

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 22, 1998 Revised: _____

Subject: Transportation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>McAuliffe</u>	<u>Johnson</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS authorizes the Department of Community Affairs to grant an extension of the Evaluation and Appraisal Report submission from local governments in order for local governments to coordinate planning efforts with Metropolitan Planning Organizations.

The CS creates the Land Use Transportation Planning Reconciliation Technical Committee, whose membership is selected by the Secretary of the Department of Transportation and the Secretary of the Department of Community Affairs. The committee will consider changes to statutes and pertinent agency rules which will facilitate better coordination between land use planning and transportation planning.

Further, the CS creates the Strategic Intermodal Transportation and Economic Development Planning Council within the Department of Transportation. The council will prepare a needs list for the development and construction of intermodal projects of statewide significance to provide for the cost-effective movement of freight and people. The Department of Transportation will review the council's needs list and include projects selected for implementation in the adopted work program.

The CS substantially amends the following sections of the Florida Statutes: 163.3178, 163.3187, 163.3191, 253.77, 311.07, 311.09, 315.03, 320.20, 334.046, 339.175, and 341.053.

II. Present Situation:

Section 163.3178, F.S., provides the minimum requirements for a coastal management element for local governments which are required to adopt such elements into their comprehensive plans. Subsection (7) requires those local governments with spoil disposal responsibilities to identify

disposal sites for dredged materials in the future land use and port elements of their local comprehensive plans to assure the long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria must be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public.

Section 163.3187, F.S., authorizes a local government to adopt amendments to its comprehensive plan only two times per year. However, this section contains numerous exceptions for emergencies, substantial deviations to a proposed development of regional impact, compliance agreements, locating a correctional facility, and small scale development activities.

Section 163.3191, F.S., requires each local government to prepare an Evaluation and Appraisal Report (EAR) no later than 7 years after it adopts its comprehensive plan, and every 5 years thereafter. The EAR assesses the comprehensive plan and recommends changes needed to update the plan, including reformulated objectives, policies, and standards. The department has adopted, pursuant to this section, a phased schedule for submittal of EARs by local governments. The department is authorized to conduct a sufficiency review of the EAR within 60 days of receipt from a local government, but only conducts a compliance review, pursuant to s. 163.3184, F.S., on any plan amendment recommended in the report and adopted by the local government pursuant to s. 163.3189, F.S. The Administration Commission may impose sanctions against a local government which fails to implement its report through timely and sufficient amendments to its local plan. Section 163.3187, F.S., prohibits a local government from amending its comprehensive plan after the date established for submittal of its EAR. Existing exceptions include plan amendments to implement the EAR, related to a development of regional impact, and to implement the terms of a compliance agreement.

Currently, while EARs are due every 5 years, Metropolitan Planning Organizations (MPOs) transportation plans are due every 3 years in large urbanized areas. There is currently no specific provision in law which authorizes the Department of Community Affairs to grant an extension to local governments to help synchronize the submission dates of the EAR and the MPO transportation plan to allow local governments and MPOs to coordinate data or transportation goals.

The federal Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, both in the U.S. Code and implementing regulations, spelled out requirements for MPO and statewide transportation planning processes. In accordance with that Act, both the MPO long and short-range plans, and the State Transportation Plan must include:

- (1) The results of transportation management systems.
- (2) International border crossings and points of access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

- (3) Consistency between local, metropolitan, and regional transportation and land-use plans.
- (4) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.
- (5) Recreational travel and tourism.
- (6) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.
- (7) The overall social, economic, energy, and environmental effects of transportation decisions.
- (8) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.
- (9) Methods to expand and enhance transit services and to increase the use of such services.
- (10) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decision making and the provisions of all applicable short-range and long-range land use and development plans.
- (11) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identification of those corridors for which action is most needed to prevent destruction or loss.
- (12) The use of life-cycle costs in the design and engineering of bridges, tunnels or pavement.

The following specific factors must be addressed in MPO long and short-range transportation plans but not in the State Transportation Plan:

- (1) The programming of expenditures on transportation enhancement activities.
- (2) The effects of all transportation projects to be undertaken in the metropolitan area, without regard to whether such projects are publicly funded.
- (3) Capital investments that would result in increased security in transit systems.

The following specific factors must be addressed in the State Transportation Plan but not in MPO long and short-range transportation plans:

- (1) Any federal, state, or local energy goals, objectives, programs or requirements.

- (2) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the state.
- (3) Identification of the transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials who have jurisdiction over transportation.
- (4) Any state plan that is developed pursuant to the Federal Water Pollution Control Act.
- (5) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.
- (6) Long-range needs of the state transportation system.
- (7) Methods to enhance the efficient movement of commercial motor vehicles.
- (8) Investment strategies to improve adjoining state and local roads that support rural economic growth.
- (9) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the state.
- (10) A seaport or airport master plan, which has been incorporated into an approved local comprehensive plan, and the linkage of transportation modes which are needed to move people and goods between ports and other transportation facilities.
- (11) The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses.
- (12) The integration of any proposed system into all other types of transportation facilities in the community.

