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

332 (g) ~~(e)~~ This subsection does not prohibit maintenance
333 dredging of areas where the loss of original design function and
334 constructed configuration has been caused by a storm event,
335 provided that the dredging is performed as soon as practical

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

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