**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 Budget Committee

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| BILL: | CS/CS/SB 768 |
| INTRODUCER: | Transportation Committee, Commerce and Tourism Committee, and Senator Ring |
| SUBJECT: | Seaports |
| DATE: | April 12, 2011 REVISED: |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Pugh | Cooper | CM | **Fav/CS** |
| 2. | Eichen | Spalla | TR | **Fav/CS** |
| 3. | Carey | Meyer, C. | BC | **Pre-meeting** |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

## Please see Section VIII. for Additional Information:

| | | |
|---|---|---|
| A. COMMITTEE SUBSTITUTE..... | X | Statement of Substantial Changes |
| B. AMENDMENTS..... | | Technical amendments were recommended |
| | | Amendments were recommended |
| | | Significant amendments were recommended |

## I. Summary:

Florida has 14 public deepwater seaports that are considered significant economic drivers for the regions in which they are located and for the state. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements.

CS/CS/SB 768 includes several financing and permitting provisions to assist seaport infrastructure improvement projects that will make Florida's 14 seaports more globally competitive. The bill:

- Makes available no less than an additional $100 million each year for five years from the State Transportation Trust Fund to be used to fund the Florida Deepwater Seaport Program;
- Creates within the Florida Seaport Transportation and Economic Development (FSTED) Council a "Seaport Infrastructure Bank" that can provide financing for projects at the 14 seaports meeting specific criteria;
- Allows the Florida Ports Financing Commission to refinance and extend two existing bond issues and use the additional principle to finance capital improvement projects;

- Exempts from state stormwater permits all piers, docks and similar structures at any of the 14 ports that are not part of a stormwater system and meet other criteria, if the port has a Stormwater Pollution Prevention Plan pursuant to federal law;
- Requires the state Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit or a final permit within 30 days after receiving the application;
- Specifies that DEP's notice of intent to issue a port conceptual permit creates a "rebuttable presumption" that the project or projects covered in the conceptual permit meet water-quality standards and sovereign-submerged land authorization requirements;
- Requires DEP to issue any requested construction permits from a port (that has been issued a conceptual permit) within 30 days of the request;
- Clarifies conditions under which maintenance dredging activities conducted by the 14 seaports are exempt from permits under ch. 403, F.S; and
- Includes Port Citrus in Citrus County in the various statutes identifying Florida's deepwater ports.

CS/CS/SB 768 substantially amends ss. 310.002, 311.07, 311.09, 320.20, 373.406, 373.4133, 374.976, 403.021, 403.061, 403.813, and 403.816, F.S., and creates s. 311.23, F.S.

## II. Present Situation:

***Background on Florida's seaports***

Florida has 14 public seaports:[1] Port of Fernandina, Port of Fort Pierce, Jacksonville (JaxPort), Port of Key West, Port of Miami, Port of Palm Beach, Port Panama City, Port of Pensacola, Port Canaveral, Port Everglades, Port Manatee, Port St. Joe, Port of St. Petersburg, and Port of Tampa.

These seaports are considered significant economic drivers. Recent economic analyses and planning documents[2] prepared for the Florida Ports Council indicated that:

- In 2009, the maritime cargo activities at Florida seaports were responsible for generating more than 550,000 direct and indirect jobs and $66 billion in total economic value.
- In 2009, the maritime cargo activities at Florida seaports contributed $1.7 billion in state and local tax revenues.
- In 2009, the value of international trade moving through the 14 seaports was $56.9 billion, down more than one-third from 2008. Still, the $56.9 billion figure represented 55 percent of Florida's total international trade value of $103 billion in 2009.
- Imports and exports continue to be fairly even. Of the $56.9 billion in total value, imports were valued at $27.6 billion and exports at $29.2 billion.
- Based on 2009 figures, the average annual wage of Florida seaport-related jobs is $54,400, more than double the average annual state wage for all other non-advanced

[1] Listed in s. 403.021(9)(b), F.S. Interactive locator map is available at: http://flaports.org/Sub_Content2.aspx?id=3. Last visited Feb. 28, 2011.