MPOs currently include the required broad planning factors in their long-range plans, and some MPOs have developed goals and objectives which link directly to the planning factors and project priorities. While MPOs are required to consider these planning factors in their transportation plans, current law does not require a link between transportation projects and the planning factors, and does not supply guidance to the MPOs on the utilization of the factors.

Florida law requires coordination between local land use designations and MPO transportation planning, to the maximum extent feasible. Currently, local land use designations precede transportation planning. Local governments determine what the future land use will be in the planning zones in their area and then develop a corresponding transportation plan (the transportation element of the local comprehensive plan). The long range transportation element does not have to be financially feasible. The land use assumptions used in local comprehensive plan forecasts may be different from the assumptions the MPOs use for future growth in their

financially restrained transportation plan. Since current law does not provide any standard procedure for coordination, in many cases, there is no feedback from the MPO to the local comprehensive planners on the discrepancies between land use inputs.

Section 341.053, F.S., provides for the Intermodal Development Program within the Department of Transportation (DOT). This program provides funding for major intermodal projects including rail, seaport access, and airport projects, and for the construction of intermodal and multimodal terminals. These projects must be consistent, to the maximum extent feasible, with the affected local government comprehensive plans.

Each of the seven DOT districts submits applications of prospective intermodal projects to the DOT central office for funding under the intermodal program. The districts determine which projects to submit for intermodal funding through negotiations with the applicable MPO and local governments. Few MPOs have programmed funding for intermodal projects.

The intermodal project review committee, an ad hoc committee of DOT district and central office personnel, reviews the applications for the intermodal funding. The DOT Rail Office is responsible for quality assurance reviews and assisting the Program Development Office in developing annual Work Program instructions and funding targets for the Intermodal Development Program.

By DOT rule, the review committee must consider the following when selecting projects for funding:

1. The results of applicable Intermodal Management Systems (a system which was designed to identify and monitor the condition of key linkages involving multiple modes of transportation between, or access to, priority intermodal facilities. This system is applicable mostly to projects of statewide significance. **This is currently not operational.**)
2. Availability of funding statewide compared to district requests.
3. Level of non-state funding participation and quality of the commitment.
4. Whether a multi-year project has received previous year state funding.
5. Anticipated financial, operational, or public benefits to the affected region or facility resulting from project implementation (i.e., increase in tonnage capacity, passenger capacity, employment creation, dollars saved).
6. The phase of construction readiness of the proposed project.
7. Consistency with the appropriate local comprehensive plan.
8. Historical geographic distribution of discretionary funding in relation to needs over time.

9. Degree to which the district's formula allocation funds are already programmed to these projects.

The intermodal funding program is funded through public transportation funds from the State Transportation Trust Fund (STTF). Public transportation receives 14.3 percent of STTF funds (approximately \$300 million), and the intermodal fund receives approximately 12 percent of those public transportation funds. Half of the intermodal funds are distributed by formula. The other half is discretionary and allotted by the intermodal project review committee. The recipient of the intermodal funds must provide at least a 50 percent match to the state funds.

Section 311.07, F.S., creates the Florida Seaport Transportation and Economic Development (FSTED) Program with the Department of Transportation (department) 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 that will support the interests, purposes, and requirements of ports located in the state. The program is funded annually by \$8 million from the State Transportation Trust Fund and is used to fund approved port projects on a 50-50 matching basis as well as by the Seaport Transportation and Economic Development Council to develop trade data information products. Projects eligible for funding are limited to the following:

- ▶ Transportation facilities within the jurisdiction of the port.
- ▶ The dredging or deepening of channels, turning basins, or harbors.
- ▶ The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.
- ▶ The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- ▶ The acquisition of land to be used for port purposes.
- ▶ The acquisition, improvement, enlargement, or extension of existing port facilities.
- ▶ Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil disposal sites; or which result from the funding of eligible projects.
- ▶ Transportation facilities as defined in s. 334.03(31), F.S., which are not otherwise part of the department's adopted work program.

- ▶ Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3), F.S.

To be eligible for a grant, the project must be consistent with the port comprehensive master plan. A port eligible for matching funds may receive no more than \$7 million during any 1 calendar year and no more than \$30 million during any 5-calendar-year period. As of July 1, 1996, there were 14 deepwater ports eligible to receive funding under the FSTED program.

