

By Senator Ring

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1 A bill to be entitled
2 An act relating to seaports; amending s. 311.07, F.S.;
3 increasing the amount of funds the Department of
4 Transportation is required to make available for the
5 Florida Seaport Transportation and Economic
6 Development Program; requiring the Florida Seaport
7 Transportation and Economic Development Council and
8 the Assistant Secretary of Intermodal Systems
9 Development of the Department of Transportation to
10 identify certain state funds for the purpose of
11 funding the program; amending s. 311.09, F.S.;
12 increasing the amount of funding the department is
13 required to include in its annual legislative budget
14 request for the Florida Seaport Transportation and
15 Economic Development grant program; requiring the
16 council and the assistant secretary to identify
17 certain state funds for the purpose of funding the
18 program; creating s. 311.23, F.S.; establishing the
19 Florida seaport infrastructure bank within the Florida
20 Seaport Transportation and Economic Development
21 Program to provide loans and credit enhancements to
22 certain deepwater seaports and private entities for
23 specified projects; amending s. 320.20, F.S.; revising
24 provisions for the repayment of bonds relating to the
25 Florida Seaport Transportation and Economic
26 Development Program; providing for certain revenue
27 bonds and other indebtedness relating to the program
28 to be issued by the Florida Ports Financing
29 Commission; amending s. 373.406, F.S.; exempting

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30 overwater piers, docks, and structures located in
31 deepwater ports from stormwater management system
32 requirements under specified conditions; amending s.
33 373.4133, F.S.; requiring the Department of
34 Environmental Protection to issue a notice of intent
35 for a port conceptual permit within a specified time;
36 providing that a notice of intent to issue such permit
37 creates a rebuttable presumption of compliance with
38 specified standards and authorization; providing a
39 standard for overcoming such a presumption; requiring
40 the department to issue certain permits within a
41 specified time and to notify specified entities of
42 certain compliance; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Subsection (2) of section 311.07, Florida
47 Statutes, is amended to read:

48 311.07 Florida seaport transportation and economic
49 development funding.—

50 (2) Beginning July 1, 2012, a minimum of \$20 ~~\$8~~ million per
51 year shall be made available from the State Transportation Trust
52 Fund to fund the Florida Seaport Transportation and Economic
53 Development Program. Beginning July 1, 2013, the Florida Seaport
54 Transportation and Economic Development Council and the
55 Assistant Secretary for Intermodal Systems Development shall
56 identify a minimum of \$50 million per year in state funds that
57 can be made available to fund the Florida Seaport Transportation
58 and Economic Development Program.

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59 Section 2. Subsection (10) of section 311.09, Florida
60 Statutes, is amended to read:

61 311.09 Florida Seaport Transportation and Economic
62 Development Council.—

63 (10) (a) Beginning July 1, 2012, the Department of
64 Transportation shall include in its annual legislative budget
65 request a Florida Seaport Transportation and Economic
66 Development grant program for expenditure of funds of not less
67 than \$20 ~~\$8~~ million per year. Such budget shall include funding
68 for projects approved by the council which have been determined
69 by each agency to be consistent and which have been determined
70 by the Office of Tourism, Trade, and Economic Development to be
71 economically beneficial. The department shall include the
72 specific approved seaport projects to be funded under this
73 section during the ensuing fiscal year in the tentative work
74 program developed pursuant to s. 339.135(4). The total amount of
75 funding to be allocated to seaport projects under s. 311.07
76 during the successive 4 fiscal years shall also be included in
77 the tentative work program developed pursuant to s. 339.135(4).
78 The council may submit to the department a list of approved
79 projects that could be made production-ready within the next 2
80 years. The list shall be submitted by the department as part of
81 the needs and project list prepared pursuant to s.
82 339.135(2) (b). However, the department shall, upon written
83 request of the Florida Seaport Transportation and Economic
84 Development Council, submit work program amendments pursuant to
85 s. 339.135(7) to the Governor within 10 days after the later of
86 the date the request is received by the department or the
87 effective date of the amendment, termination, or closure of the

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88 applicable funding agreement between the department and the
89 affected seaport, as required to release the funds from the
90 existing commitment. Notwithstanding s. 339.135(7)(c), any work
91 program amendment to transfer prior year funds from one approved
92 seaport project to another seaport project is subject to the
93 procedures in s. 339.135(7)(d). Notwithstanding any provision of
94 law to the contrary, the department may transfer unexpended
95 budget between the seaport projects as identified in the
96 approved work program amendments.

