



MEMORANDUM

DATE: May 6, 2019

TO: Florida Port Directors

FROM: Michael Rubin, Vice President Governmental Affairs

SUBJECT: **LEGISLATIVE UPDATE – END OF SESSION REPORT**

The Legislature completed the substantive part of Regular Session on Friday, May 3rd, and extended until Saturday afternoon to allow for the 72 hour posting and vote on the 2019 General Appropriations Act. Overall Regular Session 2019 was marked by collegial negotiations between the House and Senate, and generally lacked any heated disagreements between the chambers.

Senate President Galvano and House Speaker Oliva managed to pass many of their major legislative issues – including multi-use transportation corridors, health care, medical marijuana, sanctuary cities, educational funding reform, school safety legislation, and amendment 4 implementing legislation. This year did see another historic low of bills passing both chambers. Out of the 3,571 bills filed by members or committees, only 196 bills were passed (slightly less than the 200 bills passed last year).

We are pleased to report that the Florida Legislature has again fully funded our seaport budget items. We provide the following report on seaport-related issues that either passed or failed to pass during Regular Session 2019:

Legislation Passed by the Florida Legislature

1. **Fiscal Year 2019/20 Budget (SB 2500)**. The negotiation process was delayed by Easter and Passover breaks, but the negotiations between the House and Senate lacked much of the contentious debate from previous Sessions. Funding for Hurricane Michael recovery projects dominated final discussions, but the final budget also included millions of dollars of “supplemental” member projects added by House and Senate leadership. The budget fully funds the FDOT Work Program for Fiscal Year 2019/2020 at \$9.7 billion. This includes **\$160.8 million** for seaports in the following specific line items:
 - A. **Line Item 1943** -- \$15 million for debt reserve payments (FPFC 1996 Bond Refinance).

- B. **Line Item 1944** -- \$10 million for debt reserve payments (FPFC 1999 Bond Refinance).
- C. **Line Item 1945** -- \$122,727,917 for the FSTED Program, SIS, GM, SPII and other **FDOT allocations** in FDOT 5-Year Work Program.
- D. **Line Item 1946** -- \$12,904,547 for the Seaport Investment Program/Bond debt reserve payments.
- E. **Line Item 1948** -- \$78,790,899 for the **FDOT Intermodal Development/Grants Program**. This may include some seaport projects.

The final budget also includes proviso that provides “\$2,000,000 in nonrecurring funds is provided for the Seaport Security Grant Program, pursuant to section 311.12(6), Florida Statutes. The funding provided shall focus on filling seaport security technology gaps utilizing situational awareness tools and enhanced cyber security technologies.”

There was no other proviso or implementing bill language included that impacted the FSTED Program or seaport transportation projects in the final budget.

The Legislature also agreed to fund both Enterprise Florida and VISIT Florida for another year. The Legislature provided a one-year extension of the repeal date for VISIT Florida until July 1, 2020 in the Appropriation Implementing Bill.

2. **Transportation Bill - Creating the Multi-use Corridors of Regional Economic Significance Program (CS/CS/SB 7068 by Senate Infrastructure and Security Committee and HB 7113 by House Transportation and Tourism Appropriation Subcommittee)**. This legislation was Senate President Galvano’s transportation priority – the creation of the “Multi-use Corridors of Regional Economic Significance Program” (M-CORES) within the Florida Department of Transportation (FDOT). The bill identifies three initial corridors to be created under the M-CORES Program:

- A. Southwest-Central Florida Connector (Collier County to Polk County);
- B. Suncoast Connector (Citrus County to Jefferson County); and
- C. Northern Turnpike Connector (Northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).

The bill authorizes FDOT to undertake the planning and review process for these multi-jurisdictional projects. Projects will be subject to requirements relating to economic and environmental feasibility and specified environmental and other evaluation requirements. During project development, the FDOT must convene a task force for each corridor comprised of representatives from state agencies and other stakeholders to evaluate and coordinate corridor analysis, environmental and land use impacts, and other pertinent impacts of the corridors. The task force must issue a written report by October 1, 2020. The bill also delineates an aggressive development process with construction to begin no later than December 31, 2022, with the corridors open to traffic no later than December 31, 2030.

The bill directs that these corridors shall be developed as toll facility roads, and authorizes the use of turnpike revenue bonds and other FDOT bonding authority to help finance the cost of the

development of these corridors. The bill also authorizes the redirect of existing motor vehicle license taxes, currently allocated to the state General Revenue Fund, into the State Transportation Trust Fund beginning Fiscal Year 2019/20. This redirection of funds will provide an increase of revenue into the State Transportation Trust Fund of \$135 million by Fiscal Year 2021/22.

State environmental groups all but declared that this bill would create a natural disaster in Florida, but the bill passed rather easily in both chambers with support from republicans and democrats. We stood in support of this legislation with the Florida Chamber and other transportation entities.

3. **Department of Transportation (CS/CS/SB 1044 by Senator Albritton and CS/CS/CS/HB 905 by Representative Andrade)**. This legislation amends various provisions relating to FDOT. In particular, the legislation would provide the following:

- A. Prohibit a local government from adopting standards and specifications for aggregates and materials that are contrary to FDOT's standards or specifications.
- B. Prohibit a contractor that has not satisfactorily completed two projects, each in excess of \$15 million, from bidding on FDOT contracts in excess of \$50 million.
- C. Prohibit a local government from contracting with the same entity for design services, and for construction engineering and inspection services on projects partially or wholly funded by FDOT. **This prohibition does not apply to seaports.**

We worked with Senator Albritton, Representative Andrade, and the transportation interests that introduced the contract limitation to ensure the language did not apply to seaports. As noted below, similar language was introduced by Representative Toledo passed on her engineering legislation (HB 827). However, Representative Toledo's language did not contain any exceptions. Under legislative statutory revision rules, this creates a conflict between the two bills. The Legislature's Division of Statutory Revision will look to the last bill passed by the Florida Legislature as the latest declaration of legislative intent. HB 827 was passed by the Legislature on Wednesday, May 1st, and HB 905 was passed by the Legislature on Thursday, May 2nd. Thus, the language providing the exception for seaports will be placed in statute as the last declaration of legislative intent.

