

By the Committee on Commerce and Tourism; and Senator Ring

577-02567-11

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1 A bill to be entitled
2 An act relating to seaports; creating s. 311.23, F.S.;
3 establishing the Florida seaport infrastructure bank
4 within the Florida Seaport Transportation and Economic
5 Development Program to provide loans and credit
6 enhancements to certain deepwater seaports and private
7 entities for specified projects; amending s. 320.20,
8 F.S.; revising provisions for the repayment of bonds
9 relating to the Florida Seaport Transportation and
10 Economic Development Program; providing for certain
11 revenue bonds and other indebtedness relating to the
12 program to be issued by the Florida Ports Financing
13 Commission; amending s. 373.406, F.S.; exempting
14 overwater piers, docks, and structures located in
15 deepwater ports from stormwater management system
16 requirements under specified conditions; amending s.
17 373.4133, F.S.; requiring the Department of
18 Environmental Protection to issue a notice of intent
19 for a port conceptual permit within a specified time;
20 providing that a notice of intent to issue such permit
21 creates a rebuttable presumption of compliance with
22 specified standards and authorization; providing a
23 standard for overcoming such a presumption; requiring
24 the department to issue certain permits within a
25 specified time and to notify specified entities of
26 certain compliance; amending s. 403.813, F.S.;
27 exempting specified seaports and inland navigation
28 districts from requirements to conduct maintenance
29 dredging under certain circumstances; providing that

577-02567-11

2011768c1

30 ditches, pipes, and similar linear conveyances are not
31 receiving waters; authorizing public ports and inland
32 navigation districts to use sovereignty submerged
33 lands in connection with maintenance dredging;
34 authorizing spoil material to be disposed on a self-
35 contained, upland spoil site that will prevent the
36 escape of spoil material into the waters of the state;
37 providing an effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Section 311.23, Florida Statutes, is created to
42 read:

43 311.23 Florida seaport infrastructure bank.—

44 (1) There is created within the Florida Seaport
45 Transportation and Economic Development Program an
46 infrastructure bank for the purpose of providing loans and
47 credit enhancements to deepwater seaports listed in s. 311.09
48 and private entities operating in such seaports for use in
49 constructing and improving port transportation and port
50 facilities projects that improve the movement and intermodal
51 transportation of cargo and passengers in commerce and trade.

52 (2) The bank may lend capital costs or provide credit
53 enhancements for:

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

55 1. Are approved pursuant to s. 311.09.

56 2. Are on the State Intermodal System.

57 3. Provide intermodal connectivity with airports, roadways,
58 rail facilities, and other transportation terminals, pursuant to

577-02567-11

2011768c1

59 s. 341.053, for the movement of people and goods.

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

64 a. May not exceed 24 months in duration except in extreme
65 circumstances, for which the chair of the Florida Seaport
66 Transportation and Economic Development Council may grant up to
67 36 months upon making written findings specifying the conditions
68 requiring a 36-month term.

69 b. Require application from the recipient to the council
70 which includes documentation of damage claims filed with the
71 Federal Emergency Management Agency or an applicable insurance
72 carrier and documentation of the recipient's overall financial
73 condition.

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

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

82 (4) Loans from the bank may bear interest at or below
83 market interest rates, as determined by the council. Repayment
84 of any loan shall commence not later than 5 years after the
85 project has been completed, except for loans provided under
86 paragraph (2) (b), which shall be repaid within 36 months.

87 (5) To be eligible for consideration, projects must be

577-02567-11

2011768c1

88 approved as eligible for funding by the council pursuant to s.
89 311.09 and must provide a dedicated repayment source to ensure
90 the loan is repaid to the bank.

91 (6) In addition to the requirements of s. 311.09, the
92 council may consider, but is not limited to, the following
93 criteria for evaluation of projects for assistance from the
94 bank:

95 (a) The credit worthiness of the project.

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

98 (c) The extent to which assistance would foster innovative
99 public-private partnerships and attract private debt or equity
100 investment.

