



MEMORANDUM

DATE: November 22, 2019

TO: Florida Port Directors

FROM: Michael Rubin, Vice President Governmental Affairs

SUBJECT: **LEGISLATIVE UPDATE – NOVEMBER REPORT**

The Legislature has completed their October and November committee meetings for Regular Session 2020. Governor DeSantis also released his budget recommendations for Fiscal Year 2020/2021 on November 18th. There have been several bills filed that have some impact on transportation issues or local seaport issues. We provide the following report on seaport/transportation-related legislation filed, and seaport issues included in the Governor's budget recommendations:

1. **Governor DeSantis Recommended Budget for Fiscal Year 2020/21**. Governor DeSantis released his initial budget recommendations for Fiscal Year 2020/2021 on November 18th. As we have heard from FDOT, funds are limited, and the initial budget recommendation includes a smaller appropriation of funds for seaport projects and issues than in previous years. The budget includes **\$119.7 million** for seaports (approximately \$40 million less than last year) in 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** -- \$82,964,253 for the FSTED Program, SIS, GM, SPII and other FDOT allocations in FDOT 5-Year Work Program.
 - D. **Line Item 1923** -- \$10 million for the Seaport Investment Program/Bond debt reserve payments.
 - E. **Line Item 1925** -- \$71,633,516 for the FDOT Intermodal Development/Grants Program.
This may or may not include some seaport projects.

Line item 1922 also includes the following recommended proviso language – “From the funds in Specific Appropriation 1922, \$2,000,000 is provided to promote fuel optimization and resiliency during hurricanes and other natural disasters by enhancing the fuel distribution system infrastructure at state seaport fuel storage facilities.” At this time, it is unclear if we will have similar issues with FDOT on these funds as with security funds during the current Fiscal Year,

although we have received assurances from the Governor's Office staff that FSTED funds would not be reduced to pay this fuel optimization and resiliency program.

The Governor's Office also has not released any details on the Work Program with specific projects to date. We will provide you with any additional information when released.

2. **Transportation (HB 395 by Representative Andrade)**. This legislation would make several changes to internal FDOT procedures and employment issues, including the following:
 - A. Authorize the Florida Transportation Commission to adjust the FDOT Secretary's salary based on market conditions and similar pay to other individuals in the private sector. The bill would set the minimum salary for the FDOT secretary at \$180,000.
 - B. Provide the Department with a 90-day public records exemption on competitive bids submitted pursuant to s. 337.11, F.S.
 - C. Allow road construction companies to use flashing blue lights and radar speed displays in work zones.
 - D. Clarifies that any contractor seeking to bid on a contract in excess of \$50 million that is not "qualified and good standing with the Department as of January 1, 2019", must be first certified as "qualified" by the Department.
 - E. Authorizes the Governor, instead of the FDOT Secretary, to suspend tolls during an emergency.

HB 395 has not been heard in any committee to date. The House bill has three House committee references – Subcommittee on Transportation and Infrastructure; Appropriations Subcommittee on Transportation and Tourism; and Committee on State Affairs. Similar or identical legislation has not been formally filed in the Senate.

3. **Public Construction (HB 101 by Representative Andrade and CS/SB 246 by Senator Hooper)**. This legislation is identical to the legislation filed last year that did not pass modifying payment retainage by local government entities. The legislation would modify statutory retainage authority as follows:
 - A. For contracts more than \$200,000, the bill reduces the maximum amount that may be retained from ten percent to five percent for the entire project.
 - B. The bill also repeals the ability of a contractor to request the government entity release up to half of the retained amount after half of the project is completed; and the ability of a contractor to withhold more than five percent of each progress payment to his or her subcontractors after half of a project for a government entity is completed.

HB 101 was heard in the House Subcommittee on Business and Professions and passed out unanimously. The House bill still has two more committee references – Subcommittee on Oversight, Transparency, and Public Management; and the Committee on Commerce.

CS/SB 246 was modified with some technical changes to make the Senate bill identical to the House bill. The Senate bill has passed unanimously out of two Senate committees and has one more committee reference – Committee on Appropriations.

4. **Public Financing of Construction Projects (HB 579 by Representative Aloupis and SB 178 by Senator J. Rodriguez)**. This legislation is identical 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. The bill also authorizes DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the section. The bill states that the legislation may not be construed to create a cause of action for damages.

HB 579 has not been heard in any committee to date. The House bill has three House committee references – Subcommittee on Agriculture and Natural Resources; Committee on Appropriations; and Committee on State Affairs.

SB 178 was passed out unanimously by the Senate Committee on Environment and Natural Resources on November 4th. The Senate bill has three more Senate committee references – Committee on Infrastructure and Security; Appropriations Subcommittee on Agriculture, Environment, and General Government; and Committee on Appropriations.

5. **Local Government Accountability (HB 611 by Representative Sabatini and SB 766 by Senator Perry)**. This legislation is similar to legislation filed by Senate President Don Gaetz and others several years ago. The legislation would require the State Commission on Ethics to create a Local Government Lobbyist Registration System by October 1, 2020. This system would preempt any existing local government lobbyist system. After October 1, 2020, any lobbyist seeking to lobby a local government entity (including a port authority) would be required to register as a lobbyist with the Commission. The legislation also provides additional authority for fees for registration, and civil penalties and fees for violation of the registration requirements by lobbyists.

The legislation also requires counties and cities to post a public notice of their meeting on their official websites at least seven days before the meeting. The legislation does not currently mandate that special districts or other local government entities (including port authorities) comply with this requirement.

HB 611 has not been heard in any committee to date. The House bill has not been formally referred to any House committees.

SB 766 has not been heard in any committee to date. The Senate bill has three Senate committee references – Committee on Ethics and Elections; Committee on Community Affairs, and Committee on Rules.

6. **Marina Evacuations (SB 826 by Senator Mayfield)**. This legislation provides that “upon the issuance of a hurricane watch or warning affecting the waters of marinas located in a deepwater seaport, vessels under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.” The legislation would authorize a deepwater seaport to subject the owner or operator of any vessel to the vessel movement penalties contained in s. 313.22(3), F.S., if the owner or operate has not removed the vessel pursuant to an order from the seaport.

SB 826 has not been heard in any committee to date. The Senate bill has three Senate committee references – Committee on Environment and Natural Resources; Committee on Infrastructure and Security; and Committee on Rules. Similar or identical legislation has not been formally filed in the House.

7. **Local Bill on the Port of Palm Beach District (HB 673 by Representative Willhite)**. This local bill was filed pursuant to House and Palm Beach County requirements. This local legislation would delete some obsolete provisions contained in the Port of Palm Beach charter and authorize an increase in the annual salary for the elected board members of the Port of Palm Beach District to \$12,000. The legislation would also authorize the Board of the Port of Palm Beach District to increase this annual salary every year by three percent by a majority vote of the Board.

HB 673 has not been heard in any committee to date. The House bill has not formally referred to any House committees. Similar or identical local legislation has not been formally filed in the Senate.

8. **FPC Lobby Group Meeting**: We will hold a FPC Lobby Group meeting at **2:00 p.m. on Monday, December 9th**. 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 let me know if you have any changes to participants in that group from last year.

Please call or email us if you have any questions

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