

Bill No. SB 460

Barcode 523252

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Sebesta) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (10) is added to section 332.007, Florida Statutes, to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.--

(10) The department may also fund eligible projects performed by not-for-profit organizations that represent a majority of public airports in this state. Eligible projects may include activities associated with aviation master planning, professional education, safety and security planning, enhancing economic development and efficiency at airports in this state, or other planning efforts to improve the viability of airports in this state.

Section 2. Subsection (8) of section 337.11, Florida Statutes, is amended to read:

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1 337.11 Contracting authority of department; bids;
 2 emergency repairs, supplemental agreements, and change orders;
 3 combined design and construction contracts; progress payments;
 4 records; requirements of vehicle registration.--

5 (8)(a) The department shall permit the use of written
 6 supplemental agreements, written work orders pursuant to a
 7 contingency pay item or contingency supplemental agreement,
 8 and written change orders to any contract entered into by the
 9 department. Any supplemental agreement shall be reduced to
 10 written contract form, ~~approved by the contractor's surety,~~
 11 and executed by the contractor and the department. Any
 12 supplemental agreement modifying any item in the original
 13 contract must be approved by the head of the department, or
 14 his or her designee, and executed by the appropriate person
 15 designated by him or her. Any surety issuing a bond under s.
 16 337.18 shall be fully liable under such surety bond to the
 17 full extent of any modified contract amount up to and
 18 including 25 percent over the original contract amount and
 19 without regard to the fact that the surety was not aware of or
 20 did not approve such modifications. However, if modifications
 21 of the original contract amount cumulatively result in
 22 modifications of the contract amount in excess of 25 percent
 23 of the original contract amount, the surety's approval shall
 24 be required to bind the surety under the bond on that portion
 25 in excess of 25 percent of the original contract amount.

26 (b) Supplemental agreements and written work orders
 27 pursuant to a contingency pay item or contingency supplemental
 28 agreement shall be used to clarify the plans and
 29 specifications of a contract; ~~to provide for major quantity~~
 30 ~~differences which result in the contractor's work effort~~
 31 ~~exceeding the original contract amount by more than 5 percent;~~

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1 to provide for unforeseen work, grade changes, or alterations
2 in plans which could not reasonably have been contemplated or
3 foreseen in the original plans and specifications; to change
4 the limits of construction to meet field conditions; to
5 provide a safe and functional connection to an existing
6 pavement; to settle contract claims; and to make the project
7 functionally operational in accordance with the intent of the
8 original contract. Supplemental agreements may be used to
9 expand the physical limits of a project only to the extent
10 necessary to make the project functionally operational in
11 accordance with the intent of the original contract. The cost
12 of any such agreement extending the physical limits of a
13 project shall not exceed \$100,000 or 10 percent of the
14 original contract price, whichever is greater.

15 (c) Written change orders may be issued by the
16 department and accepted by the contractor covering minor
17 changes in the plans, specifications, or quantities of work
18 within the scope of a contract, when prices for the items of
19 work affected are previously established in the contract, but
20 in no event may such change orders extend the physical limits
21 of the work.

22 (d) For the purpose of this section, the term
23 "physical limits" means the length or width of any project and
24 specifically includes drainage facilities not running parallel
25 to the project. The length and width of temporary connections
26 affected by such supplemental agreements shall be established
27 in accordance with current engineering practice.

28 (e) Upon completion and final inspection of the
29 contract work, the department may accept the improvement if it
30 is in substantial compliance with the plans, specifications,
31 special provisions, proposals, and contract and if a proper

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1 adjustment in the contract price is made.

2 (f) Any supplemental agreement or change order in
3 violation of this section is null and void and unenforceable
4 for payment.

5 Section 3. Section 337.195, Florida Statutes, is
6 created to read:

7 337.195 Limits on liability.--

8 (1) In a civil action for the death of or injury to a
9 person, or for damage to property, against the Department of
10 Transportation or its agents, consultants, or contractors for
11 work performed on a highway, road, street, bridge, or other
12 transportation facility when the death, injury, or damage
13 resulted from a motor vehicle crash in which the driver of one
14 of the vehicles was under the influence of alcoholic beverages
15 as set forth in s. 316.193, under the influence of any
16 chemical substance as set forth in s. 877.111, or illegally
17 under the influence of any substance controlled under chapter
18 893 to the extent that her or his normal faculties were
19 impaired and operated a vehicle at an unlawful speed as
20 prohibited in s. 316.183 or engaged in reckless driving as
21 prohibited in s. 316.192, it is presumed that the driver's
22 operation of the vehicle was the sole proximate cause of the
23 death, injury, or damage.

