



## MEMORANDUM

DATE: February 28, 2020

TO: Florida Port Directors

FROM: Michael Rubin, Vice President Governmental Affairs

SUBJECT: **LEGISLATIVE UPDATE – FEBRUARY 28<sup>TH</sup>**

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There are two weeks left in the 60-day Regular Session 2020. Like last year, the Florida Legislature has not passed much substantive legislation at this point. We provide the following report on seaport/transportation-related legislation filed, and seaport issues included in the House and Senate budget recommendations:

1. **Fiscal Year 2020/2021 Budget (HB 5001 by House Appropriations and SB 2500 by Senate Appropriations)**. The House and Senate should begin budget negotiations on the Fiscal Year 2020/2021 Budget the week of March 2<sup>nd</sup>. As reported previously, the appropriation amounts for seaports in specific line items are identical in both budgets and include the following specific line items:
  - A. **Line Item 1920** -- \$15 million for debt reserve payments (FPFC 1996 Bond Refinance).
  - B. **Line Item 1921** -- \$10 million for debt reserve payments (FPFC 1999 Bond Refinance).
  - C. **Line Item 1922** -- \$88,110,883 for the FSTED Program, SIS, GM, SPII and other FDOT allocations in FDOT 5-Year Work Program.
  - D. **Line Item 1923** -- \$10,095,000 for the Seaport Investment Program/Bond debt reserve payments.
  - E. **Line Item 1925** -- \$74,438,222 for the FDOT Intermodal Development/Grants Program. This may or may not include some seaport projects.

In the Senate budget, line item 1922 also includes the following recommended proviso language for the FSTED Program Seaport Security Grant Program – “From the funds in Specific Appropriation 1922, \$2,000,000 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.” This language is identical to the proviso language approved by the Florida Legislature last year.

2. **Transportation (CS/CS/CS/HB 395 by Representative Andrade and SB 1172 by Senator Albritton)**. HB 395 was heard in its final House committee of reference, the House State Affairs Committee on Thursday, February 27<sup>th</sup>. The Committee adopted a “strike-all” amendment to the bill and it appears that this legislation will become the omnibus transportation package for 2020. The amendment added several provisions to the bill, and the bill now includes several FDOT provisions, and the following issues related to seaports:
- A. Adds “luxury ground transportation network company” to the statutory list of Transportation Network Companies contained in section 627.748, F.S. Regulation of these companies would be preempted by that statute. That statute would still not prohibit “an airport or seaport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport or seaport for their use of the airport’s or seaport’s facilities or prohibit the airport or seaport from designating locations for staging, pickup, and other similar operations at the airport or seaport.”
  - B. Provides proposed statutory language in section 327,59, F.S., concerning the removal of vessels under 500 gross tons at marinas located in a deepwater seaport after the U.S. Coast Guard sets condition Yankee at such seaport. Such vessels may not remain in a marina “that has been deemed not suitable for refuge during a hurricane.” The provision authorizes the marina owner/operator to remove the vessel if the owner of the vessel fails to remove the vessel.
  - C. Exempts airports, as defined in s. 332.004, F.S., from the prohibition against using the same entity to perform design and construction, engineering, and inspection services. We exempted seaports from this prohibition last year. The amendment does not include the “conflict of interest” language amended on SB 7054 as discussed below.
  - D. Removes the July 1, 2020 “sunset” date that would have terminated the Intermodal Logistics Center Infrastructure Support Program contained in section 311.101, F.S.

SB 1172 has not been heard in any Senate committee to date, and similar transportation issues have been placed in SB 7054 as discussed below. It is unclear at this time if any FDOT transportation package will be available for a vote on the Senate Floor.

3. **Transportation (CS/HB 1315 by Representative Fetterhoff and SB 7054 by the Senate Infrastructure and Security Committee)**. Senator Lee, Chair of the Senate Infrastructure and Security Committee is guiding the Senate omnibus transportation package. As amended in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on Wednesday, February 26<sup>th</sup>, the bill includes several FDOT provisions, and the following issues related to seaports:
- A. Provides proposed statutory language in section 327,59, F.S., concerning the removal of vessels under 500 gross tons at marinas located in a deepwater seaport after the U.S. Coast Guard sets condition Yankee at such seaport. Such vessels may not remain in a marina “that has been deemed not suitable for refuge during a hurricane.” The provision authorizes the marina owner/operator to remove the vessel if the owner of the vessel fails to remove the vessel.
  - B. Exempts airports, as defined in s. 332.004, F.S., from the prohibition against using the same entity to perform design and construction, engineering, and inspection services. We

exempted seaports from this prohibition last year. The amendment also requires seaports and airports to adopt by January 1, 2021, “necessary controls for oversight and prevention of conflicts of interest when an entity is engaged to provide design services and to provide construction engineering and inspection services for the same seaport or airport project. Senator Lee stated that this conflict of interest requirement was already required by the federal government on these types of projects and that this language was similar to those federal requirements. As noted above, this language is not in any House legislation at this time.

- C. Removes the July 1, 2020 “sunset” date that would have terminated the Intermodal Logistics Center Infrastructure Support Program contained in section 311.101, F.S.

SB 7054 has one more Senate committee reference – the Senate Committee on Appropriations. The bill was not placed on the agenda for Tuesday, March 3<sup>rd</sup>, and it is not clear at this time if that Committee will hold another hearing this Regular Session. The Senate could still “waive” official Senate rules to allow for a hearing on an FDOT transportation package, but at this time this legislation may not pass during this Regular Session.

CS/HB 1315 is still in the Subcommittee on Transportation and Tourism Appropriations and has a remaining reference to the Committee on State Affairs. At this time, we expect that CS/CS/CS/HB 395 will be the House’s transportation package.

- 4. **Marina Evacuations (HB 1329 by Representative Plasencia and CS/CS/SB 826 by Senator Mayfield)**. The language in CS/CS/SB 826 is identical to language amended on to CS/CS/CS/HB 395 and SB 7054 referenced above concerning the removal of vessels under 500 gross tons at marinas located in a deepwater seaport after the declaration of a hurricane warning.

CS/CS/SB 826 has been scheduled for a hearing in its final Senate committee reference, the Senate Committee on Rules on Monday, March 2<sup>nd</sup> at 12:00 p.m.

HB 1329 has not been heard in any House committee to date. The House bill has three House committee references – Subcommittee on Agriculture and Natural Resources; Appropriations Subcommittee on Agriculture and Natural Resources; and Committee on State Affairs.

- 5. **Public Financing of Construction Projects (CS/HB 579 by Representative Aloupis and CS/SB 178 by Senator J. Rodriguez)**. This legislation is similar to the legislation filed in previous years by Senator Rodriguez concerning sea level impact projection studies. This legislation would prohibit state-financed contractors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection (SLIP) study. The bill would require the Department of Environmental Protection (DEP) 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. Language relating to a legal cause of action for damages was removed from the Legislation.

CS/HB 579 has one more House committee reference -- Committee on State Affairs.

CS/SB 178 has passed out of all Senate committee references and is now available for a vote on the Senate Floor.

6. **FPC Lobby Group Meeting**: We will hold a FPC Lobby Group meeting at **2:00 p.m. on Monday, March 2<sup>nd</sup>**. The meeting will be at the Ericks Consultants Building on 205 South Adams Street. For those unable to meet in-person we have set up a teleconference capability. The dial-in number is 1-605-475-2874 and the participant code is 9348585.

Please call or email us if you have any questions

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