97 (b) Beginning July 1, 2013, the council and the Assistant
98 Secretary for Intermodal Systems Development shall identify a
99 minimum of \$50 million per year in state funds that can be made
100 available to fund the Florida Seaport Transportation and
101 Economic Development Program.

102 Section 3. Section 311.23, Florida Statutes, is created to
103 read:

104 311.23 Florida seaport infrastructure bank.—

105 (1) There is created within the Florida Seaport
106 Transportation and Economic Development Program an
107 infrastructure bank for the purpose of providing loans and
108 credit enhancements to deepwater seaports listed in s. 311.09
109 and private entities operating in such seaports for use in
110 constructing and improving port transportation and port
111 facilities projects that improve the movement and intermodal
112 transportation of cargo and passengers in commerce and trade.

113 (2) The bank may lend capital costs or provide credit
114 enhancements for:

115 (a) Port transportation or port facilities projects that:

116 1. Are approved pursuant to s. 311.09.

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117 2. Are on the State Intermodal System.

118 3. Provide intermodal connectivity with airports, roadways,
119 rail facilities, and other transportation terminals, pursuant to
120 s. 341.053, for the movement of people and goods.

121 (b)1. Emergency loans for damages incurred to deepwater
122 seaports listed in s. 311.09 which are within an area that is
123 part of an official state declaration of emergency pursuant to
124 chapter 252 and all other applicable laws. Such loans:

125 a. May not exceed 24 months in duration except in extreme
126 circumstances, for which the chair of the Florida Seaport
127 Transportation and Economic Development Council may grant up to
128 36 months upon making written findings specifying the conditions
129 requiring a 36-month term.

130 b. Require application from the recipient to the council
131 which includes documentation of damage claims filed with the
132 Federal Emergency Management Agency or an applicable insurance
133 carrier and documentation of the recipient's overall financial
134 condition.

135 2. Loans provided under this paragraph must be repaid upon
136 receipt by the recipient of eligible program funding for damages
137 in accordance with the claims filed with the Federal Emergency
138 Management Agency or an applicable insurance carrier, but no
139 later than the duration of the loan.

140 (3) Loans from the bank may be subordinated to senior
141 project debt that has an investment grade rating of "BBB" or
142 higher.

143 (4) Loans from the bank may bear interest at or below
144 market interest rates, as determined by the council. Repayment
145 of any loan shall commence not later than 5 years after the

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146 project has been completed, except for loans provided under
147 paragraph (2) (b), which shall be repaid within 36 months.

148 (5) To be eligible for consideration, projects must be
149 approved as eligible for funding by the council pursuant to s.
150 311.09 and must provide a dedicated repayment source to ensure
151 the loan is repaid to the bank.

152 (6) In addition to the requirements of s. 311.09, the
153 council may consider, but is not limited to, the following
154 criteria for evaluation of projects for assistance from the
155 bank:

156 (a) The credit worthiness of the project.

157 (b) The likelihood that assistance would enable the project
158 to proceed at an earlier date than would otherwise be possible.

159 (c) The extent to which assistance would foster innovative
160 public-private partnerships and attract private debt or equity
161 investment.

162 (d) The amount of the proposed assistance as a percentage
163 of the overall project costs with emphasis on local and private
164 participation.

165 (e) The extent to which damage from a disaster that results
166 in a declaration of emergency has impacted a deepwater seaport's
167 ability to maintain its previous level of service and remain
168 accessible to the public or has had a major impact on the cash
169 flow or revenue-generation ability of the facility.

170 (7) The council may adopt rules to implement the seaport
171 infrastructure bank.

172 (8) The council may use any available funds appropriated by
173 the Legislature pursuant to s. 311.07 or s. 320.20 for the
174 purposes of the seaport infrastructure bank.

