By Senator Ring

A bill to be entitled
An act relating to seaports; amending s. 311.07, F.S.;
increasing the amount of funds the Department of
Transportation is required to make available for the
Florida Seaport Transportation and Economic
Development Program; requiring the Florida Seaport
Transportation and Economic Development Council and
the Assistant Secretary of Intermodal Systems
Development of the Department of Transportation to
identify certain state funds for the purpose of
funding the program; amending s. 311.09, F.S.;
increasing the amount of funding the department is
required to include in its annual legislative budget
request for the Florida Seaport Transportation and
Economic Development grant program; requiring the
council and the assistant secretary to identify
certain state funds for the purpose of funding the
program; creating s. 311.23, F.S.; establishing the
Florida seaport infrastructure bank within the Florida
Seaport Transportation and Economic Development
Program to provide loans and credit enhancements to
certain deepwater seaports and private entities for
specified projects; amending s. 320.20, F.S.; revising
provisions for the repayment of bonds relating to the
Florida Seaport Transportation and Economic
Development Program; providing for certain revenue
bonds and other indebtedness relating to the program
to be issued by the Florida Ports Financing
Commission; amending s. 373.406, F.S.; exempting
overwater piers, docks, and structures located in deepwater ports from stormwater management system requirements under specified conditions; amending s. 373.4133, F.S.; requiring the Department of Environmental Protection to issue a notice of intent for a port conceptual permit within a specified time; providing that a notice of intent to issue such permit creates a rebuttable presumption of compliance with specified standards and authorization; providing a standard for overcoming such a presumption; requiring the department to issue certain permits within a specified time and to notify specified entities of certain compliance; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(2) Beginning July 1, 2012, a minimum of $20 million per year shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program. Beginning July 1, 2013, the Florida Seaport Transportation and Economic Development Council and the Assistant Secretary for Intermodal Systems Development shall identify a minimum of $50 million per year in state funds that can be made available to fund the Florida Seaport Transportation and Economic Development Program.
Section 2. Subsection (10) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(10)(a) Beginning July 1, 2012, the Department of Transportation shall include in its annual legislative budget request a Florida Seaport Transportation and Economic Development grant program for expenditure of funds of not less than $20 million per year. Such budget shall include funding for projects approved by the council which have been determined by each agency to be consistent and which have been determined by the Office of Tourism, Trade, and Economic Development to be economically beneficial. The department shall include the specific approved seaport projects to be funded under this section during the ensuing fiscal year in the tentative work program developed pursuant to s. 339.135(4). The total amount of funding to be allocated to seaport projects under s. 311.07 during the successive 4 fiscal years shall also be included in the tentative work program developed pursuant to s. 339.135(4). The council may submit to the department a list of approved projects that could be made production-ready within the next 2 years. The list shall be submitted by the department as part of the needs and project list prepared pursuant to s. 339.135(2)(b). However, the department shall, upon written request of the Florida Seaport Transportation and Economic Development Council, submit work program amendments pursuant to s. 339.135(7) to the Governor within 10 days after the later of the date the request is received by the department or the effective date of the amendment, termination, or closure of the
applicable funding agreement between the department and the
affected seaport, as required to release the funds from the
existing commitment. Notwithstanding s. 339.135(7)(c), any work
program amendment to transfer prior year funds from one approved
seaport project to another seaport project is subject to the
procedures in s. 339.135(7)(d). Notwithstanding any provision of
law to the contrary, the department may transfer unexpended
budget between the seaport projects as identified in the
approved work program amendments.

(b) Beginning July 1, 2013, the council and the Assistant
Secretary for Intermodal Systems Development shall identify a
minimum of $50 million per year in state funds that can be made
available to fund the Florida Seaport Transportation and
Economic Development Program.

