

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 907 Florida Seaport Transportation and Economic Development Council

**SPONSOR(S):** Tourism, Infrastructure & Energy Subcommittee, Payne

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1038

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Davis	Davis
3) Commerce Committee		Johnson	Hamon

### SUMMARY ANALYSIS

Florida law designates 15 deepwater seaports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. These seaports are represented on the Florida Seaport Transportation Economic Development (FSTED) Council, which approves specified types of seaport projects and recommends funding under the FSTED program.

The Putnam County Port District operates an inland river port, located along the St. Johns River in Putnam County. The county has plans to dredge the channel to the port in order to increase commerce.

The bill adds Putnam County as a member of the FSTED Council.

The bill provides that until July 1, 2024, Putnam County may apply for a grant through the FSTED Council to perform a study examining the economic, technical, and operational viability of establishing a port in Putnam County. The FSTED Council must evaluate the grant application pursuant to specified requirements in law and if approved, the Department of Transportation must include the study in its budget request for FSTED funding. Upon completion of the study, the FSTED Council must review the study to determine if a port in Putnam County is viable. If the FSTED Council does not approve the study, Putnam County's membership on the council must terminate.

The bill reenacts various statutes that cross-reference the seaports making up the FSTED Council to incorporate Putnam County into those statutes.

The bill has an indeterminate fiscal impact on state government expenditures, but costs would be limited to available transportation revenues within the Work Program. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Current Situation**

Florida is home to 15 deepwater seaports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina,<sup>1</sup> which are independently governed and operated.<sup>2</sup>

The Department of Transportation's (DOT) Seaports Office works with the seaports to assist with planning and funding strategic seaport projects, as well as assisting with seaport-related issues. DOT's Seaports Office is responsible for statewide seaport system planning, coordinating with statewide freight planning, project management, and coordinating seaport infrastructure projects.<sup>3</sup>

#### Florida Seaport Transportation and Economic Development (FSTED) Program/FSTED Council

Created in 1990,<sup>4</sup> the Florida Seaport Transportation and Economic Development (FSTED) Program within DOT finances port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and support the interests, purposes, and requirements of all 15 seaports.<sup>5</sup>

The FSTED Council is charged with carrying out the state's economic development mission through implementation of seaport capital improvement projects at the local level. The FSTED Council is created within DOT and consists of the port directors of the 15 deepwater seaports and representatives from DOT and the Department of Economic Opportunity (DEO).<sup>6</sup>

Under Florida law, a minimum of \$25 million per year must be made available from the State Transportation Trust Fund for the FSTED Program. The FSTED Council must develop guidelines and recommendations for project funding. Council staff, DOT, and DEO must work in cooperation to review projects and allocate funds in accordance with the schedule required for DOT to include these projects in its tentative work program.<sup>7</sup>

DOT must include FSTED funding in its annual legislative budget request, including funding for FSTED Council-approved projects which have been determined by DOT and DEO to be consistent with Florida law. DOT must include the approved FSTED projects during the ensuing fiscal year in its tentative work program. The total amount of funding to be allocated to the FSTED Program during the successive 4 fiscal years must also be included in DOT's tentative work program.<sup>8</sup>

FSTED Program funds must be used to fund approved projects on a 50-50 matching basis with the relevant deepwater seaport. However, program funds used to fund projects that involve the rehabilitation of wharves, docks, berths, bulkheads, or similar structures require a 25 percent match of funds. Program funds may also be used by the FSTED Council for data and analysis that will assist Florida's seaports and international trade.<sup>9</sup>

Projects eligible for funding by grants under the FSTED Program are limited to the following port facilities or port transportation projects:

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<sup>1</sup> S. 311.09(1), F.S.

<sup>2</sup> Department of Transportation (DOT), Agency Analysis of 2022 Senate Bill 1038 p.2. (Dec. 6, 2021).

<sup>3</sup> *Id.*

<sup>4</sup> Ch. 90-136, Laws of Fla.

<sup>5</sup> S. 311.07(1), F.S.

<sup>6</sup> S. 311.09(1), F.S. Florida Ports Council, *Florida Seaport Transportation and Economic Development Program*, <https://flaports.org/about/florida-seaport-transportation-and-economic-development-program/> (last visited Dec. 15, 2021).

<sup>7</sup> S. 311.07(2), F.S. DOT's work program is developed pursuant to s. 339.135, F.S.

<sup>8</sup> S. 311.07(9), F.S.

<sup>9</sup> S. 311.07(3)(a), F.S.

