

# 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 Committee on Transportation

BILL: SB 1038

INTRODUCER: Senator Perry

SUBJECT: Florida Seaport Transportation and Economic Development Council

DATE: January 11, 2022 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Pre-meeting</b>
2.			CM	
3.			RC	

## I. Summary:

SB 1038 revises the membership of the Florida Seaport Transportation and Economic Development (FSTED) Council to include as a member the port director (or the director’s designee) of the Port of Putnam County. The bill increases the total number of members on the FSTED Council from 17 to 18.

Until July 1, 2024, the bill authorizes Putnam County to apply for a grant through the FSTED Council to fund a feasibility study regarding the establishment of a port in Putnam County. The bill directs the Council to evaluate the grant application in accordance with existing statutory provisions governing evaluation and selection of projects for funding under the FSTED Program within the Florida Department of Transportation (FDOT).

If the grant application is approved, the bill requires the FDOT to include the feasibility study as a specific project in its annual legislative budget request for funding of the FSTED Program. If the study concludes that a port in Putnam County is not feasible, the bill terminates the membership of Putnam County on the FSTED Council.

The bill also reenacts a number of statutory provisions to incorporate amendments made by the bill to the FSTED Council statute.

The fiscal impact of the bill is unknown, as whether any grant award under the FSTED Program for the bill’s specified purpose will occur, and in what amount, is unknown. See the “Fiscal Impact Statement” below for additional details.

The bill takes effect July 1, 2022.

## II. Present Situation:

### *The Florida Seaport Transportation and Economic Development (FSTED) Program*

The Florida Seaport Transportation and Economic Development (FSTED) Program was created within the FDOT to finance 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 public seaports.<sup>1</sup> Section 311.07(2), F.S., currently requires a minimum of \$25 million annually to be made available from the State Transportation Trust Fund to fund the FSTED Program. Section 311.09(9), F.S., also directs the FDOT to include no less than \$25 million annually in its legislative budget request for the FSTED Program. An additional \$35 million in seaport-related funding is provided for specified projects under the Strategic Port Investment Initiative under s. 311.10, F.S., and seaport-related projects may be funded under the Intermodal Logistics Center Infrastructure Support Program under s. 311.101, F.S., and the Intermodal Development Program under s. 341.053, F.S. Additional annual funding for debt service in the amount of \$10 million is also provided under s. 320.20, F.S., for seaport-related bonds.

The FSTED Program is managed by the 17-member FSTED Council. The members currently include the port director of the state's 15 public seaports or the director's designee, the Secretary of the FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity (DEO) or his or her designee.<sup>2</sup> The Council reviews applications for the award of grants for projects eligible for funding under the FSTED Program. The Council evaluates eligible projects<sup>3</sup> and submits an annual list of approved projects, along with a recommended funding level for each project, to the FDOT and the DEO.

The FDOT reviews the list annually approved by the Council for consistency with the Florida Transportation Plan, the Statewide Seaport and Waterways System Plan, and its adopted work program and must notify the council of projects found to be inconsistent.<sup>4</sup> The DEO reviews the annual list to evaluate the economic benefit of the project, and to determine whether a project is consistent with the Florida Seaport Mission Plan, with state economic developments goals and policies, and with state, regional, and local plans, as appropriate.<sup>5</sup> Generally, projects found to be inconsistent may not be included in the list of projects to be funded.

The FDOT must include in its annual legislative budget request for the FSTED Program funded under s. 311.09, F.S., funding for projects determined to be consistent and approved by the

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<sup>1</sup> Section 311.07(1), F.S. The 15 seaports, listed in s. 311.09(1), F.S., are Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina.

<sup>2</sup> Section 311.09(1), F.S.

<sup>3</sup> Eligible project types are listed in s. 311.07(3)(b), F.S., and funding is limited to the specified port facility or port transportation projects on a 50-50 matching basis per s. 311.07(3)(a), F.S., except for projects involving rehabilitation of wharves, docks, berths, bulkheads, or similar structures, which require a 25-percent match.

<sup>4</sup> Section 311.09(6), F.S.

<sup>5</sup> Section 311.09(7), F.S.