Section 3. Section 311.23, Florida Statutes, is created to
read:

311.23 Florida seaport infrastructure bank.—
(1) There is created within the Florida Seaport
Transportation and Economic Development Program an
infrastructure bank for the purpose of providing loans and
credit enhancements to deepwater seaports listed in s. 311.09
and private entities operating in such seaports for use in
constructing and improving port transportation and port
facilities projects that improve the movement and intermodal
transportation of cargo and passengers in commerce and trade.

(2) The bank may lend capital costs or provide credit
enhancements for:

(a) Port transportation or port facilities projects that:

1. Are approved pursuant to s. 311.09.
2. Are on the State Intermodal System.

3. Provide intermodal connectivity with airports, roadways, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods.

(b)1. Emergency loans for damages incurred to deepwater seaports listed in s. 311.09 which are within an area that is part of an official state declaration of emergency pursuant to chapter 252 and all other applicable laws. Such loans:

a. May not exceed 24 months in duration except in extreme circumstances, for which the chair of the Florida Seaport Transportation and Economic Development Council may grant up to 36 months upon making written findings specifying the conditions requiring a 36-month term.

b. Require application from the recipient to the council which includes documentation of damage claims filed with the Federal Emergency Management Agency or an applicable insurance carrier and documentation of the recipient’s overall financial condition.

2. Loans provided under this paragraph must be repaid upon receipt by the recipient of eligible program funding for damages in accordance with the claims filed with the Federal Emergency Management Agency or an applicable insurance carrier, but no later than the duration of the loan.

(3) Loans from the bank may be subordinated to senior project debt that has an investment grade rating of “BBB” or higher.

(4) Loans from the bank may bear interest at or below market interest rates, as determined by the council. Repayment of any loan shall commence not later than 5 years after the
project has been completed, except for loans provided under paragraph (2)(b), which shall be repaid within 36 months.

(5) To be eligible for consideration, projects must be approved as eligible for funding by the council pursuant to s. 311.09 and must provide a dedicated repayment source to ensure the loan is repaid to the bank.

(6) In addition to the requirements of s. 311.09, the council may consider, but is not limited to, the following criteria for evaluation of projects for assistance from the bank:

(a) The credit worthiness of the project.

(b) The likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible.

(c) The extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment.

(d) The amount of the proposed assistance as a percentage of the overall project costs with emphasis on local and private participation.

(e) The extent to which damage from a disaster that results in a declaration of emergency has impacted a deepwater seaport’s ability to maintain its previous level of service and remain accessible to the public or has had a major impact on the cash flow or revenue-generation ability of the facility.

(7) The council may adopt rules to implement the seaport infrastructure bank.

(8) The council may use any available funds appropriated by the Legislature pursuant to s. 311.07 or s. 320.20 for the purposes of the seaport infrastructure bank.
Section 4. Subsections (3) and (4) of section 320.20, Florida Statutes, are amended to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(3) Notwithstanding any other provision of law except subsections (1) and (2), on July 1, 1996, and annually thereafter, $15 million shall be deposited in the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided for in chapter 311. Such revenues shall be distributed on a 50-50 matching basis to any port listed in s. 311.09(1) to be used for funding projects as described in s. 311.07(3)(b). Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt shall not constitute a general obligation of the State of Florida. The state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal or impair or amend in any manner which will materially and adversely affect the rights of such holders so long as bonds authorized by this section are outstanding. Any revenues which are not pledged to the repayment
of bonds as authorized by this section may be utilized for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07. The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects which have been approved pursuant to s. 311.09(5)-(9). The council and the Department of Transportation are authorized to perform such acts as are required to facilitate and implement the provisions of this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise powers provided to municipalities or counties in s. 163.01(7)(d) subject to the provisions of chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection are limited to eligible projects listed in this subsection. Income derived from a project completed with the use of program funds, beyond operating costs and debt service, shall be restricted to further port capital improvements consistent with maritime purposes and for no other purpose. Use of such income for nonmaritime purposes is prohibited. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection. The revenues available under this subsection shall not be pledged to the payment of any bonds other than the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds currently outstanding; provided, however, such revenues may be pledged to secure payment of refunding bonds to refinance the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds. No refunding bonds secured by revenues available for nonmaritime purposes are prohibited. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection. The revenues available under this subsection shall not be pledged to the payment of any bonds other than the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds currently outstanding; provided, however, such revenues may be pledged to secure payment of refunding bonds to refinance the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds. No refunding bonds secured by revenues available
under this subsection may be issued with a final maturity later
than the final maturity of the Florida Ports Financing
Commission Series 1996 and Series 1999 Bonds or which provide
for higher debt service in any year than is currently payable on
such bonds. Any revenue bonds or other indebtedness issued after
July 1, 2011, other than refunding bonds shall be issued by
the Florida Ports Financing Commission in such a manner as to
ensure that the greatest amount of revenue is available for
eligible ports projects. The commission may consult with the
Division of Bond Finance relating to the issuance of any revenue
bonds at the request of the Department of Transportation
pursuant to the State Bond Act.

