

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 24-B

SPONSOR: Committee on Appropriations and Senator Clary

SUBJECT: Transportation Facilities

DATE: October 23, 2001 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------|
| 1. | Hayes | Revell | AP | Favorable/CS |
| 2. | | | | |
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| 4. | | | | |
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| 6. | | | | |

I. Summary:

Chapter 337, F.S., describes the processes and requirements that the Department of Transportation (DOT) must follow when acquiring right-of-way and entering into contracts for road and bridge construction or improvement projects.

The Committee Substitute amends state law to allow DOT to enter into design-build contracts before all of the necessary right-of-way has been acquired and vested in the state or a local governmental entity, and before all easements, railroad crossing or utility agreements have been executed. Project engineering and design could begin even though all of the rights-of-way necessary to build the project have not been acquired. However, *project construction* cannot commence until all of the necessary rights-of-way have been vested and other necessary agreements executed.

The Committee Substitute also includes right-of-way services as part of design-build contracts.

DOT indicates these statutory changes are necessary to fully implement the department's portion of the Governor's economic stimulus package. DOT plans to accelerate more than 60 projects, totaling nearly \$668 million, from its Five-Year Work Program. DOT expects to let the contracts for many of these projects by April 2002, and production phases are expected to begin soon after. The law changes will expedite all phases of these transportation projects, which according to the Governor's Office, may create up to 28,000 new jobs and put millions of dollars into Florida's economy.

The Committee Substitute provides for repealing the statutory changes on June 30, 2003.

II. Present Situation:

Chapter 337, F.S. describes DOT's contracting and acquisition processes. In particular, section 337.107, F.S., gives DOT the authority to enter into contracts, using state procurement guidelines, to purchase right-of-way or related services for transportation corridors and facilities. Section 337.11, F.S., governs DOT's overall contracting authority. One of its provisions prohibits advertising bids and publishing bid notices for projects until title to the affected right-of-way has either been vested in DOT or a local governmental entity and all railroad crossing and utility agreements have been executed.

Traditionally, individual phases of a transportation project are separately bid and awarded. Florida's DOT is among a handful of state transportation agencies that are awarding contracts to one provider who agrees to perform multiple project tasks. In Florida, these are called "design-build contracts," because the bidders agree to design and build the entire project. DOT is examining the feasibility of expanding this type of contract to include even more activities. However, currently the department lacks specific statutory authority, (pursuant to s. 337.11(7)(a), F.S.), to combine more than the design and construction phases of buildings (including rest areas and weight stations), major bridges, or railroad corridors. In FY 2000-2001, DOT programmed spending \$349.4 million on design-build projects, primarily to widen or replace bridges.

III. Effect of Proposed Changes:

The Committee Substitute amends s. 337.107 F.S., to add right-of-way services to those activities that can be included in a design-build contract.

Also s. 337.11(7)(a), F.S., is amended to make all types of transportation projects, except for resurfacing and minor bridge projects, eligible for a design-build contract at DOT's discretion. This change includes an exemption for the expanded design-build and right-of-way contracts from the \$120 million annual cap on innovative highway projects in s. 337.025, F.S. Because the department has already committed approximately \$90 million in innovation projects, this is necessary to allow approximately \$400 million of the projects in the transportation portion of the Governor's Economic Stimulus Plan to be expedited in the next six to eight months.

In addition, DOT will be able to advertise and award design-build contracts despite the fact that not all of the right-of-way or easements necessary to complete the project have been deeded to the state or to a local governmental entity. However, construction can not begin on any portion of the design-build project until the title to all necessary right-of-way has vested in DOT or a local governmental entity, and all railroad crossing and utility agreements have been executed.

DOT anticipates these changes will expedite projects by combining a number of different activities under one contract. For example, better coordination of right-of-way acquisition and project design will result in the necessary right-of-way being identified and acquired as quickly as possible, before land costs rise.

The Committee Substitute provides for repealing the statutory changes on June 30, 2003.

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:

By accelerating the construction of over 60 projects in the state's transportation work program, the Governor's Office projects that up to 28,000 new jobs will be created.

C. Government Sector Impact:

The Department of Transportation has identified projects totaling \$529.1 million in the document's current adopted work program that could be advanced to the current fiscal year to increase the level of job creation in the construction industry. These projects can be let prior to the end of FY 01-02, and Senate Bill 2B for FY 2001-02 contains an additional \$529.1 million in trust fund budget authority to advance these projects.

Sufficient cash is available in the State Transportation Trust Fund to handle the project advances. However, over the work program period, an additional \$200 million in Grant Anticipation Revenue Vehicles (GARVEE bonds) will be required. GARVEE bonds are a financing instrument that enables states to fund transportation projects based on their anticipated future federal funding.

In addition to the advanced projects totaling \$529.1 million, the economic stimulus package includes projects totaling \$138.6 million that were not in the original letting plan due to unresolved production issues which have now been resolved. The department has sufficient budget authority for the \$138.6 million. The total economic stimulus package is \$667.7 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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