Council, and the specific projects to be funded during the ensuing fiscal year must be included in the FDOT's tentative work program.<sup>6</sup>

### ***The Putnam County Port District and Barge Port Project***

The Florida Legislature created the Putnam County Port District in 1961.<sup>7</sup> The Putnam County Commission, acting as the Port Authority, owns an existing barge port and industrial development area located in Putnam County on the St. Johns River. According to the Putnam County Port District website, barge port services currently include:

- Bulkheaded dock space;
- Enclosed, lockable warehouse space with utilities;
- Separate keyed office space;
- Paved parking; and
- Gated entry.<sup>8</sup>

Additional assets are described as available land at the port and new land acquisitions, an on-dock heavy lift stick crane, CSX rail service at the port, and proximity to major customers.<sup>9</sup>

The Port Authority is currently pursuing expansion of the barge port, in cooperation with the Army Corps of Engineers (the Corps),<sup>10</sup> under the federal Continuing Authorities Program (CAP), under which the Corps is authorized to plan, design, and implement certain types of water resources projects without additional project specific congressional authorization. The purpose of the CAP is to plan and implement projects of limited size, cost, scope and complexity.<sup>11</sup> The Port Authority's consultant describes the "CAP Section 107" process as an "expedited" process.<sup>12</sup>

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<sup>6</sup> See s. 311.09(9), F.S. The FDOT's adopted work program is the 5-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the 5-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the 5-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs. Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

<sup>7</sup> Chapter 67-1961, L.O.F.

<sup>8</sup> Putnam County, Florida, Port Authority General Information, including a map of the port district boundaries, available at Port District General Information – Putnam County, FL BOCC (putnam-fl.com) (last visited January 7, 2021). Additional assets are described as available land at the port and new land acquisitions, an on-dock heavy lift stick crane, CSX Rail service at the port, and proximity to major customers.

<sup>9</sup> See infra note 10 at 20:29.

<sup>10</sup> See video of a presentation to the Putnam County Commission meeting as the Port Authority on December 14, 2021, at 9:44, available at PutnamBOCC - YouTube (last visited January 7, 2021).

<sup>11</sup> See U.S. Army Corps of Engineers, *Continuing Authorities Program*, for additional program information available at <https://www.nae.usace.army.mil/Missions/Public-Services/Continuing-Authorities-Program/> (last visited January 7, 2021).

<sup>12</sup> See U.S. Army Corps of Engineers, Small Navigation Project Study (Section 107), available at <https://www.nae.usace.army.mil/Missions/Public-Services/Continuing-Authorities-Program/Section-107/> for additional information (last visited January 7, 2021). "Section 107 of the River and Harbor Act of 1960 provides authority for the Corps of Engineers to improve navigation including dredging of channels, anchorage areas, and turning basins and construction of breakwaters, jetties and groins, through a partnership with non-Federal government sponsor such as cities, counties, special chartered authorities (such as port authorities), or units of state government. The maximum Federal cost for project development and construction of any one project is \$10 million and each project must be economically justified, environmentally sound, and technically feasible."

As described by the consultant in a recent presentation to the Port Authority,<sup>13</sup> the project involves dredging of a 5,000-foot branch channel from the existing barge berth to the St. Johns channel, with the addition of a turning basin to enhance vessel navigation and safety. The new branch channel depth would be 12 feet at low water, as the existing channel has been filled with silt due to storm events over the last 10 to 15 years. The current depth is about 7 feet, which precludes use by anything other than “very shallow-draft barges” and recreational vessels and “doesn’t do much for business.” An estimate of the material that needs to be removed is under 2,000 cubic yards, with a nearby, viable disposal site. At a new depth of 12 feet, the number, size, and capacity of vessels using the barge port, according to the consultant, would increase dramatically, as would revenues associated with that activity.

In terms of project development, according to the consultant,<sup>14</sup> three critical steps have been completed:

- A Federal Interest Determination, completed in July of 2021, which is prepared by the Corps and indicates a federal interest in continuing to evaluate the project.
- Development of a Fact Sheet, containing detailed project information, also prepared by the Corps. This document, completed in September of 2021, indicates that if a required feasibility report is positive and the project is actually constructed, the Corps will assume responsibility for the operations and maintenance of dredging.
- Completion of a Feasibility Cost Sharing Agreement in October of 2021, which establishes the responsibilities of the Port Authority and the Corps for funding the feasibility report.