(4) Notwithstanding any other provision of law except
 subsections (1), (2), and (3), on July 1, 1999, and annually
thereafter, $10 million shall be deposited in the State
Transportation Trust Fund solely for the purposes of funding the
Florida Seaport Transportation and Economic Development Program
as provided in chapter 311 and for funding seaport intermodal
access projects of statewide significance as provided in s.
341.053. Such revenues shall be distributed to any port listed
in s. 311.09(1), to be used for funding projects as follows:

(a) For any seaport intermodal access projects that are
identified in the 1997-1998 Tentative Work Program of the
Department of Transportation, up to the amounts needed to offset
the funding requirements of this section.

(b) For seaport intermodal access projects as described in
s. 341.053(5) that are identified in the 5-year Florida Seaport
Mission Plan as provided in s. 311.09(3). Funding for such
projects shall be on a matching basis as mutually determined by
the Florida Seaport Transportation and Economic Development Council and the Department of Transportation, provided a minimum of 25 percent of total project funds shall come from any port funds, local funds, private funds, or specifically earmarked federal funds.

(c) On a 50-50 matching basis for projects as described in s. 311.07(3)(b).

(d) For seaport intermodal access projects that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks, or similar structures. Funding for such projects shall require a 25 percent match of the funds received pursuant to this subsection. Matching funds shall come from any port funds, federal funds, local funds, or private funds.

Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt shall not constitute a general obligation of the state. This state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal or impair or amend this subsection in any manner which will materially and adversely affect the rights of holders so long as bonds authorized by this subsection are outstanding. Any revenues that are not pledged to the repayment of bonds as
authorized by this section may be utilized for purposes
authorized under the Florida Seaport Transportation and Economic
Development Program. This revenue source is in addition to any
amounts provided for and appropriated in accordance with s.
311.07 and subsection (3). The Florida Seaport Transportation
and Economic Development Council shall approve distribution of
funds to ports for projects that have been approved pursuant to
s. 311.09(5)-(9), or for seaport intermodal access projects
identified in the 5-year Florida Seaport Mission Plan as
provided in s. 311.09(3) and mutually agreed upon by the FSTED
Council and the Department of Transportation. All contracts for
actual construction of projects authorized by this subsection
must include a provision encouraging employment of participants
in the welfare transition program. The goal for employment of
participants in the welfare transition program is 25 percent of
all new employees employed specifically for the project, unless
the Department of Transportation and the Florida Seaport
Transportation and Economic Development Council demonstrate that
such a requirement would severely hamper the successful
completion of the project. In such an instance, Workforce
Florida, Inc., shall establish an appropriate percentage of
employees that must be participants in the welfare transition
program. The council and the Department of Transportation are
authorized to perform such acts as are required to facilitate
and implement the provisions of this subsection. To better
enable the ports to cooperate to their mutual advantage, the
governing body of each port may exercise powers provided to
municipalities or counties in s. 163.01(7)(d) subject to the
provisions of chapter 311 and special acts, if any, pertaining
to a port. The use of funds provided pursuant to this subsection is limited to eligible projects listed in this subsection. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection. The revenues available under this subsection shall not be pledged to the payment of any bonds other than the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds currently outstanding; provided, however, such revenues may be pledged to secure payment of refunding bonds to refinance the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds. No refunding bonds secured by revenues available under this subsection may be issued with a final maturity later than the final maturity of the Florida Ports Financing Commission Series 1996 and Series 1999 Bonds or which provide for higher debt service in any year than is currently payable on such bonds. Any revenue bonds or other indebtedness issued after July 1, 2011 2000, other than refunding bonds shall be issued by the Florida Ports Financing Commission in such a manner as to ensure that the greatest amount of revenue is available for eligible ports projects. The commission may consult with the Division of Bond Finance relating to the issuance of any revenue bonds at the request of the Department of Transportation pursuant to the State Bond Act.