24 (2) A contractor who constructs or repairs a highway,
25 road, street, bridge or other transportation facility for the
26 Department of Transportation is not liable to a claimant for
27 personal injury, property damage, or death arising from the
28 performance of the construction or repair if, at the time of
29 the personal injury, property damage, or death, the contractor
30 is in compliance with contract documents material to the
31 condition that was the proximate cause of the personal injury,

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1 property damage, or death.

2 (3) In all cases involving personal injury, property
3 damage, or death, a person or entity who contracts to prepare
4 or provide engineering plans for the construction or repair of
5 a highway, road, street, bridge, or other transportation
6 facility for the Department of Transportation is not liable to
7 a claimant for personal injury, property damage, or death
8 arising from the preparation of such engineering plans if the
9 engineer prepared such engineering plans using that degree of
10 care and skill ordinarily exercised by other engineers in the
11 field under similar conditions, and similar localities, and
12 with due regard for acceptable engineering standards and
13 principles. Nothing herein shall be interpreted or construed
14 to alter or affect any claim of the Department of
15 Transportation against such engineer or engineering firm.

16 Section 4. Section 339.64, Florida Statutes, is
17 amended to read:

18 339.64 Strategic Intermodal System Plan.--

19 (1) The department shall develop, in cooperation with
20 metropolitan planning organizations, regional planning
21 councils, local governments, the Statewide Intermodal
22 Transportation Advisory Council and other transportation
23 providers, a Strategic Intermodal System Plan. The plan shall
24 be consistent with the Florida Transportation Plan developed
25 pursuant to s. 339.155 and shall be updated at least once
26 every 5 years, subsequent to updates of the Florida
27 Transportation Plan.

28 (2) In association with the continued development of
29 the ~~initial~~ Strategic Intermodal System Plan ~~and other~~
30 ~~transportation plans~~, the Florida Transportation Commission,
31 as part of its work program review process, shall conduct an

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1 annual assessment of the progress that the department and its
2 transportation partners have made in realizing the goals of
3 economic development, improved mobility, and increased
4 intermodal connectivity ~~need for an improved philosophical~~
5 ~~approach to regional and intermodal input in the planning for~~
6 ~~and governing of the Strategic Intermodal System and other~~
7 ~~transportation systems.~~ The Florida Transportation Commission
8 shall coordinate with the department, the Statewide Intermodal
9 Transportation Advisory Council, and other appropriate
10 entities when developing this assessment. The Florida
11 Transportation Commission shall deliver a report to the
12 Governor and Legislature no later than 14 days after the
13 regular session begins ~~by December 15, 2003,~~ with
14 recommendations as necessary to fully implement the Strategic
15 Intermodal System.

16 (3)(a) During the development of updates to the
17 Strategic Intermodal System Plan ~~and the development of all~~
18 ~~subsequent updates,~~ the department shall provide metropolitan
19 planning organizations, regional planning councils, local
20 governments, transportation providers, affected public
21 agencies, and citizens with an opportunity to participate in
22 and comment on the development of the ~~proposed plan or update.~~

23 (b) The department also shall coordinate with federal,
24 regional, and local partners the planning for the Strategic
25 Highway Network and the Strategic Rail Corridor Network
26 transportation facilities that either are included in the
27 Strategic Intermodal System or that provide a direct
28 connection between military installations and the Strategic
29 Intermodal System. In addition, the department shall
30 coordinate with regional and local partners to determine
31 whether the road and other transportation infrastructure that

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1 connect military installations to the Strategic Intermodal
 2 System, the Strategic Highway Network, or the Strategic Rail
 3 Corridor are regionally significant and should be included in
 4 the Strategic Intermodal System Plan.

5 (4) The Strategic Intermodal System Plan shall include
 6 the following:

7 (a) A needs assessment.

8 (b) A project prioritization process.

9 (c) A map of facilities designated as Strategic
 10 Intermodal System facilities; ~~and~~ facilities that are emerging
 11 in importance that are likely to become part of the system in
 12 the future; and planned facilities that will meet the
 13 established criteria.

14 (d) A finance plan based on reasonable projections of
 15 anticipated revenues, including both 10-year and 20-year
 16 cost-feasible components.

17 (e) An assessment of the impacts of proposed
 18 improvements to Strategic Intermodal System corridors on
 19 military installations that are either located directly on the
 20 Strategic Intermodal System or located on the Strategic
 21 Highway Network or Strategic Rail Corridor Network.

22 (5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY
 23 COUNCIL.--

24 (a) The Statewide Intermodal Transportation Advisory
 25 Council is created to advise and make recommendations to the
 26 Legislature and the department on policies, planning, and
 27 funding of intermodal transportation projects. The council's
 28 responsibilities shall include:

29 1. Advising the department on the policies, planning,
 30 and implementation of strategies related to intermodal
 31 transportation.