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175 Section 4. Subsections (3) and (4) of section 320.20,
176 Florida Statutes, are amended to read:

177 320.20 Disposition of license tax moneys.—The revenue
178 derived from the registration of motor vehicles, including any
179 delinquent fees and excluding those revenues collected and
180 distributed under the provisions of s. 320.081, must be
181 distributed monthly, as collected, as follows:

182 (3) Notwithstanding any other provision of law except
183 subsections (1) and (2), on July 1, 1996, and annually
184 thereafter, \$15 million shall be deposited in the State
185 Transportation Trust Fund solely for the purposes of funding the
186 Florida Seaport Transportation and Economic Development Program
187 as provided for in chapter 311. Such revenues shall be
188 distributed on a 50-50 matching basis to any port listed in s.
189 311.09(1) to be used for funding projects as described in s.
190 311.07(3) (b). Such revenues may be assigned, pledged, or set
191 aside as a trust for the payment of principal or interest on
192 bonds, tax anticipation certificates, or any other form of
193 indebtedness issued by an individual port or appropriate local
194 government having jurisdiction thereof, or collectively by
195 interlocal agreement among any of the ports, or used to purchase
196 credit support to permit such borrowings. However, such debt
197 shall not constitute a general obligation of the State of
198 Florida. The state does hereby covenant with holders of such
199 revenue bonds or other instruments of indebtedness issued
200 hereunder that it will not repeal or impair or amend in any
201 manner which will materially and adversely affect the rights of
202 such holders so long as bonds authorized by this section are
203 outstanding. Any revenues which are not pledged to the repayment

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204 of bonds as authorized by this section may be utilized for
205 purposes authorized under the Florida Seaport Transportation and
206 Economic Development Program. This revenue source is in addition
207 to any amounts provided for and appropriated in accordance with
208 s. 311.07. The Florida Seaport Transportation and Economic
209 Development Council shall approve distribution of funds to ports
210 for projects which have been approved pursuant to s. 311.09(5)-
211 (9). The council and the Department of Transportation are
212 authorized to perform such acts as are required to facilitate
213 and implement the provisions of this subsection. To better
214 enable the ports to cooperate to their mutual advantage, the
215 governing body of each port may exercise powers provided to
216 municipalities or counties in s. 163.01(7)(d) subject to the
217 provisions of chapter 311 and special acts, if any, pertaining
218 to a port. The use of funds provided pursuant to this subsection
219 are limited to eligible projects listed in this subsection.
220 Income derived from a project completed with the use of program
221 funds, beyond operating costs and debt service, shall be
222 restricted to further port capital improvements consistent with
223 maritime purposes and for no other purpose. Use of such income
224 for nonmaritime purposes is prohibited. The provisions of s.
225 311.07(4) do not apply to any funds received pursuant to this
226 subsection. ~~The revenues available under this subsection shall~~
227 ~~not be pledged to the payment of any bonds other than the~~
228 ~~Florida Ports Financing Commission Series 1996 and Series 1999~~
229 ~~Bonds currently outstanding; provided, however, such revenues~~
230 ~~may be pledged to secure payment of refunding bonds to refinance~~
231 ~~the Florida Ports Financing Commission Series 1996 and Series~~
232 ~~1999 Bonds. No refunding bonds secured by revenues available~~

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233 ~~under this subsection may be issued with a final maturity later~~
234 ~~than the final maturity of the Florida Ports Financing~~
235 ~~Commission Series 1996 and Series 1999 Bonds or which provide~~
236 ~~for higher debt service in any year than is currently payable on~~
237 ~~such bonds.~~ Any revenue bonds or other indebtedness issued after
238 July 1, 2011 ~~2000~~, ~~other than refunding bonds~~ shall be issued by
239 the Florida Ports Financing Commission in such a manner as to
240 ensure that the greatest amount of revenue is available for
241 eligible ports projects. The commission may consult with the
242 Division of Bond Finance relating to the issuance of any revenue
243 bonds ~~at the request of the Department of Transportation~~
244 ~~pursuant to the State Bond Act.~~

245 (4) Notwithstanding any other provision of law except
246 subsections (1), (2), and (3), on July 1, 1999, and annually
247 thereafter, \$10 million shall be deposited in the State
248 Transportation Trust Fund solely for the purposes of funding the
249 Florida Seaport Transportation and Economic Development Program
250 as provided in chapter 311 and for funding seaport intermodal
251 access projects of statewide significance as provided in s.
252 341.053. Such revenues shall be distributed to any port listed
253 in s. 311.09(1), to be used for funding projects as follows:

254 (a) For any seaport intermodal access projects that are
255 identified in the 1997-1998 Tentative Work Program of the
256 Department of Transportation, up to the amounts needed to offset
257 the funding requirements of this section.