According to the consultant,<sup>15</sup> the purpose of the feasibility report is to demonstrate the project’s support of national economic development (NED), which, in the absence of sufficient historical detail in Palatka, Florida, will be based on a market analysis involving identification of probable marine cargo activity at the facility if the project is completed. The consultant advises that if NED is demonstrated, the project will be approved. The consultant estimates that the feasibility report will require about 18 months to complete, at an estimated cost of \$800,000, with the County’s share being \$350,000 of that amount, which can be spread over the duration of the report’s production.

Assuming the outcome of the report is favorable,<sup>16</sup> the consultant advises the Corps would develop a project partnership agreement between Putnam County and the Corps covering the estimated cost of construction of the project and the responsibility of the County for 20 percent of the cost, which may be reduced by contributions in kind, such as lands, easements, and disposal areas. The entire process, including advertisement for bids, selection and award of a contract, and issuance of a Notice to Proceed, would be handled by the Corps and is expected to take about 18 months.

The dredging project, the consultant notes,<sup>17</sup> will allow barges and smaller vessels to access the port, but raising the Shands Bridge would make possible use of the port by larger vessels, such as hopper and flat deck barges, small vessels, and even cruise ships.

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<sup>13</sup> Supra note 10 at 10:25.

<sup>14</sup> Id. at 11:39.

<sup>15</sup> Id. at 13:24.

<sup>16</sup> Id. at 15:13.

<sup>17</sup> Id. at 21:55.

The FDOT plans to begin construction of a new Shands Bridge over the St. Johns River just south of the existing bridge in the fall of 2022 as part of the First Coast Expressway Project, increasing the vertical clearance height of the new bridge from the current 45 feet of clearance to 65 feet from the water line. According to the FDOT, this increase “is an improvement for marine commerce in the region.”<sup>18</sup>

### III. Effect of Proposed Changes:

Section 1 of the bill amends s. 311.09, F.S., increasing the total number of members on the FSTED Council from 17 to 18, by adding as a member the port director (or the director’s designee) of the Port of Putnam County.

The bill authorizes Putnam County, until July 1, 2024, to apply for a grant through the FSTED Council to fund a feasibility study regarding the establishment of a port in Putnam County. The bill directs the Council to evaluate the grant application in accordance with the existing statutory provisions governing evaluation and selection of projects for funding under the FSTED Program.

If the grant application is approved, the bill requires the FDOT, as is the case under current law for other FSTED applicants who are awarded project grants, to include the feasibility study as a specific project in its annual legislative budget request for funding of the FSTED Program. If the study concludes that a port in Putnam County is not feasible, the bill terminates the membership of Putnam County on the FSTED Council.

Sections 2 through 18 reenact a number of statutory provisions to incorporate the amendment to s. 311.09, F.S.

Section 19 provides the bill takes effect July 1, 2022.

### IV. Constitutional Issues

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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<sup>18</sup> FDOT, *First Coast Expressway – New St. Johns River Bridge*, available at <https://nflroads.com/ProjectDetails?p=5136> (last visited January 7, 2022.)

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A private sector consultant may be hired to conduct the described feasibility study should the FSTED Council grant an award to fund the study.

C. Government Sector Impact:

The bill does not revise funding levels under the FSTED Program. However, if the grant application for the feasibility study is approved, funding currently available for other grants under the FSTED Program would be reduced by the unknown amount of any award of funds granted by the FSTED Council for the feasibility study. Going forward, if the study concludes in a finding that a Putnam County Port is feasible, the county's membership on the Council continues, and competition for available funding under the FSTED Program would increase by one. If the study concludes the port is not feasible, membership on the Council terminates, and the bill presents no further fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following section of the Florida Statutes: 311.09.

The bill reenacts the following sections of the Florida Statutes: 163.3178, 189.068, 311.07, 311.091, 311.10, 311.101, 311.12, 311.121, 311.14, 315.18, 320.20, 334.27, 337.14, 373.406, 373.4133, 373.4136, and 403.061.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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