[2] Information for this section as gleaned from a 2010 Economic Action Plan for Florida Ports, available at http://flaports.org/Assets/33201131346PM_2010_Economic_Action_Plan_for_Florida._A_Blueprint_to_Leverage_Florida_s_Strategic_State_Seaport_Partnership_January_2010.pdf and from a 2011 economic analysis, available at http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf and other information provided by the Florida Ports Council. Last visited March 2, 2011.

degree workers ($26,933) and over $15,000 more than the average annual state wage for all occupations ($38,470).
- The return on investment (ROI) for seaport projects is an estimated $6.90 to $1.

Florida's public seaports handled more than 121 million tons of cargo in FY 2006-2007, the most recent information available.[3] Of that, 19 million tons were exports, 50.3 million tons were imports, and 51.9 million tons were domestic shipments. Florida seaports handled 55 percent of the containerized waterborne imports ultimately consumed in Florida. In recent years, Asian nations have become key trading partners; in 2009, for example, 38 percent of water-borne imports from Asia bound for Florida markets, entered the U.S. through Florida, 36 percent through Los Angeles-Long Beach, 13 percent through Savannah, and 4 percent through New York-New Jersey.[4] Central and South America continue to be Florida's most important export partners, with Western Europe a distant second.[5]

The cruise business also is a significant segment of Florida's seaport activity; in 2009, an estimated 12.7 million passengers embarked and disembarked from the nine ports with cruise operations. This equates to more than 54 percent of all U.S. cruise ship bookings.[6]

***Seaport Funding***

Florida seaports are eligible, per s. 311.07, F.S., for a minimum of $8 million a year[7] in grants from the State Transportation Trust Fund (STTF) for projects to improve the "movement and intermodal transportation" of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation (FDOT). Most years, the Legislature appropriates more than $8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend $21.9 million on seaport grants and $25.6 million in FY 10-11.[8]

The ports also benefit from an additional $25 million in debt service paid with motor vehicle license fees[9] from the STTF for 1996 and 1999 bond issues, per ch. 315, F.S., which financed $375.4 million in major port projects. These bond issues will be paid off in 2026 and 2029, respectively.

Under the structure established by the Legislature in ch. 315, F.S., the Florida Ports Financing Commission was created via interlocal agreement of local governments where the 14 ports are located. It issued the 1996 and 1999 port facility improvement bonds, but none since a 2000 law change to s. 320.20, F.S., required that the state Division of Bond Finance, at the request of FDOT, issue any future port facility bonds.[10]

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[3] Available at http://www.dot.state.fl.us/planning/trends/tc-report/Seaport032509.pdf. Last visited March 1, 2010.
[4] Florida Trade and Logistics Study, page 17. Available at: https://www.communicationsmgr.com/projects/1378/docs/FloridaTradeandLogisticsStudy_December2010.pdf. Last visited March 6, 2011.
[5] Chart available at http://flaports.org/UserFiles/File/Statistics/Table%204.jpg. Last visited March 1, 2010.
[6] Information provided by the Florida Ports Council and on file with the Senate Commerce and Tourism Committee.
[7] Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least $15 million for FSTED projects.
[8] In 2007, the Legislature appropriated an additional $50 million for port projects as a line-item.
[9] Section 320.20(3) and (4), F.S.
[10] A March 22, 2000, audit by the Florida Auditor General reported several instances where "FSTED Program Management may not have, in several material respects, complied with the significant provisions of laws, administrative rules, and other

The 2000 legislation also specified that these two bond issues could be refinanced, but not for a longer term than the original 30 years.

Pursuant to s. 311.07, F.S., the state grant funds cannot exceed 50 percent of the total cost of an FSTED project. In order to be approved, a project must be consistent with the seaport's comprehensive master plan and the applicable local government's comprehensive plan, and comply with water-quality standards and requirements specified in ch. 403, F.S.