4. **Engineering (CS/CS/CS/SB 616 by Senator Perry and CS/CS/HB 827 by Representative Toledo)**. This legislation contained several changes to the licensing and regulation of professional engineers. Based on some issues in the panhandle with road construction contractors, Representative Toledo amended the legislation with a "floor amendment" when the bill was on second reading on the House Floor on April 24th to include language prohibiting **any** local government from contracting with the same entity for design services, and for construction engineering and inspection services on projects partially or wholly funded by FDOT. This amendment was filed on April 19th, and several representatives from Florida seaports – including talking with Paul Anderson (the Port Director at her local port) – spoke with Representative Toledo about amending the language to exempt seaports. The language was not amended, and the bill was sent over to the Senate and passed out by the Senate on Wednesday May 1st.

5. **Retainage (CS/CS/SB 246 by Senator Hooper and CS/CS/HB 101 by Representative Andrade)**. This legislation was filed in response to concerns over slow payments to subcontractors and general contractors on large publicly financed construction projects. After discussions with local government representatives, and with suggested modifications by representatives from Broward County, the bill was amended on the House floor with compromise language.

The bill will reduce the amount (referred to as retainage) a state or local governmental entity may withhold from payment to a contractor for construction services on projects over \$200,000. The bill will allow a local government to retain up to 5 percent for construction projects on **any** progress payment. Statutory language delineating additional payment retainage limits after the project had reached 50 percent completion was removed by the bill. The bill still maintains current law which provides that this state retainage requirement does not apply to “construction services purchased by a public entity which are paid for, in whole or in part, with federal funds.”

6. **Autonomous Vehicles (CS/CS/SB 932 by Senator Brandes and CS/HB 311 by Representative Fischer)**. This legislation revises various provisions of law relating to autonomous vehicles. The bill authorizes operation of a fully autonomous vehicle on Florida roads regardless of whether a human operator is physically present in the vehicle. Under the bill, a licensed human operator is not required to operate a fully autonomous vehicle. The bill authorizes an autonomous vehicle or a fully autonomous vehicle equipped with a teleoperation system to operate without a human operator physically present in the vehicle when the teleoperation system is engaged.

The bill prohibits local governments from imposing a tax, fee, or other requirement on automated driving systems or autonomous vehicles, and clarifies that this prohibition does not exempt autonomous vehicles from a tax or fee applied to non-autonomous vehicles. We worked with Senator Brandes and Representative Fischer to include statutory language authorizing seaports and airports to charge reasonable fees. The statutory language specifically provides that the bill does not “prohibit an airport or a seaport from charging reasonable fees consistent with any fees charged to companies that provide similar services at that airport or seaport for their use of the airport's or seaport's facilities, nor does it prohibit the airport or seaport from designating locations for staging, pickup, or other similar operations at the airport or seaport.”

Legislation NOT Passed by the Florida Legislature

As stated above, the 2019 Florida Legislature continued the trend of passing a limited number of bills by only passing 196 bills. Priority issues that failed to pass this Legislature included a new gambling compact with the Seminole Tribe, on-line sales tax reform, and workers compensation reform. Additional legislation we were following this year that also failed to pass included:

1. **Public Financing of Construction Projects (CS/SB 78 by Senator J. Rodriguez and HB 169 by Representative Fernandez)**. This legislation would have prohibited state-financed contractors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study. The bill would have required the Department of Environmental Protection to develop rules for the standards of conducting a sea level impact

project study – to include 50-year sea level rise, storm damage and flooding risks. The bill was amended by Senator J. Rodriguez to delineate that the bill would not create a legal cause of action for damages.

The Senate bill was referred to four Senate committees, and only passed out of two of those committees. The House bill did not receive a hearing in any committee of reference.

2. **Luxury Ground Transportation Companies (HB 303 by Representative Rommel)**. This legislation would have created a new statutory designation of Luxury Ground Transportation Companies (LGTC), similar to the statutory designation for Uber and Lyft companies (Transportation Network Companies TNC) created in 2017 by the Legislature. The bill was never heard as a “stand-alone” bill in any House committee, but similar language was amended on the Department of Financial Services legislation (HB 1393) in the House Full Appropriations Committee. This language was removed by the Senate when the bill was received by the Senate because the language was “part of a bill that had not been heard in the Senate.”

The House bill died in the House without any hearing, and there was no similar legislation filed in the Senate.

3. **Florida Transportation Commission (SB 1448 by Senator Gruters and HB 681 by Representative Zika)**. This legislation would have repealed the Florida Transportation Commission, and remove all of the statutory responsibilities of the Commission – including nominating FDOT Secretary candidates.

Neither the Senate bill nor the House bill received a hearing in any committee of reference.

As always, we appreciate the effort you, your staff, and your individual lobbyists take with respect to communicating with “one-voice” on seaport related issues. These efforts continue to have a significant impact on our success each legislative session. Please call or email us if you have any questions.

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