- Transportation facilities within the jurisdiction of the port.
- The dredging or deepening of channels, turning basins, or harbors.
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- The acquisition of land to be used for port purposes.
- The acquisition, improvement, enlargement, or extension of existing port facilities.
- Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects.
- Transportation facilities which are not otherwise part of DOT's adopted work program.
- Intermodal access projects.
- Construction or rehabilitation of port facilities, excluding any park or recreational facilities, in ports with operating revenues of \$5 million or less, provided that such projects create economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development or updates, including the purchase of data to support such plans.<sup>10</sup>

To be eligible for consideration by the FSTED Council, a project must be consistent with the port comprehensive master plan that is incorporated as part of the approved local government comprehensive plan.<sup>11</sup>

### Putnam County Port District

Created in 1967 by special act,<sup>12</sup> the Putnam County Port District is a dependent special district consisting of all of Putnam County. Its board consists of the Putnam County Board of County Commissioners. The district operates an inland river port, located along the St. Johns River in the county.

Putnam County proposes dredging a 5,000-foot branch channel on the St. Johns River from the current barge berth to the St. Johns channel and adding a turning basin to enhance both navigability and safety. The current depth is 7 feet at low water. The proposed dredging will increase the depth to 12 feet at low water, allowing the size and capacity of vessels able to visit the port to increase substantially.<sup>13</sup>

### **Effect of the Bill**

The bill adds Putnam County as a member the FSTED Council.

The bill provides that until July 1, 2024, Putnam County may apply for a grant through the FSTED Council to perform a study examining the economic, technical, and operational viability of establishing a port in Putnam County. The FSTED Council must evaluate the grant application pursuant to the statutory provisions that govern the council's review of other proposed port projects.<sup>14</sup> If approved, DOT must include the feasibility study in its budget request for FSTED funding. Upon completion, the FSTED

<sup>10</sup> S. 311.07(3)(a), F.S.

<sup>11</sup> S. 311.07(3)(c), F.S.

<sup>12</sup> Ch. 67-1961, Laws of Fla.

<sup>13</sup> Attachment to e-mail from SaraLynn Ard, Legislative Aide to Rep. Payne, FW: PowerPoint (Jan. 21, 2022).

<sup>14</sup> Sections 311.09(5)-(8), F.S., provide for the review and approval of FSTED projects including reviews for consistency with various plans, economic benefit, readiness for construction, noncompetition with other Florida ports, and capacity within the seaport system. The FSTED Council's recommendations are reviewed by DOT for consistency with various state-related transportation plans and by DEO for economic benefits and consistency with the state's economic goals. The council reviews DOT's and DEO's findings, and projects not found to be consistent may not be funded.

Council must review the study to determine if a port in Putnam County is viable. If the FSTED Council does not approve the study, Putnam County's membership on the council must terminate.

The bill reenacts various statutes which cross-reference the seaports making up the FSTED Council to incorporate Putnam County into those statutes. These statutes include, but are not limited to, statutes relating to coastal management, seaport funding, seaport security, the confidentiality of certain records held by deepwater ports, exemptions from certain laws regarding stormwater management, and port conceptual permits.

The bill has an effective date of July 1, 2022.

**B. SECTION DIRECTORY:**

- Section 1** Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council.
- Section 2** Reenacts s. 163.3178, F.S., relating to coastal management.
- Section 3** Reenacts s. 189.068, F.S., relating to special districts; authority for oversight; general oversight review process.
- Section 4** Reenacts s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.
- Section 5** Reenacts s. 311.091, F.S., relating to entry into public-private infrastructure project agreements for port-related public infrastructure projects.
- Section 6** Reenacts s. 311.10, F.S., relating to the Strategic Port Investment Initiative.
- Section 7** Reenacts s. 311.101, F.S., relating to the Intermodal Logistics Center Infrastructure Support Program.
- Section 8** Reenacts s. 311.12, F.S., relating to seaport security.
- Section 9** Reenacts s. 311.121, F.S., relating to qualifications, training, and certification of licensed security officers at Florida's seaports.
- Section 10** Reenacts s. 311.14, F.S., relating to seaport planning.
- Section 11** Reenacts s. 315.18, F.S., relating to the confidentiality of certain records held by deepwater ports.
- Section 12** Reenacts s. 320.20, F.S., relating to the disposition of license tax moneys.
- Section 13** Reenacts s. 334.27, F.S., relating to governmental transportation entities' property acquired for transportation purposes; limitation on soil and groundwater contamination liability.
- Section 14** Reenacts s. 337.14, F.S., relating to application for qualification; certificate of qualification; restrictions; request for hearing.
- Section 15** Reenacts s. 373.406, F.S., relating to exemptions regarding the management and storage of surface waters.
- Section 16** Reenacts s. 373.4133, F.S., relating to port conceptual permits.
- Section 17** Reenacts s. 373.4136, F.S., relating to the establishment and operation of mitigation banks.

**Section 18** Reenacts s. 403.061, F.S., relating to department; powers and duties.

**Section 19** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

If a study is approved by the FSTED Council, DOT must include the project as part of its Tentative Work Program submission to the Legislature in FY 2023-24. The cost of the study is indeterminate at this time, but any costs would be limited to available transportation revenues within the confines of the Work Program.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the feasibility study for a port in Putnam County must examine the economic, technical, and operational viability of the port.
- Required the FSTED Council to review the feasibility study and make a determination regarding the viability of a port in Putnam County.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.