Eligible projects per the statute include:

- Dredging or otherwise deepening channels, harbors, and turning basins;
- Construction or rehabilitation of wharves, docks, piers, and related structures;
- Transportation facilities, such as roads or rail lines, located within a port; and
- Acquisition of land for port purposes.

The FSTED port projects also are part of FDOT's 5-Year Work Program, which is submitted to the Legislature annually for approval. There is a process by which FDOT can amend the work program to shift funding from one seaport project to another, pursuant to s. 311.09(10), F.S.

***Port planning and regulatory requirements***

Section 163.3178, F.S., requires each applicable county and municipal comprehensive plan to include a chapter (or "element") on coastal zone management, and if applicable, the comprehensive master plan for the public seaport located within its geographic jurisdiction. These seaport master plans generally comprise a 25-year planning horizon for expansion, dredging, and other improvements at the particular ports.[11]

Dredging and other port projects that have the potential to impact water quality, sovereign submerged lands, sea grass and wildlife habitats, and upland disposal sites typically require permits from the U.S Army Corps of Engineers (corps), or the Florida Department of Environmental Protection (DEP) and the water management districts under regulations in chs. 161, 253, 373, and 403, F.S.

These agencies and the seaports try to work together early in the project planning process to identify environmental impacts and possible mitigation solutions. To that end, s. 311.105, F.S., created the Florida Seaport Environmental Management Committee to serve as a forum for seaport-related environmental permitting issues. The committee is comprised of five seaport directors as voting members and representatives of DEP, the state Department of Community Affairs, the corps, and the Florida Inland Navigation District as non-voting, ex officio members.

Section 311.105, F.S., also specifies the documentation required for applications submitted by seaports for joint coastal permits, which have a duration of 5 years, and for 15-year conceptual

guidelines governing the FSTED Program." A summary of the report (#13612) is on file with the Senate Commerce and Tourism Committee.

[11] The individual seaport master plans are available online at the ports' websites.

joint coastal permits. These permits are designed to address in a comprehensive manner the variety of environmental impacts large-scale port projects might create.[12]

In 2010, the Legislature created s. 373.4133, F.S., which specifies the process by which any of the 14 seaports may seek a port conceptual plan from DEP. The port conceptual plan is intended to serve as a multi-year blueprint for seaport infrastructure projects; it anticipates the regulatory approvals that will be needed and streamlines their review and approval processes. Both seaports and private entities with controlling interests in property near the seaports may use the conceptual plan process.

A port conceptual permit constitutes the state's conceptual certification of a port's compliance with federal Clean Water Act regulations and the state's conceptual determination that the project is consistent with Florida's coastal zone management program. The conceptual permits may be issued for a period of up to 20 years and provide for one additional extension of 10 years.

Not all seaport activities require permits; s. 403.813(3), F.S., lists a number of exemptions from state environmental permits generally issued at DEP district offices for maintenance dredging activities that meet certain criteria.

***Panama Canal Project***[13]

Built by the United States and opened in 1914, the Panama Canal is a 48-mile-long ship canal in the narrow Central American isthmus that joins the Atlantic and Pacific oceans. On December 31, 1999, ownership and control of the canal transferred from the United States to Panama. Today, the Panama Canal Authority (ACP) manages the canal.

The ACP has undertaken a $5.2 billion modernization and expansion of the canal, which includes a third lock to move the new larger ships through the isthmus. Private investors and bank loans will finance some of the cost, and ACP is hoping that increased toll revenues from increased usage will generate enough money to pay for the rest of the project, which is expected to be completed by 2014.