Section 5. Subsection (12) is added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

   (12) All overwater piers, docks, and similar structures located in a deepwater port listed in s. 311.09 are not part of a stormwater management system and are not impervious under this chapter or chapter 403 if the port has a Stormwater Pollution
Prevention Plan pursuant to the National Pollutant Discharge
Elimination System Program.

Section 6. Subsection (8) of section 373.4133, Florida
Statutes, is amended to read:

373.4133 Port conceptual permits.—
(8) Except as otherwise provided in this section, the
following procedures apply to the approval or denial of an
application for a port conceptual permit or a final permit or
authorization:

(a) Applications for a port conceptual permit, including
any request for the conceptual approval of the use of
sovereignty submerged lands, shall be processed in accordance
with the provisions of ss. 373.427 and 120.60. However, if the
applicant believes that any request for additional information
is not authorized by law or agency rule, the applicant may
request an informal hearing pursuant to s. 120.57(2) before the
Secretary of Environmental Protection to determine whether the
application is complete.

(b) Notwithstanding any other provision of law, the
department shall issue a notice of intent within 30 days after
receipt of an application for a port conceptual permit. Upon
issuance of the department’s notice of intent to issue or deny a
port conceptual permit, the applicant shall publish a one-time
notice of such intent, prepared by the department, in the
newspaper with the largest general circulation in the county or
counties where the port is located.

(c) A notice of intent to issue a port conceptual permit
creates a rebuttable presumption that development of the port or
private facilities consistent with the approved port master plan
complies with all applicable standards for issuance of a conceptual permit, an environmental resource permit, and sovereign lands authorization pursuant to chapters 161, 253, 373, and 403. The presumption may be overcome only by clear and convincing evidence.

(d) Upon issuance and finalization of a port conceptual permit, and, if necessary, an environmental resource permit or sovereign lands authorization pursuant to this section, the department shall notify the United States Army Corps of Engineers that the applicant is in compliance with all state water quality and regulatory requirements and shall issue any requested construction permit within 30 days after receipt of the request.

(e) Final agency action on a port conceptual permit is subject to challenge pursuant to ss. 120.569 and 120.57. However, final agency action to authorize subsequent construction of facilities contained in a port conceptual permit may only be challenged by a third party for consistency with the port conceptual permit.

(f) A person who will be substantially affected by a final agency action described in paragraph (e) must initiate administrative proceedings pursuant to ss. 120.569 and 120.57 within 21 days after the publication of the notice of the proposed action. If administrative proceedings are requested, the proceedings are subject to the summary hearing provisions of s. 120.574. However, if the decision of the administrative law judge will be a recommended order rather than a final order, a summary proceeding must be conducted within 90 days after a party files a motion for summary hearing, regardless of whether
the parties agree to the summary proceeding.

Section 7. This act shall take effect July 1, 2011.