258 (b) For seaport intermodal access projects as described in
259 s. 341.053(5) that are identified in the 5-year Florida Seaport
260 Mission Plan as provided in s. 311.09(3). Funding for such
261 projects shall be on a matching basis as mutually determined by

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262 the Florida Seaport Transportation and Economic Development
263 Council and the Department of Transportation, provided a minimum
264 of 25 percent of total project funds shall come from any port
265 funds, local funds, private funds, or specifically earmarked
266 federal funds.

267 (c) On a 50-50 matching basis for projects as described in
268 s. 311.07(3)(b).

269 (d) For seaport intermodal access projects that involve the
270 dredging or deepening of channels, turning basins, or harbors;
271 or the rehabilitation of wharves, docks, or similar structures.
272 Funding for such projects shall require a 25 percent match of
273 the funds received pursuant to this subsection. Matching funds
274 shall come from any port funds, federal funds, local funds, or
275 private funds.

276

277 Such revenues may be assigned, pledged, or set aside as a trust
278 for the payment of principal or interest on bonds, tax
279 anticipation certificates, or any other form of indebtedness
280 issued by an individual port or appropriate local government
281 having jurisdiction thereof, or collectively by interlocal
282 agreement among any of the ports, or used to purchase credit
283 support to permit such borrowings. However, such debt shall not
284 constitute a general obligation of the state. This state does
285 hereby covenant with holders of such revenue bonds or other
286 instruments of indebtedness issued hereunder that it will not
287 repeal or impair or amend this subsection in any manner which
288 will materially and adversely affect the rights of holders so
289 long as bonds authorized by this subsection are outstanding. Any
290 revenues that are not pledged to the repayment of bonds as

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291 authorized by this section may be utilized for purposes
292 authorized under the Florida Seaport Transportation and Economic
293 Development Program. This revenue source is in addition to any
294 amounts provided for and appropriated in accordance with s.
295 311.07 and subsection (3). The Florida Seaport Transportation
296 and Economic Development Council shall approve distribution of
297 funds to ports for projects that have been approved pursuant to
298 s. 311.09(5)-(9), or for seaport intermodal access projects
299 identified in the 5-year Florida Seaport Mission Plan as
300 provided in s. 311.09(3) and mutually agreed upon by the FSTED
301 Council and the Department of Transportation. All contracts for
302 actual construction of projects authorized by this subsection
303 must include a provision encouraging employment of participants
304 in the welfare transition program. The goal for employment of
305 participants in the welfare transition program is 25 percent of
306 all new employees employed specifically for the project, unless
307 the Department of Transportation and the Florida Seaport
308 Transportation and Economic Development Council demonstrate that
309 such a requirement would severely hamper the successful
310 completion of the project. In such an instance, Workforce
311 Florida, Inc., shall establish an appropriate percentage of
312 employees that must be participants in the welfare transition
313 program. The council and the Department of Transportation are
314 authorized to perform such acts as are required to facilitate
315 and implement the provisions of this subsection. To better
316 enable the ports to cooperate to their mutual advantage, the
317 governing body of each port may exercise powers provided to
318 municipalities or counties in s. 163.01(7)(d) subject to the
319 provisions of chapter 311 and special acts, if any, pertaining