101 (d) The amount of the proposed assistance as a percentage
102 of the overall project costs with emphasis on local and private
103 participation.

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

109 (7) The council may adopt rules to implement the seaport
110 infrastructure bank.

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

114 Section 2. Subsections (3) and (4) of section 320.20,
115 Florida Statutes, are amended to read:

116 320.20 Disposition of license tax moneys.—The revenue

577-02567-11

2011768c1

117 derived from the registration of motor vehicles, including any
118 delinquent fees and excluding those revenues collected and
119 distributed under the provisions of s. 320.081, must be
120 distributed monthly, as collected, as follows:

121 (3) Notwithstanding any other provision of law except
122 subsections (1) and (2), on July 1, 1996, and annually
123 thereafter, \$15 million shall be deposited in the State
124 Transportation Trust Fund solely for the purposes of funding the
125 Florida Seaport Transportation and Economic Development Program
126 as provided for in chapter 311. Such revenues shall be
127 distributed on a 50-50 matching basis to any port listed in s.
128 311.09(1) to be used for funding projects as described in s.
129 311.07(3)(b). Such revenues may be assigned, pledged, or set
130 aside as a trust for the payment of principal or interest on
131 bonds, tax anticipation certificates, or any other form of
132 indebtedness issued by an individual port or appropriate local
133 government having jurisdiction thereof, or collectively by
134 interlocal agreement among any of the ports, or used to purchase
135 credit support to permit such borrowings. However, such debt
136 shall not constitute a general obligation of the State of
137 Florida. The state does hereby covenant with holders of such
138 revenue bonds or other instruments of indebtedness issued
139 hereunder that it will not repeal or impair or amend in any
140 manner which will materially and adversely affect the rights of
141 such holders so long as bonds authorized by this section are
142 outstanding. Any revenues which are not pledged to the repayment
143 of bonds as authorized by this section may be utilized for
144 purposes authorized under the Florida Seaport Transportation and
145 Economic Development Program. This revenue source is in addition

577-02567-11

2011768c1

146 to any amounts provided for and appropriated in accordance with
147 s. 311.07. The Florida Seaport Transportation and Economic
148 Development Council shall approve distribution of funds to ports
149 for projects which have been approved pursuant to s. 311.09(5)-
150 (9). The council and the Department of Transportation are
151 authorized to perform such acts as are required to facilitate
152 and implement the provisions of this subsection. To better
153 enable the ports to cooperate to their mutual advantage, the
154 governing body of each port may exercise powers provided to
155 municipalities or counties in s. 163.01(7)(d) subject to the
156 provisions of chapter 311 and special acts, if any, pertaining
157 to a port. The use of funds provided pursuant to this subsection
158 are limited to eligible projects listed in this subsection.
159 Income derived from a project completed with the use of program
160 funds, beyond operating costs and debt service, shall be
161 restricted to further port capital improvements consistent with
162 maritime purposes and for no other purpose. Use of such income
163 for nonmaritime purposes is prohibited. The provisions of s.
164 311.07(4) do not apply to any funds received pursuant to this
165 subsection. ~~The revenues available under this subsection shall~~
166 ~~not be pledged to the payment of any bonds other than the~~
167 ~~Florida Ports Financing Commission Series 1996 and Series 1999~~
168 ~~Bonds currently outstanding; provided, however, such revenues~~
169 ~~may be pledged to secure payment of refunding bonds to refinance~~
170 ~~the Florida Ports Financing Commission Series 1996 and Series~~
171 ~~1999 Bonds. No refunding bonds secured by revenues available~~
172 ~~under this subsection may be issued with a final maturity later~~
173 ~~than the final maturity of the Florida Ports Financing~~
174 ~~Commission Series 1996 and Series 1999 Bonds or which provide~~