Section 311.09, F.S., creates the FSTED Council, consisting of the following 17 members: the port director, or his or her designee, of the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina; the secretary of the Department of Transportation or his or her designee as an ex officio nonvoting member; the director of OTTED as an ex officio nonvoting member; and the secretary of the Department of Community Affairs as an ex officio nonvoting member. The council's responsibilities include preparation of the 5-year Florida Seaport Mission Plan and reviewing applications and selecting projects for funding under the FSTED program.

Pursuant to chapter 311, F.S., the Department of Transportation's responsibilities for seaports include reviewing the list of projects approved by the FSTED Council for consistency with the Florida Transportation Plan and the department's adopted work program; including in the department's annual legislative budget request an FSTED grant program of not less than \$8 million per year; and ensuring that final audits are conducted for projects that receive FSTED program funds.

Additionally, in November 1996, the department entered into an agreement with the Florida Ports Financing Commission to provide a \$15 million annual appropriation from the State Transportation Trust Fund described in s. 320.20(3), F.S., to be used for debt service payments on bonds issued by the Florida Ports Financing Commission for port improvement projects. The Florida Ports Financing Commission was created through an interlocal agreement, pursuant to s. 163.01(7)(d), F.S., for the purpose of funding seaport transportation facilities described in chapter 311, F.S. Section 163.01(7)(d), F.S., grants to any separate legal entity created thereunder, which is controlled by the municipalities or counties of the state and whose members are municipalities or counties only or one or more municipality and one or more county, the right to exercise all powers in connection with the authorization, issuance and sale of bonds, and confers upon such an entity all the privileges, benefits, powers and terms granted to counties and municipalities, pursuant to chapters 125 and 166, F.S., respectively. The commission was originally created by the seaports of Jacksonville, Panama City and Canaveral in 1996. Since then, Port Everglades, Miami, Tampa, Manatee, Palm Beach and Ft. Pierce have joined the commission.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3178, F.S., to require that ports, in addition to coastal local governments, identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan. This section is also amended to allow, for areas owned or controlled by ports, compliance with this requirement by designating areas for spoil disposal in the comprehensive master plans prepared by each port and integrated with the appropriate local comprehensive plan.

Section 2 amends s. 163.3187, F.S., to create the following exceptions for plan amendments relating to port transportation facilities and projects which are eligible for funding by the Florida Seaport Transportation and Economic Development Council (FSTED): an exception from the prohibition against a local government amending its comprehensive plan more than twice a year, and an exception from the prohibition against amendment of the plan after the date has passed for submittal of the local government's evaluation and appraisal report (EAR).

Section 3 amends s. 163.3191, F.S., to authorize the Department of Community Affairs to grant an extension of the EAR deadline if the extension will result in greater coordination between transportation and land use, for the purpose of improving Florida's transportation system, as determined by the department in coordination with the M.P.O. planning program.

Section 4 amends s. 253.77, F.S., to waive all applicable fees that would otherwise legally be charged by the Department of Environmental Protection for activities by a port or inland navigation district on state lands. According to the department, traditionally seaports and inland navigation districts have not been charged fees for the use of sovereign lands.

Section 5 amends s. 311.07, F.S., to clarify that projects eligible for FSTED funding must be described in or consistent with the port master plans.

Section 6 amends s. 311.09, F.S., relating to the prioritization of projects for FSTED funding. The CS provides that projects which FSTED finds to be consistent with the statutory requirements are presumed to be in the public interest.

Section 7 amends s. 315.03, F.S., relating to financing of port facilities, by cross-referencing the authority and powers which are described in current law providing for the creation of a legal entity by interlocal agreement, consisting of three or more ports, for the purposes of financing port development projects. The section clarifies that ports may exercise the same powers as local governments for the purpose of financing, planning, designing, and constructing FSTED Council funded projects. Ports are currently afforded these same powers, pursuant to s. 320.20(3) and (4), F.S., but the Florida Ports Financing Commission is not. This amendment grants the Commission the same powers as the individual ports.

Section 8 amends s. 320.20, F.S., by making a conforming reference to the powers authorized in chapter 315, F.S., for the Florida Ports Financing Commission.

Section 9 amends s. 334.046, F.S., by expanding the program objectives of the Department of Transportation to include “enhancing the state’s competitive position in the world economy by improving access to the state’s major airports, seaports, railroads, intermodal transfer facilities, and trucking facilities of statewide significance.” This section is further amended to require that the department, in developing and implementing the Florida Intrastate Highway System, give emphasis to system connectivity and intermodal connections.

Section 10 directs the department, when developing the 1999-2000 and 2004-2005 work program, to program additional federal funds to enhance the state’s competitive position in accordance with s. 334.046(1)(c), F.S., which is set forth in Section 9, above, and s. 341.053(6), (7) and (8), F.S., which are created in Section 13 of the bill.