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1 2. Providing advice and recommendations to the
 2 Legislature on funding for projects to move goods and people
 3 in the most efficient and effective manner for the State of
 4 Florida.

5 (b) MEMBERSHIP.--Members of the Statewide Intermodal
 6 Transportation Advisory Council shall consist of the
 7 following:

8 1. Six ~~Five~~ intermodal industry representatives
 9 selected by the Governor as follows:

10 a. One representative from an airport involved in the
 11 movement of freight and people from their airport facility to
 12 another transportation mode.

13 b. One individual representing a fixed-route,
 14 local-government transit system.

15 c. One representative from an intercity bus company
 16 providing regularly scheduled bus travel as determined by
 17 federal regulations.

18 d. One representative from a spaceport.

19 e. One representative from intermodal trucking
 20 companies.

21 f. One representative having command responsibilities
 22 of a major military installation.

23 2. Three intermodal industry representatives selected
 24 by the President of the Senate as follows:

25 a. One representative from major-line railroads.

26 b. One representative from seaports listed in s.
 27 311.09(1) from the Atlantic Coast.

28 c. One representative from an airport involved in the
 29 movement of freight and people from their airport facility to
 30 another transportation mode.

31 3. Three intermodal industry representatives selected

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1 | by the Speaker of the House of Representatives as follows:

2 | a. One representative from short-line railroads.

3 | b. One representative from seaports listed in s.

4 | 311.09(1) from the Gulf Coast.

5 | c. One representative from intermodal trucking

6 | companies. In no event may this representative be employed by

7 | the same company that employs the intermodal trucking company

8 | representative selected by the Governor.

9 | (c) Initial appointments to the council must be made

10 | no later than 30 days after the effective date of this

11 | section.

12 | 1. The initial appointments made by the President of

13 | the Senate and the Speaker of the House of Representatives

14 | shall serve terms concurrent with those of the respective

15 | appointing officer. Beginning January 15, 2005, and for all

16 | subsequent appointments, council members appointed by the

17 | President of the Senate and the Speaker of the House of

18 | Representatives shall serve 2-year terms, concurrent with the

19 | term of the respective appointing officer.

20 | 2. The initial appointees, and all subsequent

21 | appointees, made by the Governor shall serve 2-year terms.

22 | 3. Vacancies on the council shall be filled in the

23 | same manner as the initial appointments.

24 | (d) Each member of the council shall be allowed one

25 | vote. The council shall select a chair from among its

26 | membership. Meetings shall be held at the call of the chair,

27 | but not less frequently than quarterly. The members of the

28 | council shall be reimbursed for per diem and travel expenses

29 | as provided in s. 112.061.

30 | (e) The department shall provide administrative staff

31 | support and shall ensure that council meetings are

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1 | electronically recorded. Such recordings and all documents
 2 | received, prepared for, or used by the council in conducting
 3 | its business shall be preserved pursuant to chapters 119 and
 4 | 257.

5 | Section 5. This act shall take effect upon becoming a
 6 | law.

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9 | ===== T I T L E A M E N D M E N T =====

10 | And the title is amended as follows:

11 | Delete everything before the enacting clause

12 |

13 | and insert:

14 | A bill to be entitled

15 | An act relating to transportation; amending s.
 16 | 332.007, F.S.; giving the Department of
 17 | Transportation the discretion to fund certain
 18 | eligible aviation planning projects to be
 19 | performed by not-for-profit organizations
 20 | representing a majority of public airports;
 21 | amending s. 337.11, F.S.; adding written work
 22 | orders to the type of documents covered by the
 23 | Department of Transportation's contracting
 24 | laws; specifying changes to surety bondholder's
 25 | liability under certain circumstances; creating
 26 | s. 337.195, F.S.; providing presumptions
 27 | relating to liability in certain actions
 28 | against the Department of Transportation;
 29 | limiting liability, in certain circumstances,
 30 | of contractors and engineers doing work for
 31 | that department; amending s. 339.64, F.S.;

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1 directing the Florida Transportation Commission
2 to include as part of its annual work program
3 review an assessment of the department's
4 progress on the Strategic Intermodal System;
5 requiring an annual report; directing the
6 department to coordinate with federal,
7 regional, and local entities for transportation
8 planning that impacts military installations;
9 requiring the Strategic Intermodal System Plan
10 to include an assessment of the impacts of
11 proposed projects on military installations;
12 adding a military representative to the
13 Governor's appointees to the Strategic
14 Intermodal Transportation Advisory Council;
15 deleting obsolete provisions; providing an
16 effective date.

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