577-02567-11

2011768c1

175 ~~for higher debt service in any year than is currently payable on~~
176 ~~such bonds.~~ Any revenue bonds or other indebtedness issued after
177 July 1, 2011 ~~2000~~, ~~other than refunding bonds~~ shall be issued by
178 the Florida Ports Financing Commission in such a manner as to
179 ensure that the greatest amount of revenue is available for
180 eligible ports projects. The commission may consult with the
181 Division of Bond Finance relating to the issuance of any revenue
182 bonds at the request of the Department of Transportation
183 ~~pursuant to the State Bond Act.~~

184 (4) Notwithstanding any other provision of law except
185 subsections (1), (2), and (3), on July 1, 1999, and annually
186 thereafter, \$10 million shall be deposited in the State
187 Transportation Trust Fund solely for the purposes of funding the
188 Florida Seaport Transportation and Economic Development Program
189 as provided in chapter 311 and for funding seaport intermodal
190 access projects of statewide significance as provided in s.
191 341.053. Such revenues shall be distributed to any port listed
192 in s. 311.09(1), to be used for funding projects as follows:

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

197 (b) For seaport intermodal access projects as described in
198 s. 341.053(5) that are identified in the 5-year Florida Seaport
199 Mission Plan as provided in s. 311.09(3). Funding for such
200 projects shall be on a matching basis as mutually determined by
201 the Florida Seaport Transportation and Economic Development
202 Council and the Department of Transportation, provided a minimum
203 of 25 percent of total project funds shall come from any port

577-02567-11

2011768c1

204 funds, local funds, private funds, or specifically earmarked
205 federal funds.

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

208 (d) For seaport intermodal access projects that involve the
209 dredging or deepening of channels, turning basins, or harbors;
210 or the rehabilitation of wharves, docks, or similar structures.
211 Funding for such projects shall require a 25 percent match of
212 the funds received pursuant to this subsection. Matching funds
213 shall come from any port funds, federal funds, local funds, or
214 private funds.

215

216 Such revenues may be assigned, pledged, or set aside as a trust
217 for the payment of principal or interest on bonds, tax
218 anticipation certificates, or any other form of indebtedness
219 issued by an individual port or appropriate local government
220 having jurisdiction thereof, or collectively by interlocal
221 agreement among any of the ports, or used to purchase credit
222 support to permit such borrowings. However, such debt shall not
223 constitute a general obligation of the state. This state does
224 hereby covenant with holders of such revenue bonds or other
225 instruments of indebtedness issued hereunder that it will not
226 repeal or impair or amend this subsection in any manner which
227 will materially and adversely affect the rights of holders so
228 long as bonds authorized by this subsection are outstanding. Any
229 revenues that are not pledged to the repayment of bonds as
230 authorized by this section may be utilized for purposes
231 authorized under the Florida Seaport Transportation and Economic
232 Development Program. This revenue source is in addition to any

577-02567-11

2011768c1

233 amounts provided for and appropriated in accordance with s.
234 311.07 and subsection (3). The Florida Seaport Transportation
235 and Economic Development Council shall approve distribution of
236 funds to ports for projects that have been approved pursuant to
237 s. 311.09(5)-(9), or for seaport intermodal access projects
238 identified in the 5-year Florida Seaport Mission Plan as
239 provided in s. 311.09(3) and mutually agreed upon by the FSTED
240 Council and the Department of Transportation. All contracts for
241 actual construction of projects authorized by this subsection
242 must include a provision encouraging employment of participants
243 in the welfare transition program. The goal for employment of
244 participants in the welfare transition program is 25 percent of
245 all new employees employed specifically for the project, unless
246 the Department of Transportation and the Florida Seaport
247 Transportation and Economic Development Council demonstrate that
248 such a requirement would severely hamper the successful
249 completion of the project. In such an instance, Workforce
250 Florida, Inc., shall establish an appropriate percentage of
251 employees that must be participants in the welfare transition
252 program. The council and the Department of Transportation are
253 authorized to perform such acts as are required to facilitate
254 and implement the provisions of this subsection. To better
255 enable the ports to cooperate to their mutual advantage, the
256 governing body of each port may exercise powers provided to
257 municipalities or counties in s. 163.01(7)(d) subject to the
258 provisions of chapter 311 and special acts, if any, pertaining
259 to a port. The use of funds provided pursuant to this subsection
260 is limited to eligible projects listed in this subsection. The
261 provisions of s. 311.07(4) do not apply to any funds received

577-02567-11

2011768c1

262 pursuant to this subsection. ~~The revenues available under this~~
263 ~~subsection shall not be pledged to the payment of any bonds~~
264 ~~other than the Florida Ports Financing Commission Series 1996~~
265 ~~and Series 1999 Bonds currently outstanding; provided, however,~~
266 ~~such revenues may be pledged to secure payment of refunding~~
267 ~~bonds to refinance the Florida Ports Financing Commission Series~~
268 ~~1996 and Series 1999 Bonds. No refunding bonds secured by~~
269 ~~revenues available under this subsection may be issued with a~~
270 ~~final maturity later than the final maturity of the Florida~~
271 ~~Ports Financing Commission Series 1996 and Series 1999 Bonds or~~
272 ~~which provide for higher debt service in any year than is~~
273 ~~currently payable on such bonds. Any revenue bonds or other~~
274 ~~indebtedness issued after July 1, 2011 2000, other than~~
275 ~~refunding bonds shall be issued by the Florida Ports Financing~~
276 ~~Commission in such a manner as to ensure that the greatest~~
277 ~~amount of revenue is available for eligible ports projects. The~~
278 ~~commission may consult with the Division of Bond Finance~~
279 ~~relating to the issuance of any revenue bonds at the request of~~
280 ~~the Department of Transportation pursuant to the State Bond Act.~~

281 Section 3. Subsection (12) is added to section 373.406,
282 Florida Statutes, to read:

283 373.406 Exemptions.—The following exemptions shall apply:

284 (12) All overwater piers, docks, and similar structures
285 located in a deepwater port listed in s. 311.09 are not part of
286 a stormwater management system and are not impervious under this
287 chapter or chapter 403 if the port has a Stormwater Pollution
288 Prevention Plan pursuant to the National Pollutant Discharge
289 Elimination System Program.

290 Section 4. Subsection (8) of section 373.4133, Florida

577-02567-11

2011768c1

291 Statutes, is amended to read:

292 373.4133 Port conceptual permits.—

293 (8) Except as otherwise provided in this section, the
294 following procedures apply to the approval or denial of an
295 application for a port conceptual permit or a final permit or
296 authorization:

297 (a) Applications for a port conceptual permit, including
298 any request for the conceptual approval of the use of
299 sovereignty submerged lands, shall be processed in accordance
300 with the provisions of ss. 373.427 and 120.60. However, if the
301 applicant believes that any request for additional information
302 is not authorized by law or agency rule, the applicant may
303 request an informal hearing pursuant to s. 120.57(2) before the
304 Secretary of Environmental Protection to determine whether the
305 application is complete.

306 (b) Notwithstanding any other provision of law, the
307 department shall issue a notice of intent within 30 days after
308 receipt of an application for a port conceptual permit. Upon
309 issuance of the department's notice of intent to issue or deny a
310 port conceptual permit, the applicant shall publish a one-time
311 notice of such intent, prepared by the department, in the
312 newspaper with the largest general circulation in the county or
313 counties where the port is located.

314 (c) A notice of intent to issue a port conceptual permit
315 creates a rebuttable presumption that development of the port or
316 private facilities consistent with the approved port master plan
317 complies with all applicable standards for issuance of a
318 conceptual permit, an environmental resource permit, and
319 sovereign lands authorization pursuant to chapters 161, 253,

577-02567-11

2011768c1

320 373, and 403. The presumption may be overcome only by clear and
321 convincing evidence.

322 (d) Upon issuance and finalization of a port conceptual
323 permit, and, if necessary, an environmental resource permit or
324 sovereign lands authorization pursuant to this section, the
325 department shall notify the United States Army Corps of
326 Engineers that the applicant is in compliance with all state
327 water quality and regulatory requirements and shall issue any
328 requested construction permit within 30 days after receipt of
329 the request.

330 (e) ~~(e)~~ Final agency action on a port conceptual permit is
331 subject to challenge pursuant to ss. 120.569 and 120.57.
332 However, final agency action to authorize subsequent
333 construction of facilities contained in a port conceptual permit
334 may only be challenged by a third party for consistency with the
335 port conceptual permit.

336 (f) ~~(d)~~ A person who will be substantially affected by a
337 final agency action described in paragraph (e) ~~(e)~~ must initiate
338 administrative proceedings pursuant to ss. 120.569 and 120.57
339 within 21 days after the publication of the notice of the
340 proposed action. If administrative proceedings are requested,
341 the proceedings are subject to the summary hearing provisions of
342 s. 120.574. However, if the decision of the administrative law
343 judge will be a recommended order rather than a final order, a
344 summary proceeding must be conducted within 90 days after a
345 party files a motion for summary hearing, regardless of whether
346 the parties agree to the summary proceeding.

347 Section 5. Subsection (3) of section 403.813, Florida
348 Statutes, is amended to read:

577-02567-11

2011768c1

349 403.813 Permits issued at district centers; exceptions.—

350 (3) A permit is not required under this chapter, chapter
351 373, chapter 61-691, Laws of Florida, or chapter 25214 or
352 chapter 25270, 1949, Laws of Florida, for maintenance dredging
353 ~~conducted under this section~~ by the seaports of Jacksonville,
354 Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami,
355 Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City,
356 Pensacola, Key West, and Fernandina or by inland navigation
357 districts, if the dredging is no more than is necessary to meet
358 the original design specifications or configurations and
359 previously undisturbed natural areas are not significantly
360 impacted, and if the work conducted does not violate the
361 protections for manatees under s. 379.2431(2)(d). In addition:

362 (a) A mixing zone for turbidity is granted within a 150-
363 meter radius from the point of dredging while dredging is
364 ongoing, except that the mixing zone may not extend into areas
365 supporting wetland communities, submerged aquatic vegetation, or
366 hardbottom communities.

367 (b) The discharge of the return water from the site used
368 for the disposal of dredged material shall be allowed only if
369 such discharge does not result in a violation of water quality
370 standards in the receiving waters. The return-water discharge
371 into receiving waters shall be granted a mixing zone for
372 turbidity within a 150-meter radius from the point of discharge
373 into the receiving waters during and immediately after the
374 dredging, except that the mixing zone may not extend into areas
375 supporting wetland communities, submerged aquatic vegetation, or
376 hardbottom communities. Ditches, pipes, and similar types of
377 linear conveyances are not considered receiving waters for the

577-02567-11

2011768c1

378 purposes of this paragraph.

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

383 (d) The use of flocculants at the site used for disposal of
384 the dredged material is allowed if the use, including supporting
385 documentation, is coordinated in advance with the department and
386 the department has determined that the use is not harmful to
387 water resources.

388 (e) The spoil material from the maintenance dredging may be
389 deposited on an unpermitted, self-contained, upland spoil site
390 that will prevent the escape of the spoil material into the
391 waters of the state.

392 (f) ~~(e)~~ This subsection does not prohibit maintenance
393 dredging of areas where the loss of original design function and
394 constructed configuration has been caused by a storm event,
395 provided that the dredging is performed as soon as practical
396 after the storm event. Maintenance dredging that commences
397 within 3 years after the storm event shall be presumed to
398 satisfy this provision. If more than 3 years are needed to
399 commence the maintenance dredging after the storm event, a
400 request for a specific time extension to perform the maintenance
401 dredging shall be submitted to the department, prior to the end
402 of the 3-year period, accompanied by a statement, including
403 supporting documentation, demonstrating that contractors are not
404 available or that additional time is needed to obtain
405 authorization for the maintenance dredging from the United
406 States Army Corps of Engineers.

577-02567-11

2011768c1

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Section 6. This act shall take effect July 1, 2011.