Section 11 amends s. 339.175, F.S., relating to metropolitan planning organizations (M.P.O.s). This section provides that the M.P.O. plans and programs are neither agency rules nor agency actions, as defined by the administrative procedures act, chapter 120, F.S. The effect of this change is to eliminate a point of entry for affected persons to challenge those plans as final agency actions or as proposed or adopted agency rules.

This section is also amended to require that the department, in developing the long-range transportation plan and the transportation improvement program, consider the social and economic effects of transportation projects on low-income, inner-city neighborhoods, in addition to other factors.

This section is further amended to provide that MPOs must develop goals, in cooperation with the appropriate local governments, which demonstrate compliance with the 7 planning factors. The goals must be made in the context of the land use and transportation elements of the local comprehensive plan. Subsection (6), relating to the M.P.O. long-range plan is further amended to require that the long-range plan include goals demonstrating compliance with the 7 planning factors in paragraph (5)(b). Both of these sections appear to be technically incorrect as paragraph (5)(b) includes 16, rather than 7 planning factors.

Section 12 creates the Land Use Transportation Planning Reconciliation Technical Committee to evaluate the roles of local governments, regional planning councils, metropolitan planning organizations, and state agencies in the reconciliation of land use designations and transportation planning. The committee must give special emphasis in its evaluation to concurrency on rural intrastate facilities, levels of service methodologies, and land use impact assessments used to project transportation needs.

The technical committee will work in consultation with the Department of Community Affairs and the Department of Transportation. The committee will consist of 12 members; six appointed by the Secretary of the Department of Community Affairs (one must represent local governments, one must represent Regional Planning Councils, and one must represent the private sector) and six appointed by the Secretary of the Department of Transportation (one must represent Metropolitan Planning Organizations, one must represent local government, and one must represent the private

sector.) The Center for Urban Transportation Research will provide technical and research assistance to the committee. The CS further provides that the committee must present an evaluation report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 1998.

Section 13 amends s. 341.053, F.S., to create the Strategic Intermodal Transportation and Economic Development Planning Council within the Department of Transportation. The council will develop a strategy to create a comprehensive state system of intermodal connections to maximize Florida's opportunities in international trade. The council will prepare a prioritized needs list for the development and construction of intermodal or multimodal projects of statewide significance. The proposed projects must be consistent, to the maximum extent feasible, with the comprehensive plan of the local government in which the project is located.

By no later than February 1, 1999, the council will submit a report to the Transportation Commission and the Legislature which: analyzes current and future intermodal transportation needs; identifies appropriate goals, measures and strategies for growth in intermodal facilities to support Florida's economic development; and, identifies methods to improve intergovernmental coordination.

By no later than July 1, 1999, the council will submit a report to the Department of Transportation, the Transportation Commission and the Legislature which: identifies intermodal projects of statewide significance along with documentation of the need; makes recommendations to local governments on how local communities may benefit from intermodal projects of statewide significance; and, includes a prioritized needs list of intermodal transportation projects of statewide significance and identifies private and public funding sources. The council must update the prioritized needs list when necessary as determined by a majority vote of council members, but no less than every 5 years.

The Department of Transportation will review the council's needs list and submit the projects to the Metropolitan Planning Organizations to be reviewed in accordance with the work program process as set forth in s. 339.135, F.S. The Transportation Commission will then review the council's needs list and the department's work program and provide a review and analysis to the Governor and Legislature.

The membership of the council will consist of the Secretary of the Department of Community Affairs or his or her designee; the Secretary of the Department of Transportation or his or her designee; two open appointments by the Governor; one representative of Enterprise Florida; and, the Governor will also appoint one representative for each of the following industries: airports, seaports, rail and trucking. Metropolitan Planning Organizations and Regional Planning Councils may be represented as non-voting members of the council.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the Land Use Transportation Planning Reconciliation Technical Committee and the Strategic Intermodal Transportation and Economic Development Planning Council may incur travel expenses.

C. Government Sector Impact:

Members of the Land Use Transportation Planning Reconciliation Technical Committee and the Strategic Intermodal Transportation and Economic Development Planning Council may incur travel expenses.

An improved planning process would more effectively set goals which direct transportation funds to enhance economic development and provide a more efficient use of such funds.

VI. Technical Deficiencies:

Section 11 of the CS makes reference to the 7 planning factors in paragraph (5)(b). These references appear to be technically incorrect as paragraph (5)(b) includes 16, rather than 7 planning factors.

VII. Related Issues:

Language similar to that contained in Section 3 of the CS, authorizing DCA to grant an extension for a local government's EAR due date in order to better coordinate with the applicable MPO plan update, is contained in SB 1726 which passed out of the Senate Committee on Community Affairs on April 14, 1998.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