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320 to a port. The use of funds provided pursuant to this subsection
321 is limited to eligible projects listed in this subsection. The
322 provisions of s. 311.07(4) do not apply to any funds received
323 pursuant to this subsection. ~~The revenues available under this~~
324 ~~subsection shall not be pledged to the payment of any bonds~~
325 ~~other than the Florida Ports Financing Commission Series 1996~~
326 ~~and Series 1999 Bonds currently outstanding; provided, however,~~
327 ~~such revenues may be pledged to secure payment of refunding~~
328 ~~bonds to refinance the Florida Ports Financing Commission Series~~
329 ~~1996 and Series 1999 Bonds. No refunding bonds secured by~~
330 ~~revenues available under this subsection may be issued with a~~
331 ~~final maturity later than the final maturity of the Florida~~
332 ~~Ports Financing Commission Series 1996 and Series 1999 Bonds or~~
333 ~~which provide for higher debt service in any year than is~~
334 ~~currently payable on such bonds. Any revenue bonds or other~~
335 ~~indebtedness issued after July 1, 2011 2000, other than~~
336 ~~refunding bonds shall be issued by the Florida Ports Financing~~
337 ~~Commission in such a manner as to ensure that the greatest~~
338 ~~amount of revenue is available for eligible ports projects. The~~
339 ~~commission may consult with the Division of Bond Finance~~
340 ~~relating to the issuance of any revenue bonds at the request of~~
341 ~~the Department of Transportation pursuant to the State Bond Act.~~

342 Section 5. Subsection (12) is added to section 373.406,
343 Florida Statutes, to read:

344 373.406 Exemptions.—The following exemptions shall apply:

345 (12) All overwater piers, docks, and similar structures
346 located in a deepwater port listed in s. 311.09 are not part of
347 a stormwater management system and are not impervious under this
348 chapter or chapter 403 if the port has a Stormwater Pollution

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349 Prevention Plan pursuant to the National Pollutant Discharge
350 Elimination System Program.

351 Section 6. Subsection (8) of section 373.4133, Florida
352 Statutes, is amended to read:

353 373.4133 Port conceptual permits.—

354 (8) Except as otherwise provided in this section, the
355 following procedures apply to the approval or denial of an
356 application for a port conceptual permit or a final permit or
357 authorization:

358 (a) Applications for a port conceptual permit, including
359 any request for the conceptual approval of the use of
360 sovereignty submerged lands, shall be processed in accordance
361 with the provisions of ss. 373.427 and 120.60. However, if the
362 applicant believes that any request for additional information
363 is not authorized by law or agency rule, the applicant may
364 request an informal hearing pursuant to s. 120.57(2) before the
365 Secretary of Environmental Protection to determine whether the
366 application is complete.

367 (b) Notwithstanding any other provision of law, the
368 department shall issue a notice of intent within 30 days after
369 receipt of an application for a port conceptual permit. Upon
370 issuance of the department's notice of intent to issue or deny a
371 port conceptual permit, the applicant shall publish a one-time
372 notice of such intent, prepared by the department, in the
373 newspaper with the largest general circulation in the county or
374 counties where the port is located.

375 (c) A notice of intent to issue a port conceptual permit
376 creates a rebuttable presumption that development of the port or
377 private facilities consistent with the approved port master plan

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378 complies with all applicable standards for issuance of a
379 conceptual permit, an environmental resource permit, and
380 sovereign lands authorization pursuant to chapters 161, 253,
381 373, and 403. The presumption may be overcome only by clear and
382 convincing evidence.

383 (d) Upon issuance and finalization of a port conceptual
384 permit, and, if necessary, an environmental resource permit or
385 sovereign lands authorization pursuant to this section, the
386 department shall notify the United States Army Corps of
387 Engineers that the applicant is in compliance with all state
388 water quality and regulatory requirements and shall issue any
389 requested construction permit within 30 days after receipt of
390 the request.

391 (e) ~~(e)~~ Final agency action on a port conceptual permit is
392 subject to challenge pursuant to ss. 120.569 and 120.57.
393 However, final agency action to authorize subsequent
394 construction of facilities contained in a port conceptual permit
395 may only be challenged by a third party for consistency with the
396 port conceptual permit.

397 (f) ~~(d)~~ A person who will be substantially affected by a
398 final agency action described in paragraph (e) ~~(e)~~ must initiate
399 administrative proceedings pursuant to ss. 120.569 and 120.57
400 within 21 days after the publication of the notice of the
401 proposed action. If administrative proceedings are requested,
402 the proceedings are subject to the summary hearing provisions of
403 s. 120.574. However, if the decision of the administrative law
404 judge will be a recommended order rather than a final order, a
405 summary proceeding must be conducted within 90 days after a
406 party files a motion for summary hearing, regardless of whether

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407 the parties agree to the summary proceeding.

408 Section 7. This act shall take effect July 1, 2011.