For decades the Panama Canal has been a significant shipping lane for international maritime trade. Annual traffic has risen from about 1,000 ships in the canal's early days to 14,702 vessels in 2008. While the canal was built to handle the largest ships of its era, modern tankers and container vessels are bigger. As a result, these larger ships either take a different route or their owners do not use them in the Western Hemisphere, or, more commonly, goods are dropped off at seaports on the U.S. west and east coasts – depending on the final destination of the goods – and then hauled by truck or rail across the continent, where they may be loaded onto outbound ships. Some cargo stays in the United States, and some is further transported on land to points north or south.

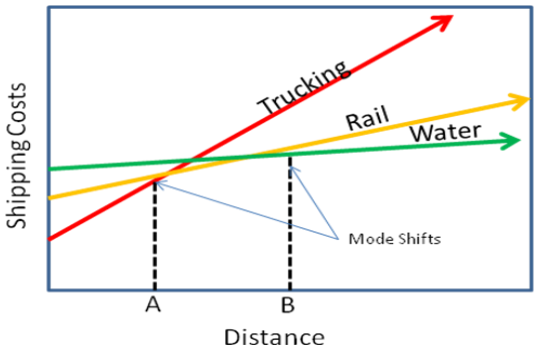
Supporters of the Panama Canal expansion contend the improved shipping will significantly reduce shipping costs, and even transit time. The following passage taken from a Senate Interim

[12] See s. 403.061(37) and (38), F.S.

[13] Numerous sources are available for information about the Panama Canal expansion project, but two basic sources are the Authoridad Panama de Canal (Panama Canal Authority) website, at http://www.pancanal.com/eng/acp/index.html and http://en.wikipedia.org/wiki/Panama_Canal_expansion_project.

Report[14] 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.[15]

The economic implications of the expansion have led several states, such as California, Maryland, South Carolina, and Texas, to reevaluate their long-term port planning and financing strategies, in order to take advantage of the anticipated greater volume of cargo.

A summary of some other states' recent and large funding actions follows:

[14] Senate Interim Report 2009-126 "Freight Transportation Infrastructure: Assessing the Need for Statewide Coordination"
[15] "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

- Alabama has invested more than $500 million in upgrades at the Port of Mobile, much of it financed with a $300 million state general revenue bond issue in 2008.[16]
- Georgia has invested approximately $1 billion since 2005, most of it spent for improvements at the ports in Savannah and Brunswick.[17] The expenditures have been funded in large part by a $700 million state general revenue bond issue.
- California has three programs to fund its 11 public seaports. For example, the Maritime Infrastructure Bank, which lacks its own funding to make loans, acts as a conduit for bonding financing using private partners, and has issued at least $200 million in bonds.[18]

The aforementioned states and several others also provide a number of state tax incentives to seaport and trade-related businesses, many of these credits against their state income tax liabilities. The credits are, variously, based on port-related jobs created, tonnage moved, and capital investment in infrastructure.[19]

***FSTED's Project List***[20]

The FSTED council has prepared a list of priority projects at nine of the 14 seaports, with a cost of $853 million. The FTSED council estimates the state's share of that would be $337.3 million. The projects are:

- $272 million to dredge Miami Harbor to a depth of 50 to 52 feet and to acquire new gantry cranes that can be used to load and unload the "super containers" docked at the Port of Miami;
- $162 million for Port Everglades for expanding and improving several cruise ship terminals and to create at least four new cargo berths and mitigate that project's adverse environmental impacts;
- $110 million each for JaxPort (developing a spoil site and improving navigation hindrances where the St. Johns River meets intra-coastal currents) and Port Canaveral (two new piers and new Mega-Cruise Ship terminal.);
- $86 million for the Port of Tampa to relocate and improve petroleum off-loading capabilities, and to develop the Port Redwing site to handle more bulk cargo;
- $50 million for Port Manatee to extend a berth and make other improvements to handle container traffic and to expand cold-storage facilities;
- $34 million to rebuild a large slip at the Port of Palm Beach dedicated to ships moving sugar, molasses, fuel, and other commodities;
- $20.2 million for the Port of Fernandina for a new berth and an off-port warehousing and container depot; and

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[16] See http://flaports.org/Assets/33201131346PM_2010_Economic_Action_Plan_for_Florida._A_Blueprint_to_Leverage_Florida_s_Strategic_State_Seaport_Partnership_January_2010.pdf, page 8. Last visited March 6, 2011.

[17] Ibid.

[18] "Report on State Financial Assistance for Capital Improvements at Public Ports in the United States." Prepared for the Ports Association of Louisiana. Page 72-73. Available at: http://portsoflouisiana.org/wp-content/uploads/full-document-final-copy-4.pdf. Last visited Feb. 27, 2011.

[19] Information on various state incentives is available from the reports mentioned in FN 4 and FN 16.

[20] Information for this section is found in the "Florida Seaports: Charting Our Future. An Economic Analysis," prepared for the Florida Ports Council and published in February 2011. See: http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf .

- $8.5 million for Port Panama City for a new off-port warehouse and reconfiguring and expanding the current container yard.

An economic impact analysis[21] of the projects indicates that when all are completed and being utilized, 32,500 jobs will have been created; $2.17 billion in personal income and nearly $2.3 billion in direct business revenues will have been created; and nearly $161 million in state and local tax revenues will be generated. The analysis calculates a $7.47 to $1 return on the state's investment.

## III. Effect of Proposed Changes:

Section 1 amends s. 311.07, F.S., to make available at least an additional $500 million over five years (no less than $100 million each year for fiscal years 2011/2012 through 2015/2016) from the STTF for the FSTED program. The additional funds are to be used to fund the Florida Deepwater Seaport Program for port infrastructure projects that expand "this state's role as a global hub for trade and investment, and that enhance the supply chain system in the state to process, assemble, and ship goods to markets."

Section 2 creates s. 311.23, F.S., establishing the Florida Seaport Infrastructure Bank, or PIB. The PIB's purpose is to provide loans and credit enhancements[22] to the state's 14 deepwater ports and to private entities operating at these ports for constructing or improving transportation-related projects or facilities intended to improve the movement and intermodal transportation of cargo and passengers.

Funds appropriated by the Legislature for the purposes of providing the 50-50 match for port projects, as outlined in s. 311.07, F.S., or to pay debt service or refinance existing state port bonds pursuant to s. 320.20, F.S., may be used for the PIB loan program. As mentioned above, the FY 10-11 appropriation for the 50-50 grants was $25.6 million, and the debt service appropriation was $25 million as set in statute.

The PIB may lend funds for capital costs, or provide credit enhancements, for seaport projects that meet the following criteria:

- Are approved pursuant to s. 311.09, F.S., which means they have been approved by the FSTED council and are part of its 5-Year Seaport Mission Plan, and at least the first year's projects are in FDOT's tentative 5-year Work Program;
- Are on the State Intermodal System;[23] and
- Provide connections to highways, airports, railways, and other transportation terminals, pursuant to s. 341.053, F.S., FDOT's intermodal transportation development program.

[21] Ibid. Pages 7-11.

[22] Credit enhancement, in the context of CS/CS/SB 768, can be defined as methods by which the PIB could reduce the risk of another financial institution extending credit or bonded revenues to the port or port business that is the borrower. For example, the PIB could provide collateral, a letter of credit, a surety bond, or a reserve account for the port to be able to obtain outside financing.

[23] Florida's State Intermodal System (SIS) is a transportation system comprised of facilities and services of statewide and interregional significance that integrates multiple modes to move people and goods throughout the state. The Legislature in 2003 directed FDOT to develop a SIS, keyed on identifying high-priority transportation facilities, and then creating a network of highway, air, rail, water, and space facilities. More information is available at http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf.

These loans are for a maximum term of 5 years.

Additionally, the PIB may make emergency loans to repair damages at any of the 14 public seaports in areas where an official state declaration of emergency has been filed, pursuant to ch. 252, F.S. These emergency loans:

- Must be repaid within 24 months, although the FSTED chair may grant up to a 36-month repayment schedule upon a written finding that specifies the reasons for a longer repayment;
- Require an applicant to file a loan application with FSTED that includes documentation of damage claims filed with the Federal Emergency Management Agency (FEMA) or an insurance carrier and documentation of the applicant's overall financial condition; and
- Must be repaid upon the port or port business' receipt of FEMA funds or proceeds from an insurance payout, but before the term of the PIB emergency loan expires.

For both types of loan programs, the FSTED council may consider the following criteria for each project seeking PIB assistance:

- The project's credit-worthiness;
- The likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;
- The extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;
- The amount of the proposed assistance as a percentage of the overall project costs, with an emphasis on local and private participation; and
- If applicable, the extent to which damage from a disaster that results in a declaration of emergency has impacted a deepwater seaport's ability to maintain its previous level of service and remain accessible to the public, or has had a major impact on the port's cash flow or revenue-generation ability.

The interest rate for all PIB loans will be set by the FSTED council and may be at or below market rates. The borrowers must provide documentation to the FSTED council of a dedicated revenue stream to repay the loan. Finally, these loans may be subordinated to senior debt held by the port that has an investment-grade rating of at least "BBB."

The FSTED council may adopt rules to implement the PIB program.

The PIB is modeled after FDOT's State Infrastructure Bank (SIB), created in 2000 in s. 339.55, F.S., to provide loans and other financial assistance to public and private entities carrying out or proposing to carry out eligible highway and transit projects. It is a revolving loan fund that also has authority, pursuant to s. 215.617, F.S., to leverage its state funding to issue bonds. FDOT's SIB actually has two accounts: a federally funded account is limited to projects which meet all federal transportation requirements, and a state-funded account that focuses on projects on the State Highway System, provides for increased mobility on the state's transportation system, or provides intermodal connectivity.

As of 2010,[24] 32 projects have received nearly $366 million from the federal SIB account; 17 of those have been completed and the loans repaid. Thirty-seven projects have been funded from the state SIB account, receiving nearly $767.3 million in loans. Seven of those projects have been completed and the loans repaid.

Section 3 amends s. 320.20, F.S., to strike limitations on the Florida Ports Financing Commission refinancing the existing Series 1996 and Series 1999 bond issues beyond the existing pay-off date, and from pledging the source of debt service for these bond issues – motor vehicle registration fees – for new bonded indebtedness to be issued by the Florida Ports Financing Commission.

Under this new provision, the Florida Ports Financing Commission could, as it did prior to 2000, issue port facility bonds, rather than the state Division of Bond Finance issue port facility bonds at the request of FDOT.

For any revenue bonds or other indebtedness issued after July 1, 2011, the new provisions direct the Florida Ports Financing Commission to ensure that the greatest amount of revenue from these new issues is available for eligible port projects. Representatives of the Florida Ports Council have said that refinancing the 1996 and 1999 bond issues and extending them for an additional 10 years could yield up to $100 million in new revenues.[25]

Section 4 amends s. 373.406, F.S., to include in the general exemptions to ch. 373, F.S., stormwater permitting requirements for overwater piers, docks, and similar structures located in any of the 14 public seaports that have a Stormwater Pollution Prevention Plan under the National Pollutant Discharge Elimination System Program. Many of the 14 ports do have an adopted plan.

This provision is intended to clarify port permitting provisions adopted in 2010.

Section 5 amends s. 373.4133, F.S., to clarify and expedite several permitting provisions in the conceptual permitting process for seaports. This section:

- Requires DEP to approve or deny an application for a port conceptual permit within 60 days after receipt of a completed application.
- Specifies that DEP may request additional information twice and provides for the application to be considered withdrawn if the applicant fails to respond within 90 days.
- Third-party petitioners challenging the issuance of a permit are burdened with ultimate persuasion and going forward with the evidence.

Section 6 amends s. 403.813, F.S., to clarify the conditions by which maintenance dredging activities at seaports remains exempt from permits under this chapter. The changes:

[24] Charts available at http://www.dot.state.fl.us/financialplanning/finance/sib/SIB_Project_List.pdf. Last visited March 3, 2011.
[25] Conversations with Nancy Leikauf and Michael Rubin on Feb. 28, 2011.

- Add specific statutory and chapter law cites related to permits which the maintenance projects are not required to get. This provision tracks the exemption language elsewhere in the statute related to non-port dredging projects.
- Clarify that maintenance dredging does not require DEP permits if the dredging is no deeper or wider than the channel's original configuration, does not significantly impact previously undisturbed natural areas, and the dredging does not violate the requirements of s. 379.2431(2)(d), F.S., related to manatee protections.
- Clarify that the allowable mixing zone for the turbid discharge from the dredge disposal site encompasses a 150-meter radius from the point of discharge into the receiving waters.
- Clarify that ditches, outfall pipes, and other types of linear conveyances for the turbid discharge are not considered "receiving waters" for the purpose of determining the extent of the 150-meter radius.
- Specify that the port is not required to seek permission from the state again to use sovereign submerged lands, since it received such permission for the earlier dredging.
- Allow the port to deposit the dredged material on an unpermitted, self-contained upland spoil site where the spoil cannot re-enter state waters.

Section 7 through 13 of the bill amend various sections of statute which collectively identify the state's deepwater ports to include Port Citrus in those sections' provisions.
Specifically, the bill amends:

- Section 310.002, F.S., to add Port Citrus to the definition of the term "port."
- Section 311.09, F.S., to include a representative of Port Citrus as a member of the Florida Seaport Transportation and Economic Development Council.
- Section 374.976, F.S., to conform provisions relating to include Port Citrus in provisions relating to the authority of inland navigation districts.
- Section 403.021, F.S., to conform provisions to include Port Citrus in legislative declarations relating to environmental control.
- Section 403.061, F.S., to conform provisions to include Port Citrus in provisions relating to powers of the Department of Environmental Protection.
- Section 403.813, F.S., to conform provisions to include Port Citrus in provisions relating to permits issued at Department of Environmental Protection district centers.
- Section 403.816, F.S., to conform provisions to include Port Citrus in provisions relating to certain maintenance projects at deepwater ports and beach restoration projects.

Section 14 provides an effective date of July 1, 2011.

## 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:

Indeterminate, but likely positive.

C. Government Sector Impact:

DEP may incur some additional costs associated with Sections 3 and 4 of the bill, related to expedited review of applications for port conceptual permits; however, the department has indicated the costs can be absorbed within existing resources.

Senate Bill 2000 provides $117 million in funding for Seaport Grants as recommended by FDOT in the Final Tentative Work Program for Fiscal Year 11-12.

## 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.)

**CS by Commerce and Tourism Committee on March 16, 2011:**
The committee adopted two amendments at its meeting and incorporated them into the original bill as a committee substitute. The first amendment removed two sections of the original bill that would have raised from $8 million to $20 million the minimum amount of state transportation funds allocated for FSTED projects, on July 1, 2012, and eventually to $50 minimum annually. The second amendment added clarifying changes to s. 403.813(3), F.S., related to state environmental permit exemptions for ports' maintenance dredging.

**CS by Transportation Committee on March 29, 2011:**
The committee adopted five amendments at its meeting and incorporated them into CS/SB 768 as a committee substitute. The amendments:

- make available no less than an additional $100 million each year for five years from the STTF to be used to fund the Florida Deepwater Seaport Program;
- include Port Citrus in Citrus County in the various statutes identifying Florida's deepwater ports;
- clarify conditions under which a pier may be exempted from stormwater management requirements;
- clarify conditions under which certain dredging projects may be exempted from permitting requirements; and
- provide additional detail related to the allowable deposition of spoil material on upland disposal sites.

B